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Foreword

This policy, guidance and toolkit was first published in May 2015 by the Local Safeguarding Adults Boards (4LSAB) covering Hampshire and the Isle of Wight (including Portsmouth and Southampton) to meet the requirements of the Care Act 2014 and the Department of Health Statutory Guidance published in October 2014. This 2nd edition of the policy reflects the changes introduced in the revised Care Act 2014 statutory guidance published in 2016 as well as other legislative changes. It is designed to support current good practice in adult safeguarding and outlines the arrangements which apply to the whole of the 4LSAB area. Local guidance, specific to each Local Authority area, will be provided separately. The whole document will inform all those who have a role to play in adult safeguarding and each section can be used either as part of the whole document or independently.

The document is divided into FOUR sections

Section 1: Multi-Agency Safeguarding Policy

This section outlines the multi-agency policy for all partners to use in order to meet their responsibilities to keep adults with needs of care and support safe from abuse, neglect and exploitation. This section sets out the expectations and underlying principles regarding the implementation of this policy.

Section 2: Guidance on Statutory Safeguarding Enquiries

This section provides guidance on the new legal safeguarding duties arising from the Care Act 2014 and clarifies the roles and responsibilities of staff and managers in all agencies who have responsibilities to support adults with needs of care support who are at risk of abuse or neglect. This section also provides guidance on undertaking ‘section 42’ safeguarding enquiries as described in the Care Act 2014.

Section 3: PAN Hampshire and Isle of Wight Practice Tools

This section is composed of PAN Hampshire and Isle of Wight practice tools agreed by the 4LSAB. It provides information and strategies on good practice in adult safeguarding and the shared approach adopted by services to promote consistency across the area.

Section 4: National Policy Context
This section provides an overview and links to the current legal and national policy context for adult safeguarding.
Introduction

Living a life that is free from harm and abuse is a fundamental right of every person. When abuse or neglect does occur, it needs to be dealt with swiftly, effectively and in ways that are proportionate to the concerns raised. In addition, the person must be at the centre of any safeguarding response and must stay as much in control of decision making as possible. The right of the individual to be heard throughout the process is a critical element in the drive to ensure more personalised care and support.

The Care Act 2014 creates a new legal framework for how Local Authorities and other parts of the system should work together to protect adults at risk of abuse or neglect. Partners must agree how they will work together and the roles they will play, to keep adults at risk safe. This policy, guidance and toolkit outlines the local response to this requirement.

In Hampshire and the Isle of Wight, the main statutory agencies - Local Authorities, Police and NHS organisations – are committed to working together to both promote safer communities in order to prevent harm and abuse and to deal with suspected or actual cases effectively. It is our belief that people at risk are best protected when procedures between statutory agencies are consistent across the whole of Hampshire and the Isle of Wight.

All staff, whatever the setting they work in have a key role in preventing harm or abuse occurring and for taking action when concerns arise. The policy and processes set out here are designed to explain simply and clearly how agencies and individuals should work together to protect people at risk. The target audience for this document is therefore, professionals and front-line workers (including unqualified staff and volunteers).
The Care Act 2014 signifies a shift from existing duties on Local Authorities to provide particular services, to the concept of ‘meeting needs’. In the Care Act 2014, adult safeguarding is established as a core function of the Local Authority care and support system. Chapter 14 of the Act introduces a new statutory framework for adult safeguarding which replaces the previous No Secrets Guidance issued in 2000.

1. Underpinning principles

The Care Act 2014 statutory guidance outlines a number of fundamental principles that must now underpin the care and support system including adult safeguarding. It also sets common expectations for how Local Authorities should approach and engage with people when assessing need and providing support as explained below:

• The principle of promoting wellbeing applies in all cases where a Local Authority is carrying out a care and support function, or making a decision, in relation to a person, including the support provided in the context of adult safeguarding.

• The duty to promote wellbeing applies equally to those who do not have eligible needs but come into contact with the system in some other way (for example, via an assessment that does not lead to ongoing care and support) as it does to those who go on to receive care and support, and have an ongoing relationship with the Local Authority.

