



Cornwall and Isles of Scilly Adult Safeguarding Board

Adult Safeguarding Policy

Operational Procedure and General Guidance

September 2017

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With thanks to the West Midlands Adult Safeguarding editorial group for many of the “best practice” boxes and access to the West Midlands Adult Safeguarding Policy and Procedures.

1. Introduction

Adult Safeguarding in Cornwall aims to:

- Prevent abuse;
- Stop abuse or neglect wherever possible;
- Prevent harm and reduce the risk of abuse or neglect to adults with care and support needs;
- Safeguard adults in a way that supports them in making choices and having control about how they want to live;
- Promote an approach that concentrates on improving the life of the adults concerned; i.e. promotes wellbeing.
- Raise public awareness so that communities, alongside professionals, play their part in preventing, identifying and responding to abuse and neglect;
- Provide information and support in accessible ways to help people understand the different types of abuse, how to stay safe and how to raise a concern about their own safety and wellbeing or that of another adult; and
- Address the causes of abuse or neglect (isn't that the same as prevent abuse?).

The Care Act 2014 sets out a clear legal framework for how both local authorities and all other relevant agencies should protect adults at risk of abuse or neglect. The main duties enacted by the Care Act 2014 are outlined below:

Local authorities **must**:

- make enquiries, or cause others to make them, when they think an adult with care and support needs is experiencing or is at risk of abuse or neglect and as a result of those needs is unable to protect themselves. Such enquiries are to enable it to decide what, if any, action is required.
- arrange for an independent advocate to represent and support a person who is the subject of a safeguarding enquiry or review, where the adult has 'substantial difficulty' in being involved in the process and where there is no other suitable person to represent and support them.
- Cooperate with each of its relevant partners in order to protect the adult. In turn, each relevant partner must also cooperate with the local authority.
- together with the NHS and police, establish Safeguarding Adults Boards (SABs) which will develop, share and implement a joint adult safeguarding strategy.

The main objective of a SAB is to assure itself that local safeguarding arrangements and partners act to help and protect adults in its area. SAB Partners have a duty to cooperate to protect adults at risk. Any relevant person or organisation must provide information to the SAB as requested.

The duty to safeguard applies to all, but the local authority, the NHS and the Police are statutory partners and must be represented on the SAB.

Section 42 of the Care Act 2014 places a duty on local authorities to make enquiries, or cause others to do so, if they reasonably suspect an adult in need of care and support in their area has been, is or is at risk of being, neglected or abused and is unable to protect themselves.

The Care Act 2014 places a duty on partner agencies to co-operate with the local authority by sharing information and contributing to those enquiries. The Act also stresses that enquiries should be proportionate, with the least intrusive response appropriate to the perceived risk, as well as one that is personalised to the wishes and desired outcomes of the person.

Adult Safeguarding procedures must be used not only to respond to immediate risk of harm and harm that has already occurred, but to address and prevent harm where there are clear indicators of future risk.

This policy and operational guidance is designed as a framework for professional judgement and decision-making that is exercised in partnership with the person, their family/carers and other professionals. It aims to promote strong partnerships arrangements by:

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

This document is divided into three sections:

- Section 1 Policy
- Section 2 Operational Procedure
- Section 3 General Guidance

2 Adult Safeguarding: Foundation Principles and Legislation:

2.1 Principles:

2.1.1 Government policy. In 2011, the Government issued a policy statement on adult safeguarding.

“The Government’s policy objective is to prevent and reduce the risk of significant harm to vulnerable adults from abuse or other types of exploitation, whilst supporting individuals in maintaining control over their lives and in making informed choices without coercion” (*Statement of government policy on adult safeguarding: 2011*)

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

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

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

Adult safeguarding requires working collaboratively to improve outcomes, rather than duplicating or superseding existing responsibilities for providing safe and effective care. The need for an adult safeguarding response to abuse or neglect is reduced when

- Providers’ adhere to their responsibilities to deliver safe and high quality care and support;
- Quality assurance teams regularly assure themselves of the safety and effectiveness of commissioned services;
- The Care Quality Commission (CQC) ensures that regulated providers comply with the fundamental standards of care or by taking enforcement action; and
- The police ensure that adults at risk have access to criminal justice, by exercising their core duties to prevent and detect crime and protect life and property.

Adult Safeguarding concerns will require a variety of responses including a provider or other agency investigation, a disciplinary process, a clinical governance response from within a service or by external bodies, the involvement of police, regulators, staff training or other activities.

All adult safeguarding work should reflect the following key Principles. These principles are enshrined within the Care Act 2014 provisions and Chapter 14 of the Care and Support

Statutory Guidance and are equally important whether undertaking operational or strategic adult safeguarding work.

| Category | Key Principle | Service User |
|----------------------|---|--|
| Empowerment | Adults are encouraged to make their own decisions and are provided with support and information. | "I am consulted about the outcomes I want from the safeguarding process and my wishes directly inform what happens" |
| Prevention | Strategies are developed to prevent abuse and neglect that promotes resilience and self-determination. | "I am provided with easily understood information about what abuse is, how to recognise the signs and what I can do to seek help" |
| Proportionate | A proportionate and least intrusive response is made balanced with the level of risk. | "I am confident that the professionals will work in my interest and only get involved as much as needed" |
| Protection | Adults are offered ways to protect themselves, and there is a coordinated response to adult safeguarding. | "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" |
| Partnerships | Local solutions through services working together within their communities. | "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" |
| Accountable | Accountability and transparency in delivering a safeguarding response. | "I am clear about the roles and responsibilities of all those involved in the solution to the problem" |

2.1.2 Making Safeguarding personal

The principle of making safeguarding personal is enshrined within the Care Act 2014 and set

All safeguarding partners should

“take a broad community approach to establishing safeguarding arrangements. It is vital that all organisations recognise that adult safeguarding arrangements are there to protect individuals. We all have different preferences, histories, circumstances and lifestyles, so it is unhelpful to prescribe a process that must be followed whenever a concern is raised. ‘Safeguarding’ should be person-led and outcome-focused. It engages the person in a conversation about how best to respond to their safeguarding situation in a way that enhances involvement, choice and control as well as improving quality of life, wellbeing and safety” (Chapter 14.7)

out in the Care and Support Statutory Guidance.

Making Safeguarding Personal (MSP) is a shift in culture and practice in response to what is known about what makes safeguarding effective from the perspective of the adult 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 the adult’s 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” *Making Safeguarding Personal: A Toolkit for Responses: 4th edition 2015 LGA*

Professionals should work with the adult to establish what being safe means to them and how that can be best achieved. Professionals and other staff should not be advocating “safety” measures that do not take account of individual well-being, as defined in Section 1 of the Care Act 2014. It is important to listen to the adult both in terms of the alleged abuse and in terms of what resolution they want. Individuals have a right to privacy; to be treated with dignity and to be enabled to live an independent life.

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

Intervention should be proportionate to the harm caused, or the possibility of future harm. As well as thinking about an individual’s physical safety it is necessary to also consider the outcomes they want to see and take into account their overall happiness and wellbeing.

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

2.1.3 The well-being principle

The Care Act 2014 introduces a duty to promote wellbeing when carrying out any care and support functions in respect of an adult, or their carer. This is sometimes referred to as “the wellbeing principle” because it is a guiding principle that puts wellbeing at the heart of care and support. The wellbeing principle applies in all cases where carrying out any care and support function, making a decision, or undertaking an adult safeguarding enquiry or plan.

“**Wellbeing**” is a broad concept, and it is described as relating to the following areas

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

The wellbeing principle marks a shift from “providing services” to the concept of “meeting needs”.

To promote wellbeing, it should be assumed that individuals are best placed to judge their own wellbeing, their individual views, beliefs, feelings, wishes are paramount. Individuals should be empowered to participate as fully as possible. An individual’s wellbeing should be balanced with that of their carers.

2.1.4 The Duty of Care:

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

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

Defensible decision making is about making sure that the reasons for decisions, as well as the decision itself, have been thought through and a rationale provided.

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

- All reasonable steps have been taken to make the adult safe and establish/address cause of harm;
- The views and wishes of the adult have been taken into consideration when undertaking these steps;
- Reliable assessment methods have been used;
- The adult's mental capacity, and potential duress or coercion have been considered, explored and assessed;
- Information has been collated and thoroughly evaluated;
- Decisions are recorded, communicated and thoroughly evaluated;
- Policies and procedures have been followed;
- Practitioners and their managers adopt a proactive approach keeping the person at the centre of all processes;
- There is considered and documented risk assessment / rationale when overriding an adults' wishes in cases when other adults are at risk of harm. This will include how the adult will be assured that their wish not be to personally involved in any process to address the concern will be respected as far as is possible, and how feedback will be provided to the adult after any required action has been taken.

2.1.5 The Duty of Candour: The obligations associated with the statutory Duty of Candour are contained in regulation 20 of The Health and Social Care Act 2008 (Regulated Activities) Regulations 2014. The Duty of Candour was introduced for NHS bodies in England (trusts, foundation trusts and special health authorities) from 27 November 2014, and applied to all other care providers registered with CQC from 1 April 2015.

The duty is on organisations to act in an open and transparent way in relation to care provided to individuals. The regulations impose a specific and detailed duty on all providers where any harm to an adult arising from their care or treatment has occurred. The Duty requires providers to offer an apology to the adult concerned and state what further action the provider intends to take in this situation. In practice, this means that care providers are open and honest with individuals when things go wrong with their care and treatment.

If a provider fails to comply with the Duty, CQC can take enforcement action, and can move directly to a prosecution under regulation 20 without first serving a warning notice.

The regulations also include a more general obligation on CQC registered providers to "act in an open and transparent way in relation to service user care and treatment", unless there are justifiable reasons for not being so, for example because the adult openly says that they do not want further information about the incident.

2.2 Legislation

2.2.1 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.

Duties include the Local Authority's duty to make enquiries or cause them to be made, arrange independent advocacy when needed, and to establish a Safeguarding Adults Board with the statutory membership of the Local Authority, Clinical Commissioning Groups and the Police. Safeguarding Adults Boards must arrange Safeguarding Adult Reviews (SARs) as per defined criteria; publish an annual report and strategic plan.

All these initiatives are designed to ensure greater multi-agency collaboration in preventing harm and responding to adults at risk harm.

2.2.2 The Mental Capacity Act 2005 and the Deprivation of Liberty Safeguards.

The Mental Capacity Act 2005, covering England and Wales, provides a statutory framework for people who lack the capacity to make decisions for themselves, or who have mental capacity and want to prepare for a time when they may lack capacity in the future. The provisions of the Mental Capacity Act cover both small decisions – such as what clothes to wear – or major decisions - such as where to live, medical treatment, or what happens if abuse has occurred. The Act sets out who can take decisions, in which situations, and how they should go about this. *For further information see Guidance section 3.*

The Deprivation of Liberty Safeguards apply to people, residing in care home environments or hospitals, when the adult does not have the mental capacity to make decisions about their own care and treatment; and they are subject to continuous supervision and control; and are not free to leave. The Deprivation of Liberty Safeguards protect the rights of adults in this situation and ensure that the care or treatment they receive is in their best interests and that the person has a right of review from the Court of Protection.

People living in their own homes may also be deprived of their liberty if they lack the capacity to make decisions about their own care and treatment and are under continuous supervision and control and not free to leave AND the State has some involvement in their care or is aware of their care. This situation falls outside of the Deprivation of Liberty Safeguards and into the main provisions of the Mental Capacity Act 2005.

2.2.3 Human Rights Act 1998

The Human Rights Act 1998 applies to all public authorities (such as central government departments, local authorities and NHS Trusts) and other bodies performing public functions (such as private companies operating prisons). These organisations must comply with the Act – and individual's human rights – when providing a service or making decisions that have a decisive impact upon an individual's rights. The Care Act 2014 extends the scope of the Human Rights Act 1998. This incorporates registered care providers (residential and non-residential) providing care and support to an adult, or support to a carer, where the care and support is arranged or funded by the local authority (including Direct Payment situations

(LGA, 2014). It does not incorporate completely private arrangements concerning care and support.

The Human Rights of adults at risk:

Article 1: Obligation to respect human rights

Article 2: Right to life

Article 3: Prohibition of torture, inhuman and degrading treatment

Article 4: Prohibition of slavery and forced labour

Article 5: Right to liberty and security

Article 6: Right to a fair trial

Article 7: No punishment without law

Article 8: Right to respect for private and family life, home and correspondence

Article 9: Freedom of thought, conscience and religion

Article 10: Freedom of expression
Article 11; Freedom of assembly and association

Article 12: Right to marry
Article 13: Right to an effective remedy

Article 14: Prohibition of discrimination

3. Definitions:

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

3.1 Adult at risk of abuse or neglect:

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

has needs for care and support (whether or not the local authority is meeting any of those needs) **and**;

is experiencing, or at risk of, abuse or neglect; **and**

as a result of those care and support needs is unable to protect themselves from either the risk of, or the experience of abuse or neglect.

Care and support needs are defined within the Care Act as

“.....the mixture of practical, financial and emotional support for adults who need extra help to manage their lives and be independent – including older people, people with a disability or long-term illness, people with mental health problems, and carers. Care and support

includes assessment of people's needs, provision of services and the allocation of funds to enable a person to purchase their own care and support. It could include care home, home care, personal assistants, day services, or the provision of aids and adaptations"

3.2 What are Abuse and Neglect?

Abuse can broadly be considered a violation of an adult's human and civil rights. If an adult is unable to claim these, to self-protect, as a result of their care and support needs, those rights will need to be assured by others.

Defining abuse or neglect is complex and rests on many factors. A key consideration is

"has an adult been harmed or are they at risk of harm because of the actions or inactions of others"?

In self-neglect, an adult may be harmed as a result of their own lack of action to resolve factors which may seriously damage their wellbeing.

Incidents of abuse may be one off or multiple. More than one adult at risk may be harmed. Professionals and others should look beyond single incidents or individuals to identify patterns of harm.

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

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

- Serial abuse in which someone seeks out and deliberately exploits an adult. Sexual abuse sometimes falls into this pattern as do some forms of financial abuse
- Long term abuse – may occur in the context of an on-going relationship such as domestic abuse between partners or generations or persistent psychological abuse
- Opportunistic abuse - such as theft occurring because money or jewellery has been left lying around.
- Self-neglect – where a person declines support and assistance with their care and support needs impacting on their individual wellbeing

Abuse and neglect may consist of:

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

Abuse and neglect may be intentional or unintentional. Abusive acts may be crimes and informing the police is a key consideration.

Repeated instances of poor care may be an indication of more serious problems in an organisation, resulting in “organisational abuse”. In order to see these patterns and trends it is important that information is recorded and appropriately shared.

Whilst it is acknowledged that abuse or neglect can take different forms, the Care Act 2014 guidance identifies the following types of abuse or neglect:

- Physical
- Domestic Abuse
- Psychological
- Sexual abuse
- Financial or material abuse
- Modern Slavery
- Neglect and acts of Omission
- Discriminatory abuse
- Organisational abuse
- Self-Neglect

Although not specified within the Care Act 2014 as a type of abuse, these policies and procedures also address the possibility that adults at risk may be exploited by radicalisers who promote terrorism and violence, either via personal contact or through internet sources. Concerns about young people and adults at risk related to ‘radicalisation’. In health services, this falls under adult safeguarding responsibilities and responsibilities are outlined in the NHS contract.

Counter Terrorism & Security Act 2015

Section 26 - places a duty on certain bodies, including the local authority and police as “specified authorities in the exercise of their functions, to have “due regard to the need to prevent people from being drawn into terrorism”. The PREVENT (2011) strategy seeks to prevent people being drawn into terrorist activities through

- responding to the ideological challenge of terrorism and the threat faced from those who promote it;
- preventing people from being drawn into terrorism and ensuring that they are given appropriate advice and support; and
- working with sectors and institutions where there are risks of radicalisation which need to be addressed.

Descriptors of abuse and neglect can be found in the Guidance section 1.

3.3 Who might commit abuse or neglect?

Raising concerns about adult abuse is relevant to all incidents of abuse, regardless of who has committed them. **Anyone** might be responsible for abuse, including:

- a “person in a position of trust”, for example:
 - a member of staff, a proprietor or manager of a service
 - a member of a recognised professional group

- a volunteer
- a member of a community group such as place of worship or social club

or

- a spouse, relative, member of the person's social network or an unpaid carer
- a service user, or other adult at risk
- a child, including the person's own son or daughter
- a neighbour, member of the public or stranger; or
- a person who deliberately targets adults at risk in order to exploit them

4 Adult Safeguarding Structures

4.1 Safeguarding Adult Boards (SAB)

Each local authority must establish a SAB to help and protect adults with care and support needs from abuse and neglect in its area. The Care Act 2014 specifies that a SAB must include the local authority that established it, relevant clinical commissioning groups and the police. As well as these three "statutory" partners SABs also include a range of statutory and non-statutory agencies and organisations, according to local needs and arrangements. Each partner has a duty to co-operate in the exercise of its functions to safeguard people in its area.

The SAB provides strategic direction to the development of adult safeguarding work in its area. Their legal duties include:

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

The Cornwall and Isles of Scilly Safeguarding Adults Board (CioS SAB) works to ensure that organisations individually and collectively prioritise the prevention of abuse, develop effective systems and practices to respond to abuse, promote awareness of adult safeguarding, develop workforce training initiatives and achieve continual learning and improved practice.

The CloS SAB also works to ensure that adult safeguarding is integrated into other community initiatives and services. The SAB has links with other relevant inter-agency partnerships. SAB undertakes this work through a range of SAB subgroups.

Board members from partner organisations should have a lead role in their organisation with regard to adult safeguarding arrangements and be of sufficient seniority that they can represent their organisation with authority, make multi-agency agreements and take issues back to their organisation for action.

4.2 Local authorities

The Care Act 2014 places specific legal duties on local authorities.

Each local authority must:

- Consider the wellbeing of both unpaid carers and the person they are caring for during assessments of need. Wellbeing is defined as including the protection from abuse and neglect. During any assessment, the local authority must consider whether it would be possible to provide information, or support that prevents abuse or neglect from occurring. Where this is necessary the local authority should make arrangements for providing it.
- Make (or cause to be made) whatever enquiries it thinks necessary to enable it to decide what action should be taken in the adult's case.
- Receive the findings of any enquiry and determine with the adult what, if any, further action is necessary.
- Arrange, where appropriate and proportionate, for an independent advocate to represent and support an adult who is the subject of a safeguarding enquiry or Adult Safeguarding Review (SAR) where the adult has 'substantial difficulty in being involved in the process and where there is no other appropriate adult to help them.
- Co-operate with its partners in achieving its objectives (each of whom has a duty to co-operate with the local authority).

4.3 Responsibilities of all Adult Safeguarding Partner Agencies

4.3.1 Prevention of abuse and neglect.

Whilst the adult safeguarding procedure focuses on responding to potential abuse, **the prevention of abuse and neglect must be the primary objective of all agencies working with adults who have care and support needs.**

Members of the public, staff, volunteers and organisations all have a role in preventing abuse. Members of the public can help prevent abuse by encouraging people they are concerned about to recognise risks, to seek support, to access the services they need. This might be by helping friends or family members to recognise abuse or to plan ahead as to

how they manage their finances and affairs. This could also involve helping people to access information and advice or to understand their rights and responsibilities.

4.3.2 Responsibilities of all organisations

An organisation that provides care and support to adults at risk of abuse or neglect has responsibilities for adult safeguarding. This involves:

- actively developing service provision that minimises the risk of abuse or neglect occurring;
- working with partner agencies to support adults who have experienced abuse or neglect;
- working with partner agencies to end any abuse or neglect.

All organisations involved in adult safeguarding must ensure they respond to issues of abuse and neglect in accordance with this Multi-Agency Adult Safeguarding Policy and Procedure. This includes the responsibility to ensure that:

- organisations have their own internal policy and procedures, consistent with the CIoS multi-agency Policy and Procedure;
- all staff and volunteers raise adult safeguarding concerns as specified with the CIoS multi-agency Policy and Procedure;
- appropriate senior representatives of the organisation attend and actively contribute to adult safeguarding Strategy Meetings (or Discussions);
- staff (and volunteers) actively contribute and participate as needed within adult safeguarding Section 42 Enquiries;
- service providers need to provide details of enquiries undertaken and their findings to inform adult safeguarding plans and any meetings or conferences held to develop plans;
- appropriate senior representatives of the organisation attend meetings and actively contribute to adult safeguarding processes;
- the organisation and its staff (and volunteers) work in partnership with other agencies to ensure the safeguarding planning needs of the adult at risk are met;
- information is shared between agencies in accordance with information sharing policies and protocols;
- the organisation keeps its own records in relation to safeguarding concerns and how these are responded to;

- the organisation participates within Adult Safeguarding Reviews where requested by the SAB;
- the organisation supports and empowers adults at risk to make decisions about their own lives;
- the staff teams adhere to the principles of the Mental Capacity Act 2005, and accompanying Code of Practice, where an adult at risk lacks capacity to make the relevant decision(s);
- the organisation supports adults at risk to end abuse and to access support that enables them to achieve resolution and recovery wherever possible.

4.3.3 Specific responsibilities of organisations, employees, volunteers and council members

4.3.3.1 All commissioners:

Safe commissioning is fundamental to the adult safeguarding prevention agenda. Without a proactive safe commissioning agenda reducing abuse will remain a challenge. Health and Social Care Commissioning arrangements must include activity to address a range of concerns, from repeat adult safeguarding concerns in regulated services through to provider failure. Commissioners must have a process in place to ensure high quality provider services are available in the market place allowing availability of choices for good quality care.

Commissioners have a responsibility to:

- make clear their expectations of the contracted organisation and monitor compliance.
- ensure that their contracted organisations know about and adhere to relevant registration requirements and guidance.
- ensure all documents such as service specifications, invitations to tender, service contracts and service-level agreements adhere to the multi-agency adult safeguarding policy and operational procedure.
- ensure adult safeguarding issues are always included in the monitoring arrangements for contracts and service-level agreements.
- ensure that contracted organisation managers are clear about their leadership role in adult safeguarding.
- liaise with adult safeguarding leads and regulatory bodies and make regular assessments of the ability of service providers to effectively safeguard service users.
- commission services who have staff with the right skills to understand and implement adult safeguarding principles and practice.

- ensure that services routinely provide service users with information in an accessible form about how to make a complaint and how complaints will be dealt with.
- ensure that contracted organisations give information to service users about abuse, how to recognise it and how and to whom they can make an adult safeguarding concern.
- ensure that contracted organisations regularly review incidents and take timely actions to address any issues identified.

Clinical commissioning groups (CCG)

CCGs are NHS organisations set up by the Health and Social Care Act 2012 to organise the delivery of NHS services in England. They are statutory members of Adult Safeguarding Boards.

CCG's commission a range of health and care services including:

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

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

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

NHS England -

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

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

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

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

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

NHS England is required to:

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

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

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

4.3.3.2 Police

The police are statutory members of the SAB.

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

Criminal investigations will take precedence over other forms of enquiry, but safeguarding planning to ensure the well-being of the adult at risk will need to be undertaken in parallel. The police can coordinate criminal investigations with wider safeguarding responses. When criminality is uncovered or suggested, the Police will seek consensus on a pragmatic, risk based response which puts the victim first. This requires partnership, effective communication and cooperation, making the best use of each organisations skills and expertise in order to achieve safe, effective and timely outcomes for the adult at risk.

4.3.3.3. Crown Prosecution Service (CPS)

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

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

The CPS has a key role in making sure that special measures are put in place to support vulnerable or intimidated witnesses to give their best evidence. They are available both in the Crown and Magistrate Courts. These include the use of trained intermediaries with communication, screens and arrangements for evidence and cross-examination to be given by video link.

For more detail see Achieving Best Evidence in Criminal Proceedings: Guidance on interviewing victims and witnesses, and guidance on using special measures, Ministry of Justice, March 2011)

https://www.cps.gov.uk/sites/default/files/documents/legal_guidance/best_evidence_in_criminal_proceedings.pdf

4.3.3.4 Fire and Rescue Service

The Fire and Rescue Service visit adults at risk of abuse or neglect in various settings, including their own homes when responding to incidents or when carrying out a fire safety visit. Fire and Rescue Services are partners in working with people who self-neglect or hoard and in doing so cause risk to themselves and others.

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

4.3.3.5 Housing and Housing Related Support Organisations

Housing organisation staff will identify tenants who are vulnerable and are at risk of abuse, neglect and exploitation.

Housing related support organisations provide housing and support services for adults with a wide range of needs.

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

4.3.3.6 The Coroner

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

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

Concerns regarding the death of an adult at risk should be brought to the attention of the Coroner without delay.

4.3.3.7 All providers of health and social care:

Regulated providers are mandated to be open and transparent under their Duty of Candour, as required by the Care Quality Commission in relation to safeguarding and other issues. See section 2.1.5

All Health & Social Care commissioned service providers must work within internal guidelines that are consistent with the SAB policy and procedure. In addition, provider organisations' internal guidelines must cover:

- a 'whistle-blowing' policy which sets out assurances and protection for staff to raise concerns (Public Interest Disclosure Act 1998). In health services this is referred to as a "Freedom to Speak Up" policy.
- how to work within best practice as specified in contracts.
- how to meet the standards in the Health and Social Care Act 2008 (regulated activities) and the Care Quality Commission Regulations
- how to fulfil their legal obligations under the Disclosure and Barring Service.
- using the provisions of the Mental Capacity Act 2005 and Deprivation of Liberty Safeguards.
- the undertaking of enquiries if required to by the local authority.

- Deprivation of Liberty Safeguards (DoLS) (*hospitals and care homes only*).
- Robust and safe recruitment arrangements.
- induction and on-going training and supervision for staff that includes adult safeguarding training and requirements.

In addition to the above:

NHS Statutory Providers

These services are provided by Royal Cornwall Hospital Trust (RCHT), and Cornwall Partnership NHS Foundation Trust (CFT). In addition to the requirement to cooperate with the local authority and to work in partnership with agencies for adult safeguarding, these organisations hold additional responsibilities for taking reported concerns from their staff, i.e. making an assessment of the concern and agreeing appropriate actions. CFT have the added responsibility of coordination and management of adult safeguarding enquiries. These activities will be regularly audited by the local authority which has the statutory responsibility for these activities under the Care Act 2014.

There are specific safeguarding requirements / duties in the NHS contract and these include Prevent and delivery of the 'Health WRAP' (Workshop to Raise Awareness of Prevent).

Community, voluntary and private sector providers

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

Community, voluntary and private sector organisations will cooperate and work together with statutory agencies, such as the police, NHS and the local authority, in the interests of adults at risk of abuse or neglect and to achieve the objectives of this procedure.

4.3.3.8 National Probation Service

The National Probation Service (NPS) is a statutory criminal justice service that supervises high-risk offenders released into the community.

