

# Safeguarding Adults Concerns

## A Brief Guide for Referrers

### Purpose of Guidance

This guide sets out key information for organisations and professionals who work with Adults at Risk, about how and when Safeguarding referrals should be considered and made.

### Care Act, Section 42 essentials, the legislation and criteria.

The Safeguarding duties of the Local Authority apply to an adult where there is reasonable cause to believe all 3 statutory criteria are met. The Section 42(2) duty to carry out an investigation is then triggered.



### What are the Statutory Safeguarding Duties of the Local Authority?

#### The Care Act 2014 s42 duty states:

- (1) Where a local authority has reasonable cause to suspect that an adult in its area (whether ordinarily resident there)—
  - (a) has needs for care and support (whether or not the authority is meeting any of those needs),
  - (b) is experiencing, or is at risk of, abuse or neglect, and
  - (c) as a result of those needs is unable to protect himself or herself against the abuse or neglect or the risk of it.
- (2) The local authority must make (or cause to be made) whatever enquiries it thinks necessary to enable it to decide whether any action should be taken in the adult's case (whether under this Part or otherwise) and, if so, what and by whom.

This definition directs us to all work together to improve our understanding of the risks and experiences of adults who have needs for care and support:

The S42 Safeguarding duty applies regardless of whether an adult's care and support needs are being met, either by the local authority or by anyone else. This includes people who pay for their own care and support services. This is the legal framework within which local authorities and partner agencies must operate when a safeguarding concern is referred.

This duty ensures that adults are supported to keep themselves safe and all agencies and organisations take appropriate action to keep people safe.

A referrer has only to consider that there is reasonable cause to suspect that (a) and (b) apply, to raise a safeguarding concern to the local authority.

S42 (1) (a) adult with care and support needs

S42 (1) (b) at risk of or experiencing abuse or neglect.

The decision making as to what constitutes a safeguarding concern is not the same as the decision making for an enquiry. Determining whether the three statutory criteria are met may change following conversations with the adult, and/or when new information is gathered. The initial judgement might be that the enquiry duty is met, but as the enquiry progresses it may be clear that the concerns are not safeguarding concerns.

### **Safeguarding is everyone's business.**

Take action to refer as 'no professional should assume that someone else will pass on information which they think may be critical to the safety and wellbeing of the adult. If a professional has concerns about the adult's welfare and believes they are suffering or likely to suffer abuse or neglect, then they should share the information with the local authority and/or, the police if they believe or suspect that a crime has been committed'.

You may need to seek advice from a Manager or the Safeguarding Adults Lead in your organisation.

### **Reporting, don't delay, seek advice.**

Where you may be aware of concerns about abuse and neglect, if you think there is an immediate risk to the adult, do not delay in reporting your concerns including telephoning the Police. Do this even if you are not clear whether the concerns are about an adult with care and support needs. As stated above you have the responsibility to report a concern, you should not assume that it will be reported by someone else.

### **Making Safeguarding Personal, gaining the view and outcomes wanted by the Adult**

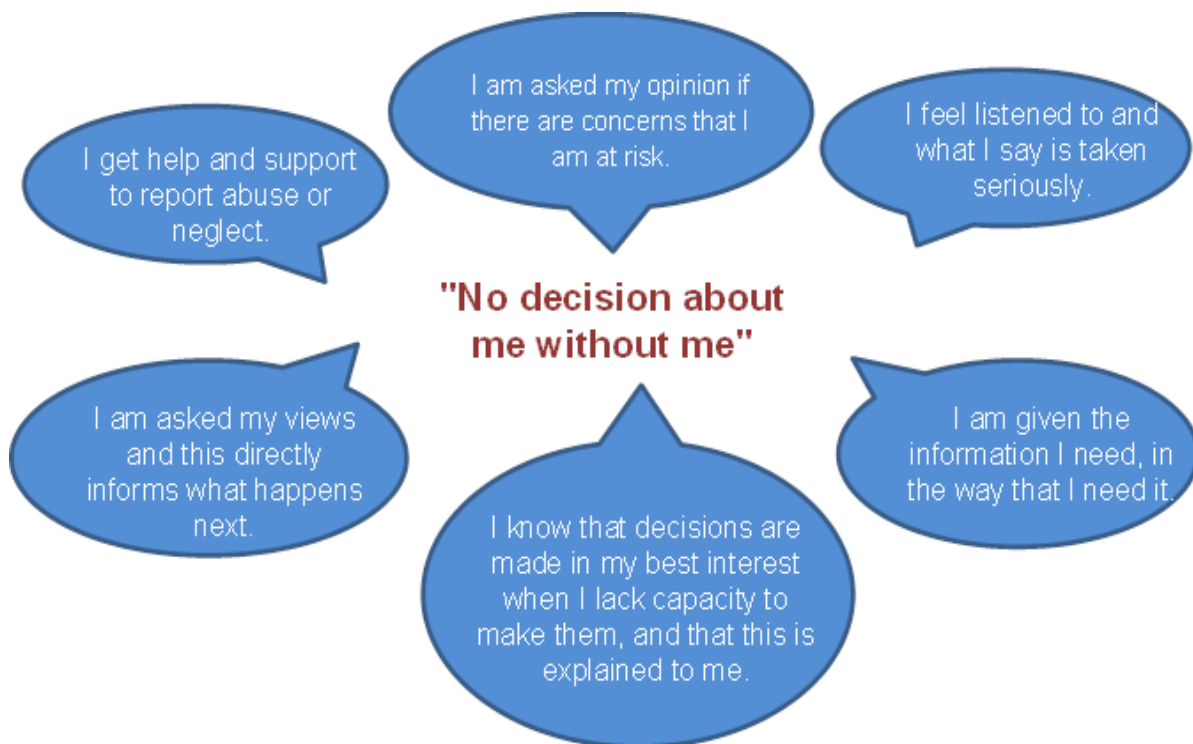
Making Safeguarding Personal tells us that the Adult is placed at the centre of the Safeguarding process. All practitioners have the duty to develop an understanding of what the