• People must be supported to achieve the outcomes that matter to them in their life with practitioners focusing on the needs and goals of the person concerned.

• The importance of beginning with the assumption that the individual is best placed to make judgments about their own wellbeing. Building on the principles of the Mental Capacity Act 2005, practitioners should assume that the person themselves knows what is in their best interests in relation to outcomes, goals and wellbeing.

• Consideration of the person’s views and wishes is critical to a person centred system. Where particular views, feelings or beliefs (including religious beliefs) impact on the choices that a person may wish to make about their support, these should be taken into account. This is especially important where a person has expressed views in the past, but no longer has capacity to make decisions for themselves.

• The importance of a preventive approach because wellbeing cannot be achieved through crisis management. By providing effective intervention at the right time, risk factors may be prevented from escalating.
• The importance of the individual participating as fully as possible in decisions about them and being given the information and support necessary to consider options and make decisions rather than decisions being made from which the person is excluded.

• Promoting participation by providing support that is co-produced with individuals, families, friends, carers and the community. ‘Co-production’ is when an individual influences the support and services received, or when groups of people get together to influence the way that services are designed, commissioned and delivered. This approach promotes resilience of individuals and helps to develop self reliance and independence, as well as ensuring that services reflect what the people who use them want.

• The importance of considering a person in the context of their family and wider support networks, taking into account the impact of an individual’s need on those who support them, and take steps to help others access information or support.

• The need to protect people from abuse and neglect. In carrying out any care and support functions the Local Authority and its partner agencies should consider how to ensure that the person is and remains protected from abuse or neglect. This is not confined only to safeguarding issues, but should be a general principle applied in every case.

• The need to ensure that any restriction on the individual’s rights or freedom of action is kept to the minimum necessary. Where action has to be taken which places restrictions on rights or freedoms, the course followed must be the least restrictive necessary.

2. Statutory safeguarding duties

Clauses 42 – 45 of the Care Act 2014 constitute the statutory adult safeguarding framework in which Local Authorities are required to:

Lead a multi-agency local adult safeguarding system that seeks to prevent abuse and neglect and stop it quickly when it happens

Make enquiries, or request others to make them when they think an adult with care and support needs may be at risk of abuse or neglect and they need to find out what action may be needed

Establish Safeguarding Adults Boards with the Local Authority, NHS and Police as core members and develop, share and implement a joint safeguarding strategy

Carry out a Safeguarding Adult Review when someone with care and support needs dies as a result of neglect or abuse and there is a concern that the Local Authority or its partners could have done more to protect them

Arrange for an independent advocate to represent and support a person who is the subject of a safeguarding enquiry or review, if required.

The Care Act 2014 creates new duties of co-operation between partners and also establishes the importance of organisations sharing vital information related to abuse or neglect with the Local Safeguarding Adult Board. The revised statutory guidance (March 2016) removes the role of Designated Safeguarding Adult Manager (DASM) and replaces this with requirements around the management of allegations against people in a position of trust.
The new statutory adult safeguarding framework requires a fundamental shift in approach to supporting adults at risk. Implementation cannot be achieved through a 'business as usual' stance. This policy, guidance and toolkit is designed to support partner organisations and their staff to make the shift in culture and practice necessary to achieve the vision of the Care Act 2014 for adult safeguarding in which:

- Safeguarding is the responsibility of all agencies
- A whole system approach is developed
- Safeguarding responses are proportionate, transparent and outcome focused
- The adult’s wishes are at the centre of safeguarding enquiries and these drive the process
- There is an emphasis on prevention and early intervention
- People are supported in their recovery from abuse or neglect.

3. Information and advice

Chapter 14 of the Care Act 2014 places a duty on Local Safeguarding Adults Boards to provide general information to support public knowledge and awareness of adult safeguarding. This includes information on how the Board works, the different types of abuse and neglect, how to keep physically, sexually, financially and emotionally safe and how to support people to keep safe. Local Safeguarding Adult Boards and their member organisations must also provide accessible information and advice on how to raise concerns about the safety or wellbeing of an adult who has needs for care and support and what will happen when such concerns are raised.

