

**Cambridgeshire and  
Peterborough Safeguarding  
Adults Board  
Procedures  
NOV 2018**



# Safeguarding Adults in Cambridgeshire & Peterborough from Abuse & Neglect

## THE SIX KEY PRINCIPLES OF MAKING SAFEGUARDING PERSONAL UNDERPIN ALL ADULT SAFEGUARDING WORK

### *Empowerment*

People being supported and encouraged to make their own decisions and informed consent.

“I am asked what I want as the outcomes from the safeguarding process and these directly inform what happens.”

### *Prevention*

It is better to take action before harm occurs.

“I receive clear and simple information about what abuse is, how to recognise the signs and what I can do to seek help.”

### *Proportionality*

The least intrusive response appropriate to the risk presented.

“I am sure that the professionals will work in my interest, as I see them and they will only get involved as much as needed.”

### *Protection*

Support and representation for those in greatest need.

“I get help and support to report abuse and neglect. I get help so that I am able to take part in the safeguarding process to the extent to which I want.”

### *Partnership*

Local solutions through services working with their communities. Communities have a part to play in preventing, detecting and reporting neglect and abuse.

“I know that staff treat any personal and sensitive information in confidence, only sharing what is helpful and necessary. I am confident that professionals will work together and with me to get the best result for me.”

### *Accountability*

Accountability and transparency in delivering safeguarding.

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

Source: [Department of Health Care and support statutory guidance](#)

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These procedures will be reviewed regularly and updated to incorporate lessons from recent cases and new guidance or changes in practice.

**Version Control:**

Version	Date	Author/Reviewer	Comments
1	1 <sup>st</sup> Oct 2017		

Issued Nov 2018

## 1. RECOGNISING SAFEGUARDING CONCERNS

### 1.1 Safeguarding Adults from Abuse and Neglect

- 1.1.1 Our aim is to protect people from abuse and avoidable harm, whether deliberate or not. **Abuse** is mistreatment by any other person or persons that violates a person's human and civil rights. This includes, but is not limited to, the rights listed in the Human Rights Act 1998 including the right to life (article 2), protection from inhuman and degrading treatment (article 3), the right to liberty and security (article 5) and the right to family life (article 8). Statutory responsibilities concerning Adult Safeguarding are contained in the Care Act and the accompanying "Care and support statutory guidance"
- <https://www.gov.uk/government/publications/care-act-statutory-guidance/care-and-support-statutory-guidance>
- 1.1.2 The abuse can vary from treating someone with disrespect in a way which significantly affects their quality of life, to causing actual physical harm.
- 1.1.3 Abuse is behaviour towards a person that either deliberately or unknowingly, causes him or her harm or endangers their life or their human or civil rights.
- 1.1.4 Abuse can happen anywhere – in a person's own home, in a residential or nursing home, a hospital, in the workplace, at a day centre or educational establishment, in supported housing or in the street.
- 1.1.5 All adults can be abused including those people with a learning, sensory or physical disability, older people, people with mental health problems, people with dementia or people who cannot always look after or protect themselves.
- 1.1.6 Abuse includes physical, sexual, psychological, financial, discriminatory abuse, organisational, modern slavery, domestic abuse, self-neglect and acts of neglect and omission. An individual, a group or an organisation may perpetrate abuse. Any of these forms of abuse can be either deliberate or be the result of ignorance, or lack of training, knowledge or understanding.
- 1.1.7 Abuse may occur when a person with care and support needs is persuaded to enter into a financial or sexual transaction to which he or she had not consented or cannot consent.
- 1.1.8 Abuse can be passive or active; it can be an isolated incident or repeated. It may occur as a result of a failure to undertake action or appropriate care.
- 1.1.9 Abuse is not just about "poor care" which is monitored by the Local Authorities and regulated by the Care Quality Commission. However failure to tackle issues of poor care could amount to abuse.
- 1.1.10 The person who is responsible for the abuse is often well known to the person being abused and could be a paid carer or volunteer, a health worker, social care or other worker, a relative, friend or neighbour, another resident or person accessing services, an occasional visitor or someone who is providing a service.

Incidents of abuse may be one-off or multiple, and affect one person or more. Professionals and others should look beyond single incidents or individuals to identify patterns of harm. Repeated instances of poor care may be an indication of more serious problems and of what we now describe as organisational abuse. In order to see these patterns it is important that information is recorded and appropriately shared.

## 1.2 Care Act definitions

Adult safeguarding duties apply to an adult 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.

## 1.3 Summary of stages

There are five stages in dealing with a safeguarding matter. The adult at risk must be included throughout the stages and the level of intervention will be proportionate to the risks and outcomes identified.

1. Recognition and or disclosure of a safeguarding concern
2. Referral of the concern via the Council's Customer Services to the Multi Agency Safeguarding Hub (MASH)
3. Risk assessment and triage by the MASH
4. S42 Enquiry
5. Review and closure

The MASH is a collaborative arrangement between the Police, Cambridgeshire County Council, the Fire Service (and Peterborough City Council) and Cambridgeshire & Peterborough NHS Foundation Trust that supports joint working around child protection safeguarding adults and domestic abuse.

The MASH team's main responsibilities for adult Safeguarding are;

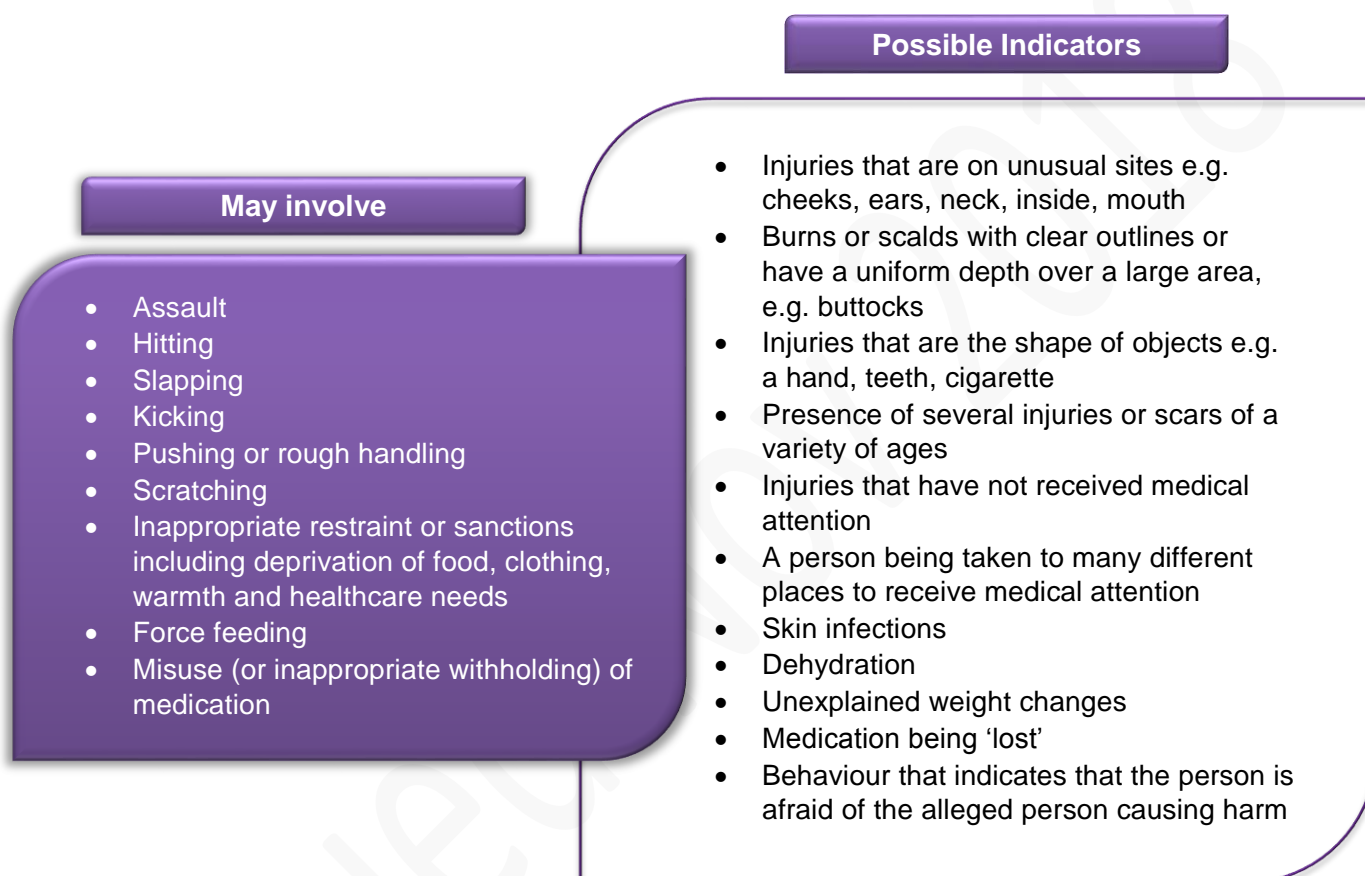
- Triage of adult safeguarding referrals
- Screening-out inappropriate referrals
- Ensuring appropriate immediate action is taken
- Identify the key team or organisation that will carry out the enquiry under S.42 of the Care Act
- Collate and share any relevant information with the key team or organisation undertaking the S.42 enquiry
- Provide advice and support to care teams on safeguarding issues
- Oversee the collection of management information.

## 1.4 Types of Abuse

The following are defined by Care Act guidance as constituting abuse or neglect. However Local authorities should not limit their view of what constitutes abuse or neglect, as they can take many forms and the circumstances of the individual case should always be considered; although the criteria below will need to be met before the issue is considered as a safeguarding concern.

The following diagrams give examples of possible abuse and indicators

### 1.4.1 Physical Abuse



### 1.4.2 Domestic Abuse

#### Possible Indicators

#### May involve

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

- psychological
- sexual
- financial
- emotional
- Female Genital Mutilation
- Honour Based Violence
- Forced Marriage

An intimate partner or family member:

- tries to keep the person from seeing friends or family
- prevents them from continuing or starting a college course, or from going to work
- constantly checks up or follows them
- accuses them unjustly of flirting or of having affairs
- constantly belittles or humiliates them or regularly criticises or insults them in front of other people deliberately destroys their possessions
- hurts or threatens them or their children
- keeps them short of money or items need for their care
- forces them to do something that they didn't want to do

### 1.4.3 Sexual Abuse

#### Possible Indicators

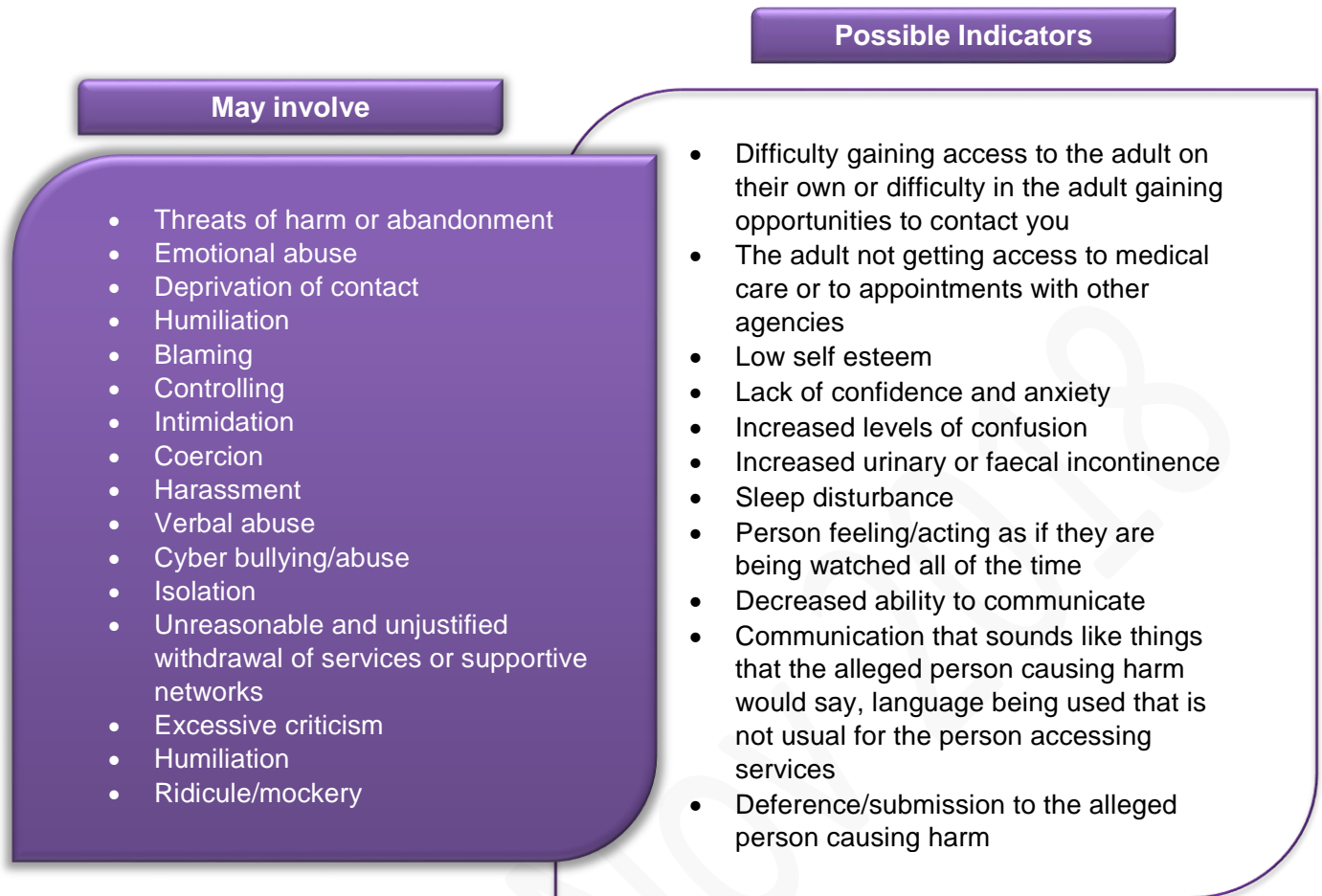
#### May involve

- Rape
- Indecent exposure
- Sexual harassment
- Inappropriate looking or touching
- Sexual teasing or innuendo
- Sexual photography
- Subjection to pornography or witnessing sexual acts
- Sexual assault
- Sexual acts to which the adult has not consented or was pressured into consenting
- Sexual exploitation – coercion into sex work

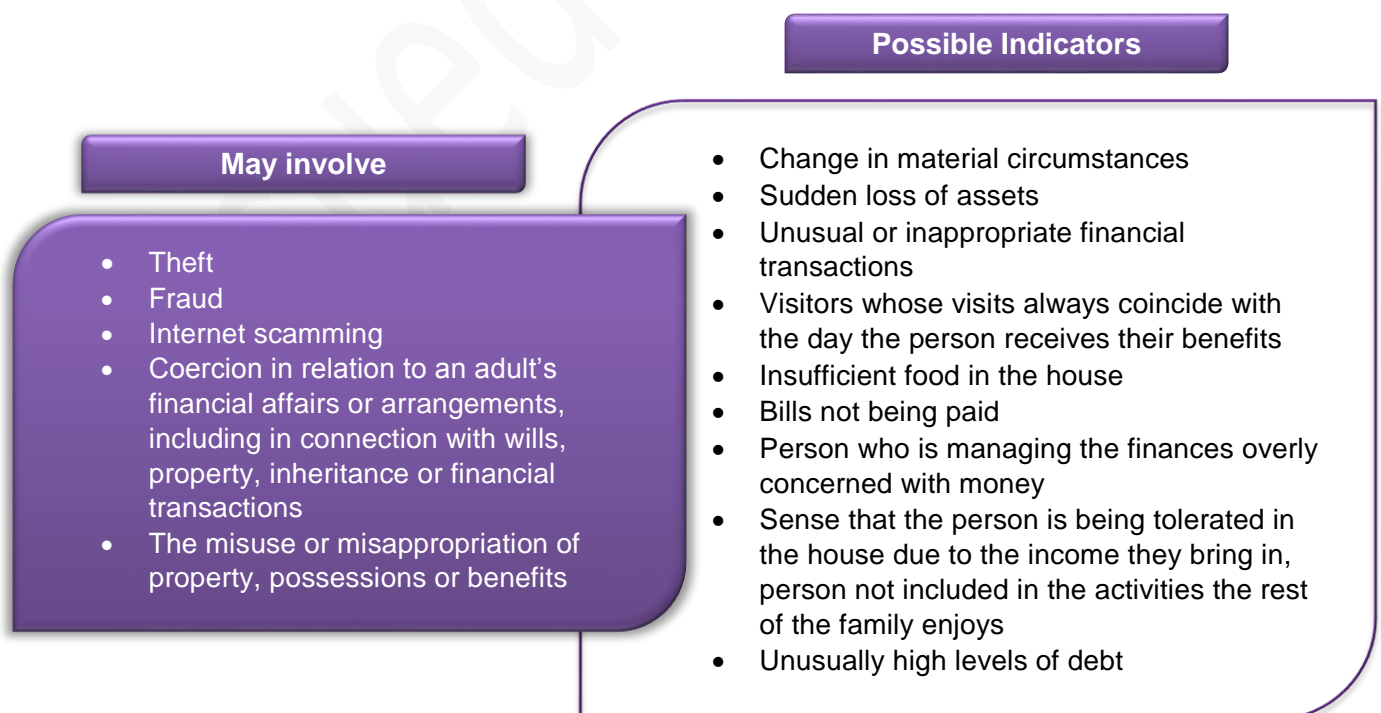
- Sexually transmitted diseases or pregnancy
- bruises or tears or in genital / anal areas, e.g. inner thighs, breasts
- Soreness when sitting
- Signs that someone is trying to take control of their body image e.g. anorexia or bulimia, self-harm
- Sexualised behaviour or language
- Oral infections
- Showered with excessive gifts/rewards

The signs that a person may be experiencing sexual abuse and psychological abuse are often very similar. This is due to the emotional impact of sexual abuse on a person's sense of identity and to the degree of manipulation that may be carried out in "grooming".

