Section 2

Multi-agency guidance on responding to concerns raised about a person with care and support needs who is experiencing or is at risk of abuse, neglect or exploitation

33. Introduction
Section 2 of this framework outlines the process that should be followed when responding to concerns raised about a person with care and support needs who is experiencing or is at risk of abuse, neglect or exploitation and reflects the new statutory safeguarding duties introduced under the Care Act 2014.

34. Statutory safeguarding duties
The adult safeguarding duties outlined in the statutory guidance apply equally to adults with care and support needs regardless of whether those needs are being met, regardless of whether the adult lacks mental capacity or not and regardless of setting (other than prisons and approved premises where prison governors and National Offender Management Service retain responsibility for safeguarding and review of deaths in custody).

35. Care and support needs
The definition of care and support needs is based on a person’s ability to achieve key outcomes in their daily life. The Care Act 2014 introduces a national eligibility threshold for adults with care and support needs which consists of three criteria, all of which must be met for a person’s needs to be eligible. The following table outlines the range of needs that fall within this definition. These outcomes are:

<table>
<thead>
<tr>
<th>The outcomes of daily life:</th>
</tr>
</thead>
<tbody>
<tr>
<td>• Managing and maintaining nutrition</td>
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<tr>
<td>• Maintaining personal hygiene</td>
</tr>
<tr>
<td>• Managing toilet needs</td>
</tr>
<tr>
<td>• Being appropriately clothed</td>
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<tr>
<td>• Being able to make use of their home safely</td>
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<tr>
<td>• Maintaining a habitable home environment</td>
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<tr>
<td>• Developing and maintaining family and other personal relationships</td>
</tr>
<tr>
<td>• Accessing and engaging in work, training, education or volunteering</td>
</tr>
<tr>
<td>• Making use of necessary facilities or services in the local community</td>
</tr>
<tr>
<td>• Carrying out any caring responsibilities for a child.</td>
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</tbody>
</table>
36. Mental capacity, consent and best interests

The Mental Capacity Act 2005 is about empowering people in two different ways. First, it is about not jumping to premature conclusions that a person lacks capacity, but recognising that they may require support to make decisions. Second, when a person lacks capacity, the Act states that people must be encouraged to participate in the decision and their past and present wishes taken into account. Although these wishes do not have to be followed, they still carry significant legal weight (Mental Capacity Act 2005, Section 1).

The principle of proportionality in safeguarding is explicit in the Human Rights Act 1998 and the Mental Capacity Act 2005. For instance, under Article 8 of the European Convention on Human Rights, there is a right to respect for family, home and private life. If a Local Authority (or other public body) is considering action in response to safeguarding concerns – such as saying where a person lacking capacity should live, whom they should see or what they should do – it must first consider the less restrictive options before a decision is taken in the person’s best interests. Best Interests decisions need to incorporate the following principles: not making assumptions; whether the person is likely to regain capacity; participation of the person; their past and present wishes, beliefs and values; and consultation with others.

A balance sheet approach may be helpful in order to determine where the person’s best interests lie. This is about weighing up the factors in favour and against a particular decision or course of action. For practitioners, this should be both a useful and an essential exercise. Only to weigh up one set of risks (for example, in preserving the status quo) without weighing up alternative risks (of changing the status quo) will not give the full picture necessary for a Best Interests decision. The following quick reference guide summarises the requirements of the Mental Capacity Act 2005.
### Mental Capacity Act 2005 – Reference Guide

#### Principles
- Presume capacity
- Help and encourage people make decisions
- People are entitled to make unwise decisions
- Decisions for person without capacity: best interests
- Less restrictive option

#### Definition and test of capacity
- Is there any impairment of, disturbance in, the functioning of the person’s mind or brain?
- Does the impairment make the person unable to make the decision and can they:
  - Understand the information relevant to that decision?
  - Retain that information?
  - Use or weigh that information as part of the decision making process?
  - Communicate their decision?

Try different ways of communicating and consider using professionals with specialist skills in verbal and non-verbal communication. The standard is whether it is more likely than not that the person lacks capacity.

#### Assessing capacity
- Decision and time specific assessment
- Don’t rush and do provide the time needed
- Don’t push through decisions when the person’s capacity is at its lowest
- An eccentric or unwise decision does not necessarily mean lack of capacity
- Make a record of the assessment

#### Lack capacity
If a person does not have capacity, does the decision need to be made without delay? Will the person regain capacity and is it possible to wait until the person does have capacity?

### Consulting others
If appropriate consult other people such as:
- Carers, close relatives, friends
- Any deputy appointed by Court of Protection
- Attorney under LPA

Should an Independent Mental Capacity Advocate be instructed? Must do so if no one else appropriate to consult with over best interests and the decision concerns serious medical treatment or the provision of longer term accommodation. In a safeguarding situation where family members are involved (or suspected) of causing harm, an IMCA can also be appointed.

#### Best interests
Any action must be in the best interests (as defined by the Act) of the person. Consider anything relevant and in particular:
- Past and present wishes and feelings of the person
- Any beliefs and values of the person that may influence the decision
- Has a written statement of wishes and feelings been made?
- Has a valid and applicable advance decision been made?
- Is the act or decision the least restrictive of basic rights and freedoms?

### 10 key points about the Mental Capacity Act 2005
- Assess the person’s capacity
- Presumption of capacity
- Capacity is decision specific
- Encourage, assist and support.
- An unwise decision does not imply incapacity
- If a person lacks capacity consult with others
- Any act must be in person’s best interests
- The Mental Capacity Act applies to age 16+
- Always consider the least restrictive options
- Make a record of the assessment.
37. Statutory safeguarding enquiries

Under section 42 of the Care Act 2014, there is a duty on the Local Authority to make enquiries, or to ask others to make enquiries, where they reasonably suspect that an adult in its area is at risk of neglect or abuse. Safeguarding duties apply when an adult:

- 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.

Safeguarding duties do not depend on the adult’s eligibility for services.

There is a duty to carry out whatever enquires are necessary in order to decide whether any further action is needed. NHS organisations and the Police are legally bound to engage in section 42 enquiries if requested.

The duty to make enquiries (or to cause them to be made) does not hinge on a request by the adult or anybody else and is not negated by a third party’s refusal to grant access to the adult, or by the adult’s refusal to participate.

38. Discretionary safeguarding enquiries

Whilst statutory safeguarding duties relate to adults with needs of care and support, the Local Authority is also able to undertake discretionary enquiries for example, where an adult may have support needs but not care needs. This situation might apply to a carer or a person believed to be self neglecting.

39. The purpose of the safeguarding enquiry

The purpose of the safeguarding enquiry is to establish with the individual and/or their representatives, what (if any) action is needed in relation to the situation and to establish who should take such action. It could range from a conversation with the adult or their representative or advocate (for example, if they lack capacity or have substantial difficulty in understanding the enquiry) right through to a much more formal multi-agency plan or course of action. Whatever the subsequent course of action, the professional concerned should record the concern, the adult’s views and wishes, any immediate action taken and the reasons for these actions.

40. Causing enquiries to be made

The Local Authority has a lead co-ordinating role for all safeguarding enquiries but has the power to cause enquiries to be made by another organisation or person for example where the adult already has a relationship with another professional and/or the enquiry relates to the organisation’s particular area of responsibility.

Where the Local Authority causes an enquiry to be made, it still retains overall responsibility and must assure itself that the enquiry carried out satisfies its duty under section 42 to decide what action (if any) is necessary to support and protect the adult and to ensure that such action is taken.

If another organisation or person is requested to make the safeguarding enquiry then Local Authority professionals should be clear about timescales, the requirement to be informed of the outcomes of the enquiry and what action will follow if this is not done. The information gained during the safeguarding enquiry by another organisation or person MUST be shared with the Local Authority at its request in line
with the information sharing requirements outlined in section 45 of the Care Act 2014. Where the Local Authority has asked another organisation or person to undertake the safeguarding enquiry, it is able (as part of its lead co-ordinating role) to challenge the body making the enquiry if it considers that the process and/or outcome is unsatisfactory.

41. Independent advocacy during the safeguarding enquiry
As outlined in section 1, the Local Authority has a duty to arrange for an independent advocate to represent and support a person who is the subject of a safeguarding enquiry or a safeguarding adult review if they would have ‘substantial difficulty’ to understand and take part in the enquiry or review and to express their views, wishes, or feelings. This provision relates to people with capacity. A person lacking capacity can access advocacy via existing provisions under the Mental Capacity Act 2005 and a person subject to the Mental Health Act 1983 can access advocacy via the provisions of this legislation.

42. Assessing need, support planning and review in the context of safeguarding
Where the action needed to protect the person can be met by the Local Authority, it should take appropriate action. In other cases, safeguarding enquiries may result in the provision of care and support (under either section 18 or 19 of the Care Act), or the provision of preventative services (under section 2) or information and advice (under section 4).

In the majority of cases, the response will involve other agencies, for example, a safeguarding enquiry may result in referrals to the police, a change of accommodation, or action by the CQC. Where the person has care and support needs, the Local Authority must continue to carry out a needs assessment and determine whether they have eligible needs, and if so, how these will be met. The assessment for care and support should run parallel to the safeguarding enquiry and the enquiry should not disrupt the assessment process or the Local Authority meeting eligible needs.

Consideration of needs should include the extent to which the needs or a person’s other circumstances may mean that they are at risk of abuse or neglect. The planning process may bring to light new information that suggests a safeguarding issue, and therefore lead to a requirement to carry out a safeguarding enquiry.

The Care Act 2014 stipulates that any information or evidence suggesting that circumstances are affecting the efficacy, appropriateness or content of the plan should trigger a review. This might include where the carer is no longer able to provide the same level of care, evidence of a deterioration of the person’s physical or mental wellbeing or a safeguarding concern is received. During the review, the person or their representative should be kept fully involved and informed of what is occurring, the timescales involved and any likely consequences. The Act provides a duty on the Local Authority to conduct a review if a request for one is made by the adult or a person acting on the adult’s behalf.

43. The duty to enquire arising during needs assessment
If, when a practitioner is undertaking an assessment or a review of a care and support plan, they come to know or suspect that the adult is experiencing, or is at risk of, neglect or abuse, then this will trigger the duty to make enquiries under section 42 of the Care Act 2014. Such a trigger can work both ways - an assessment for care and support can be during the course of a safeguarding enquiry.
44. Refusal to engage

Where an individual lacks capacity, the Local Authority must carry out supported decision making, involving the person as far as possible. It must carry out a capacity assessment and take best interests decisions. In cases where a person refuses, a Local Authority is not required to carry out a needs assessment, unless it has established that the adult lacks mental capacity and that carrying out a needs assessment would be in their best interests. The authority must also carry out an assessment where it considers the person is or is at risk of being abused.