4. Advocacy

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 mental capacity. A person lacking capacity is able to access advocacy via existing provisions under the Mental Capacity Act 2005 in the form of Independent Mental Capacity Advocates (IMCAs). For people subject to the Mental Health Act 1983 advocacy support is available via Independent Mental Health Advocates (IMHAs).

5. Prevention

Prevention is critical to the vision of the Care Act 2014. The care and support system must work actively together to promote wellbeing and independence rather than waiting to respond once a person has reached a crisis point. Early intervention and support can help people to retain or regain their skills and confidence and to prevent or delay a deterioration in needs. This approach applies equally to adult safeguarding. Prevention is one of the core principles of the local multi-agency adult safeguarding policy and to support practice in this area, a practice guide has been included in Section 3 of this document.

This guidance highlights a number of essential building blocks for prevention and early intervention in adult safeguarding including:
A well trained workforce operating in a culture of zero tolerance of abuse

- People being informed of their rights to be free from abuse and supported to exercise these rights, including access to advocacy
- A sound framework for confidentiality and information sharing across agencies
- Access to good universal services, such as community safety services
- Needs and risk assessments to inform people’s choices
- Safeguarding involves achieving a balance between protecting people and preserving their right to make decisions for themselves
- Availability of a range of options for support to keep safe from abuse tailored to people’s individual needs
- Public and community awareness of the issue
- Links with other strategic plans and forums to ensure a joined up approach.

Whilst Chapter 14 of the statutory guidance relates specifically to adult safeguarding, there are also other chapters of the statutory guidance which have implications for adult safeguarding and these are listed in the table below. A link to the Care Act 2014 statutory guidance can be found in Section 4 of this Policy and Guidance.

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6. Six principles of adult safeguarding
In May 2013, the Department of Health published the government’s policy on adult safeguarding. This outlines six key principles for use by Local Safeguarding Adult Boards and member agencies for both developing and assessing the effectiveness of their local safeguarding arrangements. These describe in broad terms, the outcomes for adult safeguarding, for both individuals and organisations. We will also use the six principles to benchmark existing adult safeguarding arrangements. To view the full document, please use the link provided in Section 4. The following principles have also been incorporated into the Care Act 2014 statutory guidance and should inform safeguarding practice at the local level:

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<th>Outcome for adult at risk</th>
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<td>Presumption of person led decisions and informed consent</td>
<td>“I am asked what I want as the outcomes from the safeguarding process and these directly inform what happens.”</td>
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<td>Prevention</td>
<td>It is better to take action before harm occurs</td>
<td>“I receive clear and simple information about what abuse is, how to recognise the signs and what I can do to seek help.”</td>
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<td>Proportionality</td>
<td>Proportionate and least intrusive responses appropriate to the risk presented</td>
<td>“I am sure that the professionals will work for my best interests, as I see them and will only get involved as much as needed.” “I understand the role of everyone involved in my life.”</td>
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<td>Protection</td>
<td>Support and representation for those in greatest need</td>
<td>“I get help and support to report abuse. I get help to take part in the safeguarding process to the extent to which I want and to which I am able”</td>
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<td>Partnership</td>
<td>Local solutions through services working with their communities. Communities have a part to play in preventing, detecting and reporting neglect and abuse</td>
<td>“I know that staff will treat any personal and sensitive information in confidence, only sharing what is helpful and necessary. I am confident that professionals will work together to get the best result for me.”</td>
</tr>
<tr>
<td>Accountability</td>
<td>Accountability and transparency in delivering safeguarding.</td>
<td>“I understand the role of everyone involved in my life.”</td>
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7. Mental capacity, consent and best interests

People must be assumed to have capacity to make their own decisions and be given all practicable help before they are considered not to be able to make their own decisions. Where an adult is found to lack capacity to make a decision then any action taken, or any decision made for, or on their behalf, must be made in their best interests. Professionals and other staff have a responsibility to ensure they understand and always work in line with the Mental Capacity Act 2005. In all safeguarding activity due regard must be given to the Mental Capacity Act 2005. In all cases where a person has been assessed to lack capacity to
make a decision, a best interest’s decision must be made. Even when a person is assessed as lacking capacity, they must still be encouraged to participate in the safeguarding process.