Adult being safeguarded wishes to achieve. This includes obtaining their desired outcomes and goals. Practitioners should also record the Adult's views and wishes. They should work with the Adult and their representative or advocate how best to achieve those outcomes.

This includes consideration of circumstances where the adult does not want action taken, but where it is considered that the concern needs to be raised because of an overriding public interest. See below in the 'Sharing of Information' section.

**The wishes of the adult** are fundamental to the safeguarding process. The adult's views should be sought and obtained. Advise the Adult that you need to make a referral and ask what outcomes he/she wishes for.

Remember *"No decision about me without me."*



## Types of abuse

This table contains some examples of the types and categories of abuse and neglect and examples of behaviours. It is not an exhaustive list. Note that the Care and Support Statutory Guidance (DHSC, 2020) states that 'Local authorities should not limit their view of what

constitutes abuse or neglect, as this can take many forms and the circumstances of the individual case should always be considered.'

Types of abuse	Behaviours might include
<b>Physical</b>	Hitting, slapping, pushing, kicking, misuse of medication, restraint, or inappropriate sanctions.
<b>Sexual</b>	Rape, indecent exposure, sexual harassment, inappropriate looking or touching, sexual teasing or innuendo, sexual photography, subjection to pornography or witnessing sexual acts, indecent exposure and sexual assault or sexual acts to which the adult has not consented or was pressured into consent.
<b>Psychological</b>	Emotional abuse, threats of harm or abandonment, deprivation of contact, humiliation, blaming, controlling, intimidation, coercion, harassment, verbal abuse, cyber bullying, isolation or unreasonable and unjustified withdrawal of services or supportive networks.
<b>Financial or material</b>	Theft, fraud, exploitation, pressure in connection with wills, property, inheritance or financial transactions, or the misuse or misappropriation of property, possessions, or benefits.
<b>Neglect and acts of omission</b>	Ignoring medical or physical care needs, failing to provide access to appropriate health, social care, welfare benefits or educational services, withholding the necessities of life such as medication, adequate nutrition and heating.
<b>Discriminatory</b>	Racism, sexism, or acts based on an adult's disability, age or sexual orientation or other characteristics protected by law. It also includes other forms of harassment, slurs, or similar treatment such as disability hate crime.
<b>Domestic abuse</b>	Psychological, physical, sexual, financial, emotional abuse and so called 'honour' based violence by those who are or have been intimate partners or family members. Coercion and control are known to often be present within abusive relationships.
<b>Organisational abuse</b>	Neglect and poor care practice within a care setting such as a hospital or care home or in relation to care provided in someone's own home ranging from one off incidents to on-going ill-treatment. It can be neglect or poor practice as a result of the structure, policies, processes, or practices.
<b>Modern slavery</b>	Encompassing slavery, human trafficking, forced labour and domestic servitude. Traffickers and slave masters use whatever means they have at their disposal to coerce, deceive, and force individuals into a life of abuse, servitude, and inhumane treatment.
<b>Self-Neglect</b>	Covers a wide range of behaviour including neglecting to care for one's personal hygiene, health or surroundings and behaviour such as hoarding
<b>FGM, Forced Marriage</b>	<p>Female genital mutilation (FGM) is a procedure where the female genitals are deliberately cut, injured or changed, but there's no medical reason for this to be done.</p> <p>A forced marriage is where one or both people do not or cannot consent to the marriage, and pressure or abuse is used to force them into marriage</p>

## Mental Capacity

Consideration of 'capacity' and 'consent' are central to adult safeguarding. The Mental Capacity Act, its principles and guidance should be applied throughout everyday Safeguarding practice.