#### 1.4.4 Psychological Abuse



#### 1.4.5 Financial or Material Abuse



## 1.4.6 Modern Slavery

### Possible Indicators

#### May involve

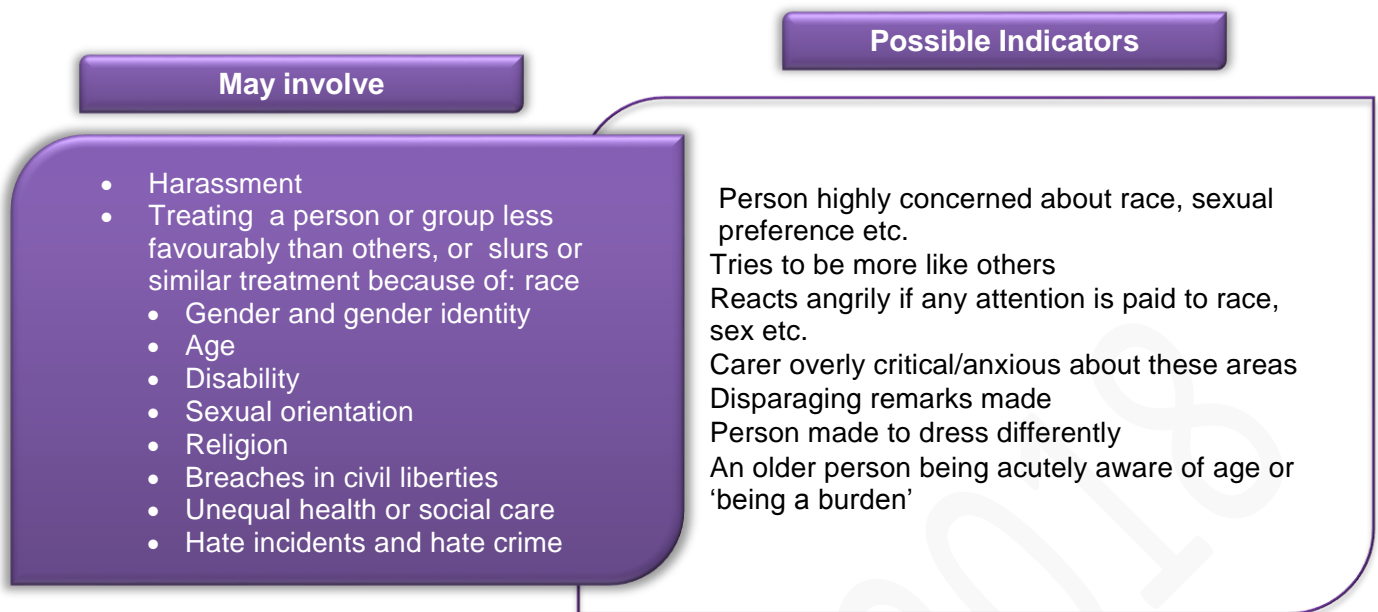
- Slavery
- Human trafficking. Human trafficking involves an act of recruiting, transporting, transferring, harbouring or receiving a person through use of force, coercion or other means for the purpose of exploiting them. There is a national framework to assist in the formal identification and help to coordinate the referral of victims to appropriate services known as the National Referral Mechanism.  
<https://www.ecpat.org.uk/the-national-referral-mechanism>
- Forced labour and domestic servitude
- Coercion deceit and forcing people into a life of abuse or inhumane treatment

#### A person may:

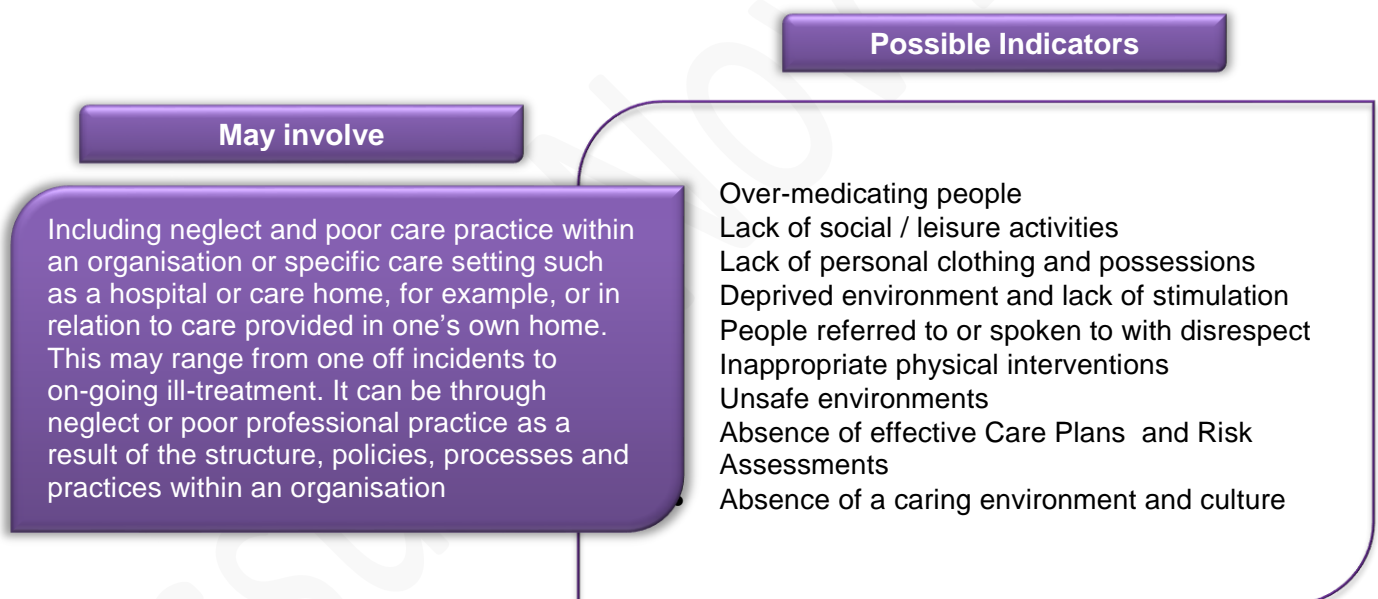
- Show signs of physical and / or psychological abuse, look malnourished, unkempt, or appear withdrawn
- Rarely be allowed to travel on their own, seem under the control or influence of others, rarely interact or appear unfamiliar with their neighbourhood or where they work
- Be living in dirty, cramped or overcrowded accommodation, and / or living and working at the same address
- Have no identification documents, have few personal possessions and always wear the same clothes. What clothes they do wear may not be suitable for their work
- Have little opportunity to move freely and may have had their travel documents retained, e.g. passports
- Avoid eye contact, appear frightened or hesitant to talk to strangers and fear law enforcers for many reasons, such as not knowing who to trust or where to get help, fear of deportation, fear of violence to them or their family. be dropped off / collected for work on a regular basis either very early or late at night

**Note:** The National Referral Mechanism (NRM) is the process by which an individual is identified as a victim of human trafficking. Referrals to the NRM can only be made by authorised agencies known as First Responders. Authorised agencies in the UK are the Police Forces, the UK Border Force, Home Office Immigration and Visas, Social Services and certain Non- Governmental Organisations such as the Salvation Army.

### 1.4.7 Discriminatory Abuse



### 1.4.8 Organisational Abuse



#### Organisational factors that may contribute to organisational abuse:

- Weak or oppressive management
- Inadequate staffing (numbers, competence)
- Inadequate staff and volunteers supervision or support
- Insufficient training
- Rigid routines
- Closed communication channels

## 1.4.9 Neglect & Acts of Omission

### May involve

- Ignoring medical emotional or physical care needs
- Failure to provide access to appropriate health, care and support or educational services
- The withholding of the necessities of life, such as medication, adequate nutrition and heating
- Failure to provide access to appropriate health, care and support or educational services
- The withholding of the necessities of life, such as medication, adequate nutrition and heating
- Inadequate care
- Failure to afford privacy and dignity

### Possible Indicators

- Malnutrition
- Rapid or continuous weight loss
- Not having access to necessary physical aids
- Inadequate or inappropriate clothing
- Untreated medical problems
- Pressure ulcers which could have been avoided (see specific guidance)
- Dirty clothing/bedding
- Lack of personal care
- If neglect is due to a carer being overstretched or under-resourced the carer may seem very tired, anxious or apathetic

**Note:** Wilful neglect may constitute a crime and could result in prosecution under S44 MCA if the adult is lacking relevant capacity.

S.20 Criminal Courts & Justice Act 2015 provides for wilful neglect by a paid care worker when the victim HAS capacity, and S,21 Criminal Justice & Courts Act 2015 covers neglect by Care Companies.

## 1.4.10 Self-Neglect

### May involve

- This 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 adult's 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
- Self-neglect may arise from inability or unwillingness to care for oneself, or both in complex interaction with each other. A helpful definition is "the result of an adults inability due to physical or mental impairments, or diminished capacity, to perform essential self-care tasks (Braye, 2011)<sup>1</sup>

### Possible Indicators

Those who self-neglect may have

pride in self-sufficiency;  
a sense of connectedness to place and possessions;  
a drive to preserve continuity of identity and control; traumatic life histories and events that have had life changing effects.

Causes of self-neglect may include

- physical problems,
- mental health problems,
- personality,
- history of trauma, substance misuse,
- lack of social networks, isolation and old age

*Multiple factors may exist with one person.*

Intervention in self-neglect may depend on assessment of mental capacity, as people who have capacity are entitled to make choices for themselves. Research shows that interventions that work are based on multi-agency multi-disciplinary assessments and include building of trusting relationships, consensus and persuasion, and practical support with daily living. Monitoring should focus on outcomes and risks, not on services provided.

The person should always be at the centre of any decisions made to support them.

A safeguarding concern must be made in situations of severe self-neglect where there is high risk and it is proportionate to do so – for example where there is no clear lead agency or where interventions have not been successful. The role of a safeguarding enquiry in this instance will be to coordinate a multi-agency forum to share information, assess risk and establish a lead agency to work with the person concerned. For further information see the [Cambridgeshire and Peterborough Multi-Agency Policy and Procedure to Support People who Self-Neglect](#) and [Cambridgeshire and Peterborough Multi-Agency protocol for working with people with hoarding behaviours](#).

<sup>1</sup> <http://www.scie.org.uk/?res=true>

## 1.5 Adults at risk of Radicalisation

'Radicalisation' refers to the process by which a person comes to support terrorism and extremist ideologies associated with terrorist groups.

Violent extremists may target vulnerable people and use charisma and persuasive rationale to attract people to their cause. Radicalisation can be abusive and require a Safeguarding referral. In Cambridgeshire and Peterborough, access to resources to counter radicalisation (including into "Channel") is through a referral to MASH.

The Government's **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.

More information on the government strategy to counter terrorism and radicalisation can be found in [Home Office Prevent Guidance](#).

## 1.6 Well-being, person centred enquiries and advocacy

### 1.6.1 Well-being

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. 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.

## 1.6.2 Person centred enquiries

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.

Further information about different approaches and responses to safeguarding interventions can be found by using the Making Safeguarding Personal: a Toolkit for Responses 2014 (GA). <https://www.adass.org.uk/media/5142/making-safeguarding-personal-a-toolkit-for-responses-4th-edition-2015.pdf>

## 1.7 Responding to Adult Safeguarding Concerns

1.6.1 Raising a concern is a necessary first stage in the process of keeping people safe and empowering them. Raising a concern through formal channels will enable a proper assessment and enquiry to be carried forward.

1.6.2 You must report any concerns, allegations or disclosures of abuse through formal channels including those allegations / disclosures received anonymously. All agencies will have their own guidance for reporting abuse to appropriate personnel within their own organisation and referring the concern to the MASH.

1.6.3 **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,

- 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)

1.6.4 If you are not sure whether you should raise a safeguarding concern, you should seek advice.

## 1.7 Key issues

### Maximise the opportunities for the adult at risk to participate in the safeguarding process.

1.7.1 If a person is in immediate danger, the police or ambulance must be called straight away on 999.

1.7.2 Any evidence must be preserved and protected where possible

1.7.3 Any disclosures or allegations must be reported promptly to a line manager.

1.7.4 If you believe the line manager to be implicated in abuse, you may approach another or more senior line manager or use your organisation's whistle blowing procedure.

1.7.5 If the designated contact person is not available, report your concerns directly to the Council's Customer Services

### Cambridgeshire

Council's Customer Services (8am to 6pm Monday to Friday, 9am to 1pm on Saturday)

Telephone: 0345 045 5202

Fax: 01480 498 066

Email: [referral.centre-adults@cambridgeshire.gov.uk](mailto:referral.centre-adults@cambridgeshire.gov.uk) or

[gcsx.referralcentreadults@cambridgeshire.gcsx.gov.uk](mailto:gcsx.referralcentreadults@cambridgeshire.gcsx.gov.uk)

Minicom: 01480 376 743

Text: 07765 898 732

### Peterborough

- Children's Social Care MASH - 01733 864180 / 01733 864170

- Adult Social Care MASH - 01733 864038 Option 1

- Early Help Helpline - 01733 863649

[adultsocialcare@peterborough.gcsx.gov.uk](mailto:adultsocialcare@peterborough.gcsx.gov.uk)

In an emergency, outside office hours, if someone is in danger and unable to protect themselves or cannot remain in the community without immediate intervention telephone: 01733 234 724 and / or dial 999.

1.7.6 Any person receiving a concern has a duty of care to ensure that the allegations or concerns are reported to the relevant agencies. You should follow your own organisation's procedures either to report directly or to report through your designated safeguarding lead who is also responsible for advising staff on what to do next. **If you are in any doubt, report it.**

## 1.8 What to do if someone is hurt, or discloses abuse

### 1.8.1 Reporting to your manager

Anyone who becomes aware of concerns of abuse **MUST REPORT** those concerns **AS SOON AS POSSIBLE** and **in within one working day** to the correct point within their own organisation as identified in their agency procedures. In the first instance you may need to report the information verbally. If in doubt, report sooner rather than later.

This is particularly important:

- If the adult remains in or is about to return to the place where the suspected/alleged abuse occurred.
- If the alleged abuser is likely to have access to the adult or others who might be at risk

Your immediate duty is to protect the person with care and support needs, seek any emergency help and report the concern. You must not delay acting because your line manager is not available, and if this happens you should report to another manager or to the Multi-Agency Safeguarding Hub via the Customer Services.