The NPS work with 30,000 offenders a year, supporting their rehabilitation while protecting the public. The NPS was set up on 1 June 2014, along with 21 community rehabilitation companies (CRCs) that manage low and medium risk offenders. The NPS works in partnership with the CRCs, with the courts, police and with private and voluntary sector partners in order to manage offenders safely and effectively. Together, the NPS and the CRCs have replaced the former 35 probation trusts. The NPS is responsible for:

- preparing pre-sentence reports for courts, to help them select the most appropriate sentence;

- managing approved premises for offenders with a residence requirement on their sentence;
- assessing offenders in prison to prepare them for release on license to the community, when they will come under our supervision;
- helping all offenders serving sentences in the community to meet the requirements ordered by the courts;
- communicating with and prioritising the wellbeing of victims of serious sexual and violent offences, when the offender has received a prison sentence of 12 months or more, or is detained as a mental health patient.

The NPS Priority is to protect the public by the effective rehabilitation of high risk offenders, by tackling the causes of offending and enabling offenders to turn their lives around.

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

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

4.3.3.9 Community Rehabilitation Companies (CRC)

There are 21 CRCs responsible for the management of low to medium risk offenders in 21 areas across England and Wales.

CRC are private companies commissioned to work in regional areas across the country.

The CRCs have a responsibility for supervising short-sentence prisoners (those sentenced to less than 12 months in prison) after release.

CRC's work with partners to reduce reoffending. Although the focus of the Probation Service is on those who cause harm, they are also in a position to identify offenders who themselves are at risk from abuse and to take steps to reduce the risk to those offenders in accordance with this Multi-Agency Policy and Procedures.

4.3.3.10 Care Quality Commission (CQC)

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

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

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

CQC will be involved in four main areas of partnership working: information sharing; safeguarding meetings; Safeguarding Adults Board; Safeguarding Adult Reviews. Whilst not a full member of the SAB, CQC will attend meetings at least once per year.

4.3.3.11 Healthwatch

Healthwatch is the independent consumer champion for people who use health and care services. Health watch has statutory powers to ensure the voice of the consumer is strengthened and heard by those who commission, deliver and regulate health and care services.

Healthwatch operates on a national level through Healthwatch England and at a local level with a Healthwatch in each area.

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

The CloS SAB has a duty to consult Healthwatch in relation to its Strategic Plan each year, to help ensure that its plans reflect local needs, priorities and views.

4.3.12 Prisons and Approved Premises

Local authority statutory adult safeguarding duties apply to those adults with care and support needs regardless of setting, **other** than prisons and approved premises where prison governors and National Offender Management Service (NOMS) have responsibility.

Separate guidance for prisons and probation is published by the NOMS and can be found at <https://www.justice.gov.uk/downloads/offenders/psipso/psi-2015/psi-16-2015-adult-safeguarding-in-prisons.pdf>

Where a local authority is made aware that an adult in a custodial setting may have care and support needs, they must carry out a needs assessment (or request someone to do it on their behalf) as they would for someone in the community.

If someone in a custodial setting refuses a needs assessment the local authority is not required to carry out the assessment, subject to the same conditions as in the community. This does not apply if:

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

4.3.13 Local authority Councillors

The Local Government Association (LGA) 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 are community leaders, championing the wellbeing of their constituents, and 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 have a duty to report this to the local authority adult safeguarding team.

As part of their governance role, holding council executives and their partners to account, and accounting to their constituents for what has been done, all councillors have a responsibility to ask questions of the executive and other partner organisations about the safety of adults in their area, and about the outcomes of adult safeguarding.

Portfolio holders. The lead member in councils with social services responsibilities has responsibility for the political leadership, accountability and direction of the council's services for adults. The portfolio holder has a role in ensuring that the various departments within a council work together to promote wellbeing, prevent social exclusion and to protect adults from abuse.

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

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

Councillors who are portfolio holders for children's services will need to be aware of the links with adult safeguarding. There may be specific examples where the crossover is particularly clear, for example, the period of transition from children's to adult services or when an adult may be a risk to children.

For more details see: LGA Councillors briefing 2015 - Safeguarding adults
<http://www.local.gov.uk/topics/social-care-health-and-integration/adult-social-care/councillors-briefing-safeguarding-adults>

4.4 Partner Agencies with Specialist Support Functions

There are a range of related specialist support services that serve to protect the safety and welfare of individuals. Each of these services may need to work alongside other partners in the adult safeguarding procedure, in order to minimise the risk to either an adult at risk or another person.

4.4.1 The Court of Protection (CoP)

Contact details: Tel 0300 456 4600. Email courtofprotectionenquiries@hmcts.gsi.gov.uk

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

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

In most cases decisions about personal welfare can be made legally without making an application to the court, as long as there is no objection and the decisions are made in accordance with the core principles set out in the Mental Capacity Act 2005 and Code of Practice. However, it may be necessary to make an application to the court in a safeguarding situation where there are:

- decisions to be made about where a person lives that involve moving them from their usual place of residence because there are risks to their safety and wellbeing from living there.
- disagreements and disputes regarding accommodation and/or treatment that cannot be resolved by any other means
- on-going decisions needed about the personal welfare of a person who lack capacity to make specific decisions to make such decisions for themselves
- matters relating to property and/or financial issues to be resolved
- serious healthcare and treatment decisions, for example, withdrawal of artificial nutrition or hydration
- a need to place restrictions on contact with named individuals because of risk so potentially breaching HRA article 8 rights
- where proposed adult safeguarding actions may amount to a deprivation of liberty outside of a care home or hospital

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

4.4.2 Office of the Public Guardian (OPG)

Contact details: Telephone 0300 456 0300.

Email: opg.safeguardingunit@publicguardian.gsi.gov.uk

The OPG was established under the Mental Capacity Act 2005 to support the Public Guardian and to protect people who lack capacity by:

- investigating concerns about the way in which attorneys or deputies carry out their duties
- setting up and managing separate registers of lasting powers of attorney, of enduring powers of attorney and of court-appointed deputies and supervising deputies

- sending Court of Protection visitors to visit people who lack capacity and also those for whom it has formal powers to act on their behalf
- receiving reports from attorneys acting under lasting powers of attorney and deputies
- providing reports to the Court of Protection

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

4.4.3 The High Court. The High Court has the **inherent jurisdiction** to hear cases regarding adults who possess capacity but still require protection for certain reasons. “The inherent jurisdiction” is a doctrine of the English common law that a superior court has the jurisdiction to hear any matter that comes before it, unless a statute or rule limits that authority or grants exclusive jurisdiction to some other court or tribunal. Lord Justice Munby (2006) has taken the view in the High Court that

“A vulnerable adult who does not suffer from any kind of mental incapacity may nonetheless be entitled to the protection of the inherent jurisdiction if he is, or is reasonably believed to be, incapacitated from making the relevant decision by reason of such things as constraint, coercion, undue influence or other vitiating factors”.

The Law Commission report no 326 (2011) on the inherent jurisdiction of the High Court clarifies its use:

“However, the inherent jurisdiction cannot be used to compel a capacitated but *vulnerable* person to do or not do something which they have, after due consideration, decided to do or not to do; the jurisdiction acts to ‘facilitate the process of unencumbered decision making’ by those who have capacity ‘free of external pressure or physical restraint in making those decisions’. (para. 9.80)”

Inherent jurisdiction can be considered in cases where an adult is capacitated but under extreme duress or coercion, so much so that they cannot exercise free choice in protecting themselves or achieving a good quality of life.

4.4.4 Disclosure and Barring Service (DBS)

Contact details: DBS Barring helpline: 01325 953795

Providers of regulated services must adhere to the requirements of the DBS. If an employer has:

- Dismissed a member staff or volunteer because they harmed someone
- Dismissed them or removed them from working in a regulated activity because they might have harmed someone
- Planned to dismiss them for either of these reasons, but they resigned first

Then the employer has a **legal duty** to refer the person to the DBS for consideration of inclusion onto the barred list. **Referral is no guarantor of inclusion on the barred list.**

If an agency or personnel supplier has provided the person, then the legal duty sits with that agency. In circumstances where these actions are not undertaken then the local authority can make such a referral.

4.4.5 The Trading Standards Service

Contact details: 0300 1234 191

The Trading Standards Service can help support and protect adults at risk of abuse from doorstep crime and other abusive sales practices that exploit adults. Doorstep crime describes situations where rogue traders, doorstep criminals and uninvited sales people persuade vulnerable people to let them into their homes, with the intention of carrying out a theft or to carry out unnecessary or substandard work and then pressurise consumers to part with large sums of money. Internet scams and postal scams can be targeted at adults at risk who may be put onto lists by exploitative criminals.

Trading Standards Services can take a range of actions, including the investigation of complaints against traders, provide people with information on their consumer rights and work with partners to develop cold calling control zones. Trading standards staff will also identify situations where it is appropriate to raise a safeguarding concern and will work with the police in situations of criminal exploitation.

Bournemouth University have recently published a review into the value of early interventions in the case of financial scamming which can be found here

<http://www.ncpqsw.com/financial-scamming/>

4.4.6 Department of Work and Pensions (DWP)

The Department for Work and Pensions is responsible for welfare and pension policy. People who lack capacity to manage their own financial affairs may have an appointee. An appointee is fully responsible for acting on the customer's behalf in all the customer's dealings with the Department. This includes the claiming of benefits.

4.4.7 Victim support:

Some adults who are victims of a crime do not wish to report the crime. If the adult does not wish to report the crime they can still receive victim support by contacting the national Victim Support charity which provides support for victims and witnesses of crime in England and Wales. An adult can self-refer, in confidence, to this organisation by calling 0300 3030 554 or email devon.cornwall@victimsupport.org.uk

If the adult was sexually assaulted but does not wish to tell the police:

Sexual assault referral centres (SARCs) can offer free and confidential help, support, examination and counselling. Within the sexual assault referral centre there are independent sexual violence advisors (ISVAs). An advisor can help the adult to report what has happened to the police and support them through the criminal justice process.

SARC locations are:

- Plymouth SARC - Twelves Company - if adult is located in Plymouth, North Cornwall, South Hams or West Devon. Tel: 08458 121212

- Cornwall SARC - The Willow Centre – if adult is located in Cornwall. Tel: 01872 272059

Help and advice can be obtained from other services such as counsellors, sexual health centres, (called GU clinics), GP or a hospital, and the service provided by Victim Support for those that do not want to report a crime.

If the adult has reported a crime and would like some support they can contact the Victim Care Unit on 01392 475900. Email the victim care unit on victimcareunit@dc.police.uk

Restorative justice services can be accessed via the victim care unit. Victims and offenders are becoming increasingly aware of restorative justice. The term restorative justice encompasses a range of actions or interventions that enable some communication between the victim and the offender.

The process of restorative justice is about empowerment. It empowers the victim by giving them a voice in the process. It can also empower the offender to make changes in their offending behaviour once they have to face the reality of the impact on their crime on their victim. Restorative justice is not only for individuals but for families, groups and whole communities.

4.4.8 Independent advocacy

Contact details: Telephone 0300 343 5706

Email info@advocacyincornwall.org.uk

Where an adult at risk has capacity but they have a 'substantial difficulty' being involved in the process, and they have no-one other than those acting in a professional capacity to support them, it is necessary to consider if there is a 'particular benefit' to providing them with an independent advocate. Where the provision of an independent advocate is appropriate and proportionate to the circumstances, the local authority **must** arrange for one to be provided. (Care and Support, Statutory Guidance: Paragraph 14.10).

This type of advocate can be described as a “**Care Act Advocate**”

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

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

providing help to understand information provided, assistance in weighing up the information, and support in communicating their wishes and preferences. The advocate is NOT able to be involved in obtaining or collating evidence for an enquiry, their role is to support the adult at risk in being involved.

If there are concerns that the adult's supporter may be coercing them or putting them under any form of duress, or be in conflict with the adult's views and wishes, a care act advocate may also be considered to support the adult through the adult safeguarding process.

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

Independent Mental Capacity Advocates (IMCAs)

Contact details: Telephone 0300 343 5706

Email info@advocacyincornwall.org.uk

Many of the people who qualify for advocacy under the Care Act will also qualify for advocacy under the Mental Capacity Act 2005. The same advocate can provide support as an advocate under the Care Act and under the Mental Capacity Act. This enables the adult to receive seamless advocacy and not to have to repeat their story to different advocates..

If, as established by a mental capacity act assessment, a person is unable to understand information given to them, or retain, use or weigh the information in order to make a decision about a specific issue, or cannot communicate their views even when supported to do so, the person is deemed to lack capacity to make a decision regarding the specific issue under consideration. IMCAs can provide a form of non-instructed advocacy for people who lack capacity. Their role was established by the Mental Capacity Act 2005. IMCAs can be instructed in adult safeguarding cases where the person's representative is not deemed to be acting in the adult's best interest or there is conflict with the usual representative for the adult.

The aim of the IMCA service is to provide independent safeguards for people who lack capacity to make certain important decisions and, at the time such decisions need to be made, have no-one else (other than paid staff) to support or represent them or be consulted. An IMCA **must** be instructed, and then consulted, whenever:

- an NHS body is proposing to provide serious medical treatment, or
- an NHS body or local authority is proposing to arrange accommodation (or a change of accommodation) in hospital or a care home, and
- the person will stay in hospital longer than 28 days, or
- they will stay in the care home for more than eight weeks.

An IMCA *may* be instructed to support someone who lacks capacity to make decisions concerning:

- care reviews, where no-one else is available to be consulted
- adult safeguarding cases, if the person's representatives are not acting in their best interests

- It is essential that IMCA's views are taken into consideration during the adult safeguarding process, particularly when, under best interests processes, protective actions are proposed.

The IMCA's role is to support and represent the person who lacks capacity. Because of this, IMCAs have the right to see relevant healthcare and social care records. Any information or reports provided by an IMCA must be taken into account as part of the process of working out whether a proposed decision is in the person's best interests.

Other advocacy services

There are other types of advocate but these do have specific roles and should not be considered as suitable advocates for people who are experiencing difficulty in participating in their own safeguarding. The advocacy roles described below may be time limited and focus on a specific aspect of the adult's circumstances:

Independent Mental Health Advocacy (IMHA)

Contact details: Telephone 0300 343 5706

Email info@advocacyincornwall.org.uk

There is a legal duty to provide Independent Mental Health Advocacy to patients who qualify under the Mental Health Act 1983.

An Independent Mental Health Advocate (an IMHA) is someone who is specially trained to work within the framework of the Mental Health Act to meet the needs of patients detained under the Act. Independent Mental Health Advocacy services do not replace any other advocacy and support services that are available to patients. An IMHA will work alongside these services.

Patients should be informed of their right to access an IMHA. This is the responsibility of the person who is in charge of their care at the time.

Independent Domestic Violence Advisors (IDVA)

Contact details: Telephone: 01872 241 711 (professionals only)

Email: reach.support@firstlight.org.uk

The Independent Domestic Violence Advisors (IDVA) is a government initiative introduced to reduce the number of Domestic Related Homicides. IDVAs focus on high risk clients by supporting at a point of crisis, supporting them to plan appropriate safety management strategies. These pro-active responses safeguard service users and their dependents. A central part of the role involves supporting them to access and navigate through the Criminal Justice System. Adults who are experiencing a lower risk and have not been referred to a MARAC can be supported via other REACH services, for example telephone advice or signposting to other relevant sources of help.

The Home Office initiated the development of Multi Agency Risk Assessment Conferences (MARAC) and IDVA service at a local and national level to offer coordinated responses to

victims of domestic abuse. An IDVA will work in partnership with MARACs to reduce the risk of harm to high risk clients. The IDVA service has continued to be central to the Multi-Agency Risk Assessment Conference (MARAC) in providing a coordinated service to adults at high risk of serious harm and domestic homicide; focusing on reducing risk and safety management of adults and their dependents. The IDVA sign post to other organisations when risk is reduced.

IDVAs also play a major role by providing victims impartial and independent support both at court and throughout their contact with the Criminal Justice System by attending the Specialist Domestic Violence Courts (SDVC) and supporting adults through the Criminal Justice System where they are victims of domestic abuse related crime. The IDVAs can inform the courts of the adult's wishes regarding bail conditions, restraining orders and support the adult to go to court to give evidence; feel safe and protected whilst doing this.

Independent Sexual Violence Advisors

Contact details: **Telephone: 01872 272 059 (professionals and public)**

Email: willow.support@firstlight.org.uk

An ISVA is a trained independent specialist offering practical and emotional support to anyone over the age of 13 who has reported rape or sexual abuse to the police, or is considering doing so.

An ISVA will support the adult through the whole process, from initial reporting, all the way through the lengthy and sometimes difficult legal process and beyond. To receive support, an appointment will be arranged to meet the ISVA. Support is likely to be a combination of telephone and face to face, based upon the adult's needs and circumstances.

The ISVA will help the adult understand how the criminal justice process works, for example, the interview process, the investigation, the importance of forensic DNA retrieval and court appearances.

The ISVA will be non-judgmental and empathic and provide a safe and confidential environment in which the adult can express their feelings and make choices about change.

The ISVA will work to identify what support and advice the adult requires, linking with services and helping them access services such as housing, health & counseling

The ISVA can gain information on the adult's behalf about their case by talking with the Devon and Cornwall Police and the Crown Prosecution. They can also support the adult and their family at court and other legal processes.

4.4.9 Witness support and special measures

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

Intermediaries play an important role in improving access to justice for some of the most vulnerable people in society, giving them a voice within the criminal justice process.

For more information see <https://www.devon-cornwall.police.uk/advice/victim-witnesses/witnesses/vulnerable-and-intimidated/>

And <https://www.cps.gov.uk/victims-witnesses>

5. Children and young people and transitions

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

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

Everyone must be aware that in situations where there is a concern that an adult with care and support needs is or could be being abused or neglected, and there are children in the same household, they could also be at risk. A referral must be made to the child protection unit (MARU) – telephone **0300 1231 116 use option 2 when prompted.**

Professionals should be alert to the possibility of child sexual exploitation and must report any such concerns to local authority children's services and/or the police. Child sexual exploitation (CSE) is a crime that can affect any child, anytime, regardless of their social or ethnic background. It is child abuse and involves perpetrators grooming their victims in various ways, such as in person, via mobiles or online, to gain their trust before emotionally and sexually abusing them. It can take place in many forms, whether through a seemingly consensual relationship, or a young person being forced to have sex in return for some kind of payment, such as drugs, money, gifts or even protection and affection. Victims may be over or under 18, and concerns must recognise the vulnerabilities of both children and the young adults involved.

5.2 Transition between children's and adult services:

The Care Act (Section 14.5) states - Where someone is over 18 but still receiving children's services and a safeguarding issue is raised, the matter should be dealt with as a matter of course by the adult safeguarding team. This should involve the local authorities' children's safeguarding colleagues as well as any relevant partners (e.g. police or NHS) or other persons relevant to the case.

An 18 year old person must however meet the criteria for use of the adult safeguarding procedures, i.e.

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

The level of need is not relevant, and the adult does not need to have **eligible** needs for care and support, or be receiving any particular service from the local authority, in order for the safeguarding duties to apply.

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

only people aged 18 or over can make a lasting power of attorney

the law generally does not allow anyone below the age of 18 to make a will

DOLS authorisations under the MCA apply only to people aged 18 or over.

Information on decisions to refuse treatment made in advance by young people under the age of 18 is available.

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.

The care needs of the young person should be at the forefront of any support planning and require a co-ordinated multi-agency approach. Assessments of care needs at this stage should include issues of safeguarding and risk. Care planning needs to ensure that the young adult's safety is not put at risk through delays in providing the services they need to maintain their independence, wellbeing and choice.

6. Processes which support adult safeguarding

6.1 Multi-Agency Public Protection Arrangements (MAPPA)

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

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

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

6.2 MARAC – Multi Agency Risk Assessment Conference

The purpose of the MARAC is to provide a confidential forum where agencies are able to share information which will increase the safety, health and well-being of victims and children related to the case. This is achieved through increased awareness of agencies, through flagging and tagging their files and also through development of multi-agency plans which identify appropriate interventions or other actions which will safeguard adults and their children.

The MARAC works to reduce the threat of further harm and repeated domestic abuse through agreeing actions with MARAC partners. The MARAC uses IDVAs and support services to support the victim/survivor, to attempt to reduce the level of risk to the victim/survivor, so that their risk factors are reduced and their safety is maximised.

The MARAC identifies where possible whether the perpetrator poses a continuing significant threat, the risk of further harm to particular individuals and to the community. Referrals will be made as needed, for example to the MAPPA (Multi Agency Public Protection Arrangements) or Local Policing teams.

An agreed lead agency representative will inform the victim/survivor regarding the MARAC meeting recommendations. The MARAC attempts to identify any child contact concerns between children and perpetrators of domestic abuse within the family environment. The MARAC keeps the victim/survivor informed, where possible, of all decisions made by the MARAC via the appropriate agencies, at the earliest opportunity.

7. Personal Budgets and Self-Directed Care

People receiving a personal budget or a direct payment often use it to employ a personal assistant. Some personal assistants, like others in a caring capacity, could harm or abuse the person who is employing them.

In such circumstances, the person who is being harmed or abused is in a difficult legal and emotional situation. Whilst dependent on their abuser for their personal care and social and emotional support, they may feel afraid of this person, but they are also the abuser's employer and expected to act in ways consistent with employment law.

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

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

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

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

8. Information Sharing

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

Information sharing must be consistent with the requirements of the Data Protection Act 1998. Whether information is shared with or without the consent of the adult at risk, the information shared should be:

- necessary for the purpose for which it is being shared
- shared only with those who have a need to know in order to:
- protect the vital interests of the person/or public or
- prevent or detect crime

Information must

- be accurate and up to date
- be shared in a timely fashion
- be shared accurately
- be shared securely

Agencies should identify arrangements, consistent with principles and rules of fairness, confidentiality and data protection, for making records available to adults at risk and the people allegedly abusing or neglecting adults. If the adult causing harm is also using care and support services information about their involvement in an adult safeguarding enquiry, including the outcome, should be included in their case record. If it is assessed that the individual continues to pose a threat to other people then this should be included in any information that is passed on to service providers or other people who need to know.

The Care Act 2014 establishes the importance of organisations sharing vital information related to abuse or neglect with the Safeguarding Adult Board (SAB). In order to carry out its functions effectively, the SAB may need access to information that a wide number of people or other organisations hold in order to enable the SAB to fulfil its functions. Section 45 of the Act ensures that if the SAB requests information from a body or person who is likely to have information they **must** share what they know with the SAB at its request if the information requested is for the purpose of enabling or assisting the SAB to perform its functions. The body or person requested to supply the information must have functions or engage in activities of a nature that the SAB considers it likely that they have information relevant to a function of the SAB.

PART TWO: PROCEDURE

Adult Safeguarding Operational Procedure

1. Introduction

Adult Safeguarding procedures must be used not only to **respond** to immediate risk of harm and harm that has already occurred, but to address and **prevent** harm where there are clear indicators of future risk. The procedures have four distinct phases:

Safeguarding concern – (also sometimes referred to as an alert or a referral about adult abuse) an adult at risk, relative or friends or professional, expresses concern about the safety and wellbeing of an adult at risk, specifically that they may have been harmed or are at risk of harm from a third party or are self-neglecting. Professional referrers will need to gather information following the guidance in section 3 below, and discuss, when safe to do so, the concern with the adult at risk, seeking their views and wishes about the concern. Referrers in organisations with professional leads, i.e. RCHT or CFT, must contact their adult safeguarding team to raise a concern about abuse and for advice and guidance.

Concern decision making – the local authority, CFA, (and CFT and RCHT on behalf of the local authority) will gather information to assess if the alleged abuse or neglect of an adult may need to be enquired into further – **the Section 42 duty to enquire**.

Information will be gathered from the person making the concern report and the adult at risk, unless doing so will put the adult at further risk, as well as other agencies who may have information about the situation.

Safeguarding Enquiry – the concerns will be examined thoroughly through a planned “enquiry”. The aims 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. The enquiry must agree 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

The adult will be involved in the enquiry, and will be able to discuss their views and wishes, and what they think needs to happen to stop the abuse. If the adult experiences substantial difficulty in being involved in deciding their own protection, and has no one to represent them, they can be supported by an advocate to express their wishes.

Safeguarding Plan – the enquiry may conclude that steps are needed to assure the safety of the adult at risk. The Safeguarding Plan will describe these steps including the provision of any support, treatment or therapy including on-going advocacy or any modifications needed in the way services are provided. The plan must include how best to support the adult through any action they wish to take to seek justice or redress. The safeguarding plan will also specify any on-going risk management strategy as needed and any action to be taken in relation to the person or organisation that has caused the concern. When and how the plan will be reviewed will also be specified.

These operational procedures are a framework to support the adult safeguarding process. Adult safeguarding is a dynamic process that must be undertaken with people and not be “done” to people. The following key themes run throughout the adult safeguarding process:

User outcomes: at the beginning and at every stage of the process, the wishes of the adult and what the adult wants to achieve must be identified and revisited. The extent these views and desired outcomes were 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 Mental Capacity Act 2005 requires the 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 specific 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.

It is essential that consideration and assessment of mental capacity under circumstances of undue influence coercion, control and duress is made. Staff have additional duty of care in these circumstances and assuming capacity based on adults ability to understand the risk is not enough in these circumstances as adult may not be able to make decisions with ‘free will’.

What is undue influence, coercion and duress?

Undue influence, coercion and duress can be difficult to identify however case law suggests the focus should be on whether the undue influence, coercion and duress is overbearing the independence of the patient.

In particular, “... it is wholly acceptable that the patient should have been persuaded by others of the merits of such a decision and have decided accordingly. It matters not how strong the persuasion was, so long as it did not overbear the independence of the patient’s decision. Does the patient really mean what he says or is he merely saying it for a quiet life, to satisfy someone else, or because the advice and persuasion to which he has been subjected is such that he can no longer think and decide for himself ?’ ...”. (Re T (Adult: refusal of treatment) 1992 Fam 95)

I.e. the Courts recognise that people take the views of other people into account when making decisions – it is perfectly normal and acceptable for a person making a decision to seek advice from those around them. That is not undue influence. It becomes undue influence when someone cannot distinguish advice from their own decision.

There are generally, two forms of undue influence:

1. **Overt Actions** - blatant forms of physical/emotional/financial/verbal coercion, such as personal violence, and acts of improper pressure or coercion such as threats (verbal, physical and implied)
2. **Relational** - arising out of a relationship between two persons where one has acquired over another a measure of influence, or ascendancy, of which the ascendant person then takes unfair advantage - the relationship between two individuals may be such that, without more, one of them is disposed to agree a course of action proposed by the other - the question is whether one party has reposed sufficient trust and confidence in the other, rather than whether the relationship between the parties belongs to a particular type.