8. Whose business is safeguarding?

The Care Act 2014 establishes that safeguarding is everybody’s business with Local Authority, Police and NHS partners playing a key role in preventing, detecting, reporting and responding to abuse, neglect or exploitation. Partners must find ways of helping people protect themselves and ways of protecting those least able to protect themselves.

Safeguarding ourselves from harm and knowing what we can do if we are experiencing harm is every adult’s responsibility. Adults have fundamental rights to determine how they want to live their lives, so we need to strike a balance which supports an individual’s right to make choices and be independent, while providing specialist support when this is needed.

Safeguarding must be built on empowerment so that it does not detract from other principles, such as self determination and the right to family life. Sometimes people want help to consider the options, information and support available to them, in order to retain control and to make their own choices; a wide range of agencies and organisations have a role to play in considering or providing options and supporting choices.

Mechanisms and safeguards against poor practice, abuse, neglect and exploitation need to be an integral part in the delivery of care and support, as well as commissioning and awarding contracts and monitoring arrangements for services providing care. Any person at risk of abuse, neglect or exploitation should be able to get in touch with public organisations for support and to know that agencies will work together as needed.

The 4LSAB are statutory, multi-agency partnerships providing strategic leadership for adult safeguarding across their area. They have a critical role to play in terms of providing the strategic leadership and management of safeguarding across partner organisations and to work to ensure relevant agencies work together effectively to safeguard and promote the safety and well being of adults at risk at the local level and to hold local agencies to account. The 4LSAB also have a key role in promoting awareness and understanding of abuse and neglect and to work to generate community interest and engagement in safeguarding to ensure “Safeguarding is Everyone’s Business”.

In terms of accountability, Safeguarding Adult Boards are required to produce a Safeguarding Plan setting out priorities for the coming year and to publish an Annual Report outlining progress against its objectives and highlighting on-going or new areas of focus for the coming year. Guidance has been developed outlining the multi-agency roles and responsibilities for adult safeguarding which can be found in Section 3 of this policy, guidance and toolkit.

At a practice level, adult safeguarding work covers a wide range of activities and actions taken by a large number of people. Adult safeguarding is concerned with those people who due to their circumstances would be defined as people ‘with needs of care and support’ who are experiencing or who are at risk of abuse, neglect or exploitation. The Care Act 2014 requires 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 abuse or neglect. The purpose of the 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.

The statutory safeguarding duty (section 42 enquiry) applies when a person with care and support needs (whether or not ordinarily resident in the Local Authority area or whether the Local Authority is meeting any of those needs) is experiencing or is at risk of abuse or neglect, and as a result of those needs, is unable to protect him/herself. Whilst the Local Authority is responsible for leading the safeguarding response, Police and NHS practitioners are legally bound to engage in this process.
9. Making Safeguarding Personal

Making Safeguarding Personal (MSP) is about responding in safeguarding situations in a way that enhances involvement, choice and control as well as improving quality of life, wellbeing and safety. It is about seeing people as experts in their own lives and working alongside them with the aim of enabling them to resolve their circumstances and support their recovery. MSP is also about collecting information about the extent to which this shift has a positive impact on people’s lives. It is a shift from a process supported by conversations to a series of conversations supported by a process.

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

(Care Act 2014, Statutory Guidance, Department of Health)

Taking a more creative approach when responding to safeguarding situations may help to resolve them more satisfactorily by helping the person achieve the outcomes they want. The MSP Toolkit (4th Edition, Local Government Association, 2015) located in Part 3 of this document, is designed to provide a resource for practitioners to develop a portfolio of responses they can offer to people who have experienced harm and abuse so that they are empowered and their outcomes are improved.
10. Aims of the policy

This policy represents the commitment of local organisations to work together to safeguard adults. Each local partnership is committed to adopting this policy so that there is a consistent framework across Hampshire and the Isle of Wight to how adults are safeguarded from abuse, neglect and exploitation. This policy aims to make sure that each adult is supported to maintain:

- Wellbeing
- Choice and control
- Safety
- Good health
- Good quality of life
- Dignity and respect

and ensures that:

- The human rights of the person at risk who is experiencing, or who is at risk of, abuse, neglect or exploitation, are respected and upheld
- The needs and interests of the person at risk are always respected and upheld
- A proportionate, timely, professional and ethical response is made
- All decisions and actions are taken in line with the statutory guidance relating to the Care Act 2014 Mental Capacity Act 2005.