### 1.8.2 Members of the public should report Safeguarding concerns about people with care and support needs to

- the County Council's Customer Services or
- the Police if a crime is suspected (Tel, or dial 999 in an emergency).

### 1.8.3 Initial Response in Emergencies

**Call 999 without delay if the adult requires urgent Medical Attention.**

If the adult is in danger of repeated significant harm or has just been the victim of a serious crime – call the police 999.

Tell the emergency service that the person is an adult with care and support needs

The 999 call deals with initial access to emergency services only.

### 1.8.4 Concerns about the safety & welfare of a child

If there are concerns that a child is at risk of significant harm then an immediate report must be made to the Children's Multi-Agency Safeguarding Hub

**Peterborough:**

- 01733 864180 / 01733 864170
- [PDCSC@peterborough.gov.uk](mailto:PDCSC@peterborough.gov.uk)
- [PDCSC@peterborough.gcsx.gov.uk](mailto:PDCSC@peterborough.gcsx.gov.uk)

The secure fax number is 0870 2384083

If there are concerns about a child but they are not at significant risk of harm, the Early Help team should be contacted on 01733 863649 for advice on the next steps.

**Cambridgeshire:**

If a child is in immediate danger, please call 999.

Children Social Care: 0345 045 1362: (Mon – Thurs) 8am – 5.30pm, (Friday) 8am – 4.30pm

Emergency Duty Team (Out of Hours) on 01733 234724.

MASH: [MASH.C&F@cambridgeshire.gcsx.gov.uk](mailto:MASH.C&F@cambridgeshire.gcsx.gov.uk)

Early Help Hub: 01480 376 666: (Mon-Thurs) 8.45am - 5.20pm, (Friday) 8.45am - 4.20pm

Email: [Early.Helphub@cambridgeshire.gcsx.gov.uk](mailto:Early.Helphub@cambridgeshire.gcsx.gov.uk)

### 1.8.5 Concerns about confidentiality or if consent to raise a concern is declined

If an adult in need of protection or any other person makes an allegation to you asking that you keep it confidential, you must inform the person that you will respect their right to confidentiality as far as you are able to, but that you are not able to keep the matter secret and that you must inform your manager / designated person. (see also “Information Sharing Ch. 9 below)

1.8.6 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)

1.8.7 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.

1.8.8 If the person with care and support needs does not want intervention and they have the capacity to make this decision, and if there are no other grounds or a legal requirement to intervene, it is still possible to work alongside him/her - with their consent. Examples of this might include:

- A Care Act assessment of need
- Providing information about alternative sources of support and advice
- Options to increase personal or environmental safety
- The provision of advocacy

1.8.9 If a referral is made anonymously, every effort should be made to encourage the person to give contact details. It can be confirmed that their identity can be withheld, and explained that the enquiry will be more difficult without this. However if they persist in remaining anonymous the referral should be taken nevertheless.

### 1.8.10 Concerns about Reporting Abuse to your Designated Contact Person / Line Manager

If you believe the designated contact person / line manager to be implicated in the abuse, or you as a worker do not feel able to discuss it with him / her then you must approach another or more senior Manager, or use your organisation's Whistle blowing procedure, or contact the Multi-Agency Safeguarding Hub via the Customer Services..

### 1.8.11 Preservation of Evidence

The over-riding aim of the Multi-Agency Adult Safeguarding Procedures is to protect people with care and support needs who are at risk from abuse, maltreatment and neglect.

The preservation of evidence where a crime may have been committed contributes to this goal but the immediate protection of people with care and support needs is the highest priority. However care must be taken to ensure that forensic and other evidence is not contaminated.

Action to ensure the preservation of evidence must not be to the detriment of any immediate medical care or the protection of any person with care and support needs. Advice from the police must be obtained before conducting any enquiries into matters which may become subject to a criminal enquiry. Where there is potential for this situation occurring, you can avoid contaminating evidence or compromising enquiries by:

- Not interviewing the person with care and support needs or potential witnesses after a disclosure has been made. This is the responsibility of the police or the person/agencies agreed by the adult at risk planning meeting. General support for the wellbeing of the adult should continue.
- Note that safeguarding staff need to ask the immediate questions necessary to protect a person with care and support needs but to avoid jeopardising a criminal enquiry.
- Disturbing a 'scene' as little as possible, sealing off areas if possible and locking rooms to restrict further access
- Discouraging washing/bathing where possible in cases of sexual assault
- Not handling items which may hold DNA evidence
- In emergencies ensuring that the police are involved as quickly as possible using the local contact numbers on the back page or calling 999.

## 1.9 How to Respond to Disclosures of Abuse and Neglect

Once an adult has disclosed abuse it is important that the adult is supported throughout the process; you can support the individual by following this guidance:

- Remain calm and do not show shock or disbelief
- Help the adult to stay in control and find out what they want to happen next
- Listen carefully to what is being said using aids where necessary to support communication. Record it in detail using the words that they used
- Use open ended questions using TED principles; Tell me, Explain, Describe.
- Be aware of the possibility that medical evidence may be needed
- Demonstrate an empathetic approach by acknowledging regret and concern that what has been reported has happened
- Do confirm that the information will be treated seriously
- Give the person contact details so that they can report any further issues or ask any questions that may arise
- Ensure that the person with care and support needs receives regular feedback and updates, in the format that best suits their needs
- Ensure that any emergency action needed has been taken
- Ensure that those who need to be informed have been informed

### Tell the person that:

- It was not their fault and they were right to tell you
- You must inform an appropriate Manager and/or the Police
- The Manager will contact the Multi-Agency Safeguarding Hub
- The Multi-Agency Safeguarding Hub will consider their wishes and whether they consent to the matter being progressed further. There will be circumstances where an enquiry may have to progress even if they do not give their consent.

- Do not press the person for more details
- But do not stop someone who is freely recalling significant events, as they may not tell anyone again
- Do not dismiss or disbelieve what you see or have been told
- Do not ignore the issue
- Do not promise to keep secrets; but do explain that the information will only be passed to those who "need to know", and try to be specific about who these might be
- Do not make promises that you cannot keep (such as "this will not happen to you again")
- Do not contact the alleged abuser or anyone who might be in touch with him / her
- Do not be judgmental e.g. "why didn't you run away?"
- Do not tell anybody who doesn't need to know – remember the rules of confidentiality
- Do not ask leading questions e.g. suggesting names of who may have perpetrated abuse if the person does not disclose it



## 1.10 Recording Concerns & Disclosures

Concerns about abuse must be recorded as soon as possible and always on the same day.

- Records should be given to your Line Manager.
- Records of concerns and disclosures of abuse are strictly confidential.
- Reports should not be entered into a record or file to which people who do not need to know, or an alleged abuser, may have access.
- Write it as soon as you possibly can after the disclosure so you remember as much as you can.
- Write down exactly what the person said, for example if an adult says "he touched me down there" write this down, do not write "she said he touched her vagina".
- Include the following:
  - Where the abuse took place
  - Whether anybody else was present.
  - Who has been abused, where and when
  - What was the impact of the abuse
  - Who was involved in the abuse
  - Were there any issues about the mental capacity of those involved at the time of the incident
  - Immediate actions taken to protect the person with care and support needs
  - does anyone else involved have care and support need
- If you make a mistake, put a line through it, do not use Tippex.
- Use a pen or a biro, preferably with black ink for photocopying.
- Sign the report, date and time it.
- Be aware that the report may be required later as part of legal action or disciplinary procedure and that you may need to appear at a hearing or court.
- You should record full details on the Safeguarding Referral form, where possible.

## 1.11 Multi-Agency Collaboration

**1.11.1** Partner agencies recognise the important role of adopting a multi-agency approach to protecting people with multiple needs or who are "hard to help" from the risks of avoidable harm by adopting a co-ordinated approach, sharing information and seeking advice from each other.

**1.11.2** If the concerns amount to a risk of abuse or neglect including self-neglect, they must be reported to the Multi-Agency Safeguarding Hub as a concern in accordance with these procedures.

It is important to understand the circumstances of abuse, including the wider context such as whether others may be at risk of abuse, whether there is any emerging pattern of abuse, whether others have witnessed abuse and the role of family members and paid staff or professionals.

Early and appropriate sharing of information is the key to providing an effective response where there are emerging concerns.

To ensure effective safeguarding arrangements no professional should assume that someone else will pass on information which they think may be critical to the safety and wellbeing of the adult. If a professional has concerns about the adult's welfare and believes they are experiencing or likely to experience abuse or neglect, then they should share the information with the local authority and, or, the police if they believe or suspect that a crime has been committed.

## 2. REFERRING AN ADULT SAFEGUARDING CONCERN

### 2.1 How to Report a Concern to the Multi-Agency Safeguarding Hub (MASH)

Where there is any abuse or suspicion of abuse that relates to a relevant adult, the concern must be reported to the relevant Multi-Agency Safeguarding Hub (MASH) by telephone, **secure email** or fax using the adult safeguarding referral form

#### Cambridgeshire

Council's Customer Services (8am to 6pm Monday to Friday, 9am to 1pm on Saturday)

Telephone: 0345 045 5202

Fax: 01480 498 066

Email: [referralcentre-adults@cambridgeshire.gov.uk](mailto:referralcentre-adults@cambridgeshire.gov.uk) or  
[gcsx.referralcentreadults@cambridgeshire.gcsx.gov.uk](mailto:gcsx.referralcentreadults@cambridgeshire.gcsx.gov.uk)

Minicom: 01480 376 743

Text: 07765 898 732

#### Peterborough

Adult Social Care MASH - 01733 864038 Option 1

Children's Social Care MASH - 01733 864180 / 01733 864170

Early Help Helpline - 01733 863649

[adultsocialcare@peterborough.gcsx.gov.uk](mailto:adultsocialcare@peterborough.gcsx.gov.uk)

**In an emergency, outside office hours** - If someone is in danger and unable to protect themselves or cannot remain in the community without immediate intervention telephone: 01733 234 724

2.1.1 Your report will be acknowledged.

2.1.2 Referral to the Multi-Agency Safeguarding Hub via the Council's Customer Services must be made on the same day using the Adult Safeguarding Referral form. Reporting should not be delayed by the need to complete the form.

2.1.3 There may be occasions when your designated safeguarding lead is unsure whether to report or not e.g. the adult has refused consent to share the information or the vulnerability of the adult is uncertain. If in any doubt, the designated person / manager must consult the MASH via the Council's Customer Services for advice.

When the concerns relate to a person who lives or receives services in another local authority area, both local authority social services departments must be informed by the service provider manager / designated person. The funding authority will have a vested interest and will need to be involved

Details should be taken as to who is raising the concern and their contact details. At all times, a professional approach should be adopted when anonymous referrals are made in relation to whistle blowing policies and reassurance of anonymity is provided. However, anonymity is generally discouraged and the person raising the concern should be supported to enable them to divulge their identity whenever possible. The referrer should be asked whether their safety is or will be compromised, should the person alleged to be causing harm know the source of the concern.

Details about the person alleged to be causing harm must also be recorded; this includes name and address, the relationship to the person with care and support needs, their role and the organisation for which they work, if they pose a risk of further abuse to others. All information must be clearly recorded including dates and times when events took place. Facts and opinion should be clearly differentiated.

The person in the Multi-Agency Safeguarding Hub receiving the concern will:

- Where it is identified by the MASH Safeguarding Team that **urgent action** is needed to protect the safety of one or more adults and this has not already been taken, they will take immediate action to commence enquiries and protect any person with care and support needs from the identified harm. **This will happen on the same day that the concern is received.** The action will be recorded by MASH.
- Contact the police immediately when a crime may have taken place (and appropriate consent has been obtained or confidentiality can be lawfully breached) and advise the person raising the concern about preserving evidence until such time as the police arrive
- Acknowledge receipt of the concern.
- Record the concern - All safeguarding concerns must be recorded within 24 hours of contact.
- Inform the regulator of registered services of allegations of serious abuse where appropriate.

#### 2.1.4 Referral Pathways between Acute Trusts and the Local Authority

When a person is admitted to hospital and there is a concern that they have been subject to abuse or neglect prior to admission, hospital staff will complete a safeguarding referral form. This will be sent to the discharge planning/transfer of care team within the hospital. A Safeguarding lead practitioner within the discharge planning team will identify if a Section 42 enquiry is needed or if there is another more appropriate pathway for dealing with the concern e.g. care and support. The discharge planning team working collaboratively with hospital staff and the relevant locality team will ensure a safe discharge for the person. If there is an ongoing safeguarding situation being managed by the locality team prior to the person being admitted to hospital, the locality team should inform the discharge planning team and the hospital Safeguarding Lead.

## 2.2 Further responsibilities when raising a concern

The referrer or another appropriate person may be asked to support the person during the enquiry that follows.

The referrer may be asked to attend an Adult at Risk meeting to report on what the person disclosed.

The adult will need ongoing help and support and the referrer may play an important role in providing this.

If the referrer's manager determines that a case need not be referred to the Local Authority, but the referrer remains concerned, then they must discuss with a more senior manager or refer the matter to the Multi-Agency Safeguarding Hub.

## 2.3 Further responsibilities for Service and Agency managers

Ensure that you follow the procedures of your own agency including reporting of concerns to senior managers and to regulatory bodies and / or commissioning bodies as required.

Where there is an allegation of abuse that relates to an adult at risk living in a healthcare setting or a nursing or residential home, adult placement, or is supported by a domiciliary or nursing care agency, the Care Quality Commission must be informed by the registered provider.

The nature and timing of the intervention and who is best placed to lead any investigation will be, in part, determined by the circumstances. For example, where there is poor, neglectful care or practice, resulting in pressure ulcers, then an employer-led disciplinary response may be more appropriate; but this situation will need additional responses such as clinical intervention to improve the care given immediately or a clinical audit of practice. Commissioning or regulatory enforcement action may also be appropriate.

Managers are also responsible for keeping their staff and volunteers appropriately informed and up to date on what is expected of them as the enquiry proceeds.

**2.4 Whistleblowing** - Each agency should have a whistle-blowing policy.

**2.5 Responding to abuse and neglect in a regulated care setting**

It is important that all partners are clear where responsibility lies where abuse or neglect is carried out by employees or in a regulated setting, such as a care home, hospital, or college. The first responsibility to act to make people safe is with the employing organisation as provider of the service.

When an employer is aware of abuse or neglect in their organisation, then they are under a duty to correct this and protect the adult from harm as soon as possible and inform the local authority, CQC and CCG where the latter is the commissioner. A safeguarding concern must be raised.

**2.6 Allegations against members of staff**

**2.6.1** When a concern has been raised against a member of staff, including people employed by the adult, they should be made aware of their rights under employment legislation and any internal disciplinary procedures.

The Police and Crown Prosecution Service (CPS) should agree procedures with the local authority, care providers, housing providers, and the NHS/CCG to cover the following situations:

- Action pending the outcome of the police and the employer's investigations;
- Action following a decision to prosecute an individual;
- Action following a decision not to prosecute;
- Action pending trial; and
- Responses to both acquittal and conviction.

Employers who are also providers or commissioners of care and support not only have a duty to the adult, but also a responsibility to take action in relation to the employee when allegations of abuse are made against them. Employers should ensure that their disciplinary procedures are compatible with the responsibility to protect adults at risk of abuse or neglect.

With regards to abuse, neglect and misconduct within a professional relationship, codes of professional

conduct and/or employment contracts should be followed and should determine the action that should be taken. Robust employment practices, with checkable references and recent DBS checks are important. Reports of abuse, neglect and misconduct should be investigated and evidence collected.

Where appropriate, employers are required to report workers to the relevant bodies responsible for professional regulation such as the General Medical Council, the Health and Care Professionals Council and the Nursing and Midwifery Council. If someone is removed from their role providing regulated activity following a safeguarding incident the regulated activity provider has a legal duty to refer to the Disclosure and Barring Service. If the person has been provided by an agency or personnel supplier, the legal duty sits with them. The legal duty to refer to the Disclosure and Barring Service (DBS) also applies where a person leaves their role to avoid a disciplinary hearing following a safeguarding incident and the employer/volunteer organisation feels they would have dismissed the person based on the information they hold.