Case law has described the difficulty in identifying relational undue influence: "... where the influence is that of a parent or other close and dominating relative, and where the arguments and persuasions are based upon personal affection, or duty...powerful social or cultural conventions, or asserted social, familial or domestic obligations, the influence may ...be subtle, insidious, pervasive and powerful". (A Local Authority v MA, NA and SA 2005 EWLHC 2942 (Fam))

The key question is "but for" the undue influence, coercion or distress, *would* the person be able to weigh the relevant information. If the answer is "yes" – then they do not lack capacity under the MCA 2005; but may be a vulnerable adult who cannot give true, valid and legal consent due to undue influence, duress or coercion.

Safeguarding planning: in response to identified risks a safeguarding plan can be developed and implemented at any time in the adult safeguarding process. A safeguarding plan aims to:

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

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

Information sharing: this is key to delivering better and more efficient services that are coordinated around the needs of the individual. It is essential to enable early intervention and preventative work, for safeguarding, for promoting welfare and for wider public protection. Information sharing is a vital element in improving outcomes for all. 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 that feedback is given to the adult, people raising the concern and partners. People who raise adult safeguarding concerns are entitled to be given appropriate information regarding the status of the referral they have made. The extent of this feedback will depend on various things (e.g. the relationship they have with the victim, confidentiality issues and the risk of compromising an enquiry). At the very least it should be possible to advise people raising the concern that their information has been acted upon and taken seriously. Partners in provider organisations require feedback to allow them to continue to provide appropriate support, fulfil employment law obligations and make staffing decisions.

It is 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 positive risk taking 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.

2. Authority and Accountability

Local Authority – CFA (Children, Families and Adults)

The local authority is the lead agency for Adult Safeguarding processes as described in the Care Act 2014.

14.10 The Care Act requires that each local authority must:

- make enquiries, or cause others to do so, if it believes an adult is experiencing, or is at risk of, abuse or neglect
- an enquiry should establish whether any action needs to be taken to prevent or stop abuse or neglect and if so, by whom.
- arrange, where appropriate, for an independent advocate to represent and support an adult who is the subject of a safeguarding enquiry or Safeguarding Adult Review (SAR) where the adult has 'substantial difficulty' in being involved in the process and where there is no other suitable person to represent and support them
- co-operate with each of its relevant partners (as set out in Section 6 of the Care Act) in order to protect the adult.

Local authorities must cooperate with each of their relevant partners, as described in section 6(7) of the Care Act, and those partners must also cooperate with the local authority, in the exercise of their functions relevant to care and support including those to protect adults. In Cornwall, the local authority has delegated some of its adult safeguarding functions to other organisations, namely Cornwall Partnership NHS Foundation Trust and the Royal Cornwall Hospitals NHS Trust. The local authority will make arrangements to regularly audit and monitor those arrangements and be assured that these organisations are able to enact their delegated role in adult safeguarding.

2.2 Partner Agencies

Adult safeguarding is everyone's responsibility.

All organisations, commissioned services, providers, and the voluntary sector are required to work in partnership and co-operate with the Local Authority to respond to allegations of abuse or neglect of adults with care and support needs.

Raising an Adult Safeguarding Concern

For members of the public, family and friends:

Telephone the Access team: 0300 12313 or email
accessteam.referral@cornwall.gov.uk

For professionals: Contact the adult safeguarding team:

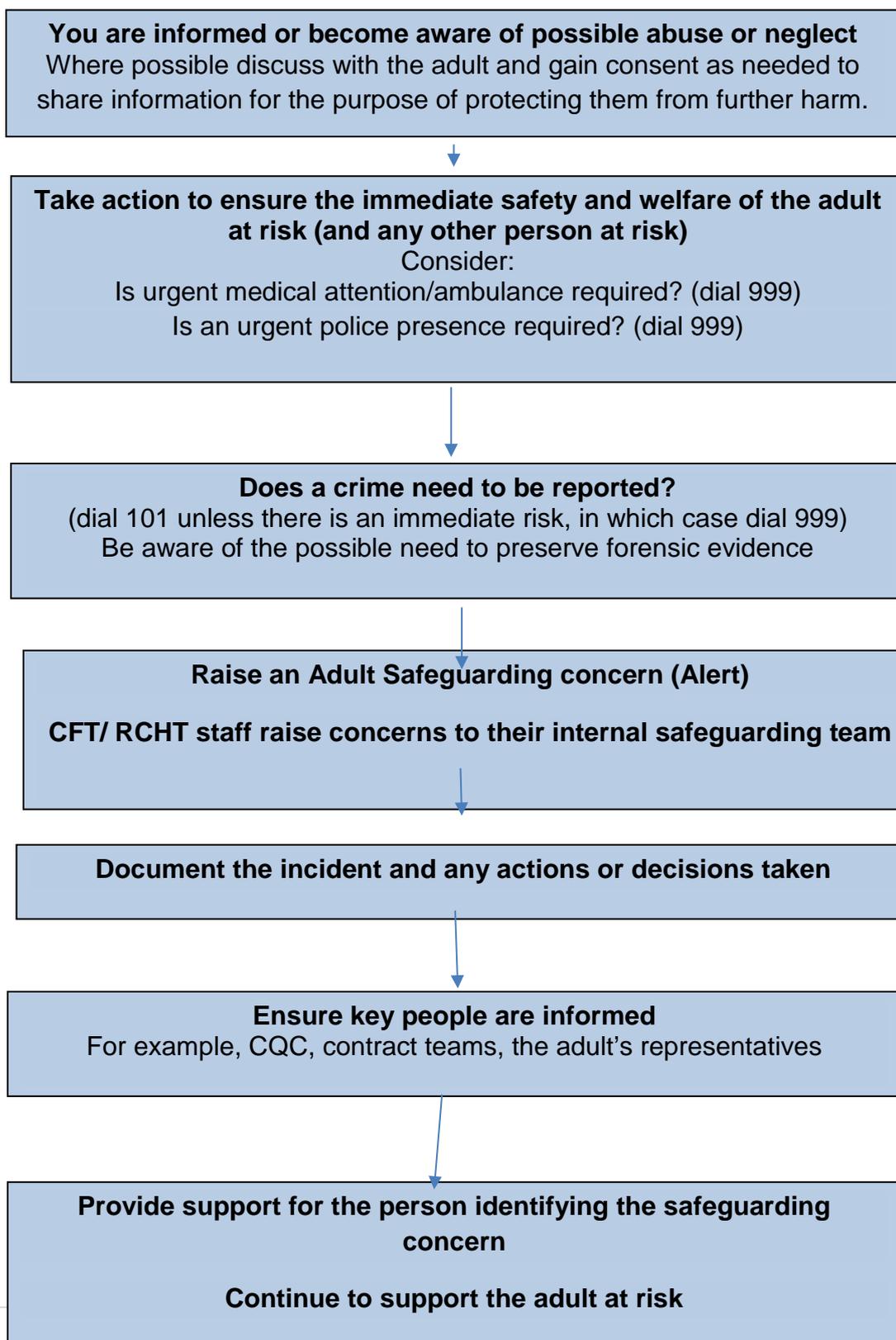
01872 326433 or email adultsafeguardingreferrals@cornwall.gcsx.gov.uk

If there are also child protection concerns contact the MARU on 0300 1231
116 option 2

3. Raising a concern

Timescale: As soon as possible – within 1 working day

Raising an Adult Safeguarding Concern Flowchart



3.1 Introduction. Any person who has concerns that someone who has, or may have care and support needs is experiencing, or is at risk of abuse and neglect, can raise their concerns. If you are the person experiencing abuse and neglect you can report this yourself (Access number). Members of the public, families, friends, and people working or volunteering with adults at risk can all raise concerns.

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

You may need to gather information in order to decide whether you should raise a safeguarding concern and the most appropriate action to keep the person safe.

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

A concern may be:

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

Any person may raise a Concern with the Local Authority where they are concerned that an adult with care and support needs is experiencing, or at risk of abuse and neglect (including self-neglect).

3.2 Guidance on disclosure - for employees and volunteers

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

Within organisations, staff (and volunteers) must always inform their line manager/adult safeguarding lead without delay. In CFT and RCHT staff must contact their adult safeguarding team.

If the concerns relate to the Manager of the service, inform an alternative or more senior manager within your organisation of the concerns.

3.3 Take action to ensure the immediate safety of the adult at risk

Staff with support from their line manager, or the adult safeguarding lead or other relevant manager if out of hours, must consider whether there are any immediate actions they need to take in order to keep the adult, or others, safe from harm.

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

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

Good Practice: Responding to a disclosure

If an adult discloses abuse to you directly, use the following principles to respond:

Assure them that you are taking the concerns seriously

Do not be judgemental or jump to conclusions

Listen carefully to what they are telling you, stay calm, get as clear a picture as you can. Make sure they have all the aids and support they may need to communicate as clearly as possible.

Use open-ended questions using the TED principles; Tell me, Explain, Describe.

Do not start to investigate or ask detailed or probing questions

Help the adult stay as much in control of their situation as possible, what do they want to happen now? What do they think needs to change?

Explain that you have a duty to tell your manager, you cannot keep secrets.

Reassure the person that they will be involved in decisions about them

Explain next steps including what adult safeguarding processes are.

Ask the adult for their consent to share what they have told you with adult safeguarding. If the adult does not wish to consent explain that you must still share the information with your manager and still need to talk with adult safeguarding, you will involve them in this decision but, if others are at risk or if the risks to them are high, you may have to do this without their Consent.

In an emergency

If a crime is in progress or the adult/others are at risk of injury or being threatened telephone the police using 999.

If an adult is injured telephone an ambulance or summon medical help.

3.4 Reporting Crimes and preserving forensic evidence.

If you think that a crime has been committed, seek the person's consent to report the matter immediately to the police, support the person to do this themselves whenever possible.

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

- The person is subject to coercion or undue influence, to the extent that they are unable to give consent, or
- There is an overriding public interest, such as where there is a risk to other people, or it is in the person's vital interests (to prevent serious harm or distress or in life threatening situations). Sexual assaults and crimes involving violence will be found in the public interest or vital interest category.

You must consult your adult safeguarding lead, or if your organisation does not have a lead, your manager, before making a decision not to refer. You must record the rationale for not referring.

The adult safeguarding team can provide advice on 01872 326433 or email:

adultsafeguardingreferrals@cornwall.gcsx.gov.uk

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

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

If the matter is to be reported to the police, do so urgently if there are potential forensic considerations. Use the police 101 number to contact the police to discuss risk management issues and forensic considerations.

Good practice Guide: Preserving Forensic 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.

Where possible leave things as and where they are. If anything must 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 including details about shape, size of injuries, use body maps. 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.

3.5 Deciding whether to Raise a Safeguarding Concern

In deciding whether to raise a safeguarding concern, consider the following questions:

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

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

Desired outcomes are those changes that the adult at risk wants to achieve from the support they receive, such as wanting the abuse to stop, maintaining family relationships or friendships, feeling safe at home, getting access to other services, restricted or no contact with certain individuals or pursuing the matter through the criminal justice system.

Consent to share the information with adult safeguarding should be sought where possible. There may be circumstances where consent cannot be obtained because the adult lacks the capacity to give it or is subject to coercion or undue influence. There are occasions when you may need to raise a concern without the person's consent, for example:

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

If you are not sure whether you should raise a safeguarding concern, you should seek advice. If you have become aware of concerns through the course of your work, seek advice from the Adult Safeguarding Lead in your organisation or telephone the CFA adult safeguarding team on

0300 1231 116 (option 3) or email adultsafeguardingreferrals@cornwall.gcsx.gov.uk

3.6 Actions for Managers.

Managers may need to take steps to protect others in a service

Managers may need to take action in relation to the person or organisation alleged to have caused harm, including:

If a member of staff or volunteer

- ensuring that any staff (or volunteers) who have caused harm are not in contact with service users and others who may be at risk, for example, 'whistle-blowers'

- do not discuss the concern with the person alleged to have caused harm, unless the immediate welfare of the adult at risk or other people makes this unavoidable
- if the person alleged to have caused harm is a member of staff and an immediate decision is required to suspend them, the person has a right to know in broad terms what allegations or concerns have been made about them. The names of the adult(s) raising concerns should not be given in order to prevent possible intimidation of that adult. Fuller details can be given to the person alleged to have caused harm later in the agency's internal processes or criminal investigations.
- Care however should be undertaken not to jeopardise any resulting police investigation.
- If the allegation involves agency staff, the agency should also be notified of the safeguarding concern having been raised

If another adult in the same service:

- action taken may include removing them from contact with the adult at risk. In this situation arrangements must be put in place to ensure that the needs of the adult alleged to have caused harm are also met

Do liaise with the police regarding actions that may impact upon a subsequent criminal investigation, such as where the protective arrangements may forewarn the person alleged to have caused harm of an impending criminal investigation and potentially prejudice the collection of evidence.

3.7 Record Keeping

It is essential that staff document the incident and any actions or decisions taken. Practitioners and line managers must ensure all actions and decisions are fully recorded.

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

Ensure that appropriate records are maintained, including details of:

- the nature of the safeguarding concern/allegation – see the Good Practice guide below.
- the wishes and desired outcomes of the adult at risk and their consent to share information about the concern with the adult safeguarding team.
- the support and information provided to enable the adult at risk to make an informed decision
- assessments of capacity, where indicated
- the decision of the organisation to raise a safeguarding concern (or not)

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, including their consent to share information.
- the appearance and behaviour of the adult and/or the person making the disclosure,
- any injuries observed,
- any actions and decisions taken at this point,
- any other relevant information, e.g. previous incidents that have caused you concern.

Remember to:

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

3.8 Informing key people: Checklist

Where relevant, the manager or adult safeguarding lead for the organisation should inform:

- The Care Quality Commission if the concerns involve a regulated service provider
- The Charity Commission if the concern involves a registered charity
- The placing authority for the adult at risk (where relevant)
- The quality assurance team/commissioners in health and/or adult care as appropriate
- Child protection services, if children are also at risk from harm
- Relatives of the adult at risk **if** the adult wishes them to be informed, or in their 'best interests' where they lack the capacity to make this decision for themselves
- Human Resources Manager if allegations/concerns relate to a member of staff

- Relevant staff delivering a service on a need-to-know basis so that they do not take actions that may prejudice an enquiry, or increase the risk to any person.
- Organisations must also decide whether to follow other relevant organisational reporting procedures. For example, NHS organisations may need to report under clinical governance or the Serious Incident Framework.
- A person in position of Trust referral to the local authority must be made by the organisations adult safeguarding lead

3.9 Provide support for the person identifying the concern.

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

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

3.10 Continue to provide support to the adult at risk.

Adults will continue to experience distress after an incident, or after disclosing harm which happened some time ago or has been on going in their lives. Pay attention to how the adult is behaving and provide further opportunities for reassurance as needed. Injury or the consequences of harm may not emerge immediately, be aware of the need to arrange for a medical check-up or extra support. Adults who have a dementia or cognitive impairment may not appear to remember what has happened, but may experience heightened anxiety or sadness after a frightening event.

3.11 Other considerations:

Whistle-blowing – Public Interest Disclosure Act 1998

Members of staff working within an organisation may become aware of safeguarding concerns or allegations but be concerned about the impact on their employment if they were to report them. Staff should have already exhausted the routes within their organisation for reporting concerns, or be working in an organisation where no such routes are available. They may need to report concerns about an employer or owner.

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

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

- Mencap [Link no longer available]

- Care Quality Commission: www.cqc.org.uk/contact-us
- Public Concern at Work: www.pcaw.org.uk

Reporting anonymously and protecting anonymity

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.

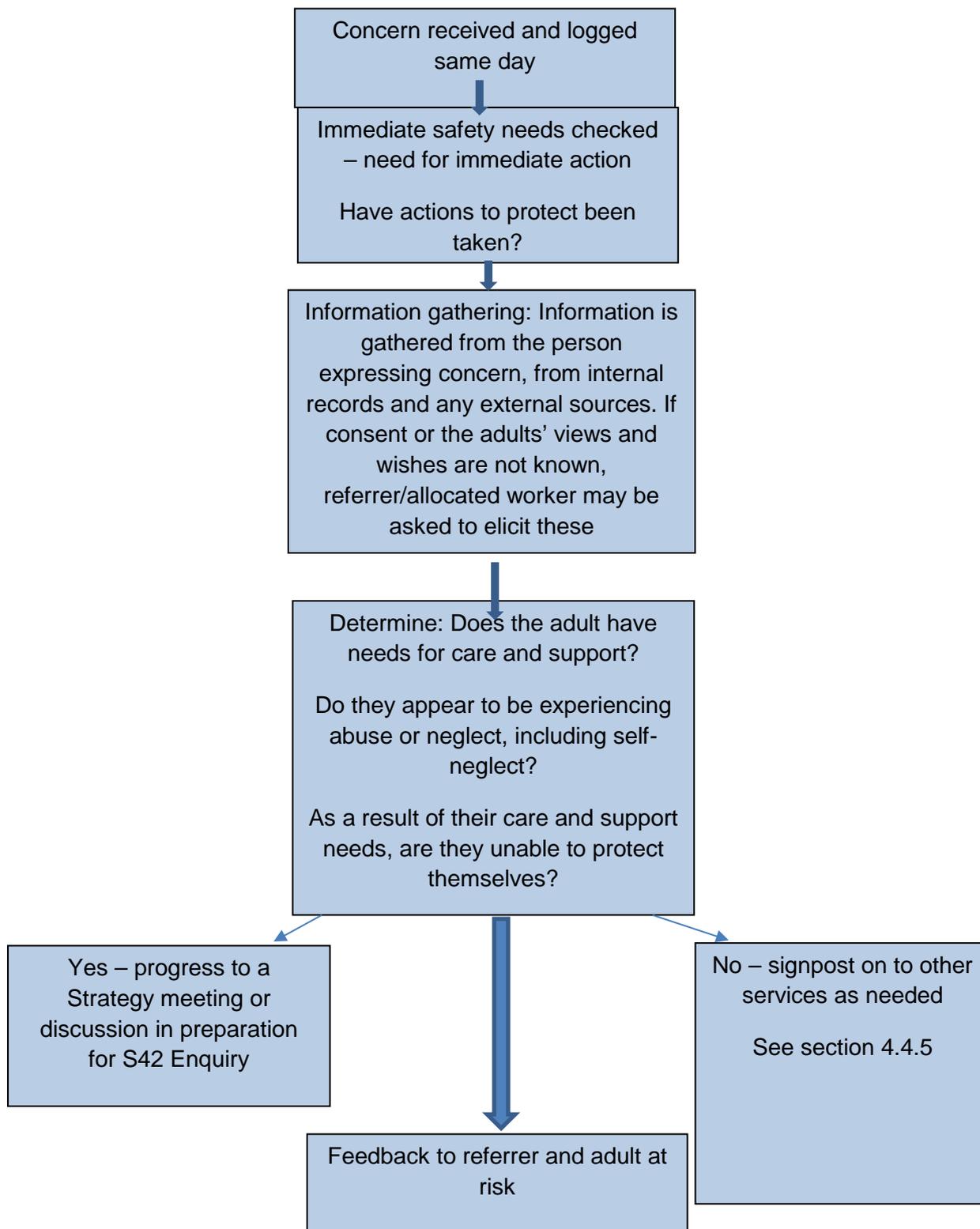
Protecting anonymity- While every effort will be made to protect the identity of anyone who wishes to remain anonymous, the anonymity of people reporting concerns cannot be guaranteed throughout the process. It is particularly important to remember the following-

- In cases where the police are pursuing a criminal prosecution, people reporting concerns may be required to give evidence in court.
- All information from adult safeguarding enquiries and disciplinary investigations will be shared with the person identified as causing harm where a referral to the DBS is made.
- There is a possibility that workers raising concerns may be asked to give evidence at an employment tribunal.
- Anybody can be requested to give evidence when the employer has referred a member of staff to a professional body such as the Health Care Professionals Council (HCPC), the Nursing and Midwifery Council (NMC), or the General Medical Council (GMC).
- The person causing harm may request to see information held about them under the Data Protection Act 1998. Information may not be shared if it puts others at risk, but requests have to be carefully considered according to individual circumstances.

4. Adult Safeguarding Concerns – Decision making:

Timescale – within 2 working days of receipt of the concern.

Flowchart – Decision making



4.1 Introduction The “concern decision-making” stage refers to 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 and advice, are required to respond to the

concern. The decision to progress to a statutory s42 Enquiry is made by the local authority adult safeguarding team.

4.2 When receiving a referral relating to an Adult Safeguarding Concern, the adult safeguarding team will-

- Record the receipt of the concern, when urgent the same working day that it arrives, when there is no imminent risk within two working days of receipt.
- Check that actions have been taken to address immediate safety needs- e.g. medical attention, Police. the lead agency will take action to address safety needs.
- Make checks with person raising the concern, internal information sources and partner agencies to provide additional background information.
- Explore the adult's initial views, wishes and consent to share information with the person raising the concern.

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

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

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

is experiencing, or is at risk of, abuse or neglect, and

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

4.3 Information gathering

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 and whether there are any immediate safety concerns or risks to the adult that must be addressed.

This will involve:

- Clarification of the basic facts, including who is involved in the concern.
- If the concern relates to a potential crime there should be early liaison

with the police to agree next steps, and to avoid contamination of evidence.

- Previous contacts and history should be checked for both the adult and the person alleged to have caused harm, including any information about possible risks to workers visiting.
- If there are concerns about a registered provider information should be sought from CQC, or if a commissioned service from commissioners and/or the CFA QA team.
- A basic risk assessment should be undertaken. At the decision making stage it is important for three risks to be assessed and noted:
 - Does immediate action need to be taken as the adult is at high and imminent risk of harm?
 - Has the harm created an unsafe situation for the adult which needs to be addressed urgently, e.g. are they in need of accommodation or urgent financial support?
 - Will the risk to the adult be increased by contact with a safeguarding adults professional? Is a plan needed to ensure a) the adult can be seen in a safe location, b) how any safety risks will be minimised?
- Indications of human trafficking or modern slavery should be identified and flagged to the community social work team undertaking a S42 enquiry so that a notification via the agreed pathway can be made. Concerns about modern slavery or human trafficking should also be notified to the police.

4.4 What may fall outside the duty of the local authority:

4.4.1 Information gathering may conclude that the section 42 duty to enquire is not met because the concern raised with the local authority does not relate to:

- An adult at risk
- An issue of abuse or neglect (including self-neglect) as defined within the Care Act.

However, the people concerned may need support. The local authority should consider how it can provide or direct the person to more appropriate forms of support in relation to their needs.

Case Example: A GP raises a concern about one of her patients, Ms. R. The GP noticed bruising to Ms. R's face. Ms. R disclosed that her husband has hit her and she is terrified of what he will do if he finds out she has told someone. The local authority decides that Ms. R does not meet the definition of an adult at risk. However, she is in need of advice and support. The GP is contacted and agrees to recall Ms. R to the surgery for a further "health consultation" at which she can give Ms. R the correct contacts for Domestic Abuse advice and support. The GP will also make a telephone in the surgery available to Ms. R that she can use to contact the appropriate services.

4.4.2 The concern may relate to an **historical allegation of abuse** and the adult is now 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. If so a section 42 enquiry will be appropriate to determine whether other adults are in need of safeguarding. Criminal or other enquiry through parallel processes (e.g. complaints, inquests, regulatory, commissioning, health and safety investigations) may be indicated.

Case Example: Mr. D, a 30-year-old man with learning disabilities, has disclosed to his current support worker that he was sexually abused when he was ten years old by his father. His father lives alone, Mr. D has not had contact with him for 20 years. There are no known contacts with children but Mr. D's father lives in the community and risks are unknown. Mr. D wishes to report the matter to the police and is supported to do so. The police initiate an investigation.

A historic concern regarding child sexual abuse or exploitation **must include a consideration of whether children are currently at risk of abuse from the same perpetrator**. If it is believed children are at risk a report must be made to child protection services by contacting **MARU on 0300 1231 116 – use option 2 when prompted**. The police will still consider allegations of historical abuse should the adult wish to report this.

4.4.3 Where an adult safeguarding concern is received for **an adult who has died** the same considerations will apply. 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. If there are concerns about how an adult died but there is no risk to any other adult the matter should be reported to the local coroner's office or police. A referral for a SAR may be appropriate where there are concerns about the circumstances of the death

4.4.4 **Poor practice**

Practices within an agency may be judged as poor but have not yet lead to an adult being harmed and are unlikely to do so imminently. It is important to consider the impact of the alleged harm or practice on the adult at risk, whether others may be at risk of harm, and what the proportional response to the concern should be. Where the practice is resulting in harm for the individual concerned, abuse is likely to be indicated. However, it is important to consider the nature, seriousness and individual circumstances of the incident in reaching a decision.

A commissioner or the Care Quality Commission can take action in respect of poor practice concerns, the local authority must consider if these actions already form an appropriate and

proportionate response to the concerns raised. The local authority Quality Assurance and Service Improvement team be informed of poor practice using the poor practice monitoring form (PPMF) contact number?? And link of the form

If the local authority identifies possible abuse, including organisational abuse it will lead on those aspects of the concerns, performance and quality issues will continue to be addressed by commissioners and / or the Care Quality Commission.

Please see the CloS SAB Policy and Procedures on Organisational Abuse for further information on Responses to organisational abuse and poor practice.

4.4.5 Useful processes: When the criteria for a statutory adult safeguarding enquiry under section 42 of the Care Act is not met, effective “safeguarding” can happen within other different processes and services, for example:

- people can be supported to live safely through good quality assessment and support planning.
- people’s right to live free from crime can be supported through Police interventions, and to recover from the experience of crime through victim support services.
- people’s health and wellbeing, and experience of safe services, can be promoted through patient safety approaches in the NHS and good quality responses under Clinical Governance processes.
- Commissioners and quality assurance teams can review and monitor service improvements where poor practice is identified.

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

Good Practice Guide – actions to be considered if the adult DOES NOT meet the criteria for use of adult safeguarding processes

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 s9 of the Care Act.
- Referral for DOLS assessment.
- Referral for Mental Health Act assessment.
- Referral to other risk management processes, e.g. MARAC, MAPPA, local harm reduction processes.
- Referral or signposting to other agencies or support services, e.g. Police, victim support, sexual violence services, 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 passed to coroner or police
- Information about how to make a formal complaint, for example, about substandard care or treatment.
- Information sharing with regulatory agencies (e.g. CQC) and/or quality assurance

teams and commissioners to address service quality concerns.

- Service Provider to undertake appropriate internal responses, e.g. training, audit and assurance activity.
- Concern is passed into other incident management processes, e.g. NHS Serious Incident process.
- Utilisation of the allegations against people in a position of trust process to address concerns about people in a position of trust who may pose a risk of harm to adults with care and support needs but have not yet done so.
- Referral for Safeguarding Adults Review (Care Act s44).

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

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

4.4.6 Non-statutory enquiries. Referred to as ‘Other enquires’ in the Care Act

Enquiries regarding those who are not adults at risk can be undertaken as “non-statutory” enquiries. Unpaid carers are most often considered under this provision. Carers may have care and support needs of their own, but may also only have support needs. In these circumstances, the local authority may use safeguarding procedures as a response to concerns, using its duty to promote wellbeing. (Care Act 2014, Section 1)

This may be appropriate, for example, if an unpaid carer experiences intentional or unintentional harm from the adult they are trying to support. Care and Support (Statutory Guidance: 14.35). Carer's may be at risk or in need of support and assistance, and should be guided to appropriate sources of support.