45. Gaining access to an adult suspected to be at risk of neglect or abuse

The duty to make enquiries (or to cause them to be made) is not negated by a third party’s refusal to grant access to the adult, nor by the adult’s refusal to participate. Under the Care Act 2014, there is no express legal power of entry or right of unimpeded access to the adult. However, where necessary, Local Authorities can apply to the courts or seek assistance from the police to gain access in certain circumstances under existing powers. At some point during the making of enquiries by the Local Authority, legal powers may be required to gain access to the person known or suspected to be experiencing, or at risk of, abuse or neglect. For detailed information about these powers please refer to the ‘Guide to gaining access to an adult suspected to be at risk of neglect or abuse’ Social Care Institute of Excellence, 2015) located in Section 3 of this Policy and Guidance.

46. Carers and safeguarding

This framework recognises that abuse or neglect by carers may be unintentional and may arise because a carer is struggling to care for another person. This makes the need to take action no less important, but in such circumstances, an appropriate response could be a carer assessment and support package for the carer and monitoring of the situation. Consideration should be given to whether it is possible to provide information, or support that prevents abuse or neglect from occurring, for example, by providing training to the carer about the condition that the adult they care for has or to support them to care more safely.

Carers can also be supported by offering a needs or carer’s assessment with this being used as an opportunity to explore their circumstances. Professionals must not assume that others are willing or able to take up caring roles. However, where an individual provides care for another adult, a carer’s assessment must be carried out if it appears that the carer may have any level of needs for support.

The carer assessment should be used to establish the carer’s needs for support and how these impact on their wellbeing – as well as the sustainability of the caring role, including the practical and emotional support provided. It must consider the carer’s future needs for care and support and their ability and willingness to provide care now and in the future. A carer’s assessment should be accompanied by information and advice specific to the carer’s requirements.

47. Responsibilities towards the person alleged to be responsible for abuse or neglect

When a complaint or allegation has been made 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.

Where the person who is alleged to have carried out the abuse themselves has care and support needs and is unable to understand the significance of questions put to them or their replies, they should be assured...
of their right to the support of an ‘appropriate’ adult if they are questioned in relation to a suspected crime by the police under the Police and Criminal Evidence Act 1984 (PACE). Victims of crime and witnesses may also require the support of an ‘appropriate’ adult.

Under the Mental Capacity Act 2005, people who lack capacity and are alleged to be responsible for abuse, are entitled to the help of an Independent Mental Capacity Advocate, to support and represent them in the enquiries that are taking place. This is separate from the decision whether or not to provide the victim of abuse with an independent advocate under the Care Act 2014.

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 regard 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 can be taken. Robust employment practices, with checkable references and recent Disclosure and Barring Service (DBS) checks are important. Reports of abuse, neglect and misconduct should be investigated and evidence collected.

Where appropriate, employers should report workers to the statutory and other bodies responsible for professional regulation such as the General Medical 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 (or if the person has been provided by an agency or personnel supplier, the legal duty sits with them) has a legal duty to refer to the DBS.

The legal duty to refer to the 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.

### 48. Protection of property

There is a general duty on the Local Authority to protect moveable property of a person with care and support needs being cared for away from home in a hospital or in accommodation such as a care home, and who cannot arrange to protect their property themselves. This could include their pets as well as their personal property (e.g. private possessions and furniture).

The Local Authority must act where it believes that if it does not take action there is a risk of moveable property being lost or damaged. The Local Authority may enter the property, at reasonable times, with the adult’s consent; but reasonable prior notice to enter should be given. If the adult lacks the capacity to give consent to the Local Authority entering the property, consent should be sought from a person authorised under the Mental Capacity Act 2005 to give consent on the adult’s behalf.

This duty lasts until the adult in question returns home or makes their own arrangements for the protection of property or until there is no other danger of loss or damage to property. This duty equally applies in a safeguarding situation for example, if someone has temporarily moved to a place of safety, requires a hospital stay or treatment and/or moves into residential care.

### 49. Principles underpinning the safeguarding process

The safeguarding process outlined in this document is underpinned by a number of important principles which should inform the day to day safeguarding practice of partner organisations and their practitioners.
Safeguarding responses must be:

<table>
<thead>
<tr>
<th>OUTCOME FOCUSED</th>
<th>rather than procedurally driven so that the service user’s wishes and outcomes are sought and discussed at the beginning, middle and end of the process</th>
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</thead>
<tbody>
<tr>
<td>INCLUSIVE</td>
<td>of the service user with Making Safeguarding Personal and user participation built into each stage</td>
</tr>
<tr>
<td>PROPORTIONATE</td>
<td>with concerns dealt with at the lowest level possible by the most appropriate organisation appropriate to the level of risk and wishes of the service user</td>
</tr>
<tr>
<td>TIMELY</td>
<td>and operate to timescales in order to prevent drift and to provide accountability. There is recognition that the suggested timescales may be shorter or longer depending on a range of factors such as the level of risk or the need to respond to the needs and wishes of the adult</td>
</tr>
<tr>
<td>STRUCTURED</td>
<td>with options for meetings at the beginning, middle and end of the process but undertaken flexibly to enable the meaningful participation of service users</td>
</tr>
<tr>
<td>FLEXIBLE</td>
<td>with ‘Pause and Review’ and ‘Exit Points’ at key stages throughout the process so that it can stop (where appropriate) before it reaches ‘the end’ so as to ensure proportionality</td>
</tr>
<tr>
<td>EFFECTIVE</td>
<td>in managing risk and engage the adult and relevant partners in the response</td>
</tr>
<tr>
<td>FORMATIVE</td>
<td>in which the safeguarding support plan starts to be developed within 24 hours and is subsequently reviewed and revised at each stage</td>
</tr>
</tbody>
</table>

50. Principle of ‘No Delay’

Where there is risk of harm or abuse, swift action must be taken and an effective response made. If it appears that the person is experiencing, or at risk of, abuse or neglect, a safeguarding enquiry must be carried out to determine with the person what action, if any, is necessary and by whom. This framework adopts the principle of ‘NO DELAY’ so that the safeguarding response is made in a timely fashion with due consideration to the level of presenting risk. In practice, this means that the pace of the process is determined by presenting circumstances and professional judgments about risk. Therefore, the timescales outlined in this are for guidance in recognition of the fact these may need to be shorter or longer depending on a range of factors such as risk level, complexity of the case or to work in a way that is consistent with the needs and wishes of the adult.

51. Supporting a person through the safeguarding process

The person should always be involved from the beginning of the enquiry unless there are exceptional circumstances that would increase the risk of abuse. 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. The scope of the enquiry, who leads it and its nature, and how long it takes, will depend on the particular circumstances. The starting point is to ask the adult their views and wishes which should determine the next steps to take. Everyone involved in an enquiry must focus on improving the adult’s well being and work together to that shared aim.

The goal of the safeguarding process is to help the person understand their situation and what is needed to
keep him or herself safe now and in the future. This approach builds the person’s resilience and capacity to protect themselves from harm should a situation arise in the future. The guidance outlined below sets out a framework for helping people to work through what the desired outcome/s and purpose of their safeguarding support might be. The outcome(s) the person is seeking should be addressed from the start of, and throughout, the safeguarding process. By doing so, this ensures a greater focus on the individual needs, wishes and requirements of the person making it easier to ascertain and measure the difference that has been made once the safeguarding process has been concluded. The three main questions for the practitioner to ask themselves at the outset are:

- What outcome(s) does the person want?
- How will I work with the person to enable that to happen?
- How will I know that a difference has been made?

A person in need of safeguarding support may have very difficult decisions to make about his or her life and so these questions may take some time to answer – the safeguarding process will need to be flexible to take account of this. Indeed, what a person decides at the onset, may change as they move through the process – perhaps because they become more aware of their options and feel more empowered to take control of their situation. The safeguarding process will need to be responsive to a person’s changes in perspective. The actual outcomes sought from the safeguarding process should be discussed and agreed with the person at the onset (and recorded) and then reviewed throughout. At the end of the process, the person should be asked if all their outcomes have been met prior to closing the case. At the end of the safeguarding process when evaluating with the person what difference the safeguarding process has made, practitioners should:

- Evaluate the outcomes achieved as part of the safeguarding process itself (before closing the process) so the person doesn’t have to revisit their experience
- Invite the person to participate, informing them of why the evaluation is being done and how it will improve practice in the future
- Use appropriate methods of asking questions according to the person’s needs
- Ensure the person has had the opportunity to prepare for the discussion
- Explain they can choose and there will be no repercussions if they don’t answer
- Make sure the person gets feedback on how their participation has affected future services.

52. Stages of the safeguarding process

The stages of the safeguarding process are summarised in the table below. Please note that that there is scope at each stage to ‘pause and review’ to consider whether it is necessary to continue the safeguarding process or if it can be safely closed. Decision making will be based on professional judgement and informed by a combination of the wishes of the adult, an analysis of risks and whether actions already taken have resolved the situation. As stated in the previous section, these timescales provided are guidelines.

The section 42 enquiry duty remains in place until all necessary action has been taken to resolve the risks and all actions and decisions must be documented.
<table>
<thead>
<tr>
<th>Safeguarding Process</th>
<th>Timescales and decision-making</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Stage 1 – Safeguarding concern raised</strong></td>
<td></td>
</tr>
<tr>
<td><strong>Safeguarding concern raised</strong></td>
<td></td>
</tr>
<tr>
<td>A concern that a person with needs of care and support is at risk of abuse, neglect or exploitation or where a person with needs of care and support may be causing harm to others. Each Local Authority will have a single point of contact for safeguarding concerns. If the adult is already allocated, the concern will be directed to the team holding the case. If the adult is not known to adult services the safeguarding concern will be directed to the Multi Agency Safeguarding Hub or equivalent team.</td>
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<tr>
<td><strong>Stage 2 – Information gathering</strong></td>
<td>Timescales and decision-making</td>
</tr>
<tr>
<td><strong>Stage 2a: Information gathering - screening</strong></td>
<td>Within 24 hours of the safeguarding concern being raised</td>
</tr>
<tr>
<td>The presenting information should be screened to determine whether or not the circumstances of the case engage the statutory duty to make a safeguarding enquiry.</td>
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<tr>
<td><strong>Stage 2b: Information gathering - initial contact</strong></td>
<td>Within 72 hours of the safeguarding concern being raised</td>
</tr>
<tr>
<td>Initial contact should be made with the adult to ascertain their views about the situation and to determine the outcomes they wish to see as a result of the safeguarding process. The adult’s needs in relation to communication, capacity and advocacy should also be considered. During the contact, immediate safety needs should be discussed and advice given on keeping safe. An initial safeguarding support plan should be agreed (where one is necessary) with the adult and then subsequently reviewed at subsequent stages of the safeguarding process.</td>
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</table>
Stage 2c: Information gathering - decision-making

The purpose of the information gathering is to establish whether or not the safeguarding enquiry duty is engaged and on the basis of the views and wishes of the adult and an assessment of risks, to make a decision about the most appropriate way to proceed (if at all) and next steps.