Agencies work together as partners to support adults with needs of care support to live safely in their communities, to access mainstream services and specialist services to keep themselves safe from abuse, neglect and exploitation, and to ensure access to criminal justice, victim support services and any therapeutic services needed to support the person to recover from the abuse.
11. Person led safeguarding

This policy adopts the principle of ‘no decision about me without me’ and means that the adult, their families and carers are working together with agencies to find the right solutions to keep the person safe and to support them in making informed choices.

A person led approach leads to services which are: person centred and focused on the outcomes identified by the individual; planned, commissioned and delivered in a joined up way between organisations; responsive and which can be changed when required.

Personalised care and support is for everyone, but some people will need more support than others to make choices and manage risks. Making risks clear and understood is crucial to empowering and safeguarding adults and in recognising people as ‘experts in their own lives’. A person led approach is supported by personalised information and advice and where needed, access to advocacy support.

12. Partnerships

The 4LSAB will lead work to ensure that all agencies and organisations with responsibilities to support adults at risk will:

• Develop a culture that does not tolerate abuse, neglect and exploitation
• Raise public and community awareness about adult safeguarding
• Prevent abuse, neglect and exploitation from happening wherever possible
• Explicitly include service users as a key partner in all aspects of safeguarding work - this will include having service users on respective Boards, inclusion in the development and implementation of work plans, quality assurance processes and training strategies
• Implement the Making Safeguarding Personal Approach
• Enable service users to access the information, advice and support they need, including advocacy
• Support people in their recovery from abuse, neglect or exploitation.

13. Openness and transparency

All organisations have a responsibility to ensure that they foster a culture which enables transparency, the reporting of concerns and whistleblowing. It is expected that individual local agency policies will be followed and referred to in the first instance and that this multi-agency policy provides further guidance.
14. Aims of safeguarding

The aims of the safeguarding process are to:

- Stop abuse or neglect wherever possible
- Prevent harm and reduce the risk of abuse or neglect to adults with care and support needs
- Safeguard adults in a way that supports them to make choices and have control over their lives
- Promote an approach that concentrates on improving life for the adults concerned
- Raise public awareness so that communities as a whole, alongside professionals, play their part in preventing, identifying and responding to abuse and neglect
- Provide accessible information and support to help people understand the different types of abuse, how to stay safe and what to do to raise a concern about the safety or well-being of an adult
- Address what has caused the abuse or neglect
- Support the recovery from the abuse or neglect.

Safeguarding is NOT a substitute for:

- Providers’ responsibilities to provide safe and high quality care and support
- Commissioners regularly assuring themselves of the safety and effectiveness of commissioned services
- Effective clinical and care governance processes
- Regulators ensuring that regulated providers comply with the expected standards of care and taking enforcement action where necessary
- Core duties of the Police and other agencies to prevent and detect crime and protect life and property.
15. Whole system approach to safeguarding

This policy, guidance and toolkit promotes a ‘whole system’ approach to adult safeguarding and recognises that there are different levels of safeguarding work which are often carried out on a day to day basis as part of an organisation’s core business. The safeguarding arrangements are designed to provide a broad spectrum of responses in which safeguarding concerns are responded to in the most proportionate and least intrusive way and informed by the wishes of the adult at risk. The safeguarding process should provide a gateway to the mainstream community safety and crime prevention measures available to the rest of the community.