4.5 The adult at risk does not consent to share information for the purpose of consideration of the adult safeguarding procedures.

When contacted as part of information gathering, the adult may have decided to withhold consent for information sharing for any further adult safeguarding process. The adult safeguarding staff should check that the adult has had a full explanation of what the adult safeguarding procedures involve. A decision on whether to proceed or not should be

based on an assessment of whether the conditions to override consent are met, i.e. **that it is in the public interest**,

- there is a risk to other ‘adults at risk’, or children, or
 - the concern is about organisational abuse, or
 - the concern or allegation of abuse relates to the conduct of an employee or volunteer within an organisation providing services to adults at risk, or
 - the abuse or neglect has occurred on property owned or managed by an organisation with a responsibility to provide care
 - note that a risk to other “adults at risk” may include financial scams or other forms of exploitation
-
- **the adult lacks capacity to make the specific decision to consent** to share information and a decision is made to raise a safeguarding concern in the person’s ‘best interests’ (Mental Capacity Act 2005)
 - the adult is subject to **coercion or undue influence**, to the extent that they are unable to give consent
 - **it is in the adult’s vital interests** (to prevent serious harm or distress or life-threatening situations)

If the decision is made to progress without the adults consent the adult should be advised of this, unless to do so would put them at risk, and involvement offered on whatever basis the adult is comfortable with.

It is the local authorities’ decision not to follow its section 42 duty, if the decision is to stop the adult safeguarding procedures the adult should receive clear information on how to get help if they wish to, or if matters deteriorate. The rationale for the decision not to proceed should be clearly recorded by the decision maker.

4.6 Notifying other agencies:

Information from a concern about a regulated provider must be shared with the CQC. Concerns about commissioned services will be shared with the relevant commissioners, (e.g. Local Authority, CCG’s, NHS England).

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

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

The adult at risk must be notified of the decision unless it would place them at further risk. If the adult does not have the mental capacity to understand or participate in the adult safeguarding procedures their representative should be informed.

4.7 Recording – The decision, and the rationale for the decision, should be recorded by the decision maker in each individual case. If the person allegedly causing harm is a person in a position of trust the person’s name and personal details must not be recorded on the

adult at risk's record but notified to the CFA Adult Safeguarding Service Manager using the allegations against people in a position of trust procedures ([see policy on abuse of position of trust hyper link](#)) who will hold the person's personal details. The incident and concern must be recorded on the adult at risk's record.

4.8 Other Considerations

Supporting an adult who makes repeated allegations. An adult who makes repeated allegations that have been subject to enquiry and are unsubstantiated 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 if necessary, and work undertaken with the adult or other agencies involved to protect staff and others, where appropriate, from risks caused by repeated unfounded allegations. Each concern must be recorded. Assessments may need to be undertaken to establish the reason for repeated unfounded allegations.

Case Example: Mrs Y lives in care home and is frail. She is cognitively impaired as a result of a dementia. Mrs Y has accused different male care workers of sexually assaulting her on two occasions. All have resulted in safeguarding enquiries and police investigations. Although male care workers no longer work with Mrs Y she has recently raised a concern about the male gardener who she says has been coming into her room at night. Information gathering shows this to be impossible. Mrs Y is very distressed and now frightened to go to her room in the evening. Mrs Y's daughter has told the care home manager that she thinks that Mrs Y was raped as a teenager. This may be a memory that increases her fears at night. A plan is developed to find ways of helping Mrs Y feel safe at night, including keeping a light on at her request, reassuring her before bed and during the night. Her allegations are taken seriously but have diminished as staff are more aware of her vulnerabilities.

The Enquiry: S42 Duty met: Plan- Enquire- Evaluate- Protect. Flowchart 3

Planning the strategy for enquiry

How to gain views, consent and desired outcomes of adult

Duty to refer to advocate

Are there issues re mental capacity to decide on which concern should be raised in the referral, or to participate in the enquiry?

Arrange capacity assessment and as needed arrangements to determine BI

Does the person require an assessment of need under section 9 of the Care Act?

Undertake risk assessment, any further interim safeguarding measures needed?

Agree enquiries needed and who will undertake these, timescales.

Enquire: Making enquiries or causing these to be made.

Must be proportionate and involve the adult:

For example;

assessment of risk

Care Act s9 needs assessment

mental capacity act assessment

internal provider investigation

disciplinary investigation

Evaluate and Protect

Evaluate outcome of the enquiry with the adult, or their representative.

Review desired and negotiated outcomes, what action does the adult wish to be taken?

Identify on going risks, specifically risk of harm through ongoing abuse or neglect.

Review, or make best interest decision if adult lacks capacity

Review ability to self-protect including executive capacity if person has mental capacity to make decisions.

Evaluate any need to take action despite refusal

Identify actions needed, who what and when

Feedback to adult and other relevant people.

Need for any further Enquiry?

The Enquiry

5.1 Introduction. 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 to self-protect and capacity to make decisions for themselves. All enquiries undertaken must be lawful and take full account of the consent and wishes of the adult.

Enquiries will follow the model outlined in flowchart 3 above, and will generally move between Planning, Enquiry and Evaluation phases. Enquiries will need to be flexible and able to move fluidly between planning, enquiry, and evaluation as the circumstances of the case require.

The Care Act 2014 introduces a duty on Local Authorities to make enquiries or cause other to do so, if they reasonably suspect an adult who meets the criteria is, or is at risk of, being abused or neglected.

The purpose of the enquiry is to decide if the local authority or another organisation needs to help and protect the adult. If the local authority causes another organisation undertake the enquiry the local authority is responsible for the coordination of the overall safeguarding process, commissioning advocacy is needed, and for checking the quality of the other agencies enquiry.

What happens as a result of an enquiry should reflect the adults' wishes wherever possible, as stated by them or by their representative or advocate. If they lack capacity to participate the safeguarding plan must be made with due regard to their best interests, and be proportionate to the level of risk identified. It is essential that coercion and duress is considered in adult's ability to give true consent to being involved in the enquiry

Enquiry activity can be proportionate to the level of risk and/or complexity presented. An enquiry could be a conversation with the adult, or representative if they lack capacity to take part in the enquiry, including making decisions about which concerns are raised in the referral or enquiry, right through to a much more formal multi-agency set of planned enquiries.

Summary of section 42 enquiry

- Gather information and where possible establish facts.
- Ascertain the view and wishes of the adult
- Establish the need for representation/independent advocate
- Protect from further abuse and neglect in accordance with the view of the adult
- Make decision about what actions need to be taken and by whom
- Enable the adult to achieve resolution and recovery

5.2 Planning the Enquiry: Strategy discussions and meetings

Timescale within 5 working days of the concern being received

All enquiries need to be planned and coordinated. No enquiries should be initiated before a strategy discussion or meeting has taken place, unless it is necessary for the protection of the adult or others, or a serious crime has taken place or is likely to.

Planning should be 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.

The strategy planning process will be led and coordinated by a manager from either CFA or the CFT safeguarding team. Appropriate levels of information should be shared with, and involvement gained from, relevant partners.

Sometimes the complexity or seriousness of the situation will require the strategy planning process to include a formal meeting/s chaired by an adult safeguarding and risk manager from the CFA adult safeguarding team. The urgency of response should be proportionate to the seriousness of the concerns raised, and the level of risk.

5.2.1 The Planning strategy process should be tailored to the individual circumstances of the case, but should cover the following aspects-

Clarifying the concern by

- gaining the views, wishes, and desired outcomes of the adult (or planning how these views and wishes will be gained);
- gathering and sharing information with relevant parties;
- can it be established that abuse or neglect has occurred?

Deciding if an independent advocate is required; or planning how information will be gained to enable this decision to be made. Is a mental capacity assessment needed? If the adult does not have the capacity to make decisions about what should be included within the enquiry, to participate in the enquiry or to make decisions about risk and their own safety, how will arrangements to determine best interests be supported?

If the adult has care and support needs but is not receiving services **an assessment under the Care Act S9 will be needed.**

Agree what enquiries are needed and who will do these; what are the timescales for the enquiries? What are the coordination and support arrangements for enquiry officers? How will information be shared and actions coordinated if there are multiple enquiries? How will agencies work together?

If there are criminal investigations ongoing these will take precedence over other enquiries. Enquiries regarding the wellbeing including the care and support needs of the adult must still take place and will need to be carefully coordinated.

Assess risks, and **formulate an interim safeguarding plan** to promote the safety and wellbeing for the adult or adults involved while enquiries are undertaken. Are there identified risks known that the enquiry officer must be aware of? An initial risk assessment based on facts known should be used to inform any interim safeguarding plan put in place to safeguard the adult(s) at risk. The discussion will also consider how risk will be assessed with the adult and /or representatives, and how to mitigate any risks caused to the adult concerned by the enquiry.

5.2.2 Who should be consulted/involved in planning the strategy for enquiry?

The coordinating manager in the lead agency will need to decide who to involve in a Strategy Discussion or Meeting. Involvement should be limited to those who need to know and who can contribute to the decision-making process. This may include an appropriate representative of any organisation that has a specific role in:

- undertaking enquiries into the allegation of abuse or neglect assessing the risk
- developing or carrying out the interim Safeguarding Plan
- taking action in relation to the person alleged to have caused harm
- undertaking related investigations such as those relating to complaints, serious incident, disciplinary, criminal investigation etc.

The 'ADASS: Out of area safeguarding arrangements' sets out respective responsibilities when abuse or neglect occurs in one local authority area, but the person receives services funded/commissioned by another. The protocol is adopted as part of this procedure and should be considered in these circumstances when deciding who to involve in the Strategy Discussion/Meeting. See <https://www.adass.org.uk/out-of-area-safeguarding-adult-arrangements/>

Where the allegation/concern involves abuse occurring within a regulated or contracted service, the coordinating manager should consider involving, as appropriate:

- Care Quality Commission,
- CFA Quality assurance/Commissioning teams
- NHS Kernow / KCCG

Participants should be of sufficient seniority to make decisions concerning the organisation's role within the enquiry and the resources they may contribute to the Safeguarding Plan.

Any organisation requested to participate in a planning strategy discussion or meeting must regard the request as a priority. If no one from the organisation can attend a meeting, they should provide information as requested and make sure it is available to the coordinating manager in advance.

Information sharing must be governed by the relevant information sharing protocols including the Devon and Cornwall police adult safeguarding multi agency information sharing protocol. <https://www.devon-cornwall.police.uk/media/244120/safeguarding-adults-isa-jul-15.pdf>

5.2.3 Involving the adult at risk in strategy planning

The adult at risk should experience the safeguarding process as empowering and supportive. The views, needs and desired outcomes of the adult at risk are central to the enquiry planning discussion or meeting.

It may be appropriate to invite the adult at risk to a strategy meeting or to be part of a strategy discussion, in order to contribute their views and needs directly to the plan for the enquiry. In the event the adult at risk is not able or does not wish to attend or it is not appropriate for them to attend, every effort should be made to explain the purpose of the strategy meeting or discussion to the adult at risk, to find out their concerns, what they want to happen, how they want to be involved and the support they feel they need in order to be safe. The desired outcomes of the adult at risk should inform decision making.

5.2.4 Duty to provide advocates

The Care Act 2014 places a duty on local authorities to provide access to independent advocacy to those who would have “substantial difficulty” in being involved in care and support ‘processes’ and have no appropriate individual(s) –carer, family or friend – who can support their involvement.

Under the Care Act, independent advocacy means a service that is independent of the local authority.

The local authority duty to consider an independent advocate applies to a person’s involvement in care and support processes including a safeguarding enquiry or safeguarding adults review

From the initial and following contacts with a person the local authority must act to involve that person and any other person that they wish in social care processes. Whether raised by the person themselves or otherwise, the local authority must consider whether a person would have “substantial difficulty” in any one of the following areas

:

- understanding relevant information
- retaining that information
- using or weighing that information as part of the process of being involved;
- communicating the individual’s views, wishes or feelings (whether by talking, using sign language or any other means)

For some adults it will be possible to help and support their direct involvement through making reasonable adjustments, as required by the Equality Act 2010, providing information in accessible formats or ensuring all communication needs are being met in conversations. When it is considered that a person would have substantial difficulty in being involved in the 'process' the local authority needs to consider whether there is a carer, relative or friend (an "appropriate individual") who can support their involvement. If not, and if the person wants it, the local authority must arrange for an independent advocate to support them.

The Care Act Guidance sets out some rules about who can be judged as an 'appropriate individual', for example it should be someone who the person wants to support them and it cannot be someone who is already providing the person with care or treatment in a professional capacity or on a paid basis.

A person's wish not to be supported by that individual should be respected. Where a person does not wish to be supported by a relative, for example, perhaps because they wish to be moving towards independence from their family, then the local authority cannot consider the relative appropriate.

5.2.5 Causing enquiries

Although the local authority is the lead agency for making enquiries, it may require others to undertake them. In many cases a professional who already knows the adult will be the person best placed to make enquiries. They may be a social worker, a care provider, housing support worker, a GP or other health worker such as a community nurse.

Health and care providers may make enquiries regarding adults in their service, and health providers can do so in health settings. All provider staff may support other agencies in enquiry as they may know the adult well. The only circumstances in which this cannot occur is if there are concerns that a provider will not be impartial as there are implications for their service, for example there are concerns about the way the service is run and they are the registered manager or owner. Health and care providers cannot undertake enquiries if they do not have the skills or experience necessary to undertake an enquiry consistent with the requirements set out within the Care Act, or if they have previously undertaken enquiries which have not met the requirements set out within the Care Act.

Who can undertake enquiries?

| Type of enquiry | Agency |
|---|--|
| Establishing the views, wishes and desired outcomes of the adult. | The most appropriate person in the situation. This could be the professional who knows the adult best and who the adult trusts- for example, GP, District Nurse, care worker, provider manager, housing support worker, PCSO, CPN- or it could be a practitioner from the Lead Agency- for example, social worker. |

| | |
|--|--|
| | Where an adult has substantial difficulty in being involved in the adult safeguarding Enquiry, an appropriate person should be identified to represent them, and if no appropriate person, an independent advocate must be appointed |
| Care and Support Needs assessment/ Carers assessment / assessment of Mental Health needs / other health assessment. | Social services / CCG / CFT / care trust. |
| Access to health and social care services to reduce the risk of abuse or neglect | Social services / 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 | Agency responsible for MARAC referral 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 calls, internet or post scams, rogue traders. | Trading Standards / Police |
| Breach of contract to provide care and support | Service commissioner (e.g. local authority, CCG) |
| Fitness of registered service manager or owner. | CQC |
| Serious Incident (SI) in NHS settings | Root cause analysis investigation by relevant NHS Provider |
| 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 | CQC in regulated settings, HSE in all others. |
| Misuse of enduring or lasting power of attorney or misconduct of a court-appointed deputy | OPG / Court of Protection / police |
| Person making decisions about the care and wellbeing of an adult who does not have mental capacity to make decisions about their safety, decisions either made without authority or are not in the best interests of the adult. | OPG / Court of Protection |
| Misuse of Appointeeship or agency | DWP |
| Safeguarding Adults Review (Care Act s44) | Safeguarding Adults Board |

All enquiries must be coordinated and supported by the local authority. The local authority must be satisfied with the quality of the enquiry. If the local authority is not satisfied it can ask for further enquiry to be undertaken. In extreme circumstances, it may ask for an independent officer to undertake an enquiry.

If an agency or individual agrees to undertake an enquiry or contribute to an enquiry but later finds that this is not possible, the agency or individual must report this to the coordinating manager **without delay**. Failure to report back to the coordinating manager may place the adult at further risk. Coordinating managers may need to consult the other agencies involved in the enquiry strategy and review the enquiry plan. Should an agency fail to progress an agreed enquiry without informing the coordinating manager this will be escalated to a senior manager in their organisation and to the CFA lead for adult safeguarding. Should an adult be placed at further risk the matter will be escalated to the Chair of the Adult Safeguarding Board as a failure of the duty to cooperate.

Good Practice Guide for the local authority: When causing another agency to make an enquiry

1. Set clear terms of reference – what do you want the agency to enquire about?
2. How will they involve the adult at risk – is an advocate needed?
3. Who should the agency report to? Who will support them with any questions or unexpected discoveries?
4. Negotiate the timescale for return of the enquiry report. If the agency goes over this timescale by more than 7 days despite reminder escalate to the CFA Adult Safeguarding service manager who must then contact the agency.
5. Quality assure the report – are you happy with how the enquiry was undertaken including how the adult or their representative was involved? Return to the agency for further work with a new negotiated timescale
6. Determine the safeguarding plan as needed.

5.2.6 Deciding not to proceed to an enquiry

With additional information obtained within the planning strategy discussion or meeting the coordinating manager may need to review whether proceeding with a section 42 enquiry is still appropriate. The facts may be well known and risks well managed or no longer exist. The decision should take into account the wishes and desired outcomes of the adult at risk, as well as risks to others, and reflect the nature and seriousness of the concerns raised.

5.2.7 Distribution of strategy discussion or meeting minutes

The coordinating manager will decide who to include in the distribution of minutes. If a discussion rather than a meeting has taken place a print out of the relevant recording on MOSAIC will be circulated. Distribution will usually include:

- all attendees and participants in the strategy discussion or meeting.
- relevant persons contributing to the Safeguarding Plan or enquiry
- contract/commissioning teams as relevant
- the Care Quality Commission where the Strategy Meeting relates to a service that it regulates
- other relevant regulatory bodies, as appropriate

If not present, a copy of the minutes can be sent to the adult at risk or, with their permission, to another person. This however may not always be appropriate, for example, if to do so may increase the level of risk, breach the confidentiality of a third party, or compromise the enquiry. If the adult at risk does not have capacity to participate in planning the enquiry, minutes may be shared with their representative or advocate.

Where there is specific information that cannot be shared, it should be redacted from versions of documents sent out. The requirements of the Data Protection Act 1998 must be adhered to at all times.

5.3 The Enquiry: Timescale as defined at the Enquiry Planning stage.

5.3.1 Introduction: Remember: 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.

Summary of a section 42 enquiry

- Gather information and where possible establish facts.
- Ascertain the view and wishes of the adult
- Establish the need for representation/independent advocate
- Protect from further abuse and neglect in accordance with the view of the adult
- Make decision about what actions need to be taken and by whom
- Enable the adult to achieve resolution and recovery

These requirements may all be fulfilled within a conversation with the adult at risk. Or they may only be fulfilled by an extensive range of formally coordinated enquiries involving several agencies. Risk from Domestic Abuse or Violence will need to be assessed with a CAADA DASH assessment. All enquiries must contain a risk assessment and a consideration of risk, with the adult, supported by an advocate if they have substantial difficulty in participating or with their representative/advocate if they are assessed as not having the capacity to make decisions about risks to their own safety and wellbeing.

5.3.2 Officers undertaking enquiries (Enquiry officers)

An enquiry officer should be a suitably qualified and experienced member of staff from the relevant agency undertaking the enquiry. The enquiry Officer will need to follow the plan for the enquiry as agreed within the strategy discussion or Meeting, with support and direction from the Safeguarding coordinating manager.

The enquiry officer is responsible for:

- ensuring only essential information is shared on a need-to-know basis
- ensuring the relevant Adult Safeguarding coordinating manager is kept informed of progress during the enquiry and any additional issues arising during its course
- undertaking agreed enquiry activities
- produce an enquiry report in the required format and to the required standard

- ensuring the enquiry is completed as soon as is practicable, observing the required pace of the adult at risk at all times.

5.3.3 Section 42 Enquiry activities

A safeguarding enquiry officer will draw together relevant information from various activities and produce a summary safeguarding enquiry report to inform the Safeguarding Plan.

The enquiry may involve various sources of information, including:

- examination of documentary evidence such as files, accident and incident reports,
- daily logs, accounts, medical records etc.
- interviews with the adult at risk, witnesses, the person alleged to have caused harm or representative(s) of the organisation alleged to have caused harm, and others who can provide relevant information
- assessing relevant information provided by partner agencies
- learning from own observations obtained during the enquiry.
- An enquiry may also be informed by investigations undertaken by others, for example, serious/incident investigations, police or disciplinary investigations.

As part of the dynamic process of Planning, Enquiring, Evaluating and Protecting, enquiry officers must continue to report to the coordinating manager and may be asked to undertake new actions. The coordinating manager or may need to amend the enquiry plan. New information may come to light that suggests new sources of evidence should be considered, or additional interviews should be undertaken, new safeguarding allegations/concerns are identified or the safeguarding concern is proving to be more than initially assessed and may be a crime

The Adult Safeguarding Coordinator may then need to review the safeguarding enquiry plan. A multi-agency review meeting can be convened, if helpful, to review the information and any implications for the safeguarding arrangements.

A new, additional safeguarding enquiry may be required if substantially new concerns or allegations emerge.

5.3.4 Risk assessment

A central activity within any enquiry is establishing facts and assessing risk.

Information gathered at this stage of the process will indicate whether the individual(s) is at risk of harm now and in the future, their views and preferred strategies for risk mitigation/resolution. A full risk assessment will be available at the end of the enquiry. Tools to assist in the assessment of risk, including impact and future risk, can be found in part 3 Guidance section 2

Good Practice Guidance: Key Considerations when undertaking risk assessment:

- 1) The safety and protection of the adult at risk, and other adults at risk /children.
- 2) The perspective of the adult at risk, their experience of the risk, impact on them, their relationships and wellbeing.
- 3) The chronology and pattern of events.
- 4) Assessment of mental capacity to consent to action being taken to address the concerns and consideration of best interest where indicated
- 5) Consideration of the adults' ability to take action to self-protect, what is preventing this? The ability to self-protect is sometimes called "executive capacity". Issues of duress and coercion may also be considered here.
- 6) Consideration of the involvement of others in the risk assessment, alongside the adult at risk's capacity to consent to the sharing of information.
- 7) Monitoring and review arrangements to determine whether safeguarding interventions are effective,

Good Practice Guide: Contacting the Adult at Risk

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.

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 the adult being removed from the local area, or an increase in threatening or controlling behaviour if the person causing the 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 the CFA adult safeguarding lead or the lead agency's safeguarding lead/team.

5.3.5 Conversations with adults about risk and desired outcomes.

Building a trusting relationship with an adult, and working at their pace, will enable the adult at risk to

consider and develop their thoughts on their experience, what they want to change and what is important to them.

Adults may have had years of experience of living with an abusive partner or adult child, and developed strategies in the past for dealing with the abuse which are no longer working as frailties or illness changes relationships and abilities.

Adults may value relationships with the people who are now harming them, and decide that some elements of abuse are preferable to losing the valued relationship. Others may be very afraid of the person harming them and fear taking any action which may increase the person's abusive behaviour toward them. They may be experiencing coercion and/or control from an intimate.

Other adults may be clear that they want action to be taken on their behalf and want the police or regulator to be involved.

The adults previous experiences may affect how they view the abuse and what they feel will support them to either self-protect or be protected.

It is important to think through the adults desired outcomes from the adult safeguarding process alongside their views on how their overall wellbeing can be maintained or improved. The adult's thoughts on recovery and resolution should also be discussed, and options presented to them to achieve this if they are unsure of what may be available. This process should not be rushed. Many adults complain that they feel rushed by the safeguarding timescales and efficiency of the enquiry officer. Adults may need time to think through what they wish to happen, for this reason it is recommended that the adults' desired outcomes are reviewed at the beginning, middle and end of the adult safeguarding process.

Adults may have desired outcomes that are impossible to achieve, for example that a person should be arrested or a provider closed down. Part of the conversation can include giving information about what is and isn't possible in the circumstances and **negotiating the outcomes together**.

Case example: Mrs B has had an unhappy respite stay at the Broadwalk Care Home. A member of night staff persistently ignored her call bell and as a result she experienced a loss of dignity and distress every time this Person was on duty. Her desired outcome is for the Care Home to be closed so that no one else experiences the same distress. Mrs B and the adult safeguarding worker think through the implications of this outcome for others, and the worker shares her knowledge of actions that can be taken to remedy such situations. Mrs B is able to develop a range of desired outcomes as a result of the conversation, including exploration of better options for her own respite care and a written apology from the manager of the care home.

As part of risk assessment the adults' ability to take actions that will help them protect themselves should be assessed. What gets in the way of the adult taking action? These factors can include being in an institution with no access to representation or advocacy, their own feelings of depression, fear, previous experiences, mental health issues. What helps the adult – for example family members, friends? Are there positive risk-taking opportunities, or opportunities to develop a supportive social network? These conversations can begin to shape a safeguarding plan which will protect the adult whilst enhancing their wellbeing.

Case example:

Mr J is very isolated, he feels depressed and lonely. He is finding it hard to walk to the shops and is now reliant on his son to shop for him and sort out his bills. His son has access to Mr J's bank account, bank cards etc. Mr J has discovered that his son has taken all of his savings. His is afraid to challenge his son as he will lose his relationship with him as well as having no one to do his shopping. Mr J does not wish to report this matter to the police. Mr J and the safeguarding worker assess the risks to Mr J together, factoring in his desired outcomes. Mr J wants to see his son, but no longer wishes his son to have access to his bank account. His is not concerned about short term risk as he has no money left, but knows that he will never be able to trust his son with money again. He doubts his son will visit so often without this arrangement but is prepared to take that risk. He is worried about

becoming more isolated and would be interested in an opportunity to go out at least once a week. Mr J identifies a club for retired soldiers he is interested in and a community transport link he can use. Mr J enjoys this greatly. When he is ready Mr J is supported to visit the bank and change his bank details, rendering his old card useless. He decides to write to his son telling him about the new arrangements. He has decided he would like to try getting his shopping delivered but does not have access to the internet. One of his new friends does use the internet and helps him to set up the deliveries. Mr J is now working with other club members to persuade the local Age UK to set up a shopping delivery service using the internet on behalf of older people with no access.

5.3.6 Assessment of mental capacity.

Professionals must not ask the adult to consent to an enquiry. The duty and responsibility to make the decision to undertake 42 adult safeguarding enquiry lies with the local authority not the adult at risk

Assessments of an adult's mental capacity are decision specific. If a capacity assessment is being undertaken the decisions under consideration are:

- Does the adult have the mental capacity to make decisions about aspects of the enquiry?
- Does the adult have the mental capacity to make decisions about which concerns are raised in the referral / enquiry?
- Does the adult have the mental capacity to consent to action being taken to address the concerns?
- Undue influence coercion and duress must be assessed

Assessment of mental capacity

If the adult appears unable to make decisions about their own safety it will be necessary to undertake an assessment of mental capacity under the Mental Capacity Act 2005. Detailed information about assessments and best interest decisions under the MCA 2005 can be found in **the Guidance section 3.**

Good Practice Guide: Assessing an adult's mental capacity to make a specific decision

The Mental Capacity Act states that a practitioner should always start from an assumption of capacity. Doubts as to a person's capacity to make a specific decision can occur because of the way a person behaves, or concerns raised by a third party. Remember that an unwise decision does not necessarily indicate lack of capacity.