<table>
<thead>
<tr>
<th>Pause and review point: Is the safeguarding enquiry duty engaged? If no, exit the process And/or have initial actions resolved the situation? If yes, EXIT the safeguarding process.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Within 72 hours of the safeguarding concern being raised</td>
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Stage 3 – Safeguarding planning meeting

Stage 3a: Pre planning meeting activities

There are a number of key tasks that should be carried out in between the initial contact with the adult and the safeguarding planning meeting (or discussion). The main focus will be on supporting the adult to prepare for the planning meeting and the development of a chronology of key events linked to the safeguarding concern to inform the discussion and decision making.

<table>
<thead>
<tr>
<th>Pause and review point: Between initial contact and planning meeting</th>
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<tbody>
<tr>
<td>Within 7 working days of the initial contact</td>
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</table>

Stage 3b: Safeguarding planning meeting

When the decision has been made that the concerns engage the duty to conduct a safeguarding enquiry, the responsible team will ensure that a planning discussion or meeting takes place the purpose of which is to agree an action plan clarifying the main focus of the safeguarding activity and who should take the lead roles. An important tool to inform the planning and decision-making process will be the formulation of a chronology of key events regarding the safeguarding concern which should be completed in advance of, and taken to the meeting. In line with Making Safeguarding Personal practice, the adult should be offered the opportunity to participate in this discussion or meeting.

<table>
<thead>
<tr>
<th>Have all necessary actions been taken to resolve risks and to safeguard the adult? If yes, EXIT from the safeguarding process</th>
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<tbody>
<tr>
<td>Within 7 working days of the initial contact</td>
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</table>
### Stage 4 – Safeguarding enquiry

<table>
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<tr>
<th>Timescales and decision-making</th>
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<tr>
<td><strong>Stage 4a: Safeguarding enquiry (including completion of a report)</strong></td>
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</table>

A safeguarding enquiry will reflect a wide range of activities and actions the purpose of which is to address the risks or harm identified. These may need to be undertaken by a variety of partners depending on the circumstances of the concern. Where this is the case, the process must be carried out in line with Making Safeguarding Personal ethos and practice. Anyone requested to undertake a safeguarding enquiry is under a duty to share the findings and outcomes of the enquiry together with any supporting documentation with the Chair in order that a judgement can be made about the robustness of the response in resolving the situation and whether this has satisfactorily discharged the statutory safeguarding duty.

**Stage 4b: Checking and review of safeguarding activity**

The responsible manager should review the information within two weeks of receipt and make a judgement as to whether or not the action taken has satisfactorily resolved the situation. The responsible manager will raise any issues; seek clarifications or request additional information from the lead professional or organisation during this period.

The adult and or their representative should be updated on the findings and outcomes of the safeguarding activity and the safeguarding support plan reviewed with the adult and revised as appropriate.

A decision will need to be made as to whether or not a safeguarding review meeting is needed.

<table>
<thead>
<tr>
<th>Timescales and decision-making</th>
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<tr>
<td><strong>Stage 5 – Checking and review</strong></td>
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</table>

### Stage 5: Safeguarding review meeting

Where necessary, a safeguarding review meeting should be held by the end of the two week period.

<table>
<thead>
<tr>
<th>Timescales and decision-making</th>
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<tbody>
<tr>
<td><strong>Stage 5: Safeguarding review meeting</strong></td>
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</tbody>
</table>

| Timescale: | Pause and review point: |
| At the end of the 2 week checking and review period | Have all necessary actions been taken to resolve risks and to safeguard the adult? |

<table>
<thead>
<tr>
<th>Pause and review point:</th>
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<tbody>
<tr>
<td><strong>Within 28 days of the planning meeting</strong></td>
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<table>
<thead>
<tr>
<th>Pause and review point:</th>
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</thead>
<tbody>
<tr>
<td><strong>Within 7 days of receipt of the report</strong></td>
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<tr>
<th>Pause and review point:</th>
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<tbody>
<tr>
<td><strong>Have all necessary actions been taken to resolve risks and to safeguard the adult?</strong></td>
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<table>
<thead>
<tr>
<th>Pause and review point:</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>If yes, EXIT from the safeguarding process</strong></td>
</tr>
</tbody>
</table>
### Stage 6 – Safeguarding support plan

One outcome of the safeguarding enquiry may be the formulation of agreed action for the adult which should be recorded on their care plan. This will be the responsibility of the relevant agencies to implement.

<table>
<thead>
<tr>
<th>Timescales and decision-making</th>
</tr>
</thead>
<tbody>
<tr>
<td>Over a period of 6 weeks from the review meeting</td>
</tr>
<tr>
<td>Pause and review point:</td>
</tr>
<tr>
<td>Have all necessary actions been taken to resolve risks and to safeguard the adult?</td>
</tr>
<tr>
<td>If yes, EXIT from the safeguarding process</td>
</tr>
</tbody>
</table>

### Stage 7 – Final review

#### Stage 7 a: Final review and user feedback

At the end of the safeguarding process, it is important to evaluate with the adult the difference the safeguarding process has made and whether the outcomes identified at the outset have been achieved. In order that the person does not have to revisit their experience at a future stage, this review should be carried out as part of the safeguarding process itself, prior to closure.

#### Stage 7 b: Closure

The safeguarding enquiry cannot be closed until all actions identified in the planning meeting including specific actions to manage risk have been carried out.

The adult must confirm the outcomes identified by them have been achieved and a manager or supervisor has reviewed and signed off the case.

<table>
<thead>
<tr>
<th>Timescales and decision-making</th>
</tr>
</thead>
<tbody>
<tr>
<td>At the end of the 6 week monitoring period</td>
</tr>
</tbody>
</table>
The following section provides more detailed information about each stage of the safeguarding process

53. Stage 1 Safeguarding concern raised

The criteria used to identify whether an issue should be raised as a safeguarding concern are as follows:

Does the adult have needs of care and support?
Is abuse or neglect by a third party alleged or are there risks relating to self neglect?
AND
Is adult unable to take care of him or herself?
OR
Is the adult unable to protect him or herself against harm or exploitation?
If the answer is YES, then you have a ‘safeguarding concern’.

It does not matter whether or not the adult is receiving services or in what setting they live. If the above criteria are met a safeguarding concern should be raised.

A safeguarding concern is about a person with care and support needs is experiencing, or is at risk of abuse, neglect or exploitation including self neglect, or where a person at risk may be being harmed by others usually in a position of trust, power or authority. Safeguarding concerns should be made to Adult Services by anyone when:

- The person has needs of care and support and there is a concern that they are being or are at risk of being abused, neglected or exploited
- There is concern that the adult has caused or is likely to cause harm to others
- The adult has capacity to make decisions about their own safety and wants this to happen
- The adult has been assessed as not having capacity to make a decision about their own safety, but a decision has been made in their best interests to raise a safeguarding concern
- A crime has been or may have been committed against an adult who lacks the mental capacity to report a crime and a ‘best interests’ decision is made
- The abuse or neglect has been caused by a member of staff or a volunteer
- Other people or children are at risk from the person causing the harm
- The concern is about organisational or systemic abuse
- The person causing the harm is also has care and support needs.

If there is an overriding public interest or vital interest, or if gaining consent would put the adult at further risk, a safeguarding concern must be raised. This would include situations where:

- Other people or children could be at risk from the person causing harm
- It is necessary to prevent crime
- Where there is a high risk to the health and safety of the adult
- The person lacks capacity to consent
- The adult would normally be informed of the decision to refer and the reasons, unless telling them would jeopardise their safety or the safety of others
• If the adult is assessed as not having mental capacity to make decisions about their own safety and to consent to a concern being raised, the alerter must make a decision in their best interests in accordance with the provisions set out in the Mental Capacity Act 2005.

Appendix 1 is a quick reference guide for those raising a safeguarding concern.

Factors to consider when raising a safeguarding concern

The first consideration is about the mental capacity of the adult at risk and whether they are unable to make decisions about their own safety. Remember to assume capacity unless there is evidence to the contrary. Capacity can be undermined by the experience of abuse and where the person is being exploited, coerced, groomed or subjected to undue influence or duress. Other considerations include:

• The extent of the person’s vulnerability and any personal, environmental and social factors contributing to this
• The nature and extent of the abuse including whether it is criminal
• Whether the situation poses a risk to the public or other people, including children under 18 years
• The length of time the abuse has been occurring and whether it is a one-off incident or a pattern of repeated actions
• The impact of the abuse on the adult and the physical and/or psychological harm being caused and whether the abuse is having an impact on other people
• The extent of premeditation, threat or coercion
• The immediate and likely longer-term effects of the abuse on their independence, well-being and choice
• The risk of repeated or increasingly serious acts by the person causing the harm.

Not all concerns will necessarily result in a safeguarding process for example, where there is no abuse, or the person requires signposting to another service or a review of their current care. In order to prevent a delay in raising safeguarding concerns, the Local Authority should be made by contacting:

Southampton 02380 833003
Hampshire 0300 555 1386
Isle of Wight 01983 814980
Portsmouth 02392 680810

Local arrangements are in place between some hospitals and adult services departments.

Immediate action to be taken by the person raising the safeguarding concern

• Make an immediate evaluation of the risk and take steps to ensure that the adult is in no immediate danger.
• Where appropriate, dial 999 for an ambulance if there is need for emergency medical treatment.
• Consider contacting the Police if a crime has been or may have been committed and do not disturb or move articles that could be used in evidence.
• Contact Children’s Services if a child is also at risk.
The first concern must be to ensure the safety and well-being of the adult thought to have been harmed. However, in situations where there has been or may have been a crime and the Police have been called it is important that evidence is preserved wherever possible. The Police will attend the scene, and agencies and individuals can play an important part in ensuring that evidence is not contaminated or lost.