The multi-agency safeguarding process should be carried out in direct response to individuals experiencing abuse or neglect and where other approaches have not been able to resolve the presenting risks. In this context, multi-agency safeguarding arrangements are the exception rather than the norm and are used to respond to the critical few cases that cannot be resolved by other means or where the risks are very high. The aim of this policy, guidance and toolkit therefore, is to engage the organisation or body with the relevant responsibility and expertise to lead the safeguarding response and by doing so, put into practice the maxim that ‘safeguarding is everybody’s business’. Wherever possible, the adult should be supported to recognise risks and to manage them. Safeguarding support should empower the adult as far as possible to make choices and to develop their own capability to respond to them. The following diagrams illustrate the building blocks of the whole system approach:
16. Whole system approach to adult safeguarding (diagram)

- Signposting to other services (anti-social behaviour, hate crime, domestic abuse, fire safety, human trafficking, HBV, PREVENT)
- Needs assessment and support planning, risk assessment and early intervention, Multi agency risk management
- Information and advice
- Wellbeing and prevention
- Concerns about people who lack capacity, Court of Protection, Office of the Public Guardian
- Poor quality care, Commissioning, contract monitoring, quality improvement, contract compliance, internal governance
- Misconduct by staff, Capability procedures, supervision, training, disciplinary processes, HR investigations, DBS and/or fitness to practice referrals
- Unsafe, abusive care and non-compliance with regulatory standards
- Care Quality Commission and other regulators
- Criminal justice process, Police, Probation
- Multi agency safeguarding process, Local authority led

Adult at Risk
17. Approaches to prevention and early intervention

This table outlines some of the approaches that professionals can use to promote wellbeing and prevention:

| Prevention                                                                 | Ways to improve everyone’s general wellbeing, to help communities ‘look out for each other’ and help the public (and the full range of professionals and volunteers) know what to do if they think that someone may be experiencing abuse, neglect or exploitation. For example:  
| • Providing universal access to good quality information  
| • Supporting safer neighbourhoods  
| • Actively addressing hate crime or anti-social behaviour  
| • Promoting healthy and active lifestyles  
| • Reducing loneliness or isolation  
| • Encouraging early discussions in families about potential future changes  
| • Conversations about care arrangements if a family member becomes ill  
| • Information about the role of the Court of Protection. |
| Early Intervention                                                      | Taking action to identify people at risk and to support them to protect themselves when they are at risk of, or experiencing, abuse, neglect or exploitation and finding ways of helping people manage risk and access mainstream services. For example:  
| • Identifying vulnerability factors and potential risks in needs assessment  
| • Addressing these risks in the support planning process  
| • Support plans to reduce loneliness or isolation  
| • Personalised information and advice  
| • Facilitating access to advocacy  
| • Signposting people to the right services to help them. |
| Specific Safeguarding Responses                                       | Ensuring that where a person is or may be experiencing abuse, neglect or exploitation and are unable to protect themselves they are supported to resolve their situation through the section 42 safeguarding enquiry process:  
| • Ensuring the person’s wishes and outcomes drive the process  
| • Access to mainstream community safety services and criminal justice  
| • Supporting the person on their recovery from the abuse or neglect  
| • Access to personalised information and advocacy support. |
18. Definition of abuse

Safeguarding means protecting an adult’s right to live in safety, free from abuse and neglect. It is about people and organisations working together to prevent and stop both the risks and experience of abuse or neglect, while at the same time making sure that the adult’s wellbeing is promoted. This must recognise that adults sometimes have complex interpersonal relationships and may be ambivalent, unclear or unrealistic about their personal circumstances.

Organisations should always promote the adult’s wellbeing in their safeguarding arrangements. People have complex lives and being safe is only one of the things they want for themselves. Professionals should work with the adult to establish what being safe means to them and how that can be best achieved. Professionals and other staff should not be advocating “safety” measures that do not take account of individual well-being, as defined in Section 1 of the Care Act 2014.

Abuse of a person at risk may consist of a single act or repeated acts affecting more than one person.

It may occur as a result of a failure to undertake action or appropriate care tasks.

It may be an act of neglect or an omission to act, or it may occur where a vulnerable person is persuaded to enter into a financial or sexual transaction to which they do not, or cannot, consent.

Abuse can occur in any relationship and any setting and may result in harm to or exploitation of, the individual.

In many cases abuse may be a criminal offence.

Intent is not an issue at the point of deciding whether an act or a failure to act is abuse; it is the impact of the act on the person and the harm or risk of harm to that individual.