There are two questions to be asked if you are assessing a person's capacity:

Is there an impairment of, or disturbance in, the functioning of the person's mind or brain?

If so, is the impairment or disturbance sufficient to cause the person to be unable to make the specific decision under consideration?

This two-stage test must be used, and a practitioner must be able demonstrate that both tests have been undertaken. Remember that most people will be able to make most decisions, even when they have a label or diagnosis that may seem to imply that they cannot. This is a general principle that cannot be over-emphasised.

The assessment process must be clear and accountable. The process must be recorded. Family, friends or staff familiar with the adult may support by enabling communication or providing familiarity. Specialist staff, for example a speech therapist, may help with more specific communication needs. It is worth spending time planning how the adult will be enabled to make a decision; this includes being clear about what the decision is. Any assessment of a person's capacity must consider the following factors:

Whether they can understand the information.

Whether they can retain the information related to the decision to be made.

Whether they can use or weigh that information as part of the process of making the decision.

The person must be able to do all three to make a decision and they have to be able to communicate that decision. This can include forms of communication such as sign language or blinking an eye/squeezing a hand when verbal communication is not possible.

5.3.7 Medical examinations

As part of an enquiry the adult may medical treatment and examination. In cases of physical abuse, it may be unclear whether injuries have been caused by abuse or some other means (for example, an accident, a pre-existing unknown medical condition). Medical or specialist

clinical advice may need to be sought. If forensic evidence needs to be collected, the police should always be contacted and they will normally arrange for a police surgeon (forensic medical examiner) to be involved.

Consent of the adult at risk should be sought for medical examination or the taking of photographs. Where the person does lack capacity to consent to medical examination or the taking of photographs, a decision should be made on the basis of whether it is in the adult's best interest.

Should it be necessary as part of the investigation/enquiry to arrange for a medical examination to be conducted, the following points should be considered:

- the rights, views and wishes of the adult at risk
- issues of capacity and consent
- the need to preserve forensic evidence
- the need for support/representation from family members or unpaid carers
- the need for independent advocacy

5.3.8 Specific enquiries

Unpaid carers

If an unpaid carer is experiencing harm from the adult they are caring for this can be subject to a non-statutory enquiry if judged to be helpful in resolving the concern.

If an unpaid carer harms the adult they are caring for, whether intentionally or unintentionally, this will be subject to a statutory S42 enquiry.

These enquiries must pay attention to the article 8 human rights of the adult, i.e. any decision should consider an outcome which supports or offers the opportunity to develop, or maintain, a private life which includes those people with whom the adult at risk wishes to establish, develop or continue a relationship. Responses will support the continuation of family and caring relationships where this is consistent with the wishes and desired outcomes of those concerned.

Harm within caring relationships can be the result of several factors. Harm may arise as a result of the carer being ill themselves and exhausted. The number of carers over the age of 65 is increasing more rapidly than the general carer population. Whilst the total number of carers has risen by 11% since 2001, the number of older carers rose by 35%. The majority of these are caring for a spouse well into their old age. The carer may not have the skills or knowledge to meet the needs of the adult. They may be struggling with a lack of sleep, proper food or multiple other responsibilities. The caring relationship may however have been one of domestic abuse for many years. As one partner has become frailer they have may no longer be able to use the coping strategies they once had, and will be at greater risk from any abusive or controlling behaviour.

Enquiries should consider:

- does the need for care of the adult now exceed the carer's ability or capacity?
- does the adult have unmet care and support needs?
- does the care have unmet care and support needs?
- the emotional and/or social isolation of the carer and the adult at risk
- any communication barriers between the adult at risk and the carer
- whether the carer is in receipt of any practical and/or emotional support from other family members or professionals
- are there financial difficulties
- is there any history of domestic abuse, child abuse including sexual abuse, substance misuse or mental health issues?
- the physical and mental health and well-being of the carer
- any additional needs of carers

Abuse of one 'adult at risk' by another

Incidents occurring between adults at risk need to be responded to proportionately in light of the specific circumstances. In considering the appropriate safeguarding response, the nature and seriousness of any incident or risk needs to be taken into account. It should be remembered that where both people are living in the same care setting, the impact of an incident may be compounded by the emotional distress of living with an abusive person without the ability to leave the situation.

The fact that the person alleged to have caused harm has a particular diagnosis or condition does not preclude an enquiry within the safeguarding adult procedure. However, where this is the case, additional support or care planning actions may be required in order to address their support needs, alongside the safeguarding needs of the adult at risk. Service providers should always bear the compatibility of the needs of people using a service when assessing prospective users of the service.

Recurrent incidents of harm between adults at risk living in the same setting may indicate concerns about the organisation and how needs are being met. Such trends in provided services should be investigated further to ascertain if an organisational abuse enquiry is needed.

Self-neglect

Self-neglect covers a wide range of behaviour neglecting to care for one's personal hygiene, health or surroundings and includes behaviour such as hoarding. It should be noted that self-neglect may not prompt a section 42 enquiry. An assessment should be made on a case by case basis. A decision on whether a response is required under safeguarding will depend on the adults' ability to protect themselves by controlling their own behaviour. There may come a point when they are no longer able to do this, without external support." *Care and support statutory guidance, Department of Health, 11th March 2016*

Self-neglect, unlike the other types of abuse described does not require another person to cause the risk of harm. Self-neglect concerns the failure of an adult to take care of themselves to the degree that there is a significant impact on the adult's overall wellbeing.

Self-neglecting behaviour has a wide range of causations, individuals who self-neglect interviewed for a research study on self-neglect (Michael Preston Shoot 2011) describe

Pride in self sufficiency

Connectedness to place and possessions

A drive to preserve continuity of identity and control

Traumatic life histories and life-changing events

Shame and efforts to hide 'evidence' from others

A lifelong pattern of behaviour held in balance, a traumatic event disturbs that balance, there is escalation to the point that someone else gets worried

An adult may have become demotivated to care for themselves through a history of homelessness, poor physical health or bereavement. Because of these issues they may simply be unable to care for themselves and/or their environment. Adults who hoard possessions or animals may have experienced childhood trauma or loss, find great emotional comfort in the objects they have collected, no matter what value these appear to have to others. Adults may have severe mental health issues and hear voices telling them to self-neglect or hoard.

Adults who are homeless are at risk of acute self-neglect. Studies of the homeless population of London showed that 53% of homeless adults had alcohol issues, 39% drug addictions, and 38% experienced poor mental health. Life expectancy is low in homeless groups (men 47 years, women 43 years) as day to day survival becomes the all consuming priority, dealing with health issues and doing the things necessary to find accommodation are not seen as important (Crisis 2011). Mental illness amongst the street homeless is common, often undiagnosed and the sufferers un-medicated. Untreated mental illness often leads to people dropping out of society, avoiding health services, general self-neglect and the development of physical illness. This self-neglect explains why, even when food may be readily available through day centres, people may become very poorly nourished.

Research (2011) and practice experience has demonstrated the importance of the adult having time to develop a trusting relationship with others who can work alongside the adult to develop their ability or opportunity to self-care. Many situations may not need an adult safeguarding response. It may be possible to engage and work with the adult. However, in situations where engagement has proved difficult, the adult does not want support and their lifestyle is now causing serious harm to themselves or others, an adult safeguarding response which enables multi-agency planning and support, will be helpful.

A S42 Enquiry into situations of self-neglect or hoarding will need to explore:

- the nature and extent of the risk to the adult and others. For example, an adult who lives in a flat or terrace, who collects quantities of possessions and lights

fires/smokes, will present a grave risk to others in adjoining accommodation as well as themselves.

- If indicated, the adults' mental capacity to make decisions about their own self-care.
- the adults' executive capacity to take action to change their situation. What prevents them from self-caring? What will support them to begin to selfcare?
- the adult's rationale for not engaging with services or accepting support or advice
- any relevant complex family dynamics
- what support is being offered by various agencies, what can be offered? What and who is acceptable to the adult?
- Are there specialist supports available?
- The adults' goals in terms of self-care, with open discussion about those which may need to be prioritised, e.g. seeking urgent medical attention; accepting advice and support from Cornwall Fire and Rescue regarding fire risk to self and others.

Complex or high risk self-neglect enquiries should be planned within a multi-agency meeting.

[Link to](#) : Cornwall Hoarding Protocol.

5.3.9 Keeping families and others concerned informed and supported

If the adult wishes, it is important that relatives and friends are involved with enquiries and safeguarding plans, including the monitoring of safeguarding plans. This will help families to feel fully supported when dealing with difficult or distressing issues, as well as increasing a network of support around the adult at risk. If the adult gives their consent, relatives or friends can be invited to meetings about how concerns or allegations are being addressed and how the adult can be supported to be safe in the future.

If the adult decides they do not wish for a relative or friend to be informed or involved, professionals will need to respect this decision. If they do not have capacity to make a decision about sharing this information, a decision will need to be made in their 'best interests' under the Mental Capacity Act. This may include consideration of whether a relative or friend is acting in the adults' best interests as well as observing the need to uphold an adults' article 8 rights where possible.

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

5.3.10 Delays in the adult safeguarding enquiry

The Safeguarding enquiry officer must keep the coordinating manager informed of the progress of the enquiry. An enquiry can breach timescales because of a lack of engagement or availability of other agencies. The coordinating manager will need to try to resolve these issues or escalate them. The enquiry may be delayed at the adult's request if they wish further time to make decisions or are ill or distressed and wish the enquiry to temporarily

stop. The enquiry officer and coordinating manager will need to ensure risks are mitigated and an interim safeguarding plan in place, together with a plan of how any support needs the adult might have will be met, and how contact with the adult will be retained. Revised target timescales will ordinarily be communicated to the adult at risk, and the person alleged to have caused harm if this does not increase the risk to the adult, and other agencies involved in the enquiry.

5.3.11 Standards of proof

In determining whether abuse has occurred, the standard of evidence for an enquiry is 'on the balance of probability'. This contrasts with the standard of proof for a criminal prosecution which is established as 'beyond reasonable doubt'.

5.3.12 Compiling the Safeguarding enquiry report

The Officer completing the enquiry will be required to write an enquiry Report. This report should provide a summary of enquiry activities and evidence obtained. The report may need to collate information from a range of sources and activities

In compiling the safeguarding enquiry report, the following principles should be adhered to:

- the report should be based upon the facts established within the enquiry
- any opinions expressed within the report should be referenced as such
- the enquiry report should be focused on the adult's experience of abuse, what their preferred course of action is (outcomes) both in terms of the alleged abuse and their wellbeing, and what actions can safeguard the adult at risk from future harm
- if any person could not be interviewed or if certain records could not be accessed, the enquiry report should record this and the reasons why
- the enquiry report should make clear where evidence from different sources is contradictory
- the report should evidence how conclusions or recommendations have been reached
- Personal information concerning the adult at risk, the person alleged to have caused harm or any other parties, should be kept to the minimum necessary for the purposes of the report.
- The report may contain information that relates to different individuals. It may be necessary for reports to be written in a way that enables particular sections to be shared as appropriate or be anonymised through use of initials or removal of names

The safeguarding coordinating manager should check the enquiry report against the enquiry plan to ensure that all enquiry activities have been undertaken as planned.

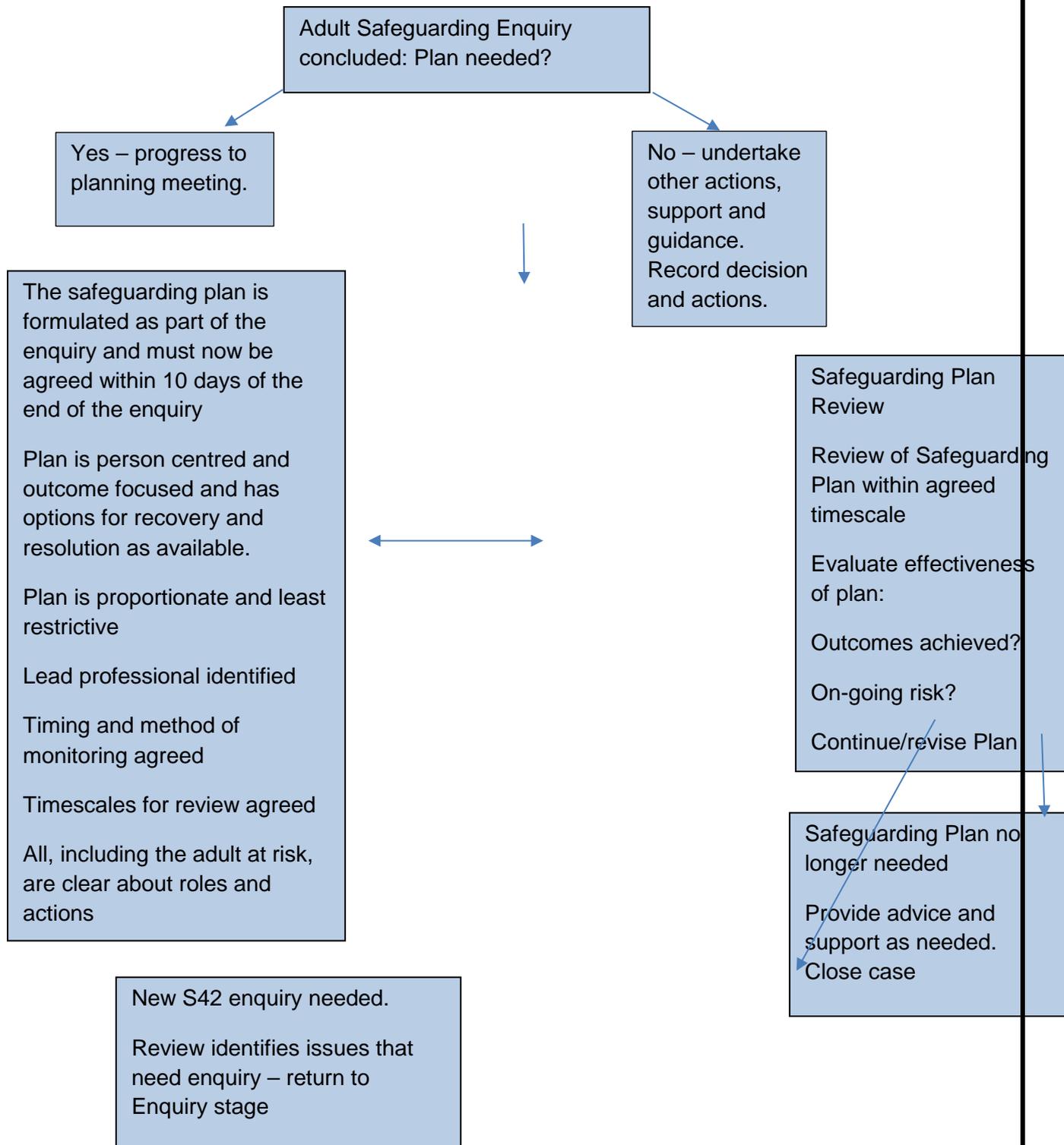
A check should also be made that the enquiry officers recommendations are based on the analysis of the evidence obtained, that the report is robust and will stand up to scrutiny.

Once satisfied, the safeguarding coordinating manager should sign off the report. Where an Adult Safeguarding planning conference meeting is being held, the safeguarding enquiry

report should be forwarded to the conference chair three working days in advance. All agencies should complete the SAB Adult Safeguarding Conference template.

5.4 The safeguarding plan. Timescale: Within ten days of the completion of the enquiry.

Flow chart of adult safeguarding planning and review



5.4.1 Introduction: The safeguarding plan (sometimes referred to “protection plan”) will be formulated during the enquiry and informed by the views, outcome wishes and circumstances of the adult, together with the risk assessment and any other enquiries or specialist reports or risk assessments, e.g. CAADA DASH. The safeguarding plan is formalised after the enquiry has concluded.

Where abuse allegations are substantiated, partially substantiated or inconclusive there should be a meeting to formally determine risk and risk management as well as recovery and resolution for the adult at risk. Agreeing the safeguarding plan can be undertaken proportionately to the complexity and risk presented by the circumstances. A plan may be agreed by the adult in their own home with only one or two professionals involved. This is referred to as an **adult safeguarding plan meeting**. Or the plan may need to be agreed within a formally convened **multi-agency adult safeguarding conference meeting** chaired by a member of the CFA adult safeguarding team.

Both adult safeguarding plan meetings, and adult safeguarding multi-agency conference meetings, have the following in common, the purpose of the meeting is to review the findings of the enquiry in relation to the Adult Safeguarding concerns. An initial safeguarding plan will have been put in place and the meeting will need to review and establish what progress there has been in actioning the plan. The aim is to identify remaining risks and agree the safeguarding actions required to respond to these concerns and the adults defined outcomes and/or the negotiated outcomes. Both adult safeguarding planning meetings and conferences will:

- review the enquiry report
- determine whether abuse or neglect has occurred
- assess the level of any on-going risk

The meeting will agree a Safeguarding Plan where required which is person centred and outcome focused and has options for recovery and resolution as available. The Plan will be proportionate to the level of risk and the least restrictive option to ensure the person is protected and able to enjoy their human rights. The plan will enhance the adults’ wellbeing.

A lead professional will be identified to be responsible for the oversight of the safeguarding plan. Timing and method of monitoring will be agreed together with timescales for review of the plan. Everyone, including the adult at risk, will be clear about roles and actions to be taken.

5.4.2 Adult safeguarding meeting: Responses to adult safeguarding concerns need to be proportionate and effective, making sense to the adult at the centre of the concern. In all circumstances where risks have been identified time should be taken to involve the adult in determining what will ensure the reduction or removal of risk and promote their well-being. Meetings to discuss this can take place in the adult’s own home or preferred place, and involve only one or two professionals. These meetings must still follow the purpose and activities of adult safeguarding planning meetings as noted in 5.4.1 above, and must be minuted.

5.4.3 Adult Safeguarding multi agency conference meeting:

Formal multi-agency conference meetings are indicated when:

- The enquiry has involved several agencies who will need to review the enquiry outcomes together.
- Agencies need to work together and dedicate resources to achieve the outcomes specified in the safeguarding plan
- The adult at risk is in a high-risk situation
- There are concerns that the plan will not effectively mitigate all risks and multi-agency problem solving needs to take place

Or any other reason that either the coordinating manager, CFA adult safeguarding team, CFT adult safeguarding team or the adult at risk/their representative thinks appropriate.

The conference meeting will bring together the adult at risk, the professionals involved and others to consider the information from the enquiry and formally develop and agree a safeguarding plan.

5.4.4 Invitations to an Adult Safeguarding multi agency Conference

The decision who to involve in an adult safeguarding conference should be limited to those who need to know and who can contribute to the decision-making process. This may need to include a representative of any organisation that has a specific role in:

- undertaking enquiries into the allegation of abuse or neglect;
- assessing the risk; or
- developing or carrying out the Safeguarding Plan.

The person participating should be of sufficient seniority to make decisions concerning the organisation's role and resources.

The most appropriate representative from an organisation alleged to have caused harm needs to be invited to attend the Adult Safeguarding Conference. This will depend on the nature and severity of the allegations.

Where the allegation/concern involves abuse occurring within a regulated or contracted service, the coordinating manager should consider involving, as appropriate:

- Care Quality Commission
- Contracting/Commissioning Department

Any organisation requested to participate in an Adult Safeguarding Conference must regard the request as a priority. If the invited person (or an appropriate representative) is unable to attend the Adult Safeguarding Conference, they should provide information in writing as requested and make sure it is available for the Conference Chair in advance of the meeting. Only people invited to attend the Adult Safeguarding Conference should do so.

Unexpected people may not be permitted to attend the meeting. Any person that would like to bring an additional person, a friend or family member or a colleague from their organisation for example should inform the chair in advance of the meeting. For reasons of

confidentiality it may be necessary for any person to absent themselves for part of the meeting as requested by the Conference chair.

5.4.5 Involving the adult at risk in the adult safeguarding multi agency conference meeting

Good Practice Guidance – Involving the adult at risk in meetings

Remember: If an adult is experiencing substantial difficulty in being involved in their own safeguarding their representative or advocate should attend, either supporting the adult or representing the adults wishes and thoughts.

If the adult at risk prefers, they may choose to not attend and have their views reported via a representative or in writing.

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 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? The meeting must be conducted at the adults pace.
- 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?

If the adult at risk is not present, Adult Safeguarding Conference will need to agree who is the best person to provide feedback to them. This should take place as soon as possible and be in addition to any minutes received. The adult at risk should be supported to raise any issues they may have about the decisions taken and the Safeguarding Plan that has been developed/proposed.

5.4.6 Agreeing actions with the adult at risk

Safeguarding Plans should be developed in partnership with the adult at risk, taking into account their wishes and the impact of the Safeguarding Plan on their lifestyle and independence. This may include actions the adult at risk is taking, as well as the actions of the local authority and other organisations.

Any intervention regarding family or personal relationships need to be carefully considered. The approach taken must consider how to support the adult to maintain their HRA article 8 rights to develop, or maintain, a private life which includes those people with whom the adult at risk wishes to establish, develop or continue a relationship. If that relationship is abusive in some way attention must be paid to how the adult can be supported to maintain the relationship whilst minimising the risk of further abuse. Any coercion and duress in the relationship must be risk assessed and taken account of in the safeguarding plan.

Whilst it is important to support the person work towards their desired outcomes where possible, this can never be at the expense of others being placed in a position of risk. Throughout any response within the adult safeguarding consider the safety of wellbeing of others, this may be those people living in the same family home, those in the same care environment or members of the wider public.

An adult at risk with capacity may decide not to accept a safeguarding plan, however, protection arrangements should be offered and work undertaken to understand the reasons for not accepting support. Support may need to be offered in a manner the person finds more acceptable.

Where a person lacks capacity to make decisions about their safety, decisions about protective arrangements should be made in their best interests taking into account their wishes, feelings, beliefs and values (Mental Capacity Act 2005).

Some safeguarding actions will be focused on managing the risk to others. The consent of the adult at risk is not required to take actions that safeguard the safety and well-being of others. However, it would be good practice to inform the person of actions being taken, unless to do so would place any person at further risk.

5.4.7 Involving the person alleged to have caused harm

In some circumstances, it may be useful to invite the person alleged to have caused harm to a safeguarding planning meeting or conference. The person alleged to have caused harm will be a family member, friend or intimate who continues to be part of the adult's life. It is **NOT** appropriate to invite a member of staff who has allegedly abused their position of trust to attend a safeguarding planning meeting. The person must be invited by the coordinating manager or conference chair. Careful consideration must be given to potential duress or current/future intimidation of the adult. Inviting the person alleged to have caused harm should be undertaken only to improve the wellbeing and safety of the adult at risk. They are entitled to bring supporters with them. They may also wish, if not invited or attending, to send in their views and wishes in writing and be supported to do so. If the attendance of the person alleged to cause harm puts the adult at risk of any harm, or makes it difficult for them

to fully participate, arrangements will be made for the adult and alleged source of harm to attend separate parts of the meeting.

A decision must be made at the Adult Safeguarding Conference or meeting about what feedback that should be provided to the person alleged to have caused harm and who should provide it. If the person alleged to have caused harm lacks capacity (and is also an adult at risk), feedback will be given to their representative.

5.4.8 Role of legal representatives at an Adult Safeguarding conference meeting

If the adult at risk, their representative or another interested party wishes to bring a legal representative with them the chair of the meeting should be advised of this in advance.

Other invitees may need to be informed of the proposed attendance. Any legal representative attending should be advised before the meeting that they are welcome to attend in the role of a 'silent supporter', that is, they are attending as a support and not to actively participate or comment during the meeting.

If the attendee who has requested that a solicitor accompany them is not agreeable to this condition, advice should be sought by the Chair from the local authority's legal services and where needed the meeting should be adjourned.

5.4.9 Case conclusions

The enquiry report will contain the conclusion formed, during the enquiry, regarding whether the alleged abuse occurred or not. A key focus is protection of adults and enabling adults to safeguard themselves when possible

The primary focus of the adult safeguarding procedure is to support people to safeguard themselves from abuse or neglect. It is necessary to establish whether, **on the balance of probabilities**, abuse has occurred, in order to assess the extent of any on-going risk. This assessment of risk will guide the development of any 'Safeguarding Plan' that is needed to keep the person safe from future harm. The case conclusion will be confirmed at the adult safeguarding meeting or conference.

Case conclusions record whether abuse has occurred, and if so, the type of abuse experienced. They should only be reached in relation to allegations specifically covered within the course of the enquiry and where the enquiry has been sufficiently robust to reach a fair and defensible decision.

New or emerging issues that are beyond the scope of the enquiry undertaken will need to be addressed in their own right. This may require another enquiry or an appropriate alternative response/process.

Where possible establish on balance of probabilities if the abuse or neglect occurred.

There are four possible outcomes:

1. Substantiated – fully
2. Inconclusive
3. Not substantiated
4. Investigation ceased at individual's request

Case conclusion for each type of abuse.

A case conclusion for each type of alleged abuse is needed, for example physical or financial abuse. The decision will need to be made on the basis of the evidence obtained within the enquiry. The burden of proof should be consistent with the civil standard of proof which is “on the balance of probabilities”.

There are four possible outcomes to this decision:

- *Substantiated – fully* - This refers to cases where “on the balance of probabilities” it was concluded that all the allegations made against the individual or organisation were verified “on the balance of probabilities”.

Where allegations of multiple types of abuse are being considered against an individual or organisation then all will need to be proven for it to be defined as fully substantiated.

- *Inconclusive* - This refers to cases where there is insufficient evidence to allow a conclusion to be reached. This will include cases where, for example, the adult at risk, the individual believed to be the source of the risk or a key witness passed away before they could provide statements as part of the assessment or enquiry. Most usually no evidence can be found to prove or disprove that abuse has occurred.
- *Not substantiated* - This refers to cases where “on the balance of probabilities” the allegations are unfounded, unsupported or disproved.
- *Enquiry ceased at individual's request* - This refers to cases where the individual at risk does not wish for an enquiry to proceed for whatever reason, the enquiry has ceased before a conclusion can be reached. This outcome cannot be used if other adults are at risk.

Note: For each type of abuse there may be more than one incident or allegation. If just one incident or allegation amounting to abuse is found to have occurred, then that type of abuse has been substantiated (regardless of findings in relation to other incidents or allegations).

Overall case conclusion

It will also be necessary to record an overall case conclusion whether there was one type of abuse or more. The following guidance should be followed.

The burden of proof should be consistent with the civil standard of proof which is “on the balance of probabilities”.

There are five possible outcomes to this decision:

- *Substantiated – fully* - This refers to cases where “on the balance of probabilities” it was concluded that all the allegations made against the individual or organisation were verified “on the balance of probabilities”.