Principles of securing evidence

- Secure the scene, for example lock the door, whilst not disturbing the area.
- Preserve other potential evidence, e.g. documents by locking them away if possible.
- Try not to ask the victim too many questions, but do give them reassurance.
- If in doubt about securing evidence get advice from the Police.

Medical treatment and examination

In cases of physical abuse it may be unclear whether injuries have been caused by abuse or some other means (for example, accidentally). Medical or specialist advice should be sought. If medical treatment is needed, an immediate referral should be made to the person’s GP, Accident and Emergency or a relevant specialist health team.

If forensic evidence needs to be collected, the Police should always be contacted and they will normally arrange for a Police surgeon (forensic medical examiner) to be involved. The consent of the person at risk should be sought. Where the person does not have capacity to consent to medical examination, a decision should be made on the basis of whether it is in the person’s best interest for a possibly intrusive medical examination to be conducted.

Obtaining the consent of the adult at the ‘concern’ stage

The mental capacity of the adult and their ability to give their informed consent to a concern being raised and action being taken under these procedures is significant, but not the only factor in deciding what action to take. The test of capacity in this case is to find out if the person at risk has the mental capacity to make informed decisions about:

- A safeguarding concern
- Actions which may be taken under Multi-agency Policy and Procedures
- Their own safety or that of others, including an understanding of longer term harm as well as immediate effects
- Their ability to take action to protect themselves from future harm.

Raising a safeguarding concern when the adult does not want any action

If the adult has capacity and does not consent to a safeguarding concern being raised and there are no public or vital interest considerations, they should be given information about where to get help if they change their mind or if the abuse or neglect continues and they subsequently want support to promote their safety. The referrer must assure themselves that the decision to withhold consent is not made under undue influence, coercion or intimidation. The adult will need to be informed that a safeguarding concern will still need to be raised and as a minimum a record must be made of the concern, as well as the adult’s decisions with reasons. A record should also be made of what information the person at risk was given.
Making a record

It is vital that a written record of any incident or allegation of crime is made as soon as possible after the information is obtained. Written records must reflect as accurately as possible what was said and done by the people initially involved in the incident. The notes must be kept safe as it may be necessary to make records available as evidence and to disclose them to a court. An accurate record should be made at the time, including:

- Date and time of the incident
- Exactly what the person at risk said, using their own words (their account) about the abuse and how it occurred or exactly what has been reported to you
- Appearance and behaviour of the person at risk
- Any injuries observed
- Name and details of any witnesses
- Any witness to the incident should write down exactly what they saw
- The record should be factual, but if it does contain opinion or an assessment, it should be clearly stated as such and be backed up by factual evidence
- Information from another person should be clearly attributed to them
- Name and signature of the person making the record.

When raising a safeguarding concern, where possible, provide the following information:

Details of the referrer
- Name, address and telephone number
- Relationship to the vulnerable adult
- Name of the person raising the safeguarding concern if different
- Name of organisation, if the concern is raised by care setting
- Anonymous safeguarding concerns will be accepted and acted on. However, the alerter should be encouraged to give contact details.

Details of the adult(s) at risk
- Name(s), address and telephone number
- Date of birth, or age
- Details of any other members of the household including children
- Information about the primary care needs of the adult, that is, disability or illness.
- Funding organisation, if relevant
- Ethnic origin, religion and cultural needs
- Gender (including transgender and sexuality)
- Communication needs of the adult due to sensory or other impairments (including dementia), including any interpreter or communication requirements
- Whether the adult knows about the safeguarding concern
- Whether the adult has consented to safeguarding concern being shared
- If consent not given, an explanation of the grounds upon which the decision was made to refer
- What is known of the adult’s mental capacity and their views about the abuse, neglect, exploitation and what they want done about it (if that is known at this stage)
- Details of how to gain access to the person and who can be contacted if there are difficulties
- Details of any immediate plan in place to protect the adult from further harm.
Information about the abuse, neglect or exploitation

• How and when did the concern come to light?
• When did the alleged abuse occur?
• Where did the alleged abuse take place?
• What are the details of the alleged abuse?
• What impact is this having on the adult?
• What is the adult saying about the abuse?
• Are there details of any witnesses?
• Is there any potential risk to anyone visiting the adult to find out what is happening?
• Is a child (under 18 years) at risk?

Details of the person causing the harm (if known)

• Name, age and gender
• What is their relationship to the adult?
• Are they the adult’s main carer?
• Are they living with the adult?
• Are they a member of staff, paid carer or volunteer?
• What is their role?
• Are they employed through a personal budget?
• Which organisation do they work or volunteer for?
• Are there other people at risk from the person causing the harm?

Any immediate/subsequent actions that have been taken, for example

• Were emergency services contacted? If so, which?
• What is the crime number if a report has been made to the Police?
• Have Children’s Services been informed if a child (under 18 years) is at risk?
• Has the CQC been informed (if a regulated service)?
• Have patient safety incident processes been actioned?

What happens when a safeguarding concern is raised?

Anyone expressing concern will be assured that:

• They will be taken seriously
• Their comments will usually be treated confidentially but their concerns may be shared if they or others are at significant risk
• Anyone who is perceived to be at risk will be given immediate protection from the risk of reprisals or intimidation
• If they are a staff member they have the right not to be subject to any detriment, or to be selected for dismissal or redundancy on the basis of having made a protected disclosure
• They will be dealt with in a fair and equitable manner
• As far as possible, they will be kept informed of action that has been taken and its outcome
• It is the responsibility of the person receiving the safeguarding concern to confirm the next steps to be taken with the person who raised the concern.
54. Stage 2 Information Gathering

Screening - within 24 hours of the receipt of the safeguarding concern

When a safeguarding concern is brought to the attention of Adult Services, it is screened to determine whether or not the information shared engages the statutory duty to make a safeguarding enquiry. The following criteria are used to decide this:

- Does the adult have care and support needs, irrespective of whether or not they are receiving support?
- Does the person live in the Local Authority's area?
- Do the concerns relate to abuse or neglect?

If the answer is yes to the above questions, further information gathering is required to determine whether the cause for concern can be confirmed and what action (if any) is necessary to resolve the situation. Key considerations are as follows:

- Is the adult known to Adult Services and/or other agencies?
- Is there a history of previous concerns and if yes, what were the outcomes?
- Are there any immediate risks or safety issues to be addressed which must also be considered?

Initial Contact - within 72 hours of the receipt of the safeguarding concern

As part of the Information gathering process, it is essential to have contact with the adult on a face to face basis (as the norm). The focus of the discussion will be to seek to confirm the cause of the concern, ascertain the adult’s views about the situation and to determine the outcomes they wish to see as a result of the safeguarding process. This information should be recorded and fed into planning discussions.

The initial contact should also be used as an opportunity to ascertain and meet the adult's information needs and any immediate support required to keep themselves safe; and to explain the safeguarding process and gain their consent, (where appropriate based on an individual’s circumstances and/or risks to the person or others).

The adult’s need for an independent advocate should also be considered if it is felt they may experience substantial difficulty in participating in the safeguarding process. It should be borne in mind that where there are issues of mental capacity, an Independent Mental Capacity Advocate (IMCA) should be involved in these discussions to support the individual, where the person is eligible for an IMCA.

During the contact, an initial safeguarding support plan should be agreed (where one is necessary) with the adult and then subsequently reviewed and further developed at each subsequent stage of the safeguarding process.

Information gathering checklist - key questions to consider

The following checklist is an aide memoire that can be used during the information gathering and decision making process:

- What is the nature, type and context of the abuse?
- Are there any issues regarding immediate safety or protection?
- What are the details and views of the person raising the safeguarding concern?
- What are the details of the initial contact with the alleged victim?
- What was the nature of the incident and type of harm alleged?
- What is the adult’s perspective and wishes for the outcome of the process?
- What are the issues of mental capacity, consent and confidentiality?
- Are there any risks presented to other individuals, children or the wider public?
- Are there any children at risk who should be referred to Children’s Services?
- Is there a need for advocacy?
- Are there any communication needs?
- What is the perceived level of risk?
- What setting and geographical location did the alleged abuse take place?
- Who is alleged to have caused harm to the adult?
- What are their details and relationship to the adult?
- The involvement of any witnesses.
- What action has already been taken to safeguard the adult?
- What are the adult’s health, care and support needs?
- Is the adult receiving support from the person alleged to have caused harm?

Decision-making - within 72 hours of the receipt of the safeguarding concern

In deciding next steps, the following considerations should be taken into account:

- Will the provision of information and advice resolve the situation?
- Will a referral to a specialist service resolve the issue?
- Do the circumstances of the case engage the section 42 safeguarding enquiry duty?
- If yes, who should make the enquiry?
- Who are the key professionals who should be involved in the safeguarding process?
- How does the adult want to be involved in the safeguarding process?
- Does the person need an advocate?

Consideration should also be given as to whether or not a meeting is needed to plan the safeguarding process or if a discussion would suffice. If the latter, it is necessary to consider how the adult will be involved and enabled to participate fully. Following the safeguarding concern being raised, the alerter should be notified of the action being taken (if any).

Deciding the action to be taken following assessment of the safeguarding concern

Once the information has been gathered and assessed, a risk assessment undertaken and relevant parties consulted (including the adult and/or their representative wherever possible) there may be a range of possible courses of action outside of the multi-agency safeguarding procedures. There are a number of considerations to take account of when deciding next steps:

- When there is enough information to decide that the situation does not involve abuse, neglect or exploitation, in which case another service may be appropriate
- Where the adult is not a person with needs of care and support who is covered by these arrangements, they can be signposted to other services or resources
- The adult has the mental capacity to make an informed decision about their own safety and they are making a choice to live in a situation in which there is risk or potential risk
- If there are no public interest or vital interest considerations and those risks have been discussed with them
- Where risks are agreed as reasonable and form the part of the assessed care and support needs under self-directed support, care management or the care programme approach
- Where it is clear that a criminal offence may have taken place and the adult does not have care and support needs, the Police will take the lead in the investigation as a single agency investigation.
- Following further discussion and assessment of the situation, it may not be necessary to initiate a safeguarding intervention. However, other actions may be more appropriate. For example, the adult’s support plan may need to be reviewed, a carer assessment may need to be offered, a complaint may need to be made to the agency providing care or a response is needed under the NHS Serious Incident Requiring Investigation process or a referral to another appropriate organisation may be needed.
- A decision on how to proceed will be made by the responsible manager within the relevant Adult Social Care/Integrated Team in partnership with other agencies or people. All decisions must be recorded.