Professionals and others need to look beyond single incidents or individuals to identify patterns of harm. Repeated instances of poor care may be an indication of more serious problems and of what we now describe as organisational abuse. In order to see these patterns it is important that information is recorded and appropriately shared. Patterns of abuse vary and include:

- Serial abusing in which the perpetrator seeks out and ‘grooms’ individuals. Sexual abuse sometimes falls into this pattern as do some forms of financial abuse;
- Long term abuse in the context of an ongoing family relationship such as domestic violence between spouses or generations or persistent psychological abuse; or
- Opportunistic abuse such as theft occurring because money or jewellery has been left lying around.
### 19. Types of abuse and neglect

Abuse can be something that is done, or omitted from being done.

<table>
<thead>
<tr>
<th>Types of abuse</th>
<th>Behaviours include</th>
</tr>
</thead>
<tbody>
<tr>
<td>Physical</td>
<td>Hitting, slapping, pushing, kicking, misuse of medication, restraint or inappropriate sanctions.</td>
</tr>
<tr>
<td>Sexual</td>
<td>Rape, indecent exposure, sexual harassment, inappropriate looking or touching, sexual teasing or innuendo, sexual photography, subjection to pornography or witnessing sexual acts, indecent exposure and sexual assault or sexual acts to which the adult has not consented or was pressured into consenting.</td>
</tr>
<tr>
<td>Psychological</td>
<td>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.</td>
</tr>
<tr>
<td>Financial or material</td>
<td>Theft, fraud, exploitation, pressure in connection with wills, property, inheritance or financial transactions, or the misuse or misappropriation of property, possessions or benefits.</td>
</tr>
<tr>
<td>Neglect and acts of omission</td>
<td>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.</td>
</tr>
<tr>
<td>Discriminatory</td>
<td>Racism, sexism or acts based on a person’s disability, age or sexual orientation. It also includes other forms of harassment, slurs or similar treatment such as disability hate crime.</td>
</tr>
<tr>
<td>Domestic abuse</td>
<td>Psychological, physical, sexual, financial, emotional abuse and so called ‘honour’ based violence.</td>
</tr>
</tbody>
</table>
## Types of abuse

<table>
<thead>
<tr>
<th>Types of abuse</th>
<th>Behaviours include</th>
</tr>
</thead>
<tbody>
<tr>
<td>Organisational abuse</td>
<td>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 and practices within a care setting.</td>
</tr>
<tr>
<td>Modern slavery</td>
<td>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.</td>
</tr>
<tr>
<td>Self-Neglect</td>
<td>Covers a wide range of behaviour including neglecting to care for one’s personal hygiene, health or surroundings and behaviour such as hoarding.</td>
</tr>
</tbody>
</table>

### 20. Contexts in which abuse and neglect may occur

Abuse and crimes against adults may occur in different contexts. Actual or suspected abuse of persons at risk in any of the contexts set out below will trigger a safeguarding response in accordance with this policy.

**Hate crime** is defined as any crime that is perceived by the victim, or any other person, to be racist, homophobic, transphobic or due to a person’s religion, belief, gender identity or disability. It should be noted that this definition is based on the perception of the victim or anyone else and is not reliant on evidence.

**Mate crime** happens when someone is faking a friendship in order to take advantage of a vulnerable person. Mate crime is committed by someone known to the person. They might have known them for a long time or met recently. A ‘mate’ may be a ‘friend’, family member, supporter, paid staff or another person with a disability.

**Domestic abuse** is defined as any incident or pattern of incidents of controlling, coercive or threatening behaviour, violence or abuse between those aged 16 or over who are or have been intimate partners or family members regardless of gender or sexuality. This can encompass, but is not limited to, the following types of abuse: Psychological, Physical, Sexual, Financial and Emotional.