Where allegations of multiple types of abuse are being considered against an individual or organisation then all will need to be proved for it to be defined as fully substantiated.

- *Substantiated – partially* - This refers to cases where there are allegations of multiple types of abuse being considered against an individual or organisation. Verification will be partial where “on the balance of probabilities” it was concluded that one or more, but not all, of the alleged types of abuse were proved. For example, where a concern includes allegations of physical abuse and neglect, if the physical abuse can be proved on the balance of probabilities, but there is not enough evidence to support the allegation of neglect, it will be partially substantiated.
- *Inconclusive* - This refers to cases where there is insufficient evidence to allow a conclusion to be reached. This will include cases where, for example, the adult at risk, the individual believed to be the source of the risk or a key witness passed away before they could provide statements as part of the assessment or investigation.
- *Not substantiated* - This refers to cases where “on the balance of probabilities” the allegations are unfounded, unsupported or disproved.
- *Investigation ceased at individual’s request* - This refers to cases where the individual at risk does not wish for an enquiry to proceed for whatever reason and the enquiry has ceased before a conclusion can be reached.

NB an adult safeguarding plan is indicated when the case conclusion is substantiated, partially substantiated or inconclusive. If an adult at risk is unable to self-protect then the fact that abuse cannot be proven or disproven may be a cause for concern. The future protection of the adult at risk should be considered.

5.4.10 Developing the safeguarding 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.

The Mental Capacity Act directs that agencies must presume that an adult has the capacity to make a decision until there is a reason to suspect that capacity is in some way compromised; the adult is best placed to make choices about their wellbeing which may involve taking certain risks. Where the adult may lack capacity to make decisions about arrangements for enquiries or managing any abusive situation, then their capacity must always be assessed and any decision made in their best interests.

If the adult has the capacity to make decisions in this area of their life and declines assistance, this can limit the intervention that organisations can make. The focus of the safeguarding plan should therefore be on harm reduction. It should not however limit the action that may be required to protect others who are at risk of harm.

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.

Adult safeguarding plans can cover a wide range of interventions and should be as innovative as is helpful for the adult. Care Act statutory guidance states that in relation to the adult, safeguarding plans should set out:

- what steps are to be taken to assure their safety in future;
- the provision of any support, treatment or therapy including on-going advocacy;
- any modifications needed in the way services are provided;
- how best to support the adult through any action they take to seek justice or redress;
- any on-going risk management strategy as appropriate; and,
- any action to be taken in relation to the person or organisation that has caused the concern.

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 on the next page).

The Safeguarding Plan should also include consideration of what triggers or circumstances would indicate increasing levels of risk of abuse or neglect for individual/s, and how this should be dealt with (e.g. who to contact or how to escalate concerns).

5.4.10.1 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, counselling) should be considered as well as specialist support services (e.g. specialist psychology services, trauma recovery).

Where an adult may be going through the criminal justice process, supports may include use of Intermediaries, Independent Domestic Violence Advocates (IDVA), and Independent Sexual Violence Advisors (ISVA).

See Section 1 above for information on Victim Care Services, including Restorative Justice, provided by Devon and Cornwall police for people who have reported a crime; and details of victim support services for people who have not reported a crime. No matter what the adult at risks situation, disability, age or gender etc. they should all be supported to recover from abuse, neglect and trauma.

Below are examples of actions that may be helpful within adult safeguarding plans. No one option is appropriate in every situation however, practitioners are encouraged to be creative in developing solutions that are personalised to the adult and their situation

| Good Practice Guide – Examples of positive actions for adult safeguarding plans | |
|--|--|
| Actions to promote the safety and wellbeing of an adult, and for resolution and recovery from the experience of abuse or neglect. | Actions to prevent further abuse or neglect by a person or an organisation. |

- Provision of care and support services to promote safety and wellbeing (e.g. homecare, telecare).
 - 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.
 - Domestic abuse support services.
 - Restorative justice.
 - Circles of support.
 - Befriending.
 - Blocking nuisance calls or advice from Trading Standards.
- Neighbourhood watch.
- Application for Criminal Injuries Compensation
 - Appointeeship.
 - Application to the Court of Protection for single decision or court appointed deputy
 - Application to the High Court under inherent jurisdiction for circumstances of undue influence and duress

- 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
 - Application to the Department of Work and Pensions to change / cancel appointeeship.
- Civil Law remedies e.g. suing for damages
- Prosecution by Trading Standards
 - Referral to the relevant registration body (e.g. NMC, HCPC, GMC)
 - Training needs assessment, supervision (of employee/volunteer) or disciplinary action following an internal investigation
 - Organisational review (e.g. of staffing levels, policies/procedures, working practices, or culture)

- | | |
|--|--|
| <ul style="list-style-type: none"> • Domestic abuse prevention orders, forced marriage prevention orders. • Civil injunctions. • Guardianship order under the Mental Health Act e.g. to require residence or require access be given • Support through the Criminal Justice system; Independent Domestic Violence Advocate (IDVA), ISVA, Intermediary Service. • Support to recover from crime and for advice on the criminal justice system- Victim Support. • Support to make visual evidence for later use if decide to make criminal complaint- Visual Evidence for Victims. | |
|--|--|

5.4.11 Minutes of adult safeguarding planning meetings and conferences:

Minutes should be recorded on the agreed multi-agency template and approved by the chair of the meeting. The minutes will record the decisions of the meeting and evidence of how the decisions were reached. This may involve recording separate decisions and outcomes for each type of abuse alleged.

Adult Safeguarding meeting and conference meeting minutes will ordinarily be distributed to:

- all attendees and invitees to the meeting
- all those contributing to the Safeguarding Plan
- contract/commissioning teams according to local arrangements
- the Care Quality Commission where the Conference relates to a service that it regulates

A copy of the minutes should be sent to the adult at risk or, with their permission, to another person unless it would increase the level of risk. If the adult at risk lacks capacity, a decision should be made in their best interests about who to send the minutes to.

Where minutes are sent to a carer (with permission of the adult at risk or in their best interests) the meeting will need to decide what information can be shared about the person

alleged to have caused harm. There will often be information that cannot be shared due to the requirements of the data protection act. It should be noted that the personal details of third parties in a position of trust, alleged to have harmed an adult at risk, cannot be shared. The names and details of third parties in a position of trust will be kept by the CFA adult safeguarding service manager in accordance with the abuse of position of trust policy and procedures <http://www.cornwall.gov.uk/media/29053274/allegations-against-people-in-positions-of-trust.pdf>

Where there is information that cannot be shared, it should be redacted from versions of documents sent out. Data Protection Act 1998 principles must be adhered to. For example, where a person was requested to leave the room during part of the meeting consideration must be given as to whether the section of the minutes relating to that part of the meeting should be redacted from the copy sent to the person concerned.

Minutes will need to be sent to CQC where the Conference discussion relates to a service that it regulates.

Adult Safeguarding meeting and conference minute timescales:

The following target timescales apply in relation to Adult Safeguarding meetings and conference meetings.

- Minutes to be circulated within ten days of the meeting.
- Requested amendments from participants received – within 1 week of the draft minutes being distributed
- Minutes amended and redistributed – within 1 further week

5.4.12 Feedback to the Person Raising a Safeguarding Concern

Consideration should be given to the appropriateness of providing feedback to the Person Raising a Concern, taking into account the nature of the relationship, confidentiality, data protection issues and the wishes of the adult at risk concerned.

5.5 The Review – timescale, as agreed at the safeguarding plan meeting or conference, but always within three months of the Plan being formally agreed.

5.5.1 Introduction.

If a safeguarding plan is in place it must be reviewed at regular intervals as agreed in the safeguarding meeting or conference at the end of the enquiry.

The review can be proportionate to the level of risk and complexity, a review may a conversation with the adult, or may be a formal Review meeting, ideally chaired by the same member of the adult safeguarding team who chaired the conference meeting.

The review meeting will evaluate effectiveness of the safeguarding plan, together with the overall wellbeing of the adult at risk.

5.5.2 Actions required during the Review

The Review will explore:

Have all agreed actions in respect of the safeguarding plan been undertaken? Is the adult satisfied with what has been done?

Have the negotiated and /or desired outcomes been achieved? What progress has been made?

Is there on-going risk? Has the nature of the risk changed?

How does the adult feel now? Any changes in wellbeing including health, self-esteem, and confidence?

Does the plan need to be revised?

Is a new section 42 enquiry needed because new concerns have arisen? It is important to make sure that any new concerns are thoroughly assessed. Adults can be left at risk because agencies view them as “under safeguarding” and do not report in concerns, or the lead agency does not fulfil its duty to enquire as the adult is viewed as “protected”. If new concerns are identified the duty to enquire must be fulfilled.

Is the plan still needed? If there is no longer a need for a safeguarding plan the adult safeguarding procedures can end. If the need for a plan still exists a new review date must be set.

5.5.3 Recording and feedback

The chair of the meeting will need to ensure that:

- any decisions and actions are recorded with the names of the responsible individuals/organisations identified;
- all those involved in the review and the safeguarding plan have a copy of the review minutes, including the adult at risk and/or their personal representative; and a revised copy of the safeguarding plan if appropriate.
- agreement is reached about how feedback will be provided if the adult at risk is not present. This feedback should be provided as soon as possible after the review meeting

6. Closure and exiting the Adult Safeguarding Process

The adult safeguarding procedure can be closed following review or any time where the adult safeguarding plan is no longer required. The adult safeguarding plan will no longer be required when the adult is no longer at risk of abuse or neglect, or risks have reduced to the level that they can adequately and appropriately be managed or monitored through single agency processes, e.g. assessment and support planning processes, community policing responses, health service monitoring.

Decisions about concluding the adult safeguarding procedure must 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 and/or their representative or advocate.
- The person / agency that raised the adult safeguarding concern.
- The person / agency who were identified as the potential source of risk.
- Key partner agencies
- Any other involved stakeholder agency/individual.

Actions on exiting the adult safeguarding procedure

The following actions should be carried out before exiting the adult safeguarding procedure:

Recording:

- all records are completed
- record made that the duty to make enquiries has been fulfilled
- case records contain all relevant information and satisfactorily completed forms
- all evidence, decisions and outcomes are adequately recorded
- the necessary monitoring forms and all data monitoring systems are completed

Adult at risk:

- The adult at risk knows that the process is concluded and where/who to contact if they have any future concerns about abuse

Person or organisations alleged to have caused harm:

- where an enquiry has been undertaken, the person alleged to have caused harm knows the process is concluded and is aware of any decisions relating to themselves

Communication with other agencies:

- all those involved with the person know how to raise a concern if there are renewed or additional concerns
- all relevant partner organisations are informed about the ending of the multi-agency adult safeguarding procedure.

7. Complaints

An adult at risk, their representative or advocate, can complain that the adult safeguarding procedures have not been enacted within the legal duties as described by the Care Act. A complaint cannot be made about the outcome of an adult safeguarding enquiry, but that procedures were not followed correctly. A complaint should be made to the local authority using the adult social care statutory complaints procedure

<http://www.cornwall.gov.uk/media/17845604/adult-social-care-statutory-complaints-procedure.pdf>

The local authority is the lead authority for use of the adult safeguarding procedures and will investigate and attempt to resolve complaints regarding adult safeguarding procedures that local authority staff have undertaken as well as complaints about the procedures undertaken by organisations it has delegated its adult safeguarding functions to. If the complainant is not satisfied with the local authority's response they can complain to the Local Government Ombudsman

Contact details:

Local Government Ombudsman

PO Box 4771

Coventry

CV4 0EH

Phone: 03 00 061 06 14

Fax: 024 7682 0001

Complainants who wish to make an electronic complaint can visit the LGO website and use their online form: www.lgo.org.uk/make-a-complaint

8. Safeguarding Adult Review (SAR)

Where practice gives rise to concerns about how agencies have worked together to protect an adult, and when the death or serious injury of an adult at risk has occurred, the SAB will consider requests to conduct a Safeguarding Adult Review.

The purpose of having a Safeguarding Adult Review is neither to investigate nor to apportion blame. The objectives include:

- preparing or commissioning an overview which brings together and analyses the findings of the various agencies in order to make recommendations for future action
- establishing whether there are lessons to be learnt from the circumstances of the case about the way in which local professionals and agencies work together to safeguard adults at risk
- reviewing the effectiveness of both multi-agency and individual agency procedures
- informing and improving local inter-agency practice
- improving practice by acting on learning and developing best practice

If an adult has died as a result of domestic abuse or violence a Domestic Homicide

Review should be considered.

PART 3 GUIDANCE

1. Identifying abuse and neglect

Below are more detailed explanations of the categories of abuse documented within the Care Act. The potential criminal offences associated with each category are also documented together with some indicators that each type of abuse is occurring. Indicators are not proof of abuse in themselves but a prompt that may lead to further exploration. Many indicators can have other explanations not related to abuse, for example being physically or mentally unwell. Any change in an adult at risk's mental or physical wellbeing must be addressed.

1.1 Categories of abuse

Abuse

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

Physical abuse - Examples of physical abuse include: hitting, slapping, pushing, kicking, misuse of medication, illegal restraint or inappropriate physical sanctions. These are also usually crimes and will fall under offences against the person legislation – see criminal legislation – Guidance section 4.

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

Someone is using restraint if they use force, or threaten to use force, to make someone do something they are resisting, or where a person's freedom of movement is restricted, whether they are resisting or not. Restraint covers a wide range of actions. It includes the use of active or passive means to ensure that the person concerned does something, or does not do something they want to do, for example, the use of key pads to prevent people from going where they want to within a closed environment. Use of restraint can be justified to prevent harm to a person who lacks capacity to make specific decisions, as long as it is a proportionate response to the likelihood and seriousness of the harm.

In extreme circumstances unlawful or inappropriate use of restraint may also constitute a criminal offence, i.e. unlawful detention and/or unlawful abduction.

If an adult lacks the capacity to make a decision about their own accommodation, care and treatment, and is subject to continuous supervision and control, but there is no deprivation of liberty authorisation in place, this is a breach of the adult's human rights.

Providers of health and social care must have in place internal operational procedures covering the use of physical intervention and restraint, incorporating best practice guidance and the Mental Capacity Act, the Mental Capacity Act 'Code of Practice' and the Deprivation of Liberty Standards.

Possible indicators of physical abuse:

- Unexplained or inappropriately explained injuries;
- Adult exhibiting untypical self-harm;
- Unexplained cuts or scratches to mouth, lips, gums, eyes or external genitalia;

- Unexplained bruising to the face, torso, arms, back, buttocks, thighs, in various stages of healing. Collections of bruises that form regular patterns which correspond to the shape of an object or which appear on several areas of the body;
- Unexplained burns on unlikely areas of the body (e.g. soles of the feet, palms of the hands, back), immersion burns (from scalding in hot water/liquid), rope burns, burns from an electrical appliance;
- Unexplained or inappropriately explained fractures at various stages of healing to any part of the body;
- Medical problems that go unattended; or are presented at various medical facilities, sometimes far away from the adult's address.
- Sudden and unexplained urinary and/or faecal incontinence.
- Evidence of over/under-medication;
- Adult flinches at physical contact or appears frightened or subdued in the presence of particular people; the adult asks not to be hurt or may repeat what the person causing harm has said (e.g. 'Shut up or I'll hit you');
- Reluctance to undress or uncover parts of the body, or wearing clothes that cover all parts of their body or specific parts of their body;

Sexual abuse - Examples of sexual abuse include - rape and sexual assault or sexual acts to which the adult at risk has not consented, or could not consent or was pressured into consenting. Sexual acts would include being made to watch sexual activity. Sexual abuse largely falls under the Sexual Offences Act 2003.

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

Any sexual relationships or inappropriate sexualised behaviour between a member of staff and a service user will fall under the adult safeguarding processes and must be reported to the police for consideration under the Sexual Offences Act 2003. The staff member will be subject to disciplinary proceedings.

Possible indicators of sexual abuse

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

Sexual exploitation.

The sexual exploitation of adults with care and support needs involves exploitative situations, contexts and relationships where adults with care and support needs (or a third

person or persons) receive 'something' (e.g. food, accommodation, drugs, alcohol, cigarettes, affection, gifts, money) in return for performing sexual activities, and/or others performing sexual activities on them.

Sexual exploitation can occur through the use of technology without the person's immediate recognition. This can include being persuaded to post sexual images or videos on the internet or a mobile phone with no immediate payment or gain, or being sent such an image by the person alleged to be causing harm. In all cases those exploiting the adult have power over them by virtue of their age, gender, intellect, physical strength, and/or economic or other resources.

Psychological abuse - Examples of psychological/emotional abuse include – teasing or taunting for the pleasure of a person in a position of trust, threats of harm or abandonment, deprivation of contact, humiliation, blaming, controlling, intimidation, coercion, harassment, verbal abuse, cyber bullying, isolation or unreasonable and unjustified withdrawal from services or supportive networks.

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

- mental distress;
- the denial of basic human and civil rights such as self-expression, privacy and dignity;
- negating the right of the adult at risk to make choices and undermining their self-esteem; and/or
- isolation and over-dependence that has a harmful effect on the person's emotional health, development or well-being

Psychological/emotional abuse can result from other abusive acts and therefore may occur as a result of or alongside other types of abusive behaviour. Psychological abuse may be a criminal offence under the 1997 Harassment Act; may be a Hate Crime if it relates to a protected characteristic, or may be an offence under S44 of the Mental Capacity Act or Criminal Courts and Justice Act. Humiliation and intimidation or other abuse by an intimate that is used to harm, punish, or frighten the adult may be an offence under the Serious Crime Act 2015.

Possible indicators of psychological abuse

- Untypical ambivalence, deference, passivity, resignation;
- Adult appears anxious or withdrawn, especially in the presence of the alleged abuser or begins to exhibit low self-esteem;
- Untypical changes in behaviour (e.g. continence problems, sleep disturbance);
- Adult is not allowed visitors/phone calls, or is locked in a room/in their home. Their access to personal hygiene or the bathroom/toilet is restricted.

- Adult is denied access to aids or equipment, (e.g. glasses, dentures, hearing aid, crutches, etc.);
- Bullying via social networking internet sites and persistent texting.

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

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

Potential criminal offences may have been committed under the Fraud Act 2006 or Theft Act 1968.

Possible indicators of financial abuse

In general disparity between assets/income and living conditions, for example, lack of heating, clothing or food; inability to pay bills/unexplained shortage of money; lack of money, especially after benefit day;

Inadequately explained withdrawals from accounts or the unexplained loss/misplacement of financial documents; or the recent addition of authorised signatories on an adult's accounts or cards

Power of attorney obtained when the adult lacks the capacity to make this decision; changes of deeds/title of house or will which the adult lacks the capacity to undertake or appears unaware of;

Recent acquaintances expressing sudden or disproportionate interest in the adult and their money;

Service user not in control of their direct payment or individualised budget;

Mis-selling/selling by door-to-door traders/cold calling; illegal money-lending, internet or postal scams inviting the adult to claim a prize or give/invest money.

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

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

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

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

A large number of active organised crime groups are involved in modern slavery. But it is also committed by individual opportunistic perpetrators.

There are many different characteristics that distinguish slavery from other human rights violations, however only one needs to be present for slavery to exist. Someone is in slavery if they are:

- forced to work - through mental or physical threat;
- owned or controlled by an 'employer', usually through mental or physical abuse or the threat of abuse;
- dehumanised, treated as a commodity or bought and sold as 'property';
- physically constrained or has restrictions placed on his/her freedom of movement.

Contemporary slavery takes various forms and affects people of all ages, gender and races.

Human trafficking involves an act of recruiting, transporting, transferring, harbouring or receiving a person through a use of force, coercion or other means, for the purpose of exploiting them.

If an identified victim of human trafficking is also an adult with care and support needs, the response will be co-ordinated under the adult safeguarding process. The Police are the lead agency in managing responses to adults who are the victims of human trafficking.

The Modern Slavery Act 2015 brings together the legislative response to modern slavery. Modern slavery encompasses human trafficking, slavery, servitude and forced or compulsory labour. The Act includes:

Criminal offences; Law enforcement powers in relation to slavery and human trafficking; the creation of an Independent Anti-Slavery Commissioner; protections for victims of slavery and human trafficking; and transparency in supply chains, which requires businesses above a certain size to report on the steps they are taking to ensure slavery and trafficking does not occur in their supply chain.

There is a national framework to assist in the formal identification and help to coordinate the referral of victims to appropriate services, known as the National Referral Mechanism. Certain public bodies such as local authorities and chief officers of Police have a statutory duty to refer. More information about the National Referral Mechanism can be found here

<https://www.gov.uk/government/publications/human-trafficking-victims-referral-and-assessment-forms>

Possible Indicators of Modern Slavery: Signs of various types of slavery and exploitation are often hidden, making it hard to recognise potential victims. Victims can be any age, gender or ethnicity or nationality. People can be trafficked within the UK as well as from outside. Victims of human trafficking and/or modern slavery can be UK citizens and may be adults at risk or other people in situations of vulnerability, e.g. homeless rough sleepers. Whilst by no means exhaustive, this is a list of some common signs:

- Adult is not in possession of their legal documents (passport, identification and bank account details) and they are being held by someone else;
- The adult has old or serious untreated injuries and they are vague, reluctant or inconsistent in explaining how the injury occurred.
- The adult looks malnourished, unkempt, or appears withdrawn
- They have few personal possessions and often wear the same clothes
- What clothes they do wear may not be suitable for their work.
- the adult is withdrawn or appears frightened, unable to answer questions directed at them or speak for themselves and/or an accompanying third party speaks for them. If they do speak, they are inconsistent in the information they provide, including basic facts such as the address where they live
- They appear under the control/influence of others, rarely interact or appear unfamiliar with their neighbourhood or where they work. Many victims will not be able to speak English
- Fear of authorities
- The adult perceives themselves to be in debt to someone else or in a situation of dependence.

Environmental indicators:

- Outside the property- there are bars covering the windows of the property or they are permanently covered on the inside. Curtains are always drawn. Windows have reflective film or coatings applied to them. The entrance to the property has CCTV

cameras installed. The letterbox is sealed to prevent use. There are signs the electricity may have been tacked on from neighbouring properties or directly from power lines?

- Inside the property- access to the back rooms of the property is restricted or doors are locked. The property is overcrowded and in poor repair.

Discriminatory abuse

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

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

Hate crime

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

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

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

It should be noted that this definition is based on the perception of the victim or anyone else and is not reliant on evidence. The police and other organisations work together through Safer Cornwall to ensure a robust, coordinated and timely response to situations where adults may become a target for hate crime. Coordinated action will aim to ensure that victims are offered support and protection and action is taken to identify and prosecute those responsible.

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

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

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

Neglect and acts of omission - Examples of neglect and acts of omission include - ignoring medical or physical care needs, failure to provide access to appropriate health, social care or educational services, the withholding of the necessities of life, such as medication, adequate nutrition and heating.

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

Neglect and acts of omission can be intentional or unintentional.

Intentional acts involve:

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

If the individual committing the neglect or acts of omission is aware of the consequences and the potential for harm to result from the lack of action(s), then it is intentional in nature. Wilful neglect can be a criminal offence under s44 of the Mental Capacity Act 2005 or Criminal Courts and Justice Act 2015.

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

Possible indicators of neglect and acts of omission:

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

Organisational abuse - Whenever any form of abuse is caused by an organisation, it may be organisational abuse.

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

Abuse which neglects or harms adults at risk may lead to civil enforcement by the Commission for Care Quality or criminal prosecution under the Criminal Justice and Courts Act 2015.

Possible indicators of Organisational Abuse:

- Manager or leaders are poor, they do not support their staff with good training or supervision, there is a failure to invest in the service, regularly audit the service for quality or respond when quality or potentially abusive issues are identified.
- The service is not person centred and promotes dependence. Adults who use the service are not encouraged to have choice and control. There is a lack of stimulation or support to promote individual adults interests; adults using the service become "institutionalised".
- The service is short staffed, staff do not have the skills and knowledge required. There may be inappropriate staff behaviour, such as the development of factions, misuse of drugs or alcohol, failure to respond to leadership;

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

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

This should be considered where:

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

This will be those situations where usual attempts to engage the person with necessary support have been unsuccessful, and a significant risk of harm remains. It will also often, but not always, be those cases where a multi-agency response is required to respond to the concerns. There may also be occasions where a person lack capacity to make specific decisions, but there are complex circumstances that prevent actions being taken in the person's 'best interests', and a response within the adult safeguarding procedure is appropriate and proportionate to the concerns.

Possible indicators of self-neglect requiring an adult safeguarding response:

- living in extremely unclean, sometimes verminous, circumstances which cause a risk or damage to self or others;
- poor self-care leading to a decline in personal hygiene which endangers wellbeing, e.g. untreated pressure areas, ulcerated skin, scabies or other parasites;
- poor nutrition leading to a breakdown in health, no heating or hot water in cold weather which may result in a deterioration of health/hypothermia;
- poorly maintained clothing leading to a risk of hypothermia or other health condition or cause a public disturbance;
- failure to seek medical assistance or take medication to the extent that health is seriously compromised;
- hoarding large numbers of pets which result in unsanitary conditions and health risk to self or others, NB harm to animals must be reported to the RSPCA
- neglecting household maintenance to the extent that the accommodation is becoming dangerous to live in;

Domestic Abuse and violence - Examples of domestic violence include psychological, physical, sexual, financial, emotional abuse; as well as so called 'honour' based violence, forced marriage and female genital mutilation. Controlling and coercive behaviour will be present in most forms of domestic abuse,

Controlling behaviour 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 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.

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

'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.'

Family members are defined as: Family members are defined as: mother, father, son, daughter, brother, sister and Grandparents, whether directly related, in-laws or step-family. The majority of adult safeguarding work in the community is undertaken in response to some form of domestic abuse.

Domestic Abuse and violence is about a pattern of behaviours rather than a one off incident. Risks will escalate in the following situations:

- **Separation:** is the person thinking of leaving or have they left within the last 12 months?

Leaving is considered to be the riskiest time for women who are leaving an intimate partner. It is advised that patients seek specialist support from a domestic abuse agency so that leaving is planned and the options and ways of mitigating the risks can be explored.

- **Isolation:** does the patient feel isolated from their family, friends or community? This is often a tactic used by abusers as a way of maintaining control over the victim, often creating

barriers for that person to speak to someone about the abuse. This can include telling the victim that nobody will believe them or threatening further abuse if they tell anybody.

- **Weapons:** this includes the threat of or actual use of firearms, knives or objects used as weapons.

- **Strangulation:** also includes attempts to choke, suffocate and drown the victim. The potential for serious injury is high and such attempts should be taken seriously.

- **Threats to kill self or victim:** victims may feel the only way to stop the abuse is through suicide. Where the threat is from the abuser, there is a risk of homicide-suicide.

- **Pregnancy:** domestic abuse is more likely to begin or escalate during pregnancy. More than thirty per cent of cases of domestic violence start during pregnancy.

- **Stalking and Harassment:** this is unwanted contact with the abuser, such as unannounced visits. This type of behaviour tends to get worse at the point of separation. It can also occur during the relationship.