The following tables outline the Section 42 Safeguarding Enquiry Process Decision Making Tree.
Model for Proportionate Responses

The safeguarding process outlined in this section is based on the idea of ‘proportionality’. To support this approach, there needs to be a range of responses to enable this to happen. The following table illustrates the range of preventive and safeguarding responses available:

<table>
<thead>
<tr>
<th>Category</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>Wellbeing and prevention</td>
<td>Activities to promote wellbeing and safety</td>
</tr>
<tr>
<td>Information and advice</td>
<td>Information on different types of abuse and neglect, how to keep physically,</td>
</tr>
<tr>
<td></td>
<td>sexually, financially and emotionally safe, how to report concerns and advocacy</td>
</tr>
<tr>
<td>Prevention and early intervention</td>
<td>Potential vulnerabilities and risks identified in needs assessment and address as part of support planning.</td>
</tr>
<tr>
<td>Community Safety</td>
<td>Access to the mainstream crime prevention and community safety measures (domestic abuse, hate crime, modern slavery, exploitation by radicalisers)</td>
</tr>
<tr>
<td>Multi-agency risk management</td>
<td>Addresses higher level significant risk requiring a multi agency response e.g. self neglect, fire risk, forced marriage, modern slavery, honour based violence, etc.</td>
</tr>
<tr>
<td>Concerns about people who lack capacity</td>
<td>Mental Capacity Act provisions: Court of Protection, Office of the Public Guardian, court visitors, section 44 offences,</td>
</tr>
<tr>
<td>Poor care and quality issues</td>
<td>Internal care governance, contract monitoring and compliance, quality improvement, patient safety mechanisms, root cause analysis, SIRI process</td>
</tr>
<tr>
<td>Internal care concerns, misconduct by staff</td>
<td>Employer HR action - supervision, training, capability, disciplinary processes, DBS, fitness to practice referrals and service improvement processes</td>
</tr>
<tr>
<td>Unsafe care and regulatory breaches</td>
<td>Regulatory action by CQC to address unsafe, abusive care and non compliance with regulatory standards. Enforcement action</td>
</tr>
<tr>
<td>Criminal Investigation</td>
<td>Prevention, detection and investigation of crime</td>
</tr>
<tr>
<td>Multi-agency safeguarding process</td>
<td>Multi agency response carried out in direct response to a person experiencing abuse or neglect and where other approaches have not been able to resolve issues</td>
</tr>
</tbody>
</table>
55. Stage 3 Safeguarding Planning Meeting

When it is decided that a safeguarding enquiry should be undertaken, the ensuing process should be planned. A decision will need to be made if a planning meeting is needed or whether a discussion will suffice. Consistent with the Making Safeguarding Personal ethos, the adult and/or their representative should be given the opportunity to participate. There are a number of key tasks that should be carried out in between the initial contact with the adult and the safeguarding planning meeting (or discussion).

Any meetings held should be flexible and geared towards supporting the meaningful participation of the adult. Meetings could be held at the adult’s home or alternatively, a neutral venue. Some adults may appreciate a one to one meeting in advance of the planning meeting to help them prepare. The main focus of pre-meeting activities will be on supporting the adult to prepare for the planning meeting and the development of a chronology of key events to inform the discussion and decision making.

Pre-meeting activities (between the initial contact and planning meeting)

The following activities should be considered as determined by the circumstances of the situation:

- Providing information to the adult about the process and what to expect
- Making a referral for an independent advocate
- Considering communication needs and arrangements to address these
- Completion of a mental capacity assessment where appropriate
- Having a one to one pre meeting to help prepare the adult
- Further discussions with the adult about the outcomes sought
- Completion of a chronology of key events.

Safeguarding planning meeting (within 7 working days of the initial contact)

When the decision has been made that the concerns engage the duty to conduct a safeguarding enquiry under section 42 of the Care Act 2014, the responsible team will ensure that a planning discussion or meeting takes place the purpose of which is to agree an action plan clarifying the main focus of the safeguarding enquiry and who should take the lead role. Consideration must be given to the most proportionate and least intrusive response informed by the wishes of the adult and professional judgements about risks.

An important tool to inform the planning and decision-making process will be the formulation of a chronology of key events regarding the safeguarding concern which should be completed in advance by the lead social worker and taken to the meeting.
Purpose of the safeguarding planning meeting:

- Provide a summary of concerns and risks
- Share the perspective of the service user and outcomes sought
- Consider any communication needs of the adult
- Consider the adult’s need for an independent advocate
- Consider the adult’s mental capacity to make decisions about protecting themselves from harm
- Consider the care and support needs of the adult
- Consider support for the person at risk who may have caused the harm
- Agree an interim risk management plan
- Identify any powers or remedies available to resolve risks
- Consider the need for legal intervention
- Consider the likelihood of media attention
- Identify who should be the key worker to support and liaise with the adult
- Make judgements about the risks and agree how the adult will be supported to manage risk
- Consider the safety and well-being of other adults/children at risk
- Consider action under any parallel proceedings (e.g. regulatory action, health and safety issues, serious incidents requiring investigation, disciplinary processes etc.)
- Agree what kind of assessments and/or enquiries will need to take place, and if so, how they should be conducted and by whom.
- Agree timescales and the need for any variation in those suggested
- Review and refinement of the initial safeguarding support plan
- Agree arrangements for reporting back on outcomes of the activity
- Agree arrangements for involving and updating the service user.

Who should participate in safeguarding planning discussions or meetings?

The people who should be involved in the strategy discussion/meetings should be limited to those who ‘need to know’ and who have a lead responsibility to ensure that an assessment and investigation is undertaken and contribute to the decision making process. Those attending from partner agencies/organisations should be of sufficient seniority to make decisions concerning their organisation’s role and the resources they may contribute to the assessment or enquiry and to the agreed safeguarding support plan. The safeguarding planning meeting (and any subsequent meetings) should be chaired by an appropriate manager in adult social care/integrated care who will act in an impartial and objective way in conducting the meetings and will facilitate the meeting to reach decisions and recommendations with the person at risk wherever possible.

The adult’s participation in safeguarding meetings

The adult and/or their representative should be invited to attend the meeting. Any meetings held should be flexible and geared towards supporting the meaningful participation of the adult. Meetings could be held at the adult’s home or alternatively, a neutral venue. Some adults may appreciate a one to one meeting in advance of the planning meeting to help them prepare. When a decision is made to hold a planning discussion rather than a meeting, consideration must be given as to how the adult will be enabled to participate and contribute in a meaningful way.
Independent advocacy

Consideration MUST be given to the adult’s need for an independent advocate during a safeguarding enquiry. It is a requirement in law to provide an advocate if the person would experience ‘substantial difficulty’ in participating in the safeguarding enquiry.

Out of Area Safeguarding Adults Arrangements

There is a national guidance published by the Association of Directors of Adult Social Services (ADASS) in June 2016. This guidance clarifies the respective safeguarding roles, responsibilities and actions of ‘host’ and ‘placing’ Local Authorities in England where an adult lives in one area, but for whom some responsibility remains from the Local Authority funding their care. This guidance should be read in conjunction with Chapter 14 of the Care Act 2014 Statutory Guidance.

56. Stage 4 safeguarding enquiry (within 28 days of the planning meeting)

A safeguarding enquiry will reflect a wide range of activities and actions the purpose of which is to address the risks or harm identified. These may need to be undertaken by a variety of partners depending on the circumstances of the concern. Where this is the case, the process must be carried out in line with Making Safeguarding Personal ethos and practice.

Who might be asked to carry out a safeguarding enquiry?

Although the Local Authority is the lead agency for making enquiries, it can require others to undertake these. The specific circumstances of the situation will often determine who is the right organisation or person to begin an enquiry. It is likely that many enquiries will require the input and supervision of a social worker, particularly the more complex situations and to support the adult to realise the outcomes they want and to reach a resolution or recovery. However, in many cases a professional who already knows the adult will be the best person. They may be a social worker, a housing support worker, a GP or other health worker such as a community nurse or care provider.

Whoever undertakes the enquiry, it is essential that the views of the adult are sought and recorded. These should include the outcomes that the adult wants, such as feeling safe at home, access to community facilities, restricted or no contact with certain individuals or pursuing the matter through the criminal justice system. Whilst the table below suggests who might lead safeguarding enquiries given the presenting circumstances and specific areas of expertise and professional responsibility, it is important to note that many enquiries will need the input of a range of partners to satisfactorily resolve the situation.

The information in the following table over the page illustrates who depending on circumstances of the case, might be asked to undertake a safeguarding enquiry.
Professionals who might be asked to undertake a safeguarding enquiry:

- Social workers will be the most appropriate professionals to lead a safeguarding enquiry where abuse or neglect is suspected within a family or informal relationship – personal and family relationships within community settings can prove both difficult and complex to assess and intervene in.
- Police will be the appropriate agency to lead a safeguarding enquiry where a crime is suspected. Whilst the police must lead the criminal investigation, Local Authority professionals may need to support this process for example, by providing information and assistance. The Local Authority has an on-going duty to promote the wellbeing of the adult in these circumstances.
- Health professionals will be the most appropriate professionals to lead a safeguarding enquiry relating to health care and treatment plans for example, medicines management or pressure sores.
- NHS and social care providers and employers will be the appropriate body to lead enquiries relating to internal care concerns and staff misconduct and poor practice issues in line with their HR and allegation management processes (tools are being developed to support providers to carry out safeguarding enquiries).
- Contracts and quality monitoring staff based in Local Authorities and Clinical Commissioning Groups will be the appropriate professionals to lead safeguarding enquiries relating to concerns about quality of care or poor care and to support service improvement processes.
- Local Authority and NHS commissioning teams are most appropriately placed to undertake enquiries relating to organisational abuse, repeating or escalating patterns of concerns, where the responsible individual for the service is implicated or where the provider is not considered to be competent to undertake the enquiry in competent manner. In such circumstances, the commissioner will be undertaking an externally facilitated response.
- Trading Standards will be the most appropriate organisation to lead a safeguarding enquiry regarding concerns relating to for example: scams, rogue traders, door step crime.
- Housing organisations and/or environmental health services will be the most appropriate organisations to undertake enquiries relating to anti-social behaviour.
- Domestic abuse services will be the most appropriate organisation to whom to make a referral when there are concerns about domestic abuse.
- The Care Quality Commission will be the appropriate body to respond to regulatory breaches and non-compliance with mandatory standards of care.