The standard of proof for prosecution is 'beyond reasonable doubt'. The standard of proof for internal disciplinary procedures and for discretionary barring consideration by the DBS and the Vetting and Barring Board is usually the civil standard of 'on the balance of probabilities'. This means that when criminal procedures are concluded without action being taken this does not automatically mean that regulatory or disciplinary procedures should cease or not be considered. In any event there is a legal duty to make a referral to DBS if a person is dismissed or removed from their role due to harm to a child or a vulnerable adult.

## 2.6.2 Suspension of staff

Where allegations involve staff and or volunteers, consideration must be given to whether to suspend them, to prevent a risk to others, pending enquiries. Suspension is a neutral act so the employee is not disadvantaged. Advice should be taken from the Adult Safeguarding Team and the police as appropriate and acted upon.

## 2.7 Securing records

Where necessary, and to avoid tampering, relevant files and documents must be secured by removing them to a secure place or locking them away. Any attempt to alter files in response to a safeguarding allegation may constitute a criminal offence.

## 2.8 Initial response to referral

Once immediate safety measures are in place and the safeguarding concern has been raised, a decision about how to respond will be made by the MASH team. This decision will reflect the desired outcomes of the adult at risk and will take one of three routes:

1. No further action for the local authority – Information and advice provided
2. A formal safeguarding enquiry under section 42 of the Care Act. An investigation by the employer, using the local authorities' power under section 42 of the Care Act 2014 to cause an enquiry. This will utilise internal investigation processes, such as, an incident investigation, serious incident, internal management review, HR procedures, complaints or root cause analysis. The local authority will request the outcome and a report within an agreed timescale. The local authority and the CCG as commissioners will require assurance that people have been safeguarded and appropriate action has been taken. All those carrying out such enquiries should have received appropriate training relevant to the type of enquiry. Referrals to professional regulatory bodies and the DBS must always be considered. The Local Authority will coordinate the S42 enquiry. The employer must report their findings and action plan to the local authority.
3. A formal safeguarding enquiry under section 42 of the Care Act coordinated by the local authority or delegated partners.

The local authorities will adopt the principle that the employer should investigate any concern (and provide any additional support that the adult may need) unless there is compelling reason why it is inappropriate or unsafe to do this. Examples of when this might occur include:

- A serious conflict of interest on the part of the employer
- Concerns having been raised about non-effective past enquiries
- Serious or multiple concerns
- Matters to be investigated by the Police

### 3. MASH TRIAGE & RISK ASSESSMENT

#### 3.1 MASH responsibilities

The Local Authority has statutory duties under the Care Act 2014 to develop procedures for identifying the circumstances giving grounds for concern. Local authority Teams based in the MASH have responsibility for assessing the potential seriousness of a concern, appropriate liaison with other relevant agencies and for determining what response is required.

The key adult safeguarding responsibilities of the MASH are:

- Triage of adult safeguarding referrals
- Ensuring that the adult at risk is involved and consulted throughout the process
- Screening-out inappropriate referrals
- Ensuring appropriate immediate action is taken
- Identify the key team or organisation that will carry out the enquiry under S.42 of the Care Act
- Collate and share any relevant information with the key team or organisation undertaking the S.42 enquiry
- Provide advice and support to care teams on safeguarding issues
- Oversee the collection of management information.

These responsibilities may require discussions between other agencies.

Other responsibilities include ensuring:

- That every concern referred receives a clear response.
- The person alleged to have been harmed and other people with care and support needs participate in the decision making process and are protected from abuse and harm occurring or reoccurring.
- That the level of response is **proportionate to the perceived level of risk** and seriousness and reflects the desired outcomes stated by the adult at risk. The Human Rights Act 1998 requires public authorities to intervene in people's lives in a way that is proportionate to the presenting concern should not be arbitrary or unfair. Intervention must have a basis in law and must secure a legitimate aim to prevent abuse or crime. The seriousness or extent of abuse is often not clear when a concern is first expressed. The interventions must be proportionate to the nature, degree and intensity of the concern and the risk presented. This may result in a decision to take no further action based on the evidence available
- That interventions centre on the person alleged to have been harmed and other people with care and support needs to maintain choice and control for themselves.
- The involvement of a relative, friend, advocate or court appointed deputy when a person alleged to have been harmed lacks the mental capacity to participate in the Safeguarding process, will be required.

## 3.2 Assessing the Seriousness of the Allegations

When deciding on the seriousness of the allegation, the level of response will be determined by the following analysis of:

- The adult's needs for care and support
- The adult's risk of abuse or neglect
- The adult's ability to protect themselves or the ability of their networks to increase the support they offer, the impact on the adult and their wishes
- The views of the adult with care and support needs and / or family/ advocate
- The impact on important relationships
- The nature, degree and intensity of the alleged abuse
- The duration, frequency and risk of escalation of the alleged abuse
- The extent of premeditation, threat or coercion
- The legality of the actions of the alleged person causing harm
- Any breach of trust or duty of care within a relationship
- Other known or alleged incidents involving the alleged person causing harm
- The context in which the alleged abuse took place
- Mental capacity of those alleged to have been harmed and causing harm
- The risk to others from the alleged perpetrator including children
- Whether a crime has been committed
- The duty to report the allegation if it involves regulated services
- The views and opinions of any other professionals
- The potential impact of action and increasing risk to the adult
- The responsibility of the person or organisation that has caused the abuse or neglect.

It is also important to take account that while a single event may lead to serious harm or exploitation, risks can arise from an accumulation of events both acute and long term.

## 3.3 Risk Assessment

3.3.1 MASH staff will use the risk assessment matrix to determine the level of risk and the appropriate response. The table outlines the levels of risk and response times (see [Appendix 1](#) for full details).

3.3.2 In determining a proportionate response, the priorities of the MASH team must be to ensure the safety and protection of people with care and support needs and ensure their active participation. The team will establish the facts, assess the risks and agree an initial adult at risk plan for maintaining safety, wellbeing and dignity.

Level	Response	Response timescale
0	Does not meet grounds for S42 enquiry	
low	Meet grounds for S42 enquiry; low level risk	72 hours
Med	Meet grounds for S42 enquiry; medium level risk	72 hours
High	Meet grounds for S42 enquiry; high level risk	24 hours
High	Meet grounds for S42 enquiry; high level risk, <u>Organisational abuse / Large Scale enquiry</u>	24 hours

### 3.4 Consultation with the Police

The agency making the referral may have contacted the Police at the concern stage of the safeguarding procedures. **In these instances, and in all cases where an offence may have been committed but has not been reported, there must be prompt consideration of consultation with the Police** (See 8. Information Sharing)

Consultation with the Police must also consider any actions that need to be taken to preserve evidence or avoid contamination of evidence. A decision will be made by the police as soon as possible as to whether an Achieving Best Evidence<sup>2</sup> or Visually Recorded interview is necessary in line with police procedures. It will be the police responsibility to gather evidence towards their enquiry.

Special Measures were introduced through legislation in the Youth Justice and Criminal Evidence Act 1999 (YJCEA) and include a range of measures to support witnesses to give their best evidence and to help reduce some of the anxiety when attending court.

[https://www.cps.gov.uk/publications/research/cps\\_research\\_on\\_special\\_measures.pdf](https://www.cps.gov.uk/publications/research/cps_research_on_special_measures.pdf)

A criminal investigation by the police takes priority over all other enquiries. The police will always lead a criminal investigation. A multi-agency approach should be agreed to ensure that the interests and personal wishes of the adult will be considered throughout, even if they do not wish to provide any evidence or support a prosecution. The welfare of the adult and others, including children, is paramount and requires continued risk assessment to ensure the outcome is in their interests and enhances their wellbeing.

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.

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<sup>2</sup> See **Achieving Best Evidence in Criminal Proceedings** Guidance on interviewing victims and witnesses, and guidance on using special measures Ministry of Justice, 2011

### 3.5 Urgent Medical Assessment

3.5.1 Any medical attention required by the person alleged to have been harmed must be provided without delay. If an initial discussion advises a medical assessment (for enquiry purposes as distinct from care purposes), the adult must be assisted in arranging and attending as necessary. The police will decide whether a medical assessment of the person with care and support needs is recommended and make arrangements for it to happen. The reasons for the proposed assessment must be fully explained and consent obtained. If the adult lacks the mental capacity to consent to the medical assessment, a best interest decision will be required. In these circumstances the decision maker will be a police representative. If consent is not obtained or it is decided that an examination is not in the best interest of a person lacking capacity concerning the treatment, then the examination cannot proceed. Rational for this decision must be recorded

Medical assessment must be considered in cases of suspected:

- serious or unexplained injury or death
- sexual abuse or assault
- serious neglect

### 3.6 Decisions not to continue safeguarding procedures

3.6.1 A decision not to carry out a full scale enquiry under the safeguarding procedures will be based upon:

- The adult does not want an enquiry, and they have the capacity to make this decision and there is no risk to others
- A judgement and evidence that there is sufficient information available to make a decision that abuse has not occurred.
- A judgement and evidence that the impact on the person with care and support needs is minimal and that action through the most relevant care, support or health team is appropriate and proportionate.
- A decision that although abuse or neglect has occurred the initial actions taken are sufficient to safeguard the person
- A decision that the person does not have care and support needs in which case the referral will be made to appropriate services such as police, housing, victim support or refuge.
- A decision that there **is clear evidence** that allegations of abuse are malicious or delusional.

### 3.7 Notification to the person reporting the concern

3.7.1 In all cases the person reporting the concern must be informed how the referral will be dealt with within the confines of allowable information sharing. This will be within 7 calendar days of the decision.

### **3.8 People with care and support needs who are alleged to be causing harm**

**3.8.1** Whilst the protection of the person who may have been abused remains paramount, agencies also have responsibilities to the alleged person causing harm who may be an adult in receipt of care services.

In these cases it will be necessary to consider the needs of both individuals separately. Some of the issues that may need to be examined include:

- The extent to which the alleged person causing harm is able to understand his or her actions.
- The extent to which the abuse reflected that individual's own needs and situation.
- The likelihood of the alleged person causing harm further harming others.

Where an offence appears to have been committed and the alleged person causing harm is considered to be a person with care and support needs an 'Appropriate Adult' under the terms of the Police and Criminal Evidence procedures and a legal representative must be provided when they are interviewed by the Police.

### **3.9 People funding their own Care and Support and Direct Payments**

**3.9.1** People funding their own care arrangements have exactly the same rights and access to these Safeguarding Adult arrangements as any person receiving public funding. When the alleged abuse involves a service for which the care contract is held by another person (e.g. a family member) the local authority will advise them of the abuse concern and request their co-operation with the enquiry.

#### **3.9.2 People receiving care through direct payment**

Where the alleged abuse involves a person employed under a direct payment, the Local Authority enquiry must consider whether the assessed care needs are being met appropriately through direct payments and what additional support may be required to enable the person accessing services to continue receiving support through direct payments or self-directed support.

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

**Circumstances in which an unpaid carer could be involved in a situation that may require a safeguarding response include:**

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

When a safeguarding concern is raised regarding a relative or unpaid carer, consideration should be given to the specific circumstances, the nature of the issues and the appropriate proportionate response. The decision should consider an outcome which supports or offers the opportunity to develop, or maintain, a private life which includes those people with whom the adult at risk wishes to establish, develop or continue a relationship. Responses should ordinarily seek to support the continuation of family and caring relationships where this is consistent with the wishes and desired outcomes of those concerned.

### 3.11 Determining the relevant Local Authority

3.11.1 Responsibility for leading an enquiry lies with the area where the alleged abuse took place.

3.11.2 Some people living in these areas are the responsibility of other local authorities. For the purposes of this section the area in which they are living is the “host authority” and the area with funding responsibility is the “placing authority”. The guidance in this section is taken from the ADASS Safeguarding Adults Policy Network Guidance on Out-of- Area Safeguarding Adults Arrangements (December 2016).

The following principles underpin the guidance in this document:

The host authority will have overall responsibility for co-ordinating the safeguarding adults’ enquiry and for ensuring clear communication with all placing authorities and other stakeholders, especially with regards to the scheduling of meetings and the planning of the enquiry.

The placing authority will have a continuing duty of care to the person with care and support needs that they have placed.

The placing authority will contribute to the enquiry as required, and maintain overall responsibility for the individual they have placed.

The placing authority should ensure, through contracting arrangements and in service specifications, that the provider has arrangements in place for protecting people with care and support needs and for managing concerns, which in turn link with local (host authority) multi-agency safeguarding adults procedures. This includes the requirement to inform the host authority of both individuals and placing authorities affected by the safeguarding concerns.

Authorities may negotiate flexible arrangements, for example relating to another authority undertaking assessments, reviews, investigative activities or other supportive activities on behalf of a placing authority.

In such cases, the placing authority would maintain overall responsibility for the person they have placed, and reimbursement would be required and agreed as part of such negotiations.

If a safeguarding concern is reported and the alleged abuse occurred within a hospital setting in Cambridgeshire or Peterborough, the Council in whose area the alleged abuse occurred will assume responsibility for the enquiry. If the adult at risk is an ordinary resident of a different Authority, they will be contacted as part of the planning process.

If the abuse occurred prior to admission, the council in whose area the alleged abuse occurred must be asked to take over the lead role in the investigation. In these cases, a worker / workers from Cambridgeshire or Peterborough as appropriate may be allocated to support the home authority with their investigation.

People with care and support needs using services may disclose abuse that has happened in their placing authority. In these circumstances, the appropriate manager in this area will support the person receiving the concern to report the concern to the relevant local authority.

The lead role in enquiries into alleged abuse that occurred in Cambridgeshire or Peterborough will be taken by services from that area. This applies if the person alleged to have been harmed lives in another area unless transfer of leadership is agreed by the Safeguarding Managers of both councils. In these circumstances, the Adult Safeguarding Team will liaise with the Adult Safeguarding Manager in the person’s placing authority.

### 3.11.3 What may fall outside the duty of the local authority:

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.

The concern may relate to a **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.

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 children’s social care MASH. The police will still consider allegations of historical abuse should the adult wish to report this.

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 Safeguarding Adult Review (SAR) may be appropriate where there are concerns about the circumstances of the death

**3.11.4 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.

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.

## 4. SAFEGUARDING ENQUIRES AND PROCESS FOR INVESTIGATING CONCERNS

### 4.1 Safeguarding Enquiries

The Care Act 2014 states that local authorities must make enquiries, or cause others to do so, if they reasonably suspect an adult with care and support needs is or is at risk of being abused or neglected.

A Safeguarding Enquiry under section 42 of the Care Act will be undertaken when the concern meets all elements of the three stage test:

- A person aged 18 years or over has care and support needs *and*;
- Is experiencing or at risk of abuse or neglect *and*;
- As a result of their care and support needs is unable to protect themselves

An enquiry is the action taken or instigated by the local authority in response to a concern that abuse or neglect may be taking place. An enquiry could range from a conversation with the adult, prior to initiating a formal enquiry under S42 of the Care Act, right through to a full multi-agency plan or course of action. Whatever the course of subsequent action, the professional concerned should record the concern, the adult's views and wishes, any immediate action taken and the reasons for those actions. If the person lacks capacity, or has substantial difficulty in understanding the enquiry, their representative or advocate should be involved. The enquiry needs to include the wider context when considering the risk to the adult and others.

The objectives of an enquiry into abuse or neglect are to:

- Establish facts;
- Ascertain the adult's views and wishes;
- Assess the risk to the adult and others;
- Assess the needs of the adult for protection, support and redress and how they might be met;
- Protect the adult from the abuse and neglect, in accordance with their wishes make decisions as to what follow-up action should be taken with regard to the person or organisation responsible for the abuse or neglect; and
- Enable the adult to achieve resolution and recovery.



It should be noted that the stages of the safeguarding process may overlap

### 4.2 Leading Safeguarding Enquiries

A formal enquiry under Section 42 of the Care Act 2014 would usually be coordinated by the local authority, or a partner with delegated authority under S75 NHS Act 2006 (e.g. Cambridgeshire & Peterborough NHS foundation Trust).

However the Act allows the Local Authority to request this be undertaken by another agency using formal procedures most relevant to the concern. When such a request is made under section 42 of the Care Act 2014, there is a duty on partners to cooperate and respond.

The purpose of an enquiry is to decide whether or not the local authority or another organisation, or person, should act to help and protect the adult.

The local authority will train a sufficient number of qualified professionals to undertake coordination of safeguarding enquiries. The aim is to ensure that effective action is taken to assess immediate risk and to address any immediate protection needs.

The practitioner leading the enquiry and their manager are responsible for coordinating the enquiry and for including all relevant agencies.

#### 4.2.1 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.

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 safeguarding lead **without delay**. Failure to report back may place the adult at further risk. Safeguarding leads 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 local authority Adult Safeguarding Manager. 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.

#### 4.2.2 Police Investigations in Criminal Cases

Where the abuse or neglect amounts to a criminal offence the Police will lead the criminal investigation.

The Police will make a decision as to whether a best evidence interview is appropriate. The Local Authority will retain overall responsibility for the Safeguarding enquiry.

### 4.2.3 Escalation process

**Key Principle:** It is every professional's responsibility to 'problem-solve'. The aim must be to resolve a professional disagreement at the earliest possible stage as swiftly as possible, always keeping in mind that the adult at risks safety and welfare is the paramount consideration.

The SAB is clear that there must be respectful challenge whenever a professional or agency has a concern about the action or inaction of another. Similarly agencies/professionals should not be defensive if challenged.

For example there may be disagreement as to which agency should undertake an enquiry or an agency fails to meet timescales or does not undertake the recommended actions or fails to communicate the outcome.

It is expected that the SAB escalation and resolution process should be used first however if at any stage it is felt necessary to make a formal complaint, each agency should follow the recognised complaints procedure and adhere to the timescales specified.

The aim should be to resolve difficulties at practitioner/fieldworker level between agencies if necessary with the involvement of their supervisors or managers, engaging in open discussion with colleagues in other agencies.

If unresolved, the problem should be referred to the worker's own line manager, who will discuss with their opposite number in the other agency.

In the case of Care Providers, unresolved disputes should be raised with the relevant team manager co-ordinating the safeguarding process.

Failure to resolve disagreements between managers must be further escalated, by the managers concerned. Senior Managers will, if and as necessary, be required to intervene.

If there is no resolution the matter should be escalated to the Independent Chair of the Safeguarding Board via the SAB business unit.

## 4.3 Involvement of the Person, Family and Carers

The adult at risk should always be involved from the beginning of the enquiry unless there are exceptional circumstances. Where an adult with mental capacity cannot be included as a full partner the practitioner leading the enquiry will agree with them how their views are to be incorporated into the planning process.

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

If a person lacks capacity to contribute to the process then consideration should be given to appointing an Independent Mental Capacity Advocate (IMCA – see also [4.4 Advocacy](#)).

In all circumstances the person's (or their advocate's) views, wishes and desired outcomes from the safeguarding intervention should be gathered at the earliest opportunity as this should direct the subsequent planning.

The most important support is the creation and implementation of a robust adult at risk plan to address immediate risks and longer term support.

Where possible, as appropriate to the case and with the person's agreement the adult must be supported to:

- Live free from continuing abuse
- Build their confidence, self-esteem and acknowledgement of their right not to be abused
- Enable access to people outside the abusive situation, for example, social or educational activities
- Access services where they can talk about the abuse they are experiencing, e.g. counselling services, victim support, domestic abuse outreach services or other support group
- Gain more information about their options, e.g. advocate or legal advice
- Make a plan about what they would do if they changed their mind or if they wanted help in an emergency
- The information obtained during the visit must contribute to a judgement of the level of risk to independence of the adult and to other people with care and support needs that might also be at risk.
- Support from partner agencies must be obtained promptly if there is a need for them to act with urgency in order to prevent further harm until a planning meeting has taken place.

#### 4.3.1 Support for Family and Carers

The nature of some safeguarding concerns, especially any incident involving serious harm, may also cause distress to the family and carers of the person. It is an important role for the practitioner leading the enquiry to consider whether any support is required or referral to a statutory agency or other recognised body. Any safeguarding enquiry following the death of a person with care and support needs should specifically consider this.

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

- Whether, as part of the assessment and support planning process for the carer and, or, the adult they care for, support can be provided that removes or mitigates the risk of abuse. For example, the provision of training or information or other support that minimises the stress experienced by the carer. In some circumstances the carer may need to have independent representation or advocacy; in others, a carer may benefit from having such support if they are under great stress or similar
- Whether other agencies should be involved; in some circumstances where a criminal offence is suspected this will include alerting the police, or in others the primary healthcare services may need to be involved in monitoring

Other key considerations in relation to carers should include:

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

### 4.3.2 Right to Refuse Services or Support

When the person who is alleged to have been harmed has capacity and does not want any information to be shared this must be honoured unless any authority has an overriding duty of care to act, or other people with care and support needs or children are at risk. If you have any doubt about this you should consult your manager or the Safeguarding Team for advice.

In situations where:

- There is a legal duty of care to do so
- The alleged person causing harm is a paid worker, volunteer or in a position of trust
- The person alleged to be causing harm is another person with care and support needs
- Other people are at risk from the alleged person causing harm
- Then enquiries may take place even where a person with care and support needs, with or without mental capacity, has asked for no action.

The Local Authority has a duty to make enquiries, protect and check all of the facts before reaching a final decision on how to proceed.

### 4.4 Advocacy

Under the Care Act 2014 the local authority has the duty to provide independent advocacy to people (adults and carers) with care and support needs:

- Who may have capacity but would have substantial difficulty (understanding retaining weighing up, communicating) in being involved in care and support processes (subject of a safeguarding enquiry and / or safeguarding adult review)
- When there is no other suitable person to represent and support them
- Advocacy must be independent of the local authority

The advocate's role is to facilitate the person's involvement, not merely be consulted about it. Advocates will decide the best way of supporting and representing the person they are advocating for, always with regard to the wellbeing and interest (including their views, beliefs and wishes) of the person concerned.

If a safeguarding enquiry needs to start urgently then it can begin before an advocate is appointed but one must be appointed as soon as possible.

If the person has been assessed as lacking the capacity to make decisions concerning the abuse and there are no family members or relevant others to act in their best interests, an Independent Mental Capacity Advocate (IMCA) must be appointed. An IMCA is a statutory advocate introduced by the Mental Capacity Act 2005, appointed to support a person who lacks capacity.

Where an independent advocate has already been arranged under s67 Care Act or under MCA 2005 then, unless inappropriate, the same advocate should be used for safeguarding purposes.

Advocates must have:

- A suitable level of appropriate experience
- Appropriate training
- Competency in the task
- Integrity and good character
- The ability to work independently of the local authority or body carrying out assessments, planning or
- Arrangements for regular supervision<sup>3</sup>

Ask about the advocacy services being used in your area.

## 4.5 Enquiries

### 4.5.1 Initial information gathering

At the outset the lead investigator should

- Check that the adult consents to the enquiry progressing, including the sharing of information. Seek written consent where possible.
- Gain information about actions needed that will enable the person to participate in the process, for example communication needs and/or physical access needs. Determine the person's physical and emotional needs and ensure that their safety and wellbeing are protected.
- Enable the person to make informed choices about the safeguarding process, including the person's wishes and expectations of the outcome.
- Ask the person for their own account of any situations highlighted in the safeguarding concern, (subject to possible consultation with the Police in cases of suspected crime) and to assess any risk of abuse they may be facing
- Where this any cause to suspect/reasonable belief that there is an impairment of, or a disturbance in the functioning of, the mind or brain, assess the person's capacity to make informed choices about actions that could be taken to decrease any risk of abuse
- Establish whether they give consent (if they are able to) for family members and/or informal carers to be informed and whether they wish them to be included in any adult at risk meetings/case conference. This consent can be overridden in the circumstances outlined on [page 21](#).
- Inform the person with care and support needs and their family/supporters of their rights to make formal complaints and/or take civil action.
- Offer advocacy services.
- Establish what the allegations of abuse are.
- Assess the presenting risks and agree protection arrangements.
- Obtain evidence.
- Give information about the input that partner organisations could make to the risk assessment and to any safeguarding plan.
- Explain any actions that an organisation has a duty to take, as a result of the referral and the interview, including actions to reduce immediate risk.

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<sup>3</sup> Care and support statutory guidance; DH 2017

## 4.6 Planning

Those responsible for conducting the enquiry should work with the adult to develop an **adult at risk plan**. This may involve a discussion with other agencies or an adult at risk meeting.

An Adult at Risk meeting should involve the person concerned, (and / or their advocate or representative), the practitioner leading the enquiry, other professionals and managers as appropriate who will be able to provide necessary information to support with formulating a strategy for the enquiry. On other occasions it will be necessary or more effective, to formulate the initial plan through a series of telephone conversations, e-mails, or through a virtual meeting or a discussion. The practitioner leading the enquiry must decide on which course of action is most appropriate taking account of the level of risk and complexity of each case and the wishes of the person concerned.

It is important to remember that planning discussions may need to take place immediately following the MASH decision and prior to the initial safeguarding visit. The planning discussion may take place with the MASH Safeguarding Team during the initial decision stage of the enquiry. It is the responsibility of the practitioner leading the enquiry to ensure that this is properly recorded on the safeguarding record.

The timing of planning discussions/meetings will be determined by the level of risk and urgency presented but should not in any case prevent effective support planning proceeding without delay.

All partner organisations involved must work actively to contribute to the plan and share their information appropriately.

### 4.6.1 Primary Considerations for Adult at risk planning

- The wishes, feelings and **desired outcomes** of the person concerned -what the person wants to happen
- The protection of the person(s) concerned
- The dignity, safety and wellbeing of the person(s) concerned
- Clarify which issues are within the scope of the enquiry
- The identification and protection of anyone else who may be at risk especially the safety of those who raised the concern
- Obtain background information and establish matters of fact
- Gathering of initial evidence to enable action to be taken against the alleged person causing harm, e.g. by Police, CQC, or their employer. Care should be taken throughout that actions do not prejudice the gathering of evidence by partner organisations, especially in a Police enquiry.
- Thorough assessment and analysis of risk
- Minimising the impact of the alleged abuse for the person(s) who may have been harmed or their main carers. Care should be taken to ensure that the person experiencing abuse is not asked about what has happened to them more than necessary but is sensitive to the adults need to discuss their experience
- Determining roles and responsibilities for each agency (e.g. Local Authority, Police, Health, Provided Services, etc.).
- Agree timing of actions (including complaints and staff disciplinary).
- Consider whether concerns warrant a recommendation for suspension of NHS or local authority placements or service contracts
- Need for expert legal advice or opinion.

#### 4.6.2 Services Implicated in Abuse & CQC

Where a service is implicated in abuse or neglect, contact will be made with the management of the service and with service commissioners who will be invited to contribute to the planning. Where this is a registered service Care Quality Commission (CQC) must be consulted.

A decision should be made as to how and at what level of seniority a representative of the service involved can appropriately be involved in all or part of the planning process. This includes a judgment as to whether they are likely to be implicated as party to the alleged abuse/neglect or a potential witness in a criminal enquiry. (See also 3.5 above)

#### 4.6.3 People alleged to be causing harm who have Care and Support Needs

If the person alleged to be causing harm is accessing services or may be in need of health or care services, the practitioner leading the enquiry, in consultation with other agencies, must ensure that decisions are made and clear plans are in place in relation to:

- The provision of services or change in provision of services to that person in the context of the allegations
- The safety of other adults accessing services,
- Reducing any trauma experienced by the adult who has experienced abuse
- The need to pass on any information about allegations to other people. This must be done lawfully
- If there is need to pass information to another agency this must be done either with the signed consent of the person against whom the allegations have been made or on the basis of information that needs to be shared for the purpose of preventing crime or further abuse of others

4.6.4 The provision of services to enable the person to recognise the impact of their behaviour and to choose not to carry out abusive behaviour in the future (See also 3.8 People with care and support needs who are alleged to be causing harm)

#### 4.6.5 Involvement of the Alleged Person Causing Harm in discussions and meetings in Very Exceptional Circumstances

It is unlikely that the person alleged to have caused harm would be included in planning discussions. This would happen in very exceptional circumstances and with the agreement of the Chair of the meeting.

It may form part of the planning for the alleged person causing harm to be present at a meeting; for example, if information and support to an informal carer who has been neglecting a person's care needs is a key part of the protection plan. This must also be with the informed consent of the person. If they do not have the capacity to make this decision, then a best interest decision should be made in accordance with the Mental Capacity Act. Any such decision must be clearly documented and safeguards put in place to ensure the wellbeing and support of the adult at risk.

Where the allegation is against an agency rather than a member of staff, consideration should be given to whether or not to include the agency in any meetings and if included what level of staff should be invited.

## 4.7 Adult at Risk Meetings

In some cases it may be appropriate to hold an Adult at risk meeting to coordinate a multi-agency response and produce a Safeguarding plan

The objectives of an adult at risk meeting would be to

- Collate information
- Review what the adult wants to happen
- Review the support being offered to the adult
- Review risks
- Draw up or review adult at risk plans
- Make decisions
- Review the enquiry report
- Determine whether abuse has occurred

The practitioner leading the enquiry is responsible for ensuring that the relevant organisations are informed of the need for a meeting and that they are invited.

The adult and / or their advocate should be invited unless there is a valid reason why this should not happen. There should be evidence or serious suspicion that:

- There is a significant risk to the well-being of the adult through attendance
- More than one adult may be involved and confidentiality may be at risk (consideration should be given to having several parts to the meeting where possible)
- There is a likelihood that a police investigation may be compromised
- There is a possibility that risk to others may ensue

If the adults does not attend the meeting plans must be made for how they will be informed about the meeting and any decisions made.

#### 4.7.1 Key Areas for consideration in Adult at risk meeting

The following areas should be considered and recorded in the Adult at risk meeting

- Background Details to the concern
- Summary information about the person with care and support needs, age, health, status, social living and support arrangements, relevant capacity
- Brief outline of current well-being / situation of the person with care and support needs and their views about the outcomes they want
- Discussion of any public interest considerations
- Risk Assessment
- Risks to and safety of person with care and support needs
- Risks to and safety of other people with care and support needs or children
- Whether any employee or volunteer should be suspended pending enquiry
- Where staff are suspended, the impact of that suspension on the service, people accessing the service, employer and employee and the steps needed to preserve continuity of services
- Whether remedial actions are required to protect other people with care and support needs or children
- The need for advocacy if not previously considered

The Adult at risk meeting will usually be chaired by a Manager or senior practitioner from the team responsible for the Enquiry. If several adults who are at risk are involved, a separate Adult at risk meeting may be considered for each person. Only one adult at risk should be present at any one time at an Adult at risk meeting.

Prior to the meeting any reports of the safeguarding assessment / enquiry should be accessible to the adult concerned, with the involvement of a family member or advocate if appropriate.

Attendees should receive minutes for the part of the meeting they attended. Adult at risk meeting records and planning discussions must be entered on the electronic records system and copies faxed or be mailed securely to the parties involved within 5 working days.

Where an adult does not have the mental capacity to be included, their representative or advocate must be nominated to take part in the review of the risk assessment and Adult at risk plan. The representative could be an advocate, key worker or relative.

#### 4.7.2 Adult at Risk Meeting Conclusions

Any **Adult at Risk** or discussion should conclude with an adult at risk plan and be fully documented on the record of the discussion / meeting.

Key points for plans arising from planning discussions and meetings:

- identify action required to address immediate risk to the adult concerned
- establish or review the adult at risk plan
- identify any specific coordinated action required in respect of the alleged person causing harm to minimise risks to the person who has been harmed, witnesses and whistle-blowers
- determine whether any internal press officer / department within organisations needs to be concerned to any possible media interest
- identify if further action is needed

## 4.8 Adult at Risk Plans

Where abuse appears to have taken place, or an ongoing risk is identified, an Adult at Risk Plan will be agreed to prevent possible further abuse or to decrease the risk.

### 4.8.1 The Adult at Risk Plan must

- Include clear objectives and desired outcomes identified by the person concerned and practitioner leading the enquiry
- Specify the actions for individuals and agencies that have been identified
- Ensure that no tasks are assigned to an organisation or agency without confirming they are able and willing to carry out the role
- Show the required timescales for completion of all actions
- Include active consideration in consultation with the police and legal services, of the potential use of relevant legislation in cases where abuse has occurred
- Include consideration of referral to Witness Support Services of any person identified as entitled to 'special measures' under the police arrangements described in 'Achieving Best Evidence' such as an appropriate adult
- Include actions that may prevent the alleged perpetrator from abusing, maltreating or neglecting in the future
- Include any referrals for consideration under other multi-agency arrangements such as Multi Agency Risk Assessment Conference (MARAC), Multi-Agency public Protection Arrangements (MAPPA) etc. Make arrangements for monitoring, support and counselling

## 4.9 Actions

### 4.9.1 Positive Actions to Prevent Repeat Abuse, or Neglect by a Person or an Organisation

The box below identifies a number of actions which may be used to reduce the risk of abuse re-occurring by management of the alleged person causing harm:

- Access to behaviour change programmes
- Meeting with an individual who has caused harm, to negotiate changes in their behaviour
- Carrying out a Carer's assessment and providing services that decrease the risk of abuse
- Increased levels of observation to prevent abusive behaviour by other people accessing services
- Organisational review, e.g. of staffing levels, policies, procedures, working practices and culture
- Training needs, assessment and supervision (of employee / volunteer)
- Changing service provision to a person who harms other people with care and support needs so that they are not in a position to continue abusing them
- Application to the Court of Protection to appoint a deputy
- Application to the Department of Work and Pensions to change appointment or agency
- Disciplinary procedures by an employer
- Volunteer management procedures by a volunteer-involving organisation
- Criminal prosecution
- Referral to the disclosure and barring service
- Referral to registration body -e.g. Nursing and Midwifery Council (NMC), Health and Care Professions Council (HCPC), British Medical Association (BMA)
- Enforcement action by CQC
- Cancellation of registration of a care provider
- Application for a court order, e.g. restraining contact or an anti-social behaviour order
- Prosecution by Trading Standards
- Civil Law remedies, e.g. suing for damages

### 4.9.2 Actions to Promote the Safety of an Adult and for Recovery from Abuse, or Neglect

The list below identifies a number of actions which may be used to reduce the risk of abuse re-occurring by supporting the person with care and support needs:

- Activities that increase a person's capacity to protect themselves
- Activities that increase health and wellbeing
- Victim support services
- Security measures, e.g. door locks and entry devices, personal alarms, telephone or pager, CCTV
- Support to give Best Evidence in Court
- Application to the Court of Protection for an appropriate person to make decisions on behalf of a person without relevant mental capacity
- Application to the Court of Protection for an appropriate person to manage the person's finances
- Application for Criminal Injuries Compensation
- Supported decision making
- Advocacy and buddying
- Building resilience, confidence, assertiveness, self-esteem and respect
- Attachment based approaches
- Motivational interviewing and cycles of change
- Peer support, survivors networks, forums and circles of support
- Family and networks, including group conferences
- Brief interventions and Micro skills
- Mediation and conflict resolution
- Restorative justice
- Advocacy/ IMCA support services.
- New and/or increased support services to monitor actions agreed in the adult at risk plan

- Where proportionate and in the best interests or in accordance with the wishes of the person concerned, protection from contact with the alleged person causing harm, in the first instance by measures which remove the alleged person causing harm from the situation
- Counselling and therapeutic services
- Support or monitoring arrangements to others identified within the risk assessment that are in need of support
- Remember that the person with care and support needs should agree to the adult at risk plan and sign the plan to say that they have agreed
- Any additional support required for family and carers

#### 4.9.3 Actions to be considered in relation to the person alleged to be causing harm include:

- Vulnerability of the alleged person causing harm
- Increase the observation of behaviours that are abusive and make interventions to prevent such behaviour
- Access to programmes supporting behaviour change
- Review of staffing levels, organisational procedures and culture of care
- Training needs assessment and supervision of staff and volunteers
- Change / increase the care provided to an individual to decrease carer stress
- Carry out a carer's assessment and provide support and information to carers to improve the care they are able to offer
- Meeting with the alleged person causing harm (if appropriate) to feedback the results of the risk assessment and to negotiate changes on their part
- Change the service provided so that they are not in contact with a person/people that may pose risks of harm. If moving to another provider, assess the impacts upon the alleged person causing harm in terms of health and well being
- Where the alleged person causing harm is an employee or volunteer, consideration should be given to whether suspension is needed during the enquiry phase to ensure that people with care and support needs are safeguarded from further potential abuse and to protect the alleged person causing harm from further accusations. The decision to suspend must be taken by the employing organisation based on advice from police or investigating staff.
- HR or disciplinary proceedings, referral to professional regulatory bodies
- Prosecution by the court, CQC or a contracting authority
- Application for a court order such as a restraining order or injunction
- Civil remedies, e.g. suing the alleged person causing harm for damages caused to individual(s)

## 4.10 Records

### 4.10.1 Securing Files / Records

Where necessary, and to avoid tampering, relevant files and documents must be secured by removing them to a secure place or locking them away.

### 4.10.2 Keeping Accurate Records of the Enquiry

It is important that clear and accurate records are kept on the electronic records system as they may be used as evidence in court proceedings.

Note that the report does not have to be long or complicated and should:

- Be written in Plain English
- Not include jargon or abbreviations
- Be easy to read
- Be understood by the person with care and support needs and their carer

It is good practice to prepare the report of the enquiry in draft for discussion, agreement and sign off at the adult at risk meeting.

Any agency involved in the assessment must ensure that this is clearly recorded on their agencies own recording systems.

A guide to what should be included in an enquiry report:

- Name, address, date of birth, ethnicity of the adult
- Details of next of kin and carers
- Allegation/suspicions reported – list each separately. If an allegation has been made, note who is making it; if a suspicion, the basis for it
- Record dates and locations where known
- Previous related allegations/history of abuse
- A brief description of the adult, including nature of support needs and communication needs
- Social situation/family network/carers and current services received
- Assessment of the person's mental capacity relevant to any decisions that have to be made as part of the enquiry
- Views of the adult who may be at risk and their expectations of the outcome
- Information about the person alleged to be responsible (if applicable)
- A description of the enquiry process and evidence gathered. Include information about the level of co-operation that you received from the various people involved
- Your assessment of the enquiry and analysis and rationale for the outcome
- Risk assessment
- Determine on the balance of probabilities if the abuse occurred
- Recommendations for action and lessons learnt if appropriate
- Your name, organisation, team, position and qualifications
- Attach body maps, medical and other reports if appropriate to the case

## 5. REVIEW AND CLOSURE

### 5.1 Review of the Adult at Risk Plan

The purpose of the review is to ensure that the actions agreed in the adult at risk plan have taken place and has been effective in addressing the outcomes identified by the adult.

A date for reviewing the plan should be set at the adult at risk meeting. The date must be determined by the needs of the case. Where there is an ongoing risk of abuse, reviews should take place at least monthly. If it is known that the Adult at Risk plan will need to be changed at a particular date (e.g. when the perpetrator is released from prison) then a date should be set to review the plan in time to make the changes necessary to protect the individual.

The practitioner leading the enquiry has a responsibility to keep in touch with the person concerned, which may be via face to face visits, phone calls or in writing, and ensure the support plan is updated with their involvement in accordance with presenting risks.

A review meeting can be reconvened earlier at the request of the person concerned and any agency involved in supporting them. The meeting should decide responsibility for ongoing management of the support plan (if needed) and whether or not to set a date for further review

### 5.2 Closure of the Case

The closure of a case can occur at any stage once the safeguarding risk assessment has been completed, if;

- The person concerned withdraws consent for the safeguarding enquiry to continue, has mental capacity to make the decision and there is no wider public interest;
- It is found that there is no or very low risk to the person or others, making it disproportionate to continue with a safeguarding enquiry and support needs can be met through other means.
- The enquiry has concluded and has achieved the objectives or outcomes set out in the adult at risk plan
- Where it is decided the enquiry can be closed, but some actions are outstanding these actions should be transferred to the Care & support plan or Care Programme Approach (CPA) care plan, and any other ongoing care plans

### 5.3 Adult Safeguarding outcomes

The important outcomes in adult safeguarding are those identified by the adult at the start of the process, the extent to which they have been included in the process and how they experienced the process, and the extent to which their outcomes were achieved.

One of the six principles of adult safeguarding is Empowerment – people being supported and encouraged to make their own decisions and informed consent. This means: “I am asked what I want as the outcomes from the safeguarding process and these directly inform what happens.”

It is vital that the views of the person are sought and recorded. These should include the outcomes that they want, such as feeling safe at home, access to community facilities, restricted or no contact with certain individuals or pursuing the matter through the criminal justice system.

### 5.3.1 Making Safeguarding Personal

It is important that the adults desired outcomes are addressed in discussions with the adult and at any adult at risk meeting in order to establish whether the desired outcomes of the enquiry were reached. This must be recorded as part of case closure

### 5.3.2 Investigation outcomes

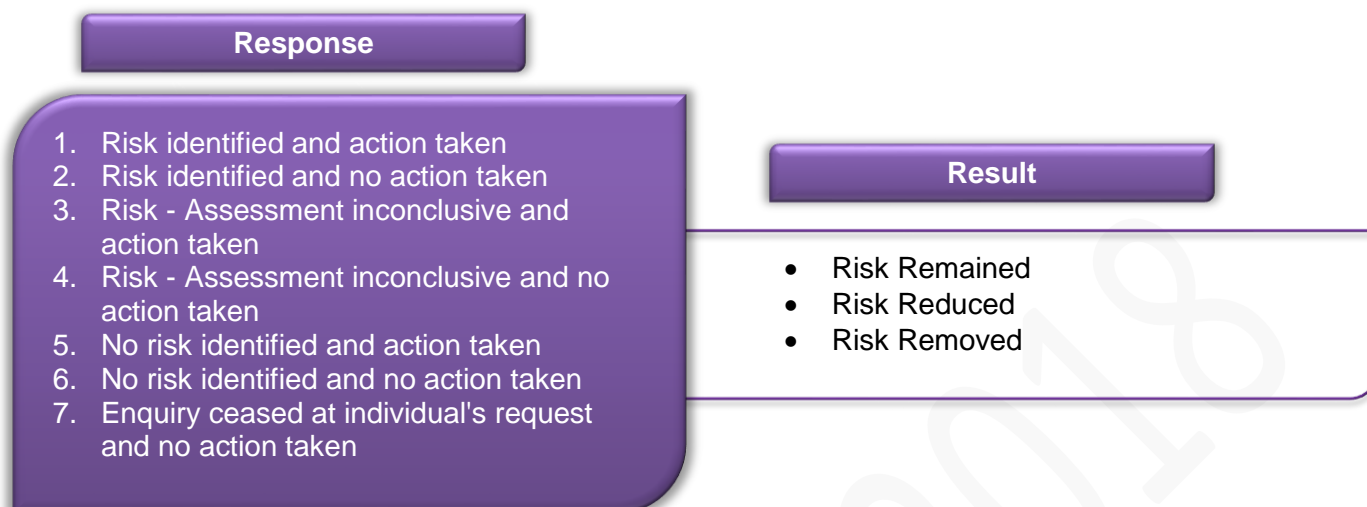
When an adult at risk makes a disclosure of abuse or neglect professionals begin from the standpoint of **believing** their accounts. There is an awareness however that on some occasions malicious or unfounded allegations have been made and part of the safeguarding process is to determine the veracity of the allegations.

There are five possible outcomes resulting from an adult safeguarding enquiry:

Current term	Definition	Previous terms
<b>Evidenced</b>	There is sufficient identifiable evidence to prove the allegation	Substantiated
<b>Not evidenced</b>	There is sufficient evidence to disprove the allegation	Unsubstantiated
<b>Inconclusive</b>	It was not possible to discover sufficient evidence to either prove or disprove the allegation.	Inconclusive
<b>Partially evidenced</b>	There is sufficient evidence to prove part but not all of the allegation	Partially substantiated
<b>Enquiry ceased at adult's request and no action taken</b>	The adult (with capacity to do so) expressed a wish that no further action should be taken under the safeguarding process.	Enquiry ceased at adult's request

### 5.3.3 Effectiveness outcomes

It is important to know how effective the adult safeguarding intervention has been. For this reason it will be necessary to record identification and responses to risk



### 5.4 Timescales

The Care Act avoided the imposition of standardised timescales for the safeguarding adult's process, to ensure that the pace of the enquiry reflected that desired by the adult at risk and was not imposed by professionals or management, and also in recognition of the fact that the timescale for different types of enquiry can vary significantly.

However, it is important to ensure that the enquiry is also efficient and effective. The following time periods should be used as guidelines, with the understanding that for any individual case there may be variation.

From	To	Time
Concern received by Customer Services.	Referral received by MASH	Within 1 working day
Referral received by MASH	MASH decision	1-3 working days depending on risk
Adult at risk meeting	Minutes produced	5 working days
MASH decision	Notification to the person reporting the concern	7 calendar days
S42 Enquiry	Enquiry conclusion & closure	40 working days

## APPENDICES & GUIDANCE

### 6. LARGE SCALE ENQUIRIES

#### 6.1 Definition

A Large Scale Enquiry (LSE) is a multi-agency response to circumstances where there may be a risk of serious harm within an organisation

The responsibility for co-ordinating Safeguarding Adults Enquiries lies with the Peterborough City Council (PCC) and Cambridgeshire (CCC) Adult Social Care Directorates, however, this guidance acknowledges the complexity and multi-agency response required in investigations affecting a number of Service Users.

#### 6.2 Criteria for a LSE

A LSE can be instigated if there are:

- a) Reports of Serious Concerns from the Care Quality Commission arising from a regulatory inspection or other concerns
- b) Accumulated complaints about the same service by people accessing the service their families or members of the public which amounts to serious safeguarding concerns
- c) Serious Concerns of a safeguarding nature following several visits or individual reviews in the service
- d) Serious Concerns of a safeguarding nature following contract compliance reviews of the service
- e) Reports of serious safeguarding concerns from other professional services / organisations involved in the service
- f) Serious Concerns as a result of whistle blowing
- g) Serious Concerns following an Adult at Risk meeting or enquiry
- h) This includes concerns relating to NHS and privately funded establishments as well as those contracted by the Local Authority

#### 6.3 Instigating Serious Concerns LSE meeting

The decision to hold a Serious Concerns LSE Meeting is made by the Chair of the Safeguarding Adults Board, Director of Adult Social Services, or a delegated manager of the authority in whose area the service is based.

The ordinary Adult Safeguarding processes will carry on in parallel to ensure specifically identified individuals are safeguarded. Chairs of individual cases will always be invited to LSE meetings and will be the essential communication link between the two processes.

Once the LSE procedure is initiated, the following actions must be taken promptly;

- Inform the Provider
- ensure adults are adequately safeguarded (the appropriate action will depend on the nature of the allegation, for example if the allegation is about the care provide overnight the Safeguarding Lead may request additional staff or a new night team to be put in place)
- Securing of records
- Appointment of Chair
- Report to Senior Management Teams/CCG/Safeguarding Adults Board as appropriate.

For further guidance on the conduct and management of LSE please refer to the **LARGE SCALE ENQUIRY PROCEDURE** document.

## 7. SAFEGUARDING ADULTS REVIEWS

### 7.1 The Care Act 2014 states that:

- Safeguarding Adult Boards must arrange a Safeguarding Adults Review (SAR) when an adult in its area dies as a result of abuse or neglect, whether known or suspected, and there is concern that partner agencies could have worked more effectively to protect the adult.
- Safeguarding Adult Boards must also arrange a SAR if an adult in its area has not died, but the SAB knows or suspects that the adult has experienced serious abuse or neglect. In the context of SARs, something can be considered serious abuse or neglect where, for example the individual would have been likely to have died but for an intervention, or has suffered permanent harm or has reduced capacity or quality of life (whether because of physical or psychological effects) as a result of the abuse or neglect. SABs are free to arrange for a SAR in any other situations involving an adult in its area with needs for care and support.

**7.2** The SAB should decide what type of 'review' process will promote effective learning and improvement action to prevent future deaths or serious harm occurring again. This may be where a case can provide useful insights into the way organisations are working together to prevent and reduce abuse and neglect of adults. SARs may also be used to explore examples of good practice where this is likely to identify lessons that can be applied to future cases.

**7.3** The purpose of SARs is described in the statutory guidance as to 'promote effective learning and improvement action to prevent future deaths or serious harm occurring again'.

The purpose of a SAR is not to hold any individual or organisation to account. Other processes exist for that purpose, including criminal proceedings, disciplinary procedures, employment law and systems of service and professional regulation run by the Care Quality Commission (CQC) and the Nursing and Midwifery Council, the Health and Care Professions Council, and the General Medical Council etc.



**See also: SAR Guidance** <http://www.scie.org.uk/care-act-2014/safeguarding-adults/reviews/>

## 8. INFORMATION SHARING

- 8.1** It is a requirement for all staff to treat all information in a confidential manner, and use it solely for lawful purposes in accordance with acts of legislation and national guidance, specifically the Data Protection Act 1998, the Care Act 2014 and the Caldecott Principles.

This section sets out how Cambridgeshire and Peterborough SABs require confidential information to be kept safe and secure, without compromising the need to share information appropriately and lawfully to safeguard adults at risk.

### 8.2 Record keeping

Good record keeping is a vital component of professional practice. Whenever a concern or allegation of abuse is made, agencies must keep clear and accurate records and each agency should identify procedures for incorporating, on receipt of a complaint or allegation, all relevant records into a file to record all action taken.

When abuse or neglect is raised managers need to look for past incidents, concerns, risks and patterns. We know that in many situations, abuse and neglect arise from a range of incidents over a period of time. In the case of providers registered with CQC, records of these should be available to service commissioners and the CQC so they can take the necessary action.<sup>4</sup>

### 8.3 Information sharing and safeguarding

There is a common law “Duty of Confidence”, where a person has a right to expect information given in confidence to be kept confidential by the person receiving the information i.e. doctor and patient, solicitor and client.

Effective information sharing is key to effective safeguarding. It is therefore important that a balance is found between maintaining confidentiality and sharing information on a need to know basis with relevant parties.

The Data Protection Act 1998 is not a barrier for sharing information. It provides a documented framework for sharing information securely and appropriately. The act allows the balance of the need to preserve a trusted relationship with the need to share information to effectively safeguard the person.

It is crucial to remember that there can be significant consequences to not sharing information, as there can be to sharing information. Professional judgement must be exercised in making the decision to share, or not share information, and the reasoning documented. All sharing of personal information must be lawful.

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<sup>4</sup> (Care and Support Statutory guidance Feb. 2017)

## 8.4 Lawful Information sharing

There are four legal bases for processing personal confidential data which meet the common law duty of confidentiality. These are:

1. With the **consent** of the individual concerned.
2. Through **statute**, such as the powers to collect confidential data in section 251 of the NHS Act 2006 (see section 6.7) and the powers given to the Information Centre in the Health and Social Care Act 2012 (see sections 1.8, 6.5 and 7.3.4).
3. Through a **court order**, where a judge has ordered that specific and relevant information should be disclosed and to whom; and
4. When the processing can be shown to meet the '**public interest test**', meaning the benefit to the public of processing the information outweighs the public good of maintaining trust in the confidentiality of services and the rights to privacy for the individual concerned.
5. In addition to having one of these legal bases, the processing must also meet the requirements of the Data Protection Act and pass the additional tests in the Human Rights Act.

Any processing of personal confidential data that is not compliant with these laws, even if otherwise compliant with the Data Protection Act, is a data breach, and must be dealt with as such.<sup>5</sup>

## 8.5 Consent

Issues concerning consent can be complex, and it may be appropriate to seek guidance.

Consent must be 'informed'. This means that the person giving consent needs to understand why information needs to be shared, what will be shared, who will see their information, the purpose to which it will be put and the implications of sharing that information.

There will be cases where the adult may have the cognitive capacity to make decisions and give consent but where their context and history mean that they are unable to make a realistic, independent and informed decision about their own needs and safety. Professionals should explore alternative routes to safeguard the adult, including through legal processes and the use of inherent jurisdiction, proportionate to the risk of serious harm.

Obtaining explicit consent for sharing information is best practice and should be obtained from the adult at risk at the start of any involvement. It can be expressed either verbally or in writing, although written consent is preferable since that reduces the scope for subsequent dispute.

If there is a significant change in the use to which the information will be put compared to that which had previously been explained, or a change in the relationship between the agency and the individual, consent should be sought again. Individuals have the right to withdraw consent at any time.

It is important to distinguish between serious harm to the person to whom information relates and serious harm to others. Confidential information can be disclosed without consent to prevent serious harm or death to others. This is likely to be defensible in common law in the public interest.

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<sup>5</sup> (The Information Governance Review, DH 2013)

## 8.6 The public interest test

Seeking consent should be the first option. However, where consent to share confidential information is withheld, it may be possible to lawfully share it if this can be justified in the public interest.

The public interest here means the public good, not what is of interest to the public, and not the private interests of the requester.

Where consent cannot be obtained or is refused, or where seeking it is inappropriate or unsafe, the question of whether there is a sufficient public interest must be judged by the practitioner on the facts of each case. Therefore, where you have a concern about a person, you should not regard refusal of consent as **necessarily** precluding the sharing of confidential information.

Confidential information can be disclosed in the public interest where that information can be used to prevent, detect, or prosecute, a serious crime. "Serious crime" is not clearly defined in law but will include crimes that cause serious physical or psychological harm to individuals. This will certainly include murder, manslaughter, rape, treason, kidnapping, and child abuse or neglect causing significant harm and will likely include other crimes which carry a five-year minimum prison sentence but may also include other acts that have a high impact on the victim. On the other hand, theft, fraud or damage to property where loss or damage is not substantial are less likely to constitute a serious crime and as such may not warrant breach of confidential information, though proportionality is important here. It may, for example, be possible to disclose some information about an individual's involvement in crime without disclosing any clinical information.

In the grey area between these two extremes a judgement is required to assess whether the crime is sufficiently serious to warrant disclosure. The wider context is particularly important here. Sometimes crime may be considered as serious where there is a prolonged period of incidents even though none of them might be serious on its own<sup>6</sup>

## 8.7 Legislative bases for information sharing

### 8.7.1 Care Act 2014

A SAB may request a person to supply information to it or to another person. The person who receives the request must provide the information to the SAB if:

- the request is made in order to enable or assist the SAB to do its job
- the request is made of a person who is likely to have relevant information and then either:
  - the information requested relates to the person to whom the request is made and their functions or activities
  - the information requested has already been supplied to another person subject to an SAB request for information<sup>7</sup>

*(Care and Support Statutory guidance Feb. 2017)* The Care Act therefore provides one legal basis for sharing information.

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<sup>6</sup> From: **Confidentiality: NHS Code of Practice** Supplementary Guidance: Public Interest Disclosures

November 2010

<sup>7</sup> *(Care and Support Statutory guidance Feb. 2017)*

### 8.7.2 Crime and Disorder Act 1998 S.115

This allows information to be shared with the police, a local authority or a health authority if it is necessary or expedient for the purposes of any provision of this Act.

### 8.7.3 Data Protection Act 1998 S29

Information for:

1. The prevention or detection of crime,
2. The apprehension or prosecution of offenders,

Is exempt from the first data protection principle (except to the extent to which it requires compliance with the conditions in Schedules 2 and 3) (see appendix 2 DPA schedules)

## 8.8 Information sharing principles

There are a number of principles, which are non-statutory, to support decisions to share confidential information.

### 8.8.1 Data Protection Act – Data Principles

- Personal data shall be processed fairly and lawfully and, in particular, shall not be processed unless—
  - at least one of the conditions in Schedule 2 is met, and
  - in the case of sensitive personal data, at least one of the conditions in Schedule 3 is also met.
- Personal data shall be obtained only for one or more specified and lawful purposes, and shall not be further processed in any manner incompatible with that purpose or those purposes.
- Personal data shall be adequate, relevant and not excessive in relation to the purpose or purposes for which they are processed.
- Personal data shall be accurate and, where necessary, kept up to date.
- Personal data processed for any purpose or purposes shall not be kept for longer than is necessary for that purpose or those purposes.
- Personal data shall be processed in accordance with the rights of data subjects under this Act.
- Appropriate technical and organisational measures shall be taken against unauthorised or unlawful processing of personal data and against accidental loss or destruction of, or damage to, personal data.
- Personal data shall not be transferred to a country or territory outside the European Economic Area unless that country or territory ensures an adequate level of protection for the rights and freedoms of data subjects in relation to the processing of personal data.

### 8.8.2 Caldecott principles

- Justify the purpose (What is the purpose of the information sharing — is there a clear objective that can best be achieved by sharing the data?)
- Don't use personal confidential data unless it is absolutely necessary
- Use the minimum necessary personal confidential data
- Access to personal confidential data should be on a strict need to know basis.
- Everyone with access to personal confidential data should be aware of their responsibilities
- Comply with the law
- The duty to share information can be as important as the duty to protect patient confidentiality. (What is the risk to individuals (both the person and any third parties) of sharing the data and is this risk proportionate to the benefits to the individual that will be achieved? This includes considering if there is a risk to individuals if the data is not shared.)<sup>8</sup>

### 8.9 Golden rules of information sharing<sup>9</sup>

The 7 golden rules of information sharing were developed for children's safeguarding and can help support the decision to share information legally and in the best interests of the person or the wider public. The 7 golden rules are:

- Remember that the Data Protection Act 1998 and human rights law are not barriers to justified information sharing, but provide a framework to ensure that personal information about living individuals is shared appropriately.
- Be open and honest with the individual about what information may be shared and with whom.
- Seek advice from other practitioners if you are in any doubt about sharing the information concerned, without disclosing the identity of the individual where possible
- Share with informed consent where appropriate and, where possible, respect the wishes of those who do not consent to share confidential information. You may still share information without consent if, in your judgement, there is good reason to do so.
- Consider safety and well-being: Base your information sharing decisions on considerations of the safety and well-being of the individual and others who may be affected by their actions.
- Necessary, proportionate, relevant, adequate, accurate, timely and secure: Ensure that the information you share is necessary for the purpose for which you are sharing it, is shared only with those individuals who need to have it, is accurate and up-to-date, is shared in a timely fashion, and is shared securely
- Keep a record of your decision and the reasons for it – whether it is to share information or not. If you decide to share, then record what you have shared, with whom and for what purpose



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<sup>8</sup> (from *Review of the Uses of Patient-Identifiable Information DH 1997* – the Caldecott review)

<sup>9</sup> Information sharing Advice for practitioners providing safeguarding services to children, young people, parents and carers; DE March 2015

## 9. RECORD KEEPING

### 9.1 Recording principles

Accurate recording is essential from first contact to case closure. Record keeping is central to the processes of risk assessment, safeguarding.

All health and social care agencies must securely maintain accurate, complete and detailed records in respect of each person using the service. Records must provide accurate, factual, verifiable information and specify where they are based on direct observation.

Staff in all agencies must refer to and act in accordance with the recording policy of their own agency

All records should meet the standards required by the Care Quality Commission.

### 9.2 How to Record and Store Information

- Records must be kept from the time that a concern, allegation or disclosure is made
- Records must be made as soon as possible after the event
- Always check accuracy, particularly after recording in a stressful situation
- All records should be typed or kept on computer
- All records must be securely stored in accordance with your own agency policies
- All safeguarding meeting minutes must be kept on the adult's file
- All safeguarding plans and reviews must be kept with the adult's file
- If the alleged person causing harm is accessing services then information about his or her involvement in a safeguarding enquiry including the outcome of the enquiry must be included on his or her case records
- It is inappropriate to document certain information in the place normally used for records, if the suspected alleged person causing harm or associates may have access to that record.

## 10. MENTAL CAPACITY

### 10.1 What is Mental Capacity?

Mental capacity is the ability to make a decision. This includes the ability to make a decision that affects daily life such as when to get up, what to wear or whether to go to the doctor when feeling ill – as well as more serious or significant decisions.

It also refers to a person's ability to make a decision that may have legal consequences for them or others. Examples include agreeing to have medical treatment, buying goods or making a will.

Everyone has a right to follow a course of action that others judge to be unwise or eccentric, including one which may lead to them being abused. Where a person chooses to live with a risk of abuse, the adult at risk plan must, with the adult's consent include access to services that help minimise the risk.

There is a presumption of mental capacity and on the right of people with care and support needs to make their own choices in relation to safety from abuse and neglect except where the rights of others would be compromised.

### 10.2 The Mental Capacity Act 2005

The Mental Capacity Act 2005 provides a comprehensive framework to safeguard and empower people over 16 who are unable to make all or some decisions themselves.

The Act includes a range of principles, powers and services which must be considered as part of an adult at risk plan for a person lacking capacity who may be at risk of being abused.

#### 10.2.1 Principles of the Act

- A person must be assumed to have capacity unless it is established that they lack capacity.
- A person 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.
- A person 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 a person 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 person's rights and freedom of action.

Under Section 44 of the Mental Capacity Act the offences of ill-treatment and wilful neglect may apply to anyone caring for a person who lacks capacity. The police should be fully involved in any enquiry where this is a possibility and should take the lead on deciding whether to initiate criminal proceedings.

### 10.3 Assessment of Capacity

Where a safeguarding assessment identifies capacity issues, an assessment of capacity must be undertaken by the staff member concerned or another competent person.

A person cannot be determined to lack capacity in relation to a particular decision unless they have been assessed as having an impairment or disturbance of the mind or brain, which prevents them from making a valid decision.

They must also be unable to:

- Understand the information relevant to a decision or
- Retain that information or part of the process of making the decision, or communicate one's decision (by talking, sign language or in any other way)

Unless a person can achieve all four of these elements, they lack capacity to make the particular decision.

Section 2 of the Act makes it clear that a lack of capacity cannot be established merely by reference to a person's age, appearance, or any condition or aspect of a person's behaviour which might lead others to make unjustified assumptions about capacity.

If the person is found to have capacity to make the decision required, the person will be involved as a partner in the planning discussion with appropriate advocacy and victim support services. If the person lacks capacity, decisions in their best interests may need to be taken on their behalf under the Mental Capacity Act.

#### **10.4 Best Interests**

For people lacking capacity, the Mental Capacity Act is clear that everything that is done for or on behalf of a person lacking capacity must be in their best interest.

#### **10.5 Factors to consider**

Action must try to ensure that when adults with mental capacity take decisions to remain in abusive situations, they do so:

- a) Without intimidation (although some people may choose to remain in a situation in which they know they are being intimidated)
- b) With an understanding of the risks involved and
- c) Have access to appropriate services if they should they change their mind.

Some members of our communities need proactive support to understand that they have a choice to live a safer life; to understand the options open to them; and to choose which, if any, services they want to access in order to do so. Other adults, even with support, do not have mental capacity to make such decisions.

The capacity of some adults may fluctuate and they may not be able to make a decision about how to pursue their safety at the time it is needed. In such situations, positive action must be taken to ensure that such decisions are made on the person's behalf. This must be by a person or an organisation, acting in the best interests of the adult concerned (and, if appropriate, on what is known of their wishes prior to losing capacity).

## 10.6 Unwise decisions & coercion

People should be able to live as independently as possible and to make informed decisions about their own lifestyles, including the opportunity to take risks if they choose to do so, without fear of harm or abuse from others. It should be acknowledged that these decisions may be viewed as unsafe or unwise but must be heeded if a person has the capacity to make the specific decision, and others are not affected.

If it is determined that an individual does have capacity, has taken an informed decision and by that action is placing him or herself at risk, staff should seek consent from the adult to consult with:

- a) The individual themselves
- b) Their carer, if appropriate - with the person's consent
- c) Any other relevant agency, service or individual.

There may be situations where the individual seems able in terms of their knowledge and understanding to make their own decisions; however, they may be subject to undue pressure to support a particular course of action. This could be pressure from, or fear of, a professional or family member. The involvement of an advocate may help in this matter as their role is to represent the individual (see also 4.4 Advocacy)

Staff will need to determine whether the individual is making the decision of their own free will or whether they are being subjected to coercion or intimidation. If it is believed that the individual is exposed to intimidation or coercion, efforts must be made to offer the person 'distance' from the situation in order to facilitate decision making

In cases of high risk where it is believed a person with relevant capacity is subject to coercion, it may be necessary to seek advice about appropriate legal options.

If all indications are that a person with relevant capacity is making an unwise decision, the wishes of the person must be fully recorded.

Where a person makes repeated unwise decisions or a series of decisions which taken together put the person at significant risk of harm or where there is any doubt that the person has full capacity to make these decisions, staff should seek advice from their line managers

It is important to note that there may be situations where an adult with capacity decides to live with a risk which places other people with care and support needs, or children at risk of harm. In these situations there is a duty of care to intervene for the protection of the other individuals.

## 10.7 Independent Mental Capacity Advocate

An Independent Mental Capacity Advocate (IMCA) is a type of statutory advocate introduced by the Mental Capacity Act 2005, appointed to support a person who lacks capacity if there are no family members or relevant others to act in their best interests.

Local Authorities and the NHS have powers to instruct an IMCA to support and represent a person who lacks capacity where:

- It is alleged that the person is or has been abused, maltreated or neglected by another person
- It is alleged that the person is abusing or has abused another person

Where a person who lacks specific mental capacity is alleged to have been abused or to have abused another person, consideration must be given to appointment of an IMCA in line with the local Mental Capacity Act policy.

The IMCA makes representations about the person's wishes, feelings, beliefs and values, bringing to the attention of the decision-maker all factors that are relevant to the decision. The IMCA can challenge the decision-maker on behalf of the person lacking capacity if necessary.

An adult at risk may also be entitled to Advocacy under S68 Care Act – see 4.4 Advocacy

## 10.8 Inherent jurisdiction of the High Court

'Inherent jurisdiction' describes the power of the High Court to hear any case which comes before it unless legislation or a rule has limited that power or granted jurisdiction to another court. It means that the High Court can hear a range of cases including those in relation to the welfare of adults, so long as the case is not already governed by procedures set out in rules or legislation.

It is not normally used in relation to people who lack capacity if the case can be dealt with by the Court of Protection under the MCA.

Local Authorities may make an application to the High Court to ask the Court to exercise its inherent jurisdiction to protect an adult with mental capacity.

## 10.9 MCA & Deprivation of Liberty Safeguards

The Mental Capacity Act Deprivation of Liberty Safeguards (DoLS) was introduced into the Mental Capacity Act 2005 through the Mental Health Act 2007. DoLS came into force in England and Wales on 1 April 2009.

DoLS provides legal protection for individuals who lack capacity relating to their care and treatment and who may be deprived of their liberty in hospitals or care homes. The safeguards are designed to protect the interests of an extremely vulnerable group of individuals and to:

- a) Ensure people can be given the care they need in the least restrictive regimes
- b) Prevent arbitrary decisions that deprive vulnerable people of their liberty
- c) Provide people with rights of challenge against unlawful detention.

DoLS apply to anyone:

- i. Aged 18 and over
- ii. Who is in Hospital or a care home
- iii. Who has a mental disorder or disability of the mind – such as dementia or a profound learning disability
- iv. Who lacks the capacity to give informed consent to the arrangements made for their care and/or treatment and
- v. Who is deprived of their liberty (within the meaning of Article 5 of the European Convention on Human Rights)

On 19 March 2014, the Supreme Court handed down its judgment in the case of "P v Cheshire West and Chester Council" and "P and Q v Surrey County Council". The judgment is significant in the determination of whether arrangements made for the care and/or treatment of an individual lacking capacity to consent

to those arrangements amount to a deprivation of liberty. The Supreme Court has clarified that there is a deprivation of liberty for the purposes of Article 5 of the European Convention on Human Rights in the following circumstances:



**“The person is under continuous supervision and control and is not free to leave, and the person lacks capacity to consent to these arrangements” (referred to as the Acid Test)**

The Supreme Court has also determined that a deprivation of liberty can occur in domestic settings where the State is responsible for imposing such arrangements. This will include a placement in a supported living arrangement in the community, placements through Shared Lives Schemes and foster placements for young people aged 16-18 years. The Deprivation of Liberty safeguards do not apply in these cases and if there is, or is likely to be, a deprivation of liberty in such placements this must be authorised by the Court of Protection.

Any unauthorised deprivation of liberty must be treated as a safeguarding concern and referred to adult safeguarding

**APPENDIX 1**  
**Cambridgeshire & Peterborough Risk Framework Tool**  
**Guidance for Professionals**

**The safeguarding duties apply to an adult (aged 18+) 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.

Risk Level	Concerns	Response	Agencies involved	Safeguarding initial response times	Police response time
0	<p><b>Does not meet grounds for S42 enquiry</b></p> <p>Concerns about lifestyle or quality of care which do not meet the above criteria</p> <p>No harm to any Adult at Risk</p> <p><b>Examples:</b></p> <p>One off omissions in care or treatment with little or no effect on the Adult at Risk Quality of care provision issues not resulting in harm</p> <p>Adult at Risk to Adult at Risk incident, not resulting in serious harm and unlikely to recur</p> <p>Forced marriage but adult has no care and support needs</p>	<p><b>This will not be dealt with under Adult safeguarding processes.</b></p> <p>Provide information,</p> <p>Care management,</p> <p>CPA,</p> <p>Carers assessment</p> <p>Primary health care.</p> <p>Complaints processes</p> <p>Contracts process</p>	<p>PCC,</p> <p>CCC,</p> <p>CPFT</p> <p>CCS, Primary Health Care,</p> <p>Acute Health Trusts</p> <p>Provider services</p>		

Risk Level	Concerns	Response	Agencies involved	Safeguarding initial response times	Police response time
	<p>One-off unwanted touching (excluding genitalia/ breasts) or verbal sexualised remarks which do not have serious impact on the Adult at Risk</p> <p>Verbal remarks which do not have serious impact on the Adult at Risk,</p> <p>One – off missing money or belongings (unless value is significant)</p> <p>Criminal offence against Adult at Risk which is random and not due to vulnerability (e.g. burglary theft where Adult at Risk was not specifically targeted)</p> <p>Discriminatory verbal remarks by another Adult at Risk or public which do not have serious impact on the Adult at Risk,</p> <p>Carer needs support</p>				
Low	<p><b>Meet grounds for S42 enquiry; low level risk</b></p> <p>Probability or event of harm or neglect to service user is not thought to be serious</p> <p><b>examples</b></p> <p>Isolated incident, no previous concerns, unlikely to recur</p> <p>Adult at Risk to Adult at Risk incident, slight injury no serious harm caused to Adult at Risk</p> <p>Low level self-neglect not resulting in serious harm which can be managed via usual care management care co-ordination processes</p> <p>Repeated inadequacies in care provision leading to distress ( e.g. delays in changing pads)</p>	<p><b>Refer to MASH safeguarding professional</b></p> <p>Investigation by provider</p> <p>Update support / care plan /carers plan to manage risk</p> <p>Team Safeguarding lead checks provider investigation &amp; plan.</p>	<p>Mash professional,</p> <p>May include: Acute Health Trusts, Provider services, Commissioners, Police, Ambulance service , Fire &amp; Rescue service GP or primary health care</p>	72 hours	72 hours

Risk Level	Concerns	Response	Agencies involved	Safeguarding initial response times	Police response time
	<p>Repeated unwanted touching or attention (excluding genitalia/ breasts) or sexualised verbal remarks which have some impact on the Adult at Risk,</p> <p>Verbal remarks which do not have serious impact on the Adult at Risk,</p> <p>Repeated missing money or belongings,</p> <p>Occasional incidents / remarks by other Adult at Risk which lead to feelings of discomfort</p>				
Med	<p><b>Meet grounds for S42 enquiry; medium level risk</b></p> <p>More serious concerns,</p> <p>Some Risk to health or safety of Adult at Risk</p> <p>Adult at Risk adversely effected due to concerns re health/social care service delivery</p> <p>More than one incident /discernible pattern of abuse</p> <p>Abuse or neglect likely to continue without intervention</p> <p><b>examples:</b></p> <p>Self-neglect issues which require multi-agency response</p> <p>Failure to take relevant decisions or actions where the Adult at Risk lacks capacity;</p> <p>Avoidable pressure ulcers;</p> <p>Repeated sexualised touching or attention or verbal remarks which have some impact on the Adult at Risk; one –off sexualised remarks by staff</p> <p>Verbal remarks by staff which do not have serious impact on the Adult at Risk,</p>	<p><b>Refer to MASH safeguarding professional</b></p> <p>Investigation by provider or team safeguarding lead</p> <p>Possible multi-agency involvement</p> <p>Update support / care plan to manage risk.</p> <p>Safeguarding lead checks provider investigation &amp; plan where appropriate.</p> <p>Safeguarding action plan if required (e.g. no provider plan or provider plan not satisfactory</p>	<p>MASH professional, care manager care coordinator</p> <p>May include: Acute Health Trusts, Provider services, Commissioners, Police, Ambulance service , Fire &amp; Rescue service GP or primary health care</p>	72 hours	72 hours

Risk Level	Concerns	Response	Agencies involved	Safeguarding initial response times	Police response time
	<p>Lower level intimidation or threats</p> <p>Adult at Risk with capacity not allowed control of own money; coercion to hand over money to others; Adult at Risk targeted due to their vulnerability</p> <p>Failure to meet support care or treatment in accordance with care plan</p> <p>Continued failure to meet support care or treatment needs based on diversity issues; disparaging remarks based on diversity issues.</p>				
High	<p><b>Meet grounds for S42 enquiry; high level risk</b></p> <p>Serious Risk to health or safety of Adult at Risk</p> <p>Risks to other Adults at Risk,</p> <p>Possible criminal offence</p> <p>Risk of repeated abuse or neglect leading to serious harm</p> <p><b>Examples.</b></p> <p>Persistent and serious self-neglect which has not been resolved via usual care &amp; treatment processes and presents risk to health or safety of Adult at Risk; hoarding leading to fire risk</p> <p>Deliberate neglect; neglect leading to serious effect on Adult at Risk including dehydration, malnutrition,</p> <p>Sexualised touching or attention or sexual remarks by staff; sexual assault, rape</p> <p>Intimidation by staff;</p>	<p><b>Refer to MASH safeguarding professional</b></p> <p>Investigation by Team Safeguarding lead or Police</p> <p>Multi-agency involvement</p> <p>Adult at Risk meetings</p> <p>Safeguarding lead coordinates Safeguarding plans</p>	<p>MASH professional, care manager care coordinator Police,</p> <p>May include: Acute Health Trusts, Provider services, Commissioners, Police, Ambulance service , Fire &amp; Rescue service GP or primary health care</p>	24 hours	24 hours

Risk Level	Concerns	Response	Agencies involved	Safeguarding initial response times	Police response time
	<p>controlling, threatening or manipulative behaviour which has serious effect on Adult at Risk</p> <p>Financial abuse by staff; theft extortion or fraud involving substantial sums of money;</p> <p>Refusal to meet care or support needs based on diversity issues, hate crimes, disparaging remarks by staff based on diversity issues</p> <p>Forced marriage adult has care and support needs</p>				
High	<p><b><u>Meet grounds for S42 enquiry; high level risk, Organisational abuse / Large Scale investigation</u></b></p> <p>Serious Risk to health or safety of Adult at Risk</p> <p>Adult at Risk adversely effected due to concerns re health/social care service delivery</p> <p>Several Adults at Risk affected,</p> <p>Criminal offences</p> <p>Persistent failure to meet CQC regulations,</p> <p>Deliberate intent, pattern of abuse or neglect</p> <p>Failure to provide necessary services in high risk situations</p> <p>Organised modern slavery, human trafficking, forced labour and domestic servitude</p> <p>Several Adults at Risk subject to financial abuse by staff</p>	<p><b>Refer to MASH safeguarding professional and Agency's safeguarding lead</b></p> <p>Investigation by Team Safeguarding lead or Police</p> <p>Multi-agency involvement</p> <p>Adult at Risk meetings,</p> <p>Safeguarding lead coordinates Safeguarding plans</p> <p>managers informed and agree actions</p>	<p>MASH professional, care manager care coordinator Police,</p> <p>May include: Acute Health Trusts, ISPs, Commissioners, Ambulance service , Fire &amp; Rescue service GP or primary health care</p> <p>Senior managers from</p>	24 hours	

Risk Level	Concerns	Response	Agencies involved	Safeguarding initial response times	Police response time
	Institutional racism or other bias based on diversity issues.		relevant organisations		
High	<p><b>Meets safeguarding criteria High level concern, <u>Safeguarding Adult Review (SAR)</u></b></p> <p>There is reasonable cause for concern about how the SAB, members of it or other persons with relevant functions worked together to safeguard the adult, and:</p> <p>1. the Adult at Risk has died, and</p> <p>(b) The SAB knows or suspects that the death resulted from abuse or neglect (whether or not it knew about or suspected the abuse or neglect before the adult died).</p> <p>Or:</p> <p>2. (a)The adult is still alive, and</p> <p>(b) The SAB knows or suspects that the adult has experienced serious abuse or neglect.</p>	<p><b>Refer to MASH safeguarding professional and Agency's safeguarding lead</b></p> <p>Safeguarding Adult Review, Individual Management reports from relevant agencies.</p> <p>Review likely to be more complex, on a larger scale and may require more time, terms of reference need to be carefully constructed to explore the issues relevant to this specific case.</p> <p>The Safeguarding Adults Board (SAB) may need to consider making changes to its guidance and procedures, or that protocols are not being understood or acted upon.</p>	<p>SAR Sub-Committee, Safeguarding Adults Board.</p> <p>Senior Managers of relevant provider services</p>	24 hours	

## APPENDIX 2

### Extract from Data Protection Act Schedule 2

#### Conditions relevant for purposes of the first principle: processing of any personal data

- a) The data subject has given his consent to the processing.
- b) The processing is necessary—
  - a) for the performance of a contract to which the data subject is a party, or
  - b) for the taking of steps at the request of the data subject with a view to entering into a contract.
- c) The processing is necessary for compliance with any legal obligation to which the data controller is subject, other than an obligation imposed by contract.
- d) The processing is necessary in order to protect the vital interests of the data subject.
- e) The processing is necessary—
  - a) for the administration of justice,
  - b) for the exercise of any functions conferred on any person by or under any enactment,
  - c) for the exercise of any functions of the Crown, a Minister of the Crown or a government department, or
  - d) for the exercise of any other functions of a public nature exercised in the public interest by any person.

### Extract from Data Protection Act Schedule 3

#### Conditions relevant for purposes of the first principle: processing of sensitive personal data

1. The data subject has given his explicit consent to the processing of the personal data.
2. The processing is necessary for the purposes of exercising or performing any right or obligation which is conferred or imposed by law on the data controller in connection with employment.
3. The processing is necessary—
  - In order to protect the vital interests of the data subject or another person, in a case where—
    - Consent cannot be given by or on behalf of the data subject, or
    - The data controller cannot reasonably be expected to obtain the consent of the data subject, or

- In order to protect the vital interests of another person, in a case where consent by or on behalf of the data subject has been unreasonably withheld.
- 4. The information contained in the personal data has been made public as a result of steps deliberately taken by the data subject.
- 5. The information contained in the personal data has been made public as a result of steps deliberately taken by the data subject.
- 6. The processing—
  - Is necessary for the purpose of, or in connection with, any legal proceedings (including prospective legal proceedings),
  - Is necessary for the purpose of obtaining legal advice, or
  - Is otherwise necessary for the purposes of establishing, exercising or defending legal rights.
- 7. The processing is necessary—
  - For the administration of justice,
  - for the exercise of any functions conferred on any person by or under an enactment, or
  - The processing—
    - Is either—
      - (i) The disclosure of sensitive personal data by a person as a member of an anti-fraud organisation or otherwise in accordance with any arrangements made by such an organisation; or
      - (ii) Any other processing by that person or another person of sensitive personal data so disclosed; and
    - Is necessary for the purposes of preventing fraud or a particular kind of fraud.
- 8. In this paragraph “an anti-fraud organisation” means any unincorporated association, body corporate or other person which enables or facilitates any sharing of information to prevent fraud or a particular kind of fraud or which has any of these functions as its purpose or one of its purposes.
- 9. The processing is necessary for medical purposes and is undertaken by—
  - A health professional, or
  - A person who in the circumstances owes a duty of confidentiality which is equivalent to that which would arise if that person were a health professional.
- 10. In this paragraph “medical purposes” includes the purposes of preventative medicine, medical diagnosis, medical research, the provision of care and treatment and the management of healthcare services.