There should always be a presumption that the adult has capacity to make decisions unless there is evidence to suggest otherwise.

However, there are some circumstances when it may be necessary to consider the protection and rights of others and to override the withholding of consent to ensure the protection of the Adult and/or others. An adult has the right to choose to remain in a situation where they risk being harmed or where they choose to take risks.

Hampshire County Council has an innovative way of consolidating this; [mental capacity toolkit](#)

Capacity should be considered within the framework of the Mental Capacity Act Guidance. (This consideration has to be specific to the nature of the safeguarding concern and risk(s). The five statutory principles form the basis of an assessment of mental capacity:

- A person must be *assumed to have capacity* unless it is established that they lack capacity.
- A person is not to be treated as unable to make a decision unless *all practicable steps* to help him to do so have been taken without success.
- A person is not to be treated as unable to make a decision merely because he makes an *unwise decision*.
- An act done, or decision made, under this Act for or on behalf of a person who lacks capacity must be done, or made, in his *best interests*.
- Before the act is done, or the decision is made, regard must be had to whether the purpose for which it is needed can be as effectively achieved in a way that *is less restrictive* of the person's rights and freedom of action.

If an adult lacks capacity to understand the risk of harm and to make a decision about how this should be managed, then their advocate/ representative(s)/Lasting Power of Attorney should be consulted in order to make a best interest decision.

It is important to remember that the Local Authority has a duty under S11 of the Care Act 2014 to still respond to safeguarding concerns where there is reasonable cause to think that the adult lacks capacity to make a decision about a referral to the LA or where there are concerns that the adult is at risk of or experiencing abuse or neglect. The referrer needs to consider, where the adult is not wanting action to be taken, or where the adult may lack capacity to make that decision whether a referral is in their best interests. The possibility of coercion or undue influence towards the Adult should also be considered.

### **Sharing Information (Duty of confidentiality and when you might breach this duty).**

The Data Protection Act 2018 and the General Data Protection Regulations of 2018 permit information to be shared in a situation of 'vital interest', where it is critical to prevent serious harm or distress or where someone's life is threatened.

However, if the only adult who would suffer if the information is not shared is the subject of that information, and they have mental capacity to make a decision about it, then sharing it may not be justified.

If someone's decision is having a harmful impact on their own safety and wellbeing, you should discuss this with a colleague, manager or your organisations safeguarding lead and seek advice about what options may be available.

The referrer needs to consider, where the adult is not wanting action to be taken, or where the adult may lack capacity to make that decision whether a referral is in their best interests.

## Risk and Seriousness

These factors should be considered in making judgements about a safeguarding concern:

- The specific type/area of vulnerability of the adult at risk
- Seriousness of the risk of or actual abuse
- Patterns of abuse
- Impact of the abuse on the adult at risk
- Impact on others
- Intent of the person causing the harm
- Illegality of actions
- Risk of repeated abuse to the adult at risk
- Risk of repeated abuse on others

## In emergency

In all situations when a crime has been or is about to be committed, the person raising the concern should call 999 or the local police. An emergency is defined as:

- a situation where life and limb are at risk
- a situation when an unknown suspect / alleged perpetrator might escape
- a need to preserve forensic evidence and

If there is any doubt about whether there is an emergency, seek police advice.

## Risk Management

The Multi Agency Risk Management, MARM framework is a useful 4LSAB tool that can be utilised where there are high levels of risk, but where the concerns do not trigger a statutory Safeguarding Enquiry. This approach will facilitate multi-agency working with adults deemed

to have mental capacity, but who may not have care and support needs, and who are at risk of harm.

This framework will also be helpful in situations where there are concerns about self-neglect or hoarding and where usual responses by agencies or organisations are unable to mitigate against the risks and where the risks are unmanageable.

Any professional or worker can set up and lead a MARM; there is no need to make a referral to the Council.

### **What other ways are there to respond to concerns of abuse and neglect of an adult who does not have care and support needs?**

Partner Agencies are facing the challenge of supporting people who are at risk of abuse, but who do not have care and support needs and may be unsure of where to go next. There are agencies and organisations that can help, even if a safeguarding enquiry duty is not met.

These include:

- Police
- Trading standards
- Domestic abuse services
- The National Referral Mechanism for victims of modern slavery
- Community and voluntary sector organisations
- Organisations complaints procedures

### **In Southampton safeguarding concerns should be reported to:**

Southampton	Email: <a href="mailto:adultsocialcareconnect@southampton.gov.uk">mailto:adultsocialcareconnect@southampton.gov.uk</a> Telephone: 023 8083 3003 or the police on 101. <a href="#">Southampton City Council Adult Services Safeguarding Referral Form</a>
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You can seek advice about a potential referral from the Council's Professional Helpline.

Phone 023 8083 4307, or send an email to the ASCC address above, to ask to be contacted

**Date - December 2020**

**To be Reviewed – December 2022**