Terms of reference and investigation templates are being developed to assist partner agencies in carrying out and documenting the safeguarding activity they carry out in the context of a safeguarding enquiry.

A safeguarding enquiry may trigger a range of processes that amount to a formal investigation or response to the safeguarding concern as illustrated in the following table. Clearly, other professionals or organisations may be carrying out the safeguarding enquiry and undertaking the necessary action to resolve the situation. However, the Local Authority retains the lead co-ordinating role for the overall safeguarding process.
The specific objectives of an enquiry into abuse or neglect are to:

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

What should an enquiry take into account?

The first priority should always be to ensure the safety and well being of the person who should experience the safeguarding process as empowering and supportive. Practitioners should wherever practicable seek the consent of the adult before taking action. However, there may be circumstances when consent cannot be obtained because the adult lacks the capacity to give it, but it is in their best interests to undertake an enquiry. Whether or not the adult has capacity to give consent, action may need to be taken if others are or will be put at risk if nothing is done or where it is in the public interest to take action because a criminal offence has occurred.

Any intervention in family or personal relationships needs to be carefully considered. While abusive relationships never contribute to the well being of an adult, interventions which remove all contact with family members may also be experienced as abusive interventions and risk breaching the adult’s right to family life if not justified or proportionate.

Safeguarding should recognise that the right to safety has to be balanced with other rights, such as rights to liberty and autonomy, and rights to family life. Action might be primarily supportive or therapeutic, or it might involve the application of civil orders, sanctions, suspension, regulatory activity or criminal prosecution, disciplinary action or de-registration from a professional body. It is important, when considering the management of any intervention or enquiry, to approach reports of incidents or allegations with an open mind.

Considerations to be taken into account as part of a safeguarding enquiry:

- Any immediate action needed to prevent further abuse or neglect
- The adult’s needs for care and support
- The adult’s risk of abuse or neglect
- The adult’s ability to protect themselves
- The level of understanding of the risks by the adult
- The adult’s networks to increase the support available
- The impact of the abuse or neglect on the adult
- The adult’s wishes and the outcomes they are seeking
- The possible impact of the intervention on important relationships
- Risks of repeated or increasingly serious acts regarding children or abuse/neglect of an adult
- The responsibility of the person or organisation that has caused the abuse or neglect
- Whether disciplinary action may be required on the part of the employer
- Whether legal interventions are necessary
- Whether abuse, neglect, exploitation or a crime occurred and the surrounding circumstances.
Ascertaining the support needed by the adult

The safeguarding enquiry should also focus on the support the adult needs to stay safe now and in the future as well as the actions necessary to reduce risk and prevent repeated abuse or neglect:

- The support, information or services needed by the adult to keep safe now and in the future
- The need for the provision of services to keep the adult safe and to minimise the risk of harm
- The support needed by the adult to help in their recovery from their experience.

Sharing information arising from the safeguarding enquiry

During the safeguarding enquiry, the lead professional should keep the responsible manager informed of the progress and of any information that could impact on the continued safety of the person at risk of abuse or others who may be at risk, and indicate changes that are needed to the safeguarding support plan.

Anyone requested to undertake a safeguarding enquiry is under a duty to share the findings and outcomes of the enquiry together with any supporting documentation with the responsible manager in order that a judgment can be made about the robustness of the response in resolving the situation and whether this has satisfactorily discharged the statutory safeguarding duty.

Parallel processes

Other processes, including criminal investigations, HR investigations and complaints investigations may need to run alongside the safeguarding enquiry but should not delay it. For example, a decision that on the balance of probabilities abuse or neglect took place can be taken, even if the Police have not concluded their enquiries.

After the safeguarding enquiry

The section 42 enquiry duty remains until all necessary action has been taken to resolve the risks. All actions and decisions must be documented as making a safeguarding enquiry under section 42 of the Care Act 2014 is a statutory process.

Once the wishes of the adult have been ascertained and an initial enquiry undertaken, discussions should be undertaken with them as to whether further enquiry is needed and what further action could be taken. What happens as a result of the enquiry should reflect the adult’s wishes wherever possible, as stated by them or by their representative or advocate. If they lack capacity it should be in their best interests if they are not able to make the decision, and be proportionate to the level of concern. Action could take a number of courses including disciplinary proceedings, complaints process or criminal investigations or work by contracts/quality managers and the Care Quality Commission to improve care standards.

Practitioners must identify for the adult both the civil and criminal justice approaches that are open as well as other approaches that might help to promote their wellbeing and the recovery from the abuse or neglect, such as therapeutic or family work, mediation and conflict resolution, peer or circles of support.

The Making Safeguarding Personal Toolkit (Local Government Association, 2015) located in Section 3 provides more detailed information on approaches which promote safety and recovery from abuse. For more detailed information about legal powers and remedies please refer to the guidance ‘Safeguarding adults from harm – a legal guide for practitioners’ (Social Care Institute of Excellence, 2011) in Section 4 of...
The following activities form part of the safeguarding enquiry process and which focus on reducing risk and preventing repeat abuse or neglect by a person or an organisation:
<table>
<thead>
<tr>
<th>Type of concern</th>
<th>Type of safeguarding activity carried out as part of the safeguarding enquiry</th>
<th>Responsible agency or organisation</th>
</tr>
</thead>
<tbody>
<tr>
<td>Unmet care and support of either the adult or their carer</td>
<td>Needs assessment and/or review of support plan, changes to support plan</td>
<td>Local Authority Adult Services</td>
</tr>
<tr>
<td>Carer stress leading to harmful behaviour towards the adult</td>
<td>Carer assessment, family network meeting</td>
<td>Local Authority Adult Services</td>
</tr>
<tr>
<td>Poor care provided by the carer placing the adult at risk</td>
<td>Information, advice or training for the carer</td>
<td>Health professionals, support organisations</td>
</tr>
<tr>
<td>Health care needs not being managed appropriately</td>
<td>Review of health care or treatment plans</td>
<td>Health professionals</td>
</tr>
<tr>
<td>Fire safety</td>
<td>Risk assessment and development of a fire safety plan</td>
<td>Fire and Rescue Service</td>
</tr>
<tr>
<td>Staff poor practice</td>
<td>Training, supervision, capability processes, competency assessment</td>
<td>Employer</td>
</tr>
<tr>
<td>Staff misconduct</td>
<td>HR investigation, disciplinary processes, referral to the DBS and professional registration bodies</td>
<td>Employer</td>
</tr>
<tr>
<td>Wilful ill-treatment or neglect</td>
<td>Criminal investigation</td>
<td>Police</td>
</tr>
<tr>
<td>Type of concern</td>
<td>Type of safeguarding activity carried out as part of the safeguarding enquiry</td>
<td>Responsible agency or organisation</td>
</tr>
<tr>
<td>-------------------------------------------------------------------------------</td>
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<tr>
<td>Concerns about a person acting as appointee</td>
<td>Department of Work and Pensions (DWP) investigation, change appointee or adult services set up to act as appointee</td>
<td>DWP and Pensions, Adults Services</td>
</tr>
<tr>
<td>Concerns about a deputy or registered attorney</td>
<td>Investigation, Lasting Power of Attorney revoked</td>
<td>Office of the Public Guardian</td>
</tr>
<tr>
<td>Best interests of an adult lacking capacity are not being met causing a risk of harm</td>
<td>Application to the Court of Protection for an order or deputyship, appointment of a Court visitor</td>
<td>Adult Services, health professionals, Court of Protection</td>
</tr>
<tr>
<td>Domestic abuse</td>
<td>Referral to a specialist service for support</td>
<td>Domestic abuse services</td>
</tr>
<tr>
<td>Forced marriage</td>
<td>Application for a Forced Marriage Protection Order</td>
<td>Police, Adult Services</td>
</tr>
<tr>
<td>Hate crime</td>
<td>Criminal investigation</td>
<td>Police</td>
</tr>
<tr>
<td>Anti-social behaviour</td>
<td>Tenancy revoked, court order, anti-social behaviour injunctions, prosecution</td>
<td>Housing, Environmental Health, Police</td>
</tr>
<tr>
<td>Modern slavery or trafficking</td>
<td>Referral to the National Referral Mechanism</td>
<td>Police, Adult Services, health professionals</td>
</tr>
<tr>
<td>Type of concern</td>
<td>Type of safeguarding activity carried out as part of the safeguarding enquiry</td>
<td>Responsible agency or organisation</td>
</tr>
<tr>
<td>--------------------------------------------</td>
<td>-------------------------------------------------------------------------------</td>
<td>--------------------------------------------------------</td>
</tr>
<tr>
<td>Exploitation by radicalisers</td>
<td>Referral to the Channel Panel</td>
<td>Police, Adult Services, health professionals</td>
</tr>
<tr>
<td>Internal care concerns</td>
<td>Internal investigation and review, service improvement</td>
<td>Care provider</td>
</tr>
<tr>
<td>Poor quality care</td>
<td>Contract monitoring and compliance, quality improvement activities</td>
<td>Commissioning and contract teams</td>
</tr>
<tr>
<td>Failure to meet standards in NHS and social care services</td>
<td>Regulatory and enforcement action, cancellation of registration</td>
<td>Care Quality Commission</td>
</tr>
<tr>
<td>Breach of rights of a person detained under the Mental Health Act 1983</td>
<td>Regulatory and enforcement action</td>
<td>CQC and Mental Health Act Commissioner</td>
</tr>
<tr>
<td>Unauthorised use of DOLS</td>
<td>Best interests assessment, follow up action such as providing information or training to prevent a recurrence</td>
<td>DOLS Supervisory Body</td>
</tr>
<tr>
<td>Harmful behaviour of another person with needs of care and support</td>
<td>Risk assessment, behaviour support plan, referral to specialist service, behaviour contract</td>
<td>Care provider, Adult Services, health professionals</td>
</tr>
<tr>
<td>Type of concern</td>
<td>Type of safeguarding activity carried out as part of the safeguarding enquiry</td>
<td>Responsible agency or organisation</td>
</tr>
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<td>-----------------------------------------------------</td>
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</tr>
<tr>
<td>Fraud by solicitor appointed as financial deputy</td>
<td>Fraud investigation, fitness to practice referral with referral to the police</td>
<td>Solicitors’ Regulatory Authority</td>
</tr>
<tr>
<td>Irregular or suspicious activity relating to a bank account</td>
<td>Fraud investigation with referral to the police</td>
<td>Bank’s Fraud Investigation Unit</td>
</tr>
<tr>
<td>Bogus callers or rogue traders</td>
<td>Investigation and prosecution</td>
<td>Trading Standards</td>
</tr>
<tr>
<td>Breach of health and safety legislation</td>
<td>Investigation and enforcement action</td>
<td>Health and Safety Executive</td>
</tr>
<tr>
<td>Civil remedies</td>
<td>Taking out injunctions, suing for damages</td>
<td>Service user (with support from family, advocates, support organisations, etc.)</td>
</tr>
</tbody>
</table>
Abuse by an attorney or court appointed deputy