Controlling behaviour is a range of acts designed to make a person subordinate and/or dependent by isolating them from sources of support, exploiting their resources and capacities for personal gain, depriving them of the means needed for independence, resistance and escape and regulating their everyday behaviour. Coercive behaviour is: an act or a pattern of acts of assault, threats, humiliation and intimidation or other abuse that is used to harm, punish, or frighten their victim.” Family members are defined as mother, father, son, daughter, brother, sister and grandparents, whether directly related, in-laws or step-family (Association of Chief Police Officers 2004). If one or both adults (including 16-17 year
olds) involved can be regarded as an adult(s) at risk, then the safeguarding procedures should be used. If a person at risk is not involved, then these guidelines will not normally apply. The Local Government Association has published national guidance on Domestic Abuse and Adult Safeguarding (2nd Edition, 2015) which can be accessed via the link provided in Section 3 of this Policy and Guidance. A new criminal offence was introduced into the Serious Crimes Act 2015 on the 29th December 2015 of ‘Controlling or Coercive Behaviour in an intimate or family relationship’, which complements existing legislation and closes the gap in law around patterns of controlling or coercive behaviour.

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

**Forced marriage** is a term used to describe a marriage in which one or both of the parties are married without their consent or against their will. A forced marriage differs from an arranged marriage, in which both parties consent to the assistance of their parents or a third party in identifying a spouse. Forced marriage can be a particular risk for people with learning difficulties and people lacking capacity.

**Female genital mutilation (FGM)** involves procedures that include the partial or total removal of the external female genital organs for cultural or other non-therapeutic reasons. The practice is medically unnecessary, extremely painful and has serious health consequences, both at the time when the mutilation is carried out and in later life. The age at which girls undergo FGM varies enormously according to the community. The procedure may be carried out when the girl is new born, during childhood or adolescence, just before marriage or during the first pregnancy. FGM constitutes a form of child abuse and violence against women and girls, and has severe physical and psychological consequences. In England, Wales and Northern Ireland, the practice is illegal under the *Female Genital Mutilation Act 2003*. Local multi-agency guidance on honour based violence, forced marriage and FGM has been developed and can be accessed via the link provided in Section 3 of this Policy Framework.

**Modern Slavery** includes human trafficking, slavery, servitude ad forced and compulsory labour. The Modern Slavery Act 2015 became law on 26 March 2015 and is designed to tackle slavery in the UK and consolidates previous offences relating to trafficking and slavery. Human trafficking is defined as the recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation. Guidance on modern slavery and human trafficking can be found in section 3 of this Policy Framework.

**Exploitation by radicalisers who promote violence** involves the exploitation of susceptible people in order to draw them into violent extremism. In July 2015, the Counter Terrorism and Security Act 2015 came into force creating a statutory duty on public bodies to have due regard to the need to prevent people from being drawn into terrorism. The Counter Terrorism and Security Act 2015 makes the ‘Channel Panel’ a legal requirement. ‘Channel’ is a multi-agency safeguarding programme providing tailored support to people who have been identified as at risk of being drawn into terrorism. The support offered can come from any of the partners on the Panel which includes the local authority, police, education and health...
providers. The person’s engagement in the programme is voluntary at all stages. Guidance on ‘Prevent’ can be found in section 3 of this Policy Framework.

**Carers at risk of harm from the person to whom they are providing care and support** - carers experiencing abuse by the person they offer care to can expect the same response as any person at risk of abuse. Carers also have a legal right to an assessment of their needs. A carer’s assessment should be seen as part of the overall assessment process. Sometimes both the carer and the supported person may be at risk of harm. The needs of the person at risk who is the alleged subject of abuse should be addressed separately from the needs of the person alleged to be causing the harm.

**Carers who cause harm** - the vast majority of carers strive to act in the best interests of the person they support. Occasionally however, carers may cause intentional or unintentional harm. Unintentional harm may be due to lack of knowledge, or due to the fact that the carer’s own physical or emotional needs make them unable to care adequately for their relative. The carer may also have their own needs care and support. In this situation, the aim of any safeguarding response will be to support the carer to provide support and help to make changes in order to decrease the risk of further harm to the person they are caring for.

**Abuse of trust** - a relationship of trust is one in which one person is in a position of power or influence over the other person because of their work or the nature of their activity. There is a particular concern when abuse is caused by the actions or omissions of someone who is in a position of power or authority and who uses their position to the detriment of the health and well-being of a person at risk, who in many cases could be dependent on their