- **Sexual Abuse:** there is a correlation between sexual abuse and physical abuse. Types of sexual abuse to look out for include use of sexual insults, use of threats or force to obtain sex, rape, for LGBT people, using their sexual orientation and threats to 'out' them as a means of maintaining control.

- **Children:** in over half of known domestic violence cases, children were also directly abused. And in 75 - 90% of incidents, children witnessed the abuse (NSPCC).

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

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

A coercive or controlling behaviour offence came into force in December 2015 under the provisions of the Serious Crime Act 2015. The offence carries a maximum 5 years' imprisonment, a fine or both. Victims who experience coercive and controlling behaviour that stops short of serious physical violence, but amounts to extreme psychological and emotional abuse, can bring their perpetrators to justice. The offence closes a gap in the law

around patterns of controlling or coercive behaviour that occurs during a relationship between intimate partners, former partners who still live together or family members.

The Home Office have published statutory guidance relating to controlling and coercive behaviour in an intimate or family relationship here at

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/482528/Controlling_or_coercive_behaviour_-_statutory_guidance.pdf

FGM (Female Genital Mutilation)

FGM is a procedure where the female genital organs are injured or changed and there is no medical reason for this. It is frequently a very traumatic and violent act for the victim and can cause harm in many ways. The practice can cause severe pain and there may be immediate and/or long-term health consequences, including mental health problems, difficulties in childbirth, causing danger to the child and mother; and/or death.

The age at which FGM is carried out varies enormously according to the community. The procedure may be carried out shortly after birth, during childhood or adolescence, just before marriage or during a woman's first pregnancy.

FGM is a criminal offence – it is child abuse and a form of violence against women and girls, and therefore should be treated as such. Reporting to the police and child protection is **mandatory** if a young woman or girl under 18 years old is at risk of FGM or FGM has been undertaken. Bear in mind that if a mother or other female relative has undergone FGM a child in the family will be at risk too.

There is no statutory obligation to report FGM to the police regarding an adult at risk, although if FGM is imminent or the woman is about to be taken out of the country for this purpose the police should be contacted. Adult Safeguarding procedures will otherwise be sufficient. For further information see "Female Genital Mutilation: Risk and Safeguarding – Guidance for professionals" LGA 2015.

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/525390/FGM_safeguarding_report_A.pdf

The following principles should be adopted by all agencies in relation to identifying and responding to those at risk of, or who have undergone FGM, and their parent(s) or guardians:

- the safety and welfare of the child is paramount;
- all agencies should act in the interests of the rights of the child, as stated in the United Nations Convention on the Rights of the Child (1989);
- FGM is illegal in the UK;
- FGM is an extremely harmful practice - responding to it cannot be left to personal choice;
- accessible, high quality and sensitive health, education, police, social care and voluntary sector services must underpin all interventions;
- as FGM is often an embedded social norm, engagement with families and communities plays an important role in contributing to ending it.

Forced marriage

Forced marriage is illegal in England and Wales. This includes:

- taking someone overseas to force them to marry (whether or not the forced marriage takes place)
- marrying someone who lacks the mental capacity to consent to the marriage (whether they're pressured to or not)

There may also be duress. Duress might include both physical and/or emotional/psychological pressure. Forced marriage is recognised as an abuse against human rights and will also constitute abuse within the context of this Policy and Procedure if the person is also an adult at risk of abuse or neglect.

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

Multi-Agency Practice Guidelines: Handling Cases of Forced Marriage (June 2009)

Forced Marriage and Learning Disabilities: Multi-Agency Practice Guidelines (Dec 2010)

See <https://www.gov.uk/stop-forced-marriage>

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

The police should always be contacted for advice in relation to suspicions or concerns about forced marriage. Forced marriage should be reported to the police. If the person has needs for care and support, and is unable to protect themselves as a result, a safeguarding concern should also be raised.

The forced marriage survivors' handbook is a good tool to use when enabling an adult to recover from Forced Marriage. <https://www.gov.uk/government/publications/survivors-handbook>

Honour-based violence

Honour based violence is any violent crime or incident which may have been committed to protect or defend the honour of the family or community.

It is often linked to family members or acquaintances who mistakenly believe someone has brought shame to their family or community by doing something that is not in keeping with the traditional beliefs of their culture. For example, honour based violence might be committed against people who:

- become involved with a boyfriend or girlfriend from a different culture or religion
- want to get out of an arranged marriage
- want to get out of a forced marriage

- wear clothes or take part in activities that might not be considered traditional within a particular culture

Women and girls are the most common victims of honour based violence however it can also affect men and boys. Crimes of 'honour' do not always include violence. Crimes committed in the name of 'honour' might include:

- domestic abuse
- threats of violence
- sexual or psychological abuse
- forced marriage
- being held against your will or taken somewhere you don't want to go
- assault

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

The Prevent agenda: exploitation by radicalisers who promote violence

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

Prevent is an element of this strategy. Prevent focuses on working with vulnerable individuals who may be at risk of being exploited by radicalisers and subsequently drawn into terrorist-related activity. Violent extremists may target vulnerable people and use charisma and persuasive rationale to attract people to their cause.

The Prevent strategy:

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

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

Channel is about preventing children, young people 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.

2 Risk assessment

1. Principles of risk assessment in adult safeguarding.
2. Key considerations in risk assessment
3. Tools to support risk assessment

1. Principles

1.1 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.

Risk assessment runs through the adult safeguarding process, from initial assessments of concerns to identify immediate safety needs, through to strategy discussions, for example, what type of proportionate enquiry is needed, safeguarding planning and review stages.

1.2 Wherever possible risk assessment should be carried out in partnership with the adult at risk. In adult safeguarding risk is usually viewed in terms of danger, loss, threat, damage or injury. However, risk taking can have positive benefits for individuals and their communities. Individuals may choose to live with elements of risk in order to preserve their sense of identity and independence, family or close relationships or valued lifestyle. As well as considering the dangers associated with risk, the potential benefits of risk-taking should therefore also be identified; a process which must involve the adult and as appropriate, their families and networks.

Risk assessment and management processes that involve careful consideration of the adult's perspective, capacity, abilities and strengths, and work to support these, will help professionals avoid overly simplistic approaches which emphasise either a purely self-determining or overly protective approach. Approaches must be balanced to ensure that adults exercise their right to choice and control over their lives whilst ensuring that they also enjoy their right to a life free from harm, exploitation and mistreatment.

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

This involves:

- developing trusting working relationships
- ensuring support and advocacy is available

- using services which promote independence rather than dependence
- if a person is assessed as lacking capacity to make decisions about their own safety and wellbeing, using best interest decision making to explore what their wishes, thoughts and feelings are, what is important to them.
- 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
- working in partnership with adults with care and support needs, family carers and advocates and recognising their different perspectives and views
- understanding what may prevent a person from being able to self-protect, their executive capacity to make changes in their lives
- 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 in the past, why problems have arisen, what problem solving strategies people have tried. Help people to learn from their experiences.

2. Key considerations in risk assessment:

2.2 Every individual, and every situation, is different. Do also see the CloS organisation abuse policy and procedures for guidance on risk assessment in health and social care provided services.

However, there are key areas that can be usefully considered whilst assessing risk of harm with an adult who has care and support needs.

2.2.1. Power relationships – is the adult at risk dependent on others to provide for their basic needs, i.e. food, drink, heating, clothing, safety? How much can they influence how they are cared for? Dependency on others can limit the adult's ability to self-protect. It can also be used as a tool for exploitation and control by others, for example threatening to withhold food or care, or using the relationship to control an adult's finances.

2.2.2 Family dynamics, current and historical – what is the story of relationships within the family? Has the adult at risk previously abused or been abused by family members? Is there a family history of domestic abuse? Did the adult at risk have a particular role within the family that they can no longer fulfil, leaving others feeling frustrated or angry? Is the adult being subject to coercion or control by another?

2.2.3 Individual History, including historical abuse, and how the individual is affected by experiences now. Has the adult experienced abuse whilst in an institution, any significant life trauma, childhood abuse? How does this affect their self-esteem and identity now? How does it affect their ability to self-protect? Are there services they will not engage with through fear of loss of independence or because of previous experiences?

2.2.4 Substance misuse. Does the carer or carers, and /or the adult at risk use substances to a degree that their everyday lives are affected? Substance misuse can impair the adults' ability to self-protect and leave them more vulnerable to exploitation. Carers or family members/friends who misuse substances may find it difficult to focus on the persons care, or may exploit in order to fund their substance use.

2.2.5 Consider – any known previous concerns, any known criminal history.

Look at any patterns of abuse, exploitation, control and coercion. What may be getting in the way of the adults' ability to self-protect? Is an assessment under the provisions of the Mental Capacity Act needed?

3 Tools to support risk assessments

3.1 Measuring risk is essential in making decisions about whether a person is eligible for adult safeguarding services, determining the severity of risk and monitoring whether safeguarding interventions are having an impact on the risks faced by the adult.

Risk assessment must be carried out at the following stages:

Concern: An early risk assessment based on facts known must be carried out in order to establish the immediate safety needs of the adult.

Decision : At the decision making stage it is important for four risks to be assessed and noted:

- Does immediate action need to be taken as the adult, or other adults at risk, are at high and imminent risk of harm? Are there risks to children?
- Has the harm created an unsafe situation for the adult which needs to be addressed urgently, e.g. are they in need of accommodation or urgent financial support?
- Is there a risk that the adult will be endangered by contact with a safeguarding adults professional? Is a plan needed to ensure a) the adult can be seen in a safe location, b) how any safety risks will be minimised?
- Are there any known risks to adult safeguarding staff approaching the situation?

Strategy Meeting/Discussion: An initial risk assessment based on facts known should be used to inform any interim safeguarding plan put in place to safeguard the Adult(s) at Risk. The discussion will also consider how risk will be assessed with the adult and /or representatives, and how to mitigate any risks caused to the adult concerned by the enquiry.

Enquiry: Information gathered at this stage of the process will indicate whether the individual(s) is at risk of harm now and in the future, their views and preferred strategies for risk mitigation/resolution. A full risk assessment will be available at the end of the enquiry.

Planning: The full risk assessment will be used to inform the safeguarding plan which will detail how risks are to be addressed, noting areas of disagreement between assessor and adult/representative any negotiated solution to this.

Review: The effectiveness of the safeguarding plan will inform the risk assessment which must be revised accordingly. The revised risk assessment will inform any ongoing protective measures.

Key Considerations when undertaking risk assessment:

- 1) The safety and protection of the adult at risk, and other adults at risk /children.
- 2) The perspective of the adult at risk, their experience of the risk, impact on them.
- 3) The chronology and pattern of events.

- 4) Assessment of mental capacity and consideration of best interest where indicated
- 5) Consideration of the adults' ability to take action to self-protect, what is preventing this? The ability to self-protect is sometimes called "executive capacity".
- 6) Consideration of the involvement of others in the risk assessment, alongside the adult at risk's capacity to consent to the sharing of information.
- 7) Monitoring and review arrangements to determine whether safeguarding interventions are effective,

3.2 Assessment of risk documentation:

Name, dob and gender of adult at risk:

Are any children at risk of harm? Yes/No

If yes refer to Child Protection services: contact here

Are other adults also at risk of harm? Consider if they also need to be referred to the CFA safeguarding adults team as adults at risk.

Name of person alleged to have caused/created risk of harm:

Relationship with the adult at risk

Describe the circumstances of the alleged harm/risk of harm

Undertake the risk assessment, wherever possible, with the adult concerned

Does the adult at risk have the mental capacity to make decisions about the risks presented by known facts?

Remember that mental capacity must be assumed unless there is cause to believe that at that moment in time the adult he is unable to make a decision for himself in relation to the matter because of an impairment of, or a disturbance in the functioning of, the mind or brain. All practicable steps must be taken to support the adult to make a decision. Please see section xxx on the Mental Capacity Act and Adult Safeguarding

In assessing an adult's capacity to make a decision about how they wish a risk to be addressed or what risks they would want to take ascertain:

Are they able to understand information about the facts?

Are they able to retain the information for long enough to make a decision?

Are they able to use or weigh that information as part of the process of making the decision,

Are they able to communicate the decision (whether by talking, using sign language or any other means).

If the adult does not have mental capacity to make a decision then the adults' best interests must be considered carefully when assessing risks and determining courses of action, including safeguarding plans. Involve representatives, or if there are not to act in the person's best interests, an advocate.

Ascertain a chronology of relevant events:

| Date | Time | Event |
|------|------|-------|
| | | |
| | | |

On the basis of the evidence available, your own professional judgement and experience, assess the risk the adult faces. This can be discussed with the adult and their own perceptions of risk recorded.

| | |
|---|---|
| <p>What kinds of harm have been threatened or have taken place?</p> | <p>List kinds of harm:</p> <p>1)</p> <p>2)</p> <p>3)</p> <p>4)</p> |
| <p>What was the impact on the adult at risk?</p> <p>Were they injured? Were they emotionally harmed? How does the harm affect their overall wellbeing now?</p> <p>What is the likely impact should the harm continue?</p> | <p>Low</p> <p>Medium</p> <p>High</p> |
| <p>Is there evidence to suggest that the harm will be repeated or get worse?</p> <p>Use the chronology to track escalations or possibility of escalation.</p> <p>Has the person allegedly committing harm used violence or weapons? Do they have any convictions for violence/sexual violence/theft/fraud or relevant other offences?</p> | <p>Likelihood that harm will continue or escalate:</p> <p>Low</p> <p>Medium</p> <p>High</p> |
| <p>What makes it difficult for the adult to protect themselves?</p> | |

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| <p>What does the adult think is the best way forward? What outcomes do they seek?</p> <p>What have they tried in the past?</p> <p>What is important to them?</p> | |
| <p>Any other important details. For example,</p> <p>How dependent is the adult on the person(s) harming them? Does family or individual history make it harder for the adult to self-protect or be protected by others? Does substance misuse make the situation worse?</p> | |

Risk Summary

Views of the professional undertaking the risk assessment

Views of adult

Summarise risks noting points of difference where necessary.

Safeguarding Plan summary: Actions agreed to mitigate or remove risk

| Action | Desired outcome | Negotiated outcome | Who and When |
|--------|-----------------|--------------------|--------------|
| | | | |
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| | | | |
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If this is a repeat risk assessment undertaken as part of a review please record the date of the previous risk assessment and summarise what has changed.

| Date of previous risk assessment | Summary of what has changed |
|----------------------------------|-----------------------------|
| | |

Signature of worker completing assessment

Manager/Senior Practitioner signature

3.3 Adult Safeguarding Risk Matrix

This gives a numerical rating to risks assessed across a range of intensity of impact and likelihood of recurrence. The numerical rating may give clarity to decision making, and to rate the performance of safeguarding plans in risk reduction. However, the numerical rating is no substitute for professional judgement. Decisions made, and the professional judgement about the facts informing them, must be clearly documented. When considering impact and likelihood do consider:

The cumulative effect of all the risks identified on the adult

Historical information

Professional judgement and experience

The principles of positive risk taking.

Table 1

| Impact/Likelihood | Low (1) | Medium (2) | High (3) |
|--------------------------|----------|------------|----------|
| Unlikely (1) | Minor 1 | Minor 3 | Medium 4 |
| Possible (2) | Minor 3 | Medium 4 | High 5 |
| Almost Certain (3) | Medium 4 | High 5 | High 6 |

Harm that has had a low impact or medium impact on the adult at risk but is unlikely to recur because circumstances have changed will not result in use of the adult safeguarding process. Checks must be made if the harm was related to delivery of a service to ensure that other adults at risk will not be affected by similar incidents, for example have staffed been retrained or medication systems revised.

An incident which has had a low impact but may possibly recur may also be dealt with outside of adult safeguarding, for example asking the provider to address the concern or changing a support plan.

Harm that has had a high impact on the adult but is unlikely to recur, medium level impact on the adult at risk which may possibly recur together with low impact harm which will almost certainly recur, will benefit from use of the adult safeguarding procedures in most cases. For example, an adult who has experienced a high level of harm may be safe in the future, but will still have experienced distress and may need resolution and support to recover. Low impact harm which occurs frequently can have a cumulative effect on the person's well-being.

High impact harm which may possibly or almost certainly recur will be need to be addressed through adult safeguarding procedures. Harm in this category may need to be addressed even if the adult has capacity to decide not to take part in an enquiry and does to consent to action being taken to address concerns, as a duty of care to the adult may apply. Examples of risk assessment – table 2

| Type of abuse alleged | Impact low and/or unlikely to reoccur. Other reporting procedures still apply e.g. CQC, commissioning, quality assurance. LOW | Concerns must receive additional scrutiny, and progress further under safeguarding adult procedures. MEDIUM | Concerns of a high impact and high probability of recurrence. Progress under adult safeguarding procedures. HIGH |
|------------------------------|--|--|--|
| Physical | <p>Staff error causing no/little harm, e.g. skin friction mark due to ill-fitting hoist sling, sling now appropriate.</p> <p>One off error re medication, no harm caused and circumstances which lead to mistake rectified.</p> <p>Interaction between people using services, e.g. a push or poke, no harm caused.</p> | <p>Inexplicable marking or lesions, cuts or grip marks</p> <p>Inexplicable fractures or other injuries</p> <p>Accumulations of minor incidents</p> <p>Deliberate maladministration of medications</p> <p>Medication error that results in serious harm</p> <p>Inappropriate restraint</p> <p>Covert administration of medication without authorisation</p> | <p>Domestic Abuse</p> <p>Honour based violence</p> <p>Assault, assault occasioning actual bodily harm, grievous bodily harm.</p> <p>Pattern of recurring errors which result in harm which has had a high impact of the adult.</p> <p>Over-medication and/or inappropriate restraint used to manage behaviour</p> <p>Female genital mutilation</p> |

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|---|-------------|--|---|
| <p>Sexual, including sexual exploitation</p> | <p>None</p> | <p>Verbal sexualized behaviour which causes distress to the adult.</p> | <p>Offences under the sexual offences act 2003 including:</p> <p>Rape</p> <p>Assault by penetration with any object</p> <p>Sexual assault</p> <p>Causing a person to engage in any sexual activity without consent</p> <p>Engaging in sexual activity in the presence of a person “with a mental disorder impeding choice”</p> <p>Causing a person with a mental disorder impeding choice to watch a sexual act</p> <p>Inducement, threat or deception to procure sexual activity with a person with a mental disorder impeding choice</p> <p>Causing a person with a mental disorder to engage in or agree to engage in sexual activity by inducement, threat or deception</p> <p>Any of the above committed by a person employed to care for the adult by a hospital, care home etc.</p> <p>Voyeurism</p> <p>Exposure</p> |
|---|-------------|--|---|

| | | | |
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| | | | <p>Also:</p> <p>Taking photographs, videos or creating images of an adult without consent</p> <p>Distributing/posting these on social media.</p> <p>Trafficking/Modern Slavery</p> |
| Psychological | <p>Isolated incident where adult is spoken to in a rude or inappropriate way – respect is undermined but no or little distress caused.</p> <p>Occasional taunts or verbal outbursts within a relationship or friendship</p> <p>The withholding of information to disempower on one occasion</p> | <p>Treatment that undermines dignity and damages esteem</p> <p>Denying or failing to recognise an adult’s choice or opinion</p> <p>Frequent verbal abuse, teasing, taunting, belittling, humiliating</p> <p>Radicalisation either by a third party or via the internet</p> <p>Threats of abandonment or harm Frequent and frightening verbal outbursts</p> | <p>Denial of basic human rights/civil liberties, for example forced marriage</p> <p>Prolonged intimidation and threats</p> <p>Coercion and control</p> <p>Stalking and Harassment</p> |
| Financial | <p>Money not recorded safely and properly. Adult is routinely sending money to competitions/charity but there is no evidence of targeted scamming</p> | <p>Adult denied access to own funds or possessions</p> <p>Misuse of Lasting Power of Attorney or Deputyship for</p> | <p>Fraud / scamming and/or exploitation including cybercrimes relating to benefits, income, property or wills</p> <p>Rogue traders targeting adult</p> |

| | | | |
|-----------------------|---|---|--|
| | <p>Adult not routinely involved in decisions about how their money is spent or kept safe. Capacity in relation to finance is not properly considered</p> | <p>Finance</p> <p>Misuse/ Misappropriation of money, property or possessions by a person in a position of trust.</p> <p>Personal finances removed from adult's control without their consent</p> <p>Large amounts given as a loan to a person in a position of trust</p> | <p>Theft</p> |
| <p>Neglect</p> | <p>One missed home care visit where no harm occurs</p> <p>Adult is not assisted with a meal/drink on one occasion but no harm occurs</p> <p>Adult does not receive prescribed medication on one occasion but no harm occurs</p> | <p>Recent missed home care visits where risk of harm escalates, or one miss where harm occurs</p> <p>Hospital discharge without adequate planning and harm occurs</p> <p>Ongoing lack of care to the extent that health and wellbeing deteriorate significantly e.g. pressure wounds, dehydration, malnutrition, loss of independence / confidence</p> <p>Recurring missed medication or errors affecting one</p> | <p>Failure to ensure adequate nutrition and hydration, heating or hygiene.</p> <p>Failure to arrange access to lifesaving services or medical care</p> <p>Failure to intervene in dangerous situations where the adult lacks the capacity to assess risk</p> |

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|-----------------------|--|--|---|
| | | or more adult | |
| Discriminatory | <p>Isolated incident of a remark made indicating possible prejudicial attitudes towards an adult's individual differences.</p> <p><input type="checkbox"/> Isolated incident of care planning that fails to address adult's specific diversity associated needs for a short period</p> | <p>Recurring failure to meet specific care/support needs linked to diversity, harm including distress occurs.</p> <p>Denial of civil liberties e.g. voting, making a complaint.</p> <p>Teasing or jibes from a person in a position of trust</p> | <p>Hate Crime – any crime which is motivated by hostility or prejudice toward an adults' disability, race or ethnicity, religion or belief, sexual orientation, transgender identity</p> |
| Modern Slavery | None | None | <p>Limited freedom of movement or imprisonment</p> <p>Being forced to work for little or no payment</p> <p>Limited or no access to medical and dental care</p> <p>No access to appropriate benefits</p> <p>Limited access to food or shelter</p> <p>Be regularly moved (trafficked) to avoid detection</p> <p>Removal of passport or ID documents. Debt bondage</p> <p>Sexual exploitation</p> <p>Organ harvesting</p> <p>Forced marriage</p> |
| Domestic | | Unexplained marking or lesions, | |

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|---|--|---|--|
| <p>abuse</p> <p><i>Also, see all categories above as any may manifest within a relationship of domestic abuse and violence</i></p> | | <p>cuts or grip marks on several occasions</p> <p>Accumulation of minor reported incidents.</p> <p>Alleged perpetrator exhibits controlling and/or coercive behaviour</p> <p>Limited access to medical and dental care</p> <p>No access / control over finances</p> <p>Stalking</p> <p>Relationship characterised by imbalance of power</p> | <p>Threats to kill, attempts to strangle, choke or suffocate</p> <p>Imprisonment/confinement</p> <p>Rape/sexual assault</p> <p>Forced marriage</p> <p>Female Genital Mutilation (FGM) Honour-based violence</p> |
| <p>Self-neglect</p> | <p>Refusal of care and support without significant impact on physical/emotional wellbeing</p> <p>Isolated / occasional reports about unkempt personal appearance or property which is out of character or unusual for the person</p> | <p>Reports of concerns from multiple agencies</p> <p>Poor management of finances leading to health, wellbeing or property risks</p> | <p>Ongoing lack of care or behaviour to extent that health and wellbeing deteriorate significantly e.g. pressure sores, wounds, dehydration, malnutrition</p> <p>Behaviour which poses a fire risk to self and others</p> <p>Failure to seek lifesaving services or medical care where required.</p> <p>Life in danger if intervention is not made to protect the individual and/or others</p> |
| <p>Organisational abuse – see</p> | | | |

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| organisational abuse policy and procedures | | | |
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3 Using the mental capacity act in adult safeguarding

3.1 Mental Capacity Act Assessments and Adult Safeguarding.

1. Introduction:

Using the provisions of The Mental Capacity Act (MCA) 2005 is essential when working with an adult at risk who cannot be assumed to have the mental capacity to make decisions associated with their own safeguarding. An adult at risk cannot make a decision as to whether an enquiry under S42 will take place as this decision is made by the local authority under the Care Act section 42 duty to make an enquiry. There is therefore no need to consider whether they have capacity to decide whether such an enquiry should happen. However, adults at risk will need to make their own decisions about several aspects of adult safeguarding work, for example;

- Whether they will consent to information sharing or not, or whether they wish only certain individual or agencies to share all/some information about them.
- How they wish to be involved in the safeguarding process: for instance, do they want to attend meetings or to contribute to setting terms of reference?
- What outcomes they want from the safeguarding process
- What would they consider a proportionate response?
- Do they want a criminal offence to be prosecuted or not? Bear in mind, if in the public interest, consent may not be required.
- What would they consider resolution or restoration?
- What actions will they agree to in order to reduce or remove the risks of harm identified by those carrying out the safeguarding enquiry? What risks do they consider acceptable, and what measures do they think are proportionate to meet those risks? and protecting them against those risks?
- After steps have been taken - are they now safe? Is there any need for a safeguarding plan?

If an adult has been assessed as not having the mental capacity to make these decisions, a best interest process must be used to make these decisions on their behalf. See 3.2 below on best interest decision making in adult safeguarding. In this way, adult safeguarding interventions can be proportionate and person centred, taking full account of the circumstances, historical and current wishes and feelings of the person and their values and attitudes. In the course of undertaking assessments and best interest decisions the adult's voice is clearly heard, and their lives and relationships well understood before decisions are made that can significantly affect their future.

2. The core principles of the MCA 2005

The core principles must be adhered to in considering and undertaking assessments under the MCA 2005:

- An adult at risk must be assumed to have capacity unless it is established that he lacks capacity;
- An adult at risk is not to be treated as unable to make a decision unless all practicable steps to help him to do so have been taken without success.
- An adult at risk is not to be treated as unable to make a decision merely because he makes an unwise decision.
- An act done, or decision made, under this Act for or on behalf of an adult who lacks capacity must be done, or made, in his best interests.
- Before the act is done, or the decision is made, regard must be had to whether the purpose for which it is needed can be as effectively achieved in a way that is less restrictive of the adult's rights and freedom of action.

The burden of proving a person does not have capacity rests with the assessor, it is not down to the adult to prove they have capacity to make a specific decision, but to the assessor to prove that they do not. It is also important that the decision-maker who needs to be satisfied that the adult lacks capacity. In adult safeguarding the decision maker will be the coordinating manager of the enquiry.

3. Court of Protection – interim decision making

In urgent adult safeguarding concerns, it can be possible to apply to the Court of Protection for an interim decision or declaration without a completed COP3 form (an assessment of mental capacity for the Court of Protection). This may be appropriate if urgent action is needed but access to the adult at risk in order to carry out an assessment is made impossible by a third party or the adult themselves. The Court of Protection can consider interim decisions and declarations about the adult's best interests where it has evidence before it "to justify a reasonable belief that [the individual] may lack capacity in the relevant regard."