If someone has concerns about the actions of an attorney acting under a registered Enduring Power of Attorney (EPA) or Lasting Power of Attorney (LPA), or a Deputy appointed by the Court of Protection, they should contact the Office of the Public Guardian (OPG). The OPG can investigate the actions of a Deputy or Attorney and can also refer concerns to other relevant agencies. When it makes a referral, the OPG will make sure that the relevant agency keeps it informed of the action it takes. The OPG can also make an application to the Court of Protection if it needs to take possible action against the attorney or deputy. Whilst the OPG primarily investigates financial abuse, it is important to note that it also has a duty to investigate concerns about the actions of an attorney acting under a health and welfare Lasting Power of Attorney or a personal welfare deputy. The OPG can investigate concerns about an attorney acting under a registered Enduring or Lasting Power of Attorney, regardless of the adult's capacity to make decisions. Further information about the role and powers of the OPG and its policy in relation to adult safeguarding can be found in Section 4 of this Policy Framework.

Willful neglect or ill-treatment

Section 44 of the Mental Capacity Act 2005 makes it a criminal offence to wilfully ill-treat or neglect an adult with needs of care and support who lacks the capacity to make decisions. The offence can be committed by anyone responsible for that adult’s care and support – paid staff but also family carers as well as people who have the legal authority to act on that adult’s behalf (i.e. persons with power of attorney or Court-appointed deputies). These offences are punishable by fines or imprisonment. Ill-treatment covers both deliberate acts of ill-treatment and also those acts which are reckless which result in ill treatment. Wilful neglect requires a serious departure from the required standards of treatment and usually means that a person has deliberately failed to carry out an act that they knew they were under a duty to perform.

Section 127 of the Mental Health Act 1983 makes it a criminal offence to ill-treat or willfully neglect a person receiving treatment, subject to a guardianship order or subject to after-care under supervision for a mental disorder in hospital or mental nursing care home by staff.

In 2015, the willful neglect or ill-treatment of adults in health and social care services becomes a criminal offence under the existing Criminal Justice and Courts Bill. This new offence protects adults receiving domiciliary care but not those cared for informally, such as by a friend or family member. This offence allows the prosecution of both health and social care staff and organisations.

The Coroners and Justice (Inquests) Rules 2013

In July 2013, provisions were introduced in the Coroners and Justice Act 2009 that a coroner must carry out an investigation if the deceased died “while in custody or otherwise in state detention.” Whilst Local Authorities had previously been instructed by the Department of Health to inform the coroner of a death whilst under deprivation of liberty, this Act formalises this as legal duty. Managing Authorities (care homes and hospitals) therefore have a duty to notify the coroner of any death occurring whilst the deceased was subject to detention under the deprivation of liberty safeguards. This must take place immediately. The coroner must then hold an inquest which may consider whether the death was related to the actual deprivation of liberty. Failure to notify the coroner has serious consequences and responsibility is likely to be shared between the Supervisory Body and the Managing Authority.
Interviewing the adult

The interview is a key stage in the safeguarding process. Where a criminal offence is identified or suspected then the case details must be reviewed and discussed with the Police, prior to any interview. Effective interviewing requires careful planning based upon good knowledge of the person, their means of communication, physical needs, etc. There will also inevitably be circumstances in which it will not be appropriate to interview a person because of the extent of their mental impairment, or because the person does not wish to be interviewed.

Principles of interviewing

- Arrange for the interview to be undertaken by the most appropriate person
- Ensure that any decision to undertake an assessment interview with the adult is discussed with the Police if there is any suspicion that a crime may have been committed. In the case of a crime, the Police will take the lead in all interviewing of vulnerable victims or witnesses
- Obtain consent of the adult to undertake an interview
- If necessary undertake an assessment of capacity if there is doubt about the adult’s capacity to give consent to an interview, and determine through ‘best interests’ if an interview is proportionate
- Discuss issues of confidentiality and information sharing with the adult and if there are no others at risk, get permission to share information with other organisations as required
- If there are others at risk, inform the adult of the duty to share information to protect others
- If the adult has mental capacity, reassure them that no decisions or plans which have an impact on their daily living arrangements will be made without their agreement to that decision
- Where the adult has capacity, ensure their wishes are respected as to sharing of information with relatives and/or carers (unless there is a duty to override their decision)
- Carry out a risk assessment if the person has mental capacity to understand the risks and consequences
- Identify who will keep the adult informed and what information can be shared with them
- If, during the interview, it becomes clear that the situation indicates domestic abuse, the CAADA (Coordinated Action Against Domestic Abuse) DASH (Domestic Abuse, Stalking and Harassment) risk assessment should be completed. If this indicates that there is a high risk of harm, a referral should be made to the MARAC (Multi-agency risk assessment conference). If honour based violence is indicated it should automatically be graded as high risk in line with police procedures
- If the adult does not have mental capacity to make decisions about their safety, the practitioner must continue to involve them. They must also consult with their personal representative, a court-appointed deputy or attorney, if they are not implicated in the allegation and/or an Independent Mental Capacity Advocate if one has been instructed
- Identify if the adult needs advice, support, assistance or services under the Care Act 2014
- If the interview reveals that a child or young person is living in the same household or is in regular contact with the person alleged to have caused harm and could be at risk, referral should be made immediately to Children’s Services
- Agree an interim safeguarding support plan with the adult and ensure they know what it is and how they will be supported and kept informed during the assessment and investigation stage, including having an appropriate independent advocate if they wish.
57. Stage 5 checking and review of the safeguarding activity (within 7 working days of receipt of the report)

The person responsible for undertaking the safeguarding enquiry should notify the responsible manager that the safeguarding enquiry has been concluded. They will also be responsible for providing a report detailing the findings and conclusion of the enquiry as well as the actions taken to resolve the situation. This report should include:

- A chronology of significant events
- An overview of the wishes and views of the adult and/or their representative
- An overview of how the adult and/or their representative have been involved in the enquiry
- A summary of the activity undertaken as part of the safeguarding enquiry
- A statement on the balance of probability, whether abuse or neglect has occurred
- A summary of the actions taken to prevent repeat abuse or neglect
- An overview of the outcomes achieved for the adult.

The responsible manager should review this information within two weeks of receipt and make a judgement as to whether or not the action taken has satisfactorily resolved the situation. During this period, the responsible manager will raise any issues, seek clarifications or request additional actions from the lead professional or organisation.

The responsible manager will be responsible for updating the adult and/or their representative on the findings and outcomes of the safeguarding enquiry. At this stage, the safeguarding support plan should be reviewed with the adult and revised as appropriate.

In consultation with the adult and/or their representative as well as the involved professionals, the responsible manager will make a decision whether the outcome of the enquiry requires a further safeguarding meeting or whether this can be reasonably achieved through other forms of communication. If it is agreed that no further action is required, the responsible manager must inform the adult and/or their representatives, the referrer and all involved agencies of the outcome of the safeguarding enquiry on a ‘need to know basis’.

Safeguarding review meeting (at the end of the 2 week checking and review period)

Where appropriate, a safeguarding review meeting should be held by the end of the two week checking and review period. The safeguarding review meeting provides an opportunity to exchange information, analyse risk, recommend responsibility for action and devise a plan for further actions and finalise the safeguarding plan with the adult and key partners and consider the use of legal interventions. The purpose of the safeguarding review meeting is to:

- Review the report provided by the lead professional for the safeguarding enquiry
- Consider what outcomes have been achieved for the adult
- Sign off the report provided by the lead professional or organisation
- Review and revise the safeguarding support plan, or cease the plan as appropriate
- Consider any further action needed re the person or organisation giving rise to the concern
- Support the adult to take the lead in deciding what should be in their safeguarding support plan
- Identify any support and services to meet the needs of the adult and of their carer
- Determine what additional information needs to be shared and with whom
 Consider the best way to support the adult through any action they take for justice/redress
Consider any support needed by the adult regarding their recovery from the abuse or neglect
Agree monitoring and review arrangements.

### Standard of proof

Whilst 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 safeguarding referral to DBS if a person is dismissed or removed from their role due to harm to a child or a vulnerable adult.

### Promoting safety and the recovery from abuse

The following table outlines the range of activities and approaches that may be helpful in promoting the person’s safety and/or their recovery from the abuse or neglect:

- Personalised information and advice to assist the person to make informed choices about their situation and to help them to weigh up the benefits and risks of different options. ‘Keeping safe’ information and advice can enable people to keep themselves safe in the first place
- Ensuring that when a person needs some assistance to make decisions about their life, that they are able to access the support of an independent advocate in order to ensure their rights and wishes are respected
- Formulation of a safeguarding plan
- Practical support such as door locks, entry devices, personal alarms, telephone, CCTV, use of assistive technology
- Supporting the person to build their self esteem and sense of self worth in order to empower them to make decisions about and take control of, their situation
- Supporting the person to develop their awareness, skills and confidence to recognise and manage potentially exploitative or harmful situations should these arise
- Promoting activities aimed at increasing health and well being
- Encouraging the person to join a peer support and circles of support network to provide positive role models and a broader view of the options available to address their problems and issues within a safe and supportive environment
- Offering counselling or other forms of person centred therapy to help the person come to terms with their experience and to realise their ability to take control of their lives
- Using mediation and conflict resolution as a means of the respective parties reaching their own decisions about the situation and also to have the opportunity to improve their communication and chances of long-term cooperation
• Using restorative justice or practice to give the person the chance to meet or communicate with the person(s) responsible for the harm caused in order to explain the impact this experience had on them. This can empower the person who was harmed by giving them a voice and by holding the person responsible to account for what they have done
• Setting up a family group conference or network meeting in order to engage and empower the network of extended family members and friends to participate in support for individuals
• Providing information about the civil remedies available to them such as applying for an injunction.

58. Stage 6 monitoring of the safeguarding support plan (over a period of 6 weeks)

The safeguarding support plan is a formative document which is initiated at the outset of the safeguarding process and then reviewed and revised at each subsequent stage. Where a safeguarding support plan exists, this should be recorded on the adult's records.

The content of the plan must be in a format that makes sense to the person concerned and be finalised with them, and with any other people that person requests. Plans can be written using the first person ‘I’ to emphasise that the safeguarding support plan is owned by the individual. In relation to the adult the plan should set out:

• Steps needed to assure the adult's safety in future
• Any support, treatment or therapy including on-going advocacy needed
• Any modifications needed in the way services are provided
• Any on-going risk management strategy as appropriate
• A lead person responsible for co-ordinating the safeguarding support plan
• The contribution of involved organisations to the plan
• The timescales within which actions are to be achieved
• Who is responsible for what
• Contingency actions if the safeguarding support plan does not work or if risks escalate
• With whom the plan will be shared taking into account information sharing considerations
• It is not appropriate to include actions taken against the person causing harm.

Reviewing the safeguarding support plan:

It may be necessary to hold a subsequent review of the safeguarding support plan in particular circumstances including:

• If the adult has the mental capacity to understand the nature of a review and requests one
• If the person representing the best interests of the person at risk requests a review
• If the situation is seen as high risk
• If a review is requested by any organisation involved in the delivery of the safeguarding plan
• If a request is made by the person co-ordinating the safeguarding support plan.
59. Stage 7 final review and user feedback (at the end of the 6 week monitoring period)

At the end of the safeguarding process, it is important to evaluate with the adult the difference the safeguarding process has made and whether the outcomes identified at the outset have been achieved. In order that the person does not have to revisit their experience at a future stage, this review should be carried out as part of the safeguarding process itself, prior to closure. Practitioners should consider:

- Inviting the person to participate, informing them of why the evaluation is being done and how it will improve practice in the future
- Using appropriate methods of asking questions according to the person’s needs
- Ensuring the person has had the opportunity to prepare for the discussion
- Explaining to the person they don’t have to answer, and there will be no repercussions if they don’t
- Making sure the person gets feedback on how their participation has affected future services.

Closure of the safeguarding process

The section 42 enquiry duty remains until all necessary action has been taken to resolve the situation. All actions and decisions must be documented to promote transparency and to support defensible decision making. Before closing the safeguarding process, a judgement has to be made about the robustness of the response made and whether this has satisfactorily discharged the statutory safeguarding duty. The safeguarding enquiry cannot be closed until:

- All actions identified in the planning meeting have been carried out or are in progress
- Actions considered necessary to manage the risk have been carried out
- The adult confirms the outcomes identified by them have been achieved
- A safeguarding support plan (if needed) is in place
- All records are completed
- Case records contain all relevant information and satisfactorily completed forms
- The adult and/or their representative know that the process is concluded and who to contact if they have any future concerns about abuse or neglect
- A manager or supervisor has reviewed and signed off the case.

Any new concern of abuse, neglect or exploitation would be considered as a new safeguarding concern.
60. Defensible decision making

The following table provides guidance on defensible decision making:

<table>
<thead>
<tr>
<th>A defensible decision is one where:</th>
</tr>
</thead>
<tbody>
<tr>
<td>• All reasonable steps have been taken to avoid harm</td>
</tr>
<tr>
<td>• Reliable assessment methods have been used</td>
</tr>
<tr>
<td>• Information has been collected and thoroughly evaluated</td>
</tr>
<tr>
<td>• Decisions are recorded and subsequently carried out</td>
</tr>
<tr>
<td>• Policies and procedures have been followed</td>
</tr>
<tr>
<td>• Practitioners and their managers adopt an investigative approach and are proactive.</td>
</tr>
</tbody>
</table>

Decisions are defensible if they address the six points above, and:

| • Are recorded contemporaneously in a legible and approved system and format |
| • Specify the rationale behind the decision in relation to the circumstances |
| • Include references to relevant legislation and guidance |
| • Are retained with other records about the individual (or organisation) |
| • Are ‘signed’ and dated by the person making the record. |

61. Legislation and guidance replaced by the Care Act 2014

The Care Act received Royal Assent in early 2014 and follows a Law Commission review of the legislative base for social care and support and a report by Andrew Dilnot on funding arrangements - both commissioned by the coalition government in 2010. The White Paper Caring for our Future – reforming care and support has also informed the Care Act 2014 which replaces the following legislation and national guidance:

| • National Assistance Act 1948 |
| • Chronically Sick and Disabled Persons Act 1970 |
| • NHS and Community Care Act 1990 |
| • Choice of Accommodation Directions 1992 |
| • Delayed Discharges Regulations 2003 |
| • NHS Continuing Healthcare (Responsibilities) Directions 2009 |
| • Charging for Residential Accommodation Guidance (CRAG) 2014 |
| • Transforming Adult Social Care (LAC(2009)1) |
| • Fair Access to Care Services (FACS) guidance on eligibility |
| • No Secrets 2000: guidance to protect vulnerable adults from abuse (Department of Health). |
62. APPENDIX 1: Quick guide for providers of care and health services

Disclosure or expression of concern of abuse

**Immediate action to be taken**

- Ensure the safety of the person who is alleged to have been harmed or the person alleged to have caused the harm; if in immediate danger, contact the relevant emergency services
- Support and reassure the person, recording what is said and/or what is observed but avoid asking leading questions
- Log nature of alleged abuse, any information given or witnessed, actions taken, who was present at the time
- Secure the evidence
- Do not question the person alleged to have caused the harm about the incident
- Listen to the person, ascertain their wishes and explain what will happen next
- Do not take photographs of any injuries (unless a policy on taking photographs permits this)
- Report concerns to the appropriate manager to enable the manager to assess the risk and safety needs of the adult at risk
- Ensure all discussions and decisions are recorded
- Report incident to the Police if criminal offence appears to have been committed.

**Within 24 hours the manager should**

- Assess the presenting risk issues and record the risk assessment
- Discuss with adult/family at risk a management plan to minimise the risk to the person and others
- Secure any evidence (records, reports, body maps, clothing)
- Consider internal disciplinary action if a member of staff is alleged to be involved
- Inform the Care Quality Commission (CQC) if in a regulated setting
- Refer to Adult Services or Out of Hours team if a manager is suspected to be implicated
- Initiate other internal processes that need to be triggered
- Record any action taken and any reasons for variation in timescales.

**Information to be given at the point of referral by the manager or ‘whistleblower’**

- Details of the adult alleged to have been harmed (name, contact details, DOB, gender, ethnicity, language, any disability, any communication issues, NOK, and key others)
- Name and contact details of GP
- Reasons for the concerns, context of these and how they came to light
- An impression of the seriousness of the situation
- Details of any witnesses
- Any concerns or doubts about the person’s mental capacity to make a decision about their protection/safety needs
- Whether the adult at risk is aware of and has consented to the safeguarding concern being raised
- Any expressed wishes of the adult at risk
- Action already taken to protect the adult or others at risk and investigations commenced.
**Actions to be discussed and agreed**

- Any interim measures which need to be put in place
- Any reports that should be sent by the provider
- Contact with families as agreed by the adult
- If the adult lacks the capacity to make a decision about family contact discuss what is in their best interests
- Contact with funding agencies and regulators
- Agreed next steps and named contact for the provider
- Discussion with the Safeguarding Allegations Management Advisor (SAMA).

**Ongoing action**

- Ensure ongoing support and risk management to the adult(s) at risk
- Contribute to the planning discussions and attend meetings as necessary
- Undertake actions as agreed as part of the safeguarding plan
- Ensure liaison between Police and Human Resources
- Liaise with the person at risk and families as required
- Undertake internal management investigations in line with HR policies and procedures
- Ensure referral to the DBS where required and professional bodies
- Contribute to other enquiries such as Serious Incident Requiring Investigations (SIRI) and Safeguarding Adult Reviews
- Support staff and provide information on a need to know basis.

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**63. APPENDIX 2: Quick guide for alerters/referrers**

**Disclosure or expression of concern**

**Immediate action to be taken**

- Ensure the safety of the individual and if in immediate danger contact the relevant emergency services
- Preserve any forensic or other evidence
- Support and reassure the person, recording what is observed or said, but avoid asking leading questions
- Log the nature of the alleged abuse, any information given or witnessed, actions taken, and who was present at the time
- Report concerns to the appropriate supervisor/manager
- Consider risk issues and record all discussions and decisions.

**Within 24 Hours (record reasons for any variations in timescales)**

- Raise a safeguarding concern as necessary
- Report the incident to the Police if a criminal offence appears to have been committed
- Inform the CQC for registered providers of regulated activities
- Refer to Adult Services or Out of Hours team for investigation
- Consider internal management/disciplinary action including the need for suspension and/or referral to DBS and/or professional body
- Inform service manager.
Information to be given when raising a safeguarding concern

- Details of the alleged victim (name, contact details, DOB, gender, ethnicity, language, any disability, any communication needs)
- Name and contact details of GP
- Nature of the concerns, reasons and context for these and how they came to light
- Any impression of the seriousness related to the situation
- Any concerns or doubts about the person’s mental capacity
- The perspective of the person at risk about the situation and whether the person is aware of and has consented to the concern being shared
- Action already taken to protect the person and any information already shared
- Any other professionals, carer’s and significant family members, friends, neighbours involved
- Details of the alleged abuser and if whether they are also an adult at risk.

Ongoing action

- Lead the safeguarding enquiry as required
- Attend safeguarding meetings as required
- Participate in Police and/or other investigations as required
- Progress with internal management investigation and seek HR advice on the implications regarding employment legislation
- Ensure the adult involved receives necessary information, advice and support
- Ensure staff members are supported including any staff member implicated in the alleged abuse.

Useful Telephone Numbers:

**Police**
Email: cru@hampshire.pnn.police.uk
Telephone: 0845 045 45 45

**Care Quality Commission**
Email: enquiries@cqc.org.uk
Telephone: 03000 616161

**DBS Helpline:**
Telephone: 03000 200 190
PO Box 181, Darlington DL1 9FA