Any application must be accompanied by a witness statement detailing why the local authority has reasonable grounds to believe that the adult may lack capacity to make the decision. In addition to an interim decision or declaration, the Court will also take steps to arrange a capacity assessment to determine whether it has any jurisdiction to take further steps.

Do consult the Cornwall Council legal department without delay if considering an application to the Court of Protection for an interim decision or declaration.

4. Testing capacity

The test consists of three elements:

4.1 Is the person unable to make a decision? If so:

4.2 Is there an impairment or disturbance in the functioning of the mind or brain? If so:

4.3 Is this inability because of the identified impairment or disturbance?

Each element is considered in more detail below:

4.1 "The Diagnostic Test"

An impairment or disturbance in the functioning of the mind or brain can be temporary or permanent: if temporary, do consider whether the adult safeguarding decisions to be made by the adult at risk can wait until they have regained capacity. If risks are high and decisions need to be made urgently do document why the decision cannot wait until the adult has regained capacity.

Temporary states can include the effects of drugs or alcohol, concussion or unconsciousness.

4.2 “The Functional Test”

The elements of the functional test are to be found in section 3.1 of the MCA 2005, which states that a person is unable to make a decision for him/herself if she/he is unable:

- to understand the information relevant to the decision; or
- to retain that information; or
- to use or weigh that information as part of the process of making the decision; or
- to communicate his decision (whether by talking, using sign language or any other means).

4.2.1 Preparation. It is vital to remember that capacity is decision specific. Prepare well before beginning the assessment, be very clear in your own mind what the information relevant to the decision is, define exactly what the decision is beforehand. Prepare questions that ascertain understanding of that decision, and ways of communication and assessing. Document these fully.

Make sure that you ask the questions you have prepared during the assessment, using whatever means of communication are appropriate. Record the adult’s answers or responses carefully. If it is not possible for whatever reason to ask the questions you have prepared, record fully why you were not able to ask them. Record the information relevant to the decision (the salient factors) and what element of these the adult is unable to understand, retain, use or weigh.

You must take all reasonable steps to help the adult understand, retain, use or weigh or communicate before concluding that they are unable to make a decision. In preparing for the assessment do consider:

- How does the adult communicate? Are visual aids helpful, do you need someone who can use Makaton or BSL, or speak the adult’s language? Are there tools or aids that need to be available?
- What time of day is the adult most alert?
- Where is the best place to discuss the decision with the adult?
- Would it be helpful to have another person who knows the adult to support the assessment process? What role will they play? Can they assist in your understanding of the adult’s communication?
- Are there people who will be unsupportive of the assessment? Who may attempt to exert influence or coercion? Who frighten the adult or make them anxious?

- Are there actions that can be taken to help the adult understand the information and options available to them? These actions may be long or short term interventions. For example, an adult who is seriously self-neglecting at home may be taken to see a supported living flat (short term); or an adult who has learning difficulties might have focused sessions with a domestic violence worker to help her understand coercive control and options available to help her to break the cycle of abuse.

4.2.2 Elements of the functional test:

As above, the assessor needs to evidence that the adult does not have capacity to make the specific decision:

- Is the adult unable to understand the relevant information?

The adult does not have to understand every part of what is being explained. They must however understand the key or “salient” factors. In preparation, you will have identified and documented these. Adult safeguarding decisions are challenging to any adult at risk. Adults who are capacitated will use a range of defence mechanisms when discussing harm committed by a family member or courses of action that will have an impact on their lives. Being unable to talk about something, avoiding questions, constantly changing one’s mind, may all be indicators of stress rather than a lack of capacity. It is important that a clear set of options is described to the adult so that they have something concrete to consider. As in the examples above, options for an adult who is seriously self-neglecting may be:

To remain at home with no extra support

To remain at home with extra support

To move to other accommodation where support is readily available.

These options, and what they mean, must be clearly explained. The adult must be given relevant information as to what the consequences of the action could be. You must explain the likely consequences, as in the example above, what could be the consequences of remaining at home with extra support (able to have meals and cleaning done, help to get to the GP and hospital, getting to know someone new, someone being in your house) and so on for each option.

- Is the adult unable to retain the relevant information?

The adult only needs to be able to retain the information long enough to make the decision. They may have forgotten the conversation after the assessment is over, but as long as they

can retain the relevant information long enough to make the decision during the period of the assessment, this is sufficient demonstration of capacity to make that decision.

- Is the adult unable to use or weigh the relevant information?

The adult must be able to grasp the consequences of the various courses of proposed action sufficiently to weigh up the best course of action for them. This can also include being able to understand the consequences if they make no decision at all. The adult may make an unwise decision, for example deciding to remain at home with no extra support, and be able to foresee that this course may result in serious illness, injury or death. The adult is capacitated to make this decision. Other routes must therefore be explored to work with them to mitigate the risks whilst respecting their right to autonomy.

- Is the adult unable to communicate their decision?

The means and content of communication is irrelevant, as long as the adult can make themselves understood. In preparation, you will have planned how to make sure the adult can use their preferred communication methods and that you have maximised your chances of understanding what the adult is communicating.

5 The Causative Nexus

The final part of the assessment is to establish that there is a 'causative nexus', i.e. are you satisfied that the adults inability to make a decision is because of the impairment of the mind or brain? This is essential in understanding whether an adult is unable to make a decision because of the influence or coercive control of another, or because they lack experience of the matter they must decide upon or, if the influence was removed or experienced gained, they still could not make a decision because of the impairment of their mind or brain. If the adults' inability to make a decision is not because of the impairment of the mind or brain but because of the influence of another it will not be appropriate to use any of the provisions of the MCA 2005. Attention must be paid to how to work with the adult and those around them. Ultimately if there is high risk and no mitigation of the coercive or controlling influence then an approach to the High Court for inherent jurisdiction may be discussed with the Cornwall Council legal department. If the adult is hampered by a lack of experience then ways of gaining experience must be devised.

6 Recording.

Assessments must be recorded using Cornwall Council documentation.

3.2 Making decisions in an adult's "best interests"

Introduction: The Mental Capacity Act 2005 sets out a process to be followed when determining the "best interests" of an adult who lacks capacity to make a decision about a specific matter. An adult's best interests are completely specific to them, their individual wishes, history, circumstances and expressed preferences. Whilst the process for making decisions in the adult's best interests will follow the same **Section 4 best interests checklist and guidance**, the outcome for each individual will be very different.

Assessing best interests is a **process** which takes place after it is recognised that an adult lacks decision making capacity, i.e. **after a mental capacity act assessment has been carried out and the adult found to lack capacity**. The best interests process is about constructing a decision on behalf of the adult who cannot make that decision themselves. The purpose of the process is to arrive at the decision that health and/or social care professionals reasonably believe is the right decision for the adult themselves, as an individual human being, not the decision that best fits with the outcome that the professionals desire. Professionals making decisions about adult safeguarding must understand how to use the process, **and how to record the application of the process**. Only in this way are the decisions made defensible should they be challenged.

Cornwall Council Guidance on making Best Interests decisions must be followed.

1. Best Interest decision making in adult safeguarding.

It is important to be clear about what decisions are being made. The decision whether to undertake an enquiry under S42 of the Care Act is the local authorities' decision. The local authority has a statutory duty to make enquiries in certain circumstances, and must decide whether the duty to undertake an enquiry applies or not. This is not a decision to be made in an adult's best interests as the adult themselves, if capacitated, could not make this decision. However, adults must be involved in their own adult safeguarding enquiry and do make other decisions as part of this principle.

Best interest decisions are likely to be needed around

- Who information is shared with
- How the enquiry is undertaken
- How the safeguarding plan is constructed and implemented.

The local authority coordinating the proposed enquiry must produce **options to be considered** in making a best interest decision. In adult safeguarding these options must be proportionate to the risk identified, have due consideration to the adults previously known views and wishes as well as their current feelings and expressed preferences.

2. Who makes the decision?

The decision maker is the manager coordinating the adult safeguarding enquiry. Care must be taken to ascertain if the adult has a lasting power of attorney or court appointed deputy responsible for welfare. Whilst the adult safeguarding coordinating manager will have responsibility for outlining options, the attorney or deputy will have authority to make these decisions. Note that the attorney or deputy cannot make a decision as to whether an adult safeguarding enquiry can be undertaken or not, as above, this decision is made by the local authority as the local authority has a duty to undertake enquiries under the provisions of the Care Act 2014. The adult's family or a person they have consulted previously can also be consulted in decision making. See section 4 below. If there is no one to represent the adult, or the adults' representatives can be shown to be acting against the adults' best interests, then an advocate must be appointed.

3. Using the best interests checklist

Not all aspects of the checklist will be relevant to the decisions. However, in using the checklist it is important that no assumptions are made about the adult's best interests based on their age, appearance, condition or an aspect of their behaviour. If it is likely that the adult will regain some capacity in the near future risk assess how urgent the adult safeguarding concerns are, **can decision making wait until the adult has regained capacity and can participate in their own safeguarding?**

It is very important that the adult's circumstances and the issues related to the decision are carefully considered, and their relevance to the adult concerned. Try to find out the views of the adult lacking capacity, including past and present wishes and feelings, both current

views and whether any relevant views have been expressed in the past, either verbally, in writing or through behaviour or habits. Any beliefs and values (e.g. religious, cultural, moral or political) that would be likely to influence the decision in question should be ascertained.

Also consider any other factors the adult would be likely to consider if able to do so, this could include the impact of the decision on others, particularly family members.

It is very important to take all practicable steps to help the adult express their current wishes and feelings and to express a view about the decision to be taken. Their circumstances may now be different from when they were capacitated to make the decision. The steps taken to gain their wishes and feelings must be documented. It may be that the adult's previous wishes and feelings may now place them at a high level of risk. If the safeguarding plan will deviate significantly from the adult's previous wishes and feelings the rationale for this must be documented.

4. Who to consult

In order to ascertain the adult's previous wishes, feelings, beliefs and values it may be necessary to consult other people to see if they have relevant information. The adult's right to confidentiality should be borne in mind during consultation. Do consult:

- anyone previously named by the adult as someone to be consulted on the decision in question or matters of a similar kind;
- anyone engaged in caring for the adult, or close relatives, friends or others who take an interest in the adult's welfare;
- any attorney under a Lasting or Enduring Power of Attorney made by the adult;
- any deputy appointed by the Court of Protection to make decisions for the adult.

It is not always necessary to hold a meeting to consult others or make a decision. In addition, consultation is not necessary where it would be likely to be unduly onerous, contentious, futile or serve no useful purpose. However, if significant people are not to be consulted, for example the adult's spouse, clear reasons must be documented as to why they are not being consulted.

5. Identifying options

Once the decision to be made on the adults' behalf has been clarified (see section 1 above) the options to be decided between must be specified. These options need to be realistic and achievable. A "balance sheet" approach can be taken to enable a decision to be made. The balance sheet will detail the benefits and risks to the adult of each option. Benefits and risk will be informed by the adults wishes and feelings, and the risk assessments carried out as part of the enquiry where relevant to the specific decision being made. The adults' rights under the European Convention of Human Rights (ECHR) must be borne in mind at all times, particularly the right to liberty and security (article 5) and to a private and family life, home and correspondence (article 8).

For each option, it can be very helpful to set out (with reasons):

- The risks and benefits to the adult;
- The likelihood of those risk and benefits occurring;
- The relative seriousness and/or importance of the risk and benefits to the adult.

Remember that the balance sheet is to aid in decision making, different weight may be given to each risk and benefit. For example, one option may lead to many risks but one benefit, if that benefit is crucial to the adult's wellbeing then the option may still be considered, with mitigations against the risks involved

Having decided that certain risks are worth taking in the adult's best interests, or that certain disadvantages are outweighed by benefits, it is important to show that you have considered what could be done to reduce these risks or disadvantages, and set out detailed plans for dealing with them. This will be a vital element of the safeguarding plan. However, the conclusion made after each option must be carefully recorded as part of the best interests decision documentation. Finally, an overall conclusion must be added to explain the decision made. If a restrictive course of action is decided upon, or a course that is inconsistent with the adult s previously expressed and current wishes, feelings, beliefs etc. this must be explained, being clear why no other course of action can be chosen.

6. Disputes about an adult's best interests.

If a dispute about an adult's best interests cannot be resolved by a discussion about the available options between health and social care professionals and the adult's representatives, family, advocate etc. then the Court of Protection will need to make the decision on the adult's behalf. If the adult's attorney or court appointed deputy appears to be making decisions that are not in the adult's best interests the court of protection must be referred to.

7. Recording

All aspects of the Best Interest process **must** be recorded using Cornwall Council documentation and using the guidance above.

4. Potential Criminal offences in adult safeguarding

This appendix is **not** a definitive statement of the law. The police should be consulted before any other enquiry takes place about an adult safeguarding concern which may indicate a potentially criminal act.

Potential police powers:

Police and Criminal Evidence Act 1984

- Section 17 - police powers of search and entry to save life and limb or prevent serious damage to property.
- Section 24 - police power to arrest without warrant anyone suspected of having committed or being about to commit an offence.
- Section 25 - police power to arrest someone to prevent them from causing physical injury to another person or to protect others.

1. Physical abuse:

Offences against the Person Act 1861

- Section 18 - Wounding with intent to do grievous bodily harm.
- Section 20 – Inflicting GBH with or without weapon.
- Section 47 - Assault occasioning actual bodily harm.

Criminal Justice Act 1988

- Section 39 - offence of common assault relates to any physical contact without consent, acts or words involving threat of violence.

Domestic Violence and Criminal Evidence Act 2004

- The Act gives the police powers to deal with domestic violence including arrest for common assault. The act enables courts to impose restraining orders when sentencing.
- Section 5 - causing or allowing the death of a vulnerable adult or child in a household. It is an offence to cause the death, and also to have stood by and not taken reasonable steps to protect the victim.

Serious Crime Act 2015

- Section 76 – offence of controlling or coercive behaviour in intimate or familial relationships.

This offence is constituted by behaviour on the part of the perpetrator which takes place “repeatedly or continuously”. The victim and alleged perpetrator must be “personally connected” at the time the behaviour takes place. The behaviour must have had a “serious effect” on the victim, meaning that it has caused the victim to fear violence will be used against them on “at least two occasions”, or it has had a “substantial adverse effect on the victims’ day to day activities”. The alleged perpetrator must have known that their behaviour would have a serious effect on the victim, or the behaviour must have been such that he or she “ought to have known” it would have that effect”

Mental Capacity Act 2005

- Section 44 – offence of deliberate ill treatment or wilful neglect of a person who lacks capacity

Criminal Justice and Courts Act 2015

These offences can be committed against people who have the mental capacity to make decisions about their care as well as those who do not.

- Section 20 – offence of ill treatment or wilful neglect by a care worker. Care worker” means an individual who, as paid work, provides—

(a) health care for an adult or child, other than excluded health care, or

(b) social care for an adult,

including an individual who, as paid work, supervises or manages individuals providing such care or is a director or similar officer of an organisation which provides such care.

- Section 21 Ill-treatment or wilful neglect: care provider offence. A care provider commits an offence if—

(a) an individual who has the care of another individual by virtue of being part of the care provider's arrangements ill-treats or wilfully neglects that individual,

(b) the care provider's activities are managed or organised in a way which amounts to a gross breach of a relevant duty of care owed by the care provider to the individual who is ill-treated or neglected, and

(c) in the absence of the breach, the ill-treatment or wilful neglect would not have occurred or would have been less likely to occur.

2. Financial abuse: Theft and fraud

Theft Act 1968

- Offence of dishonest appropriation of property belonging to another, intending to deprive the owner permanently.

Fraud Act 2006

- Section 4 Fraud by abuse of position.

3. Sexual abuse

Sexual Offences Act 2003

- Sections 30-44 - adults who are vulnerable by virtue of a mental disorder;
- Sections 30-33 - offences against people who cannot legally consent to sexual activity because their mental disorder impedes their choice;
- Sections 34-37 - people who may not be legally able to consent because they are vulnerable to threats, inducements or deceptions because of their mental disorder;

- Sections 39-42 - care workers and their involvement with people who have a mental disorder.

Offences include:

- 'Touching' in a sexualised manner i.e. offences are not all about penetration.
- Causing people to engage in sexual activity which does not involve touching by threats, deception etc.

4. Neglect

See above, Mental Capacity Act 2005 and Criminal Justice and Courts Act 2015.

5. Psychological abuse

Protection from Harassment Act 1997

- harassment, breaches of injunction.

Protection of Freedoms Act 2012

Introduced two new offences into the Protection from Harassment Act 1997 and added additional search powers for police officers. The new offences cover the **new offence of stalking**:

- Section 2A, a person is guilty of an offence of stalking when they pursue a course of conduct that amounts to the harassment of another (which the perpetrator knows or ought to know amounts to harassment) and that conduct amounts to stalking.
- Section 4A covers more serious offences of stalking where stalking causes a victim to be **in fear of violence** on two or more occasions, or where the stalking causes

serious alarm or distress which has a substantial adverse effect on the day to day life of the victim.

6. Discrimination

Hate Crimes: Any criminal offence can be a hate crime if it was carried out because of hostility or prejudice based on disability, race, religion, transgender identity or sexual orientation.

When something is classed as a hate crime, the judge can impose a tougher sentence on the offender under the **Criminal Justice Act 2003**.

Incidents which are based on other personal characteristics, such as age and belonging to an alternative subculture, are **not considered to be hate crimes** under the law. You can still report these, but they will not be prosecuted specifically as **hate crimes** by the police and the Crown Prosecution Service.

Examples of hate crimes

- assaults
- criminal damage
- harassment
- murder
- sexual assault
- theft
- fraud
- burglary
- hate mail (Malicious Communications Act 1988)
- causing harassment, alarm or distress (Public Order Act 1988).

7. Forced marriage

The Anti-Social Behaviour, Crime and Policing Act 2014

Forcing an adult to marry is a crime. The offence includes:

- Taking someone overseas to force them to marry (whether or not the forced marriage takes place)
- Marrying someone who lacks the mental capacity to consent to the marriage (whether they're pressured to or not)
- Breaching a Forced Marriage Protection Order is also a criminal offence
- The civil remedy of obtaining a Forced Marriage Protection Order through the family courts will continue to exist alongside the new criminal offence, so victims can choose how they wish to be assisted

8. Female Genital Mutilation

Female Genital Mutilation Act 2003

The Female Genital Mutilation (FGM) Act came into force on 3 March 2004 and was amended by sections 70 to 75 of the Serious Crime Act 2015 which

- extended the scope of extra-territorial offences
- granted victims of FGM lifelong anonymity; and
- introduced a new offence of failing to protect a girl from risk of FGM
- introduced FGM Protection Orders
- and a mandatory duty for front line professionals to report FGM.

Section 5B of the FGM Act 2003 introduces a mandatory reporting duty for FGM discovered or disclosed in girls under 18 with effect from 31 October 2015. Regulated

health and social care professionals and teachers are required to report cases of FGM in girls under the age of 18, which they identify in the course of their professional work, to the police. Sanctions for not reporting will be determined by the regulatory authority for the relevant professional.

FGM is a criminal act whatever the age of the victim. However, there is only a statutory duty to report the matter to the police for girls under the age of 18.

9. Modern Slavery

The Modern Slavery Act 2015

Introduces a number of measures to address criminals engaging in modern slavery and human trafficking, as well as providing support to adults and children trafficked or used in modern slavery.

- Increasing the maximum sentence available for the most serious offenders from 14 years to life imprisonment;
- Ensuring that perpetrators convicted of slavery or trafficking face the toughest asset confiscation regime;
- Consolidating and simplifying existing modern slavery offences into one Act;
- Introducing Slavery and Trafficking Prevention Orders and Slavery and Trafficking Risk Orders to restrict the activity of individuals where they pose a risk of causing harm;

The provisions of the Act also creating a statutory defence for victims of modern slavery so that they are not inappropriately criminalised; Giving the courts new powers to order perpetrators of slavery and trafficking to pay Reparation Orders to their victims; and extend special measures so that all victims of modern slavery can be supported through the criminal justice process.

APPENDICES

Appendix 1

Glossary and acronyms

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

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

Adult Safeguarding is used to describe all work to help adults at risk stay safe from abuse.

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

Adult Safeguarding Lead is the title given to the member of staff in an organisation who is given the lead for adult safeguarding.

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

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

Concern (Alert or referral) describes an awareness of risk that is reported as a concern (Alert) An adult safeguarding concern is an awareness of the risk of abuse or neglect faced by an adult who is unable to protect themselves from that abuse or neglect due to their care and support needs

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

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

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

CQC - Care Quality Commission is responsible for the registration, regulation and inspection of health and social care services in England. Disclosure and Barring Service is the public body set up to help prevent unsuitable people from working with adults with care and support needs or with children. The Disclosure and Barring Service keeps a list of people who are not allowed to work with adults with care and support needs.

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

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

Enquiry – Section 42 - is the process of gathering information to determine what action should be taken in the case of an adult who is at risk of abuse or neglect. This could involve a wide range of responses, from a simple discussion with the person to a more complex Enquiry.

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

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

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

IMHA – Independent Mental Health Advocate - Access to an IMHA is a statutory right for people detained under most sections of the Mental Health Act, subject to Guardianship or on a community treatment order (CTO). When someone is detained in hospital or on a CTO it can be a very confusing and distressing experience. IMHAs are independent of mental health services and can help people get their opinions heard and make sure they know their rights under the law. IMHA can make a big difference to people's experience of detention and are highly valued by people who use services

IDVA – independent Domestic Violence Advisor - The Independent Domestic Violence Advisors (IDVA) is a government initiative introduced to reduce the number of Domestic Related Homicides. IDVAs focus on high risk clients by supporting at a point of crisis, supporting them to plan appropriate safety management strategies.

ISVA – independent Sexual Violence Advisor - An ISVA is a trained *independent* specialist offering practical and emotional support to anyone over the age of 13 who has reported rape or sexual abuse to the police, or is considering doing so

Care Act Advocates - The Care Act introduces a statutory responsibility for the Local Authority to provide care act advocates for adults with care and support needs when a judgment has been made the person has substantial difficulty being involved in the process. The Care Act advocate must be used when an adult does not have an appropriate individual to support them in the process.

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

Organisational abuse - is the term used to describe the response within the adult safeguarding procedure where a number of adults are at risk from the same source of risk. This may be required, for example, where there are concerns about how a service provider is caring for a number of its service users. See organisational abuse policy

MAPPA - Multi-Agency Public Protection Arrangements are statutory arrangements for managing sexual and violent offenders. MAPPA focuses on risks management of the offender to reduce risk of harm to other

MARAC - Multi-Agency Risk Assessment Conference is the multi-agency forum that manages high-risk cases of domestic violence and abuse, stalking and 'honour'- based violence. MARAC aim is to have risk management plans to help reduce risk to victims and their children. MARAC focuses on the victim

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

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

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

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

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

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

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

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

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

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

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

Appendix 2

The six key principles of Adult Safeguarding

The following safeguarding principles and values that govern how the adult safeguarding procedure should be implemented. These principles and values are based upon national guidance on achieving good outcomes for adults at risk.

Principle 1: Empowerment

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

The purpose of safeguarding is to enable people to live a life free from abuse and neglect. Capacitated adults have the right to make their own decisions and maintain control over their lives. Professionals should be supporting their decision-making throughout the process.

This includes:

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

In the event that a person lacks capacity to make a particular decision for themselves, a best interest's decision should be made in line with the Mental Capacity Act 2005 (MCA) and Code of Practice. The adult should continue to be involved to the fullest extent possible, and decision making must recognise their wishes, feelings, beliefs and values and ensure that they are appropriately represented.

Principle 2: Protection

The adult safeguarding procedure provides a framework by which adults can be supported to safeguard themselves from abuse, or protected, where they are unable for reasons of capacity to make decisions about their own safety. Assessments of capacity and best interest decisions in relation to those lack capacity must always be in accordance with the Mental Capacity Act 2005 and Code of Practice.

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

Principle 3: Prevention

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

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

Principle 4: Proportionality

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

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

Principle 5: Partnerships

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

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

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

Principle 6: Accountability

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

Appendix 3

Roles within the Adult Safeguarding procedure

Person Raising a Concern

Anyone who has concerns about potential abuse or neglect can raise their concerns (alert) about abuse

Adult Safeguarding Lead

Nominated person within the organisation such as a NHS Trust, care home/care agency/hospital or day centre that has the lead responsibility for adult safeguarding.

Person is responsible for:

- Internal policy and procedure
- Staff training
- Advising the organisation on adult safeguarding
- Providing support, advice and supervision to staff about adult safeguarding
- Liaison with CFA adult safeguarding team/ MARU for children
- Responsible for ensuring that concerns of possible abuse and neglect are responded to and reported appropriately.

Adult Safeguarding Coordinating Manager

These are nominated staff within agencies who respond to adult safeguarding concerns. It will usually be a role that is fulfilled by a manager or experienced practitioner within the local authority or CFT. The Adult Safeguarding Coordinating manager has responsibility for managing the response to the adult safeguarding concern. The person taking on this role may change during the response, depending on the structures within each agency.

The role includes:

- Making sure that the desired outcomes of the adult at risk are established at points during the process
- Co-ordinating an enquiry
- Overseeing the actions of the Safeguarding Enquiry Officer
- Chairing a planning Strategy meeting or discussion/or a Safeguarding planning meeting where required
- Checking with the adult at risk whether their desired outcomes have been met
- Ensuring records are kept and outcomes recorded in line with local systems
- Deciding whether the adult safeguarding procedure should be followed
- Co-ordinating the safeguarding enquiry
- Requesting a Chair from the CFA adult safeguarding team where required
- Ensuring records are kept and outcomes recorded in line with local systems
- Ensuring the safeguarding plan is formally agreed and reviewed within the required and agreed timescales.

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

This role will draw together information from all enquiries to establish whether any actions are required to prevent abuse or neglect. These findings will be collated in a written report, and will be used to support the assessment of risk and development of a Safeguarding Plan.

Safeguarding Enquiry officer:

This person will be the most appropriate person with relevant experience to undertake the enquiry, supported by the coordinating manager

The role includes making enquiries / draw together information as appropriate, to establish the facts

These findings will be collated in a written report, and will be used to support the assessment of risk and development of a Safeguarding Plan.

Chairs of adult safeguarding planning meetings or conferences:

The chair will:

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

The chair of the Adult Safeguarding Plan meeting will facilitate discussions and decision making in respect of:

- the formal section 42 safeguarding enquiry report
- analysis reports from other agencies
- whether, on the balance of probabilities, abuse or neglect has occurred
- the desired outcomes of the adult at risk
- the assessment and analysis of risk
- the Safeguarding Plan and any further actions required
- how any Safeguarding Plan is reviewed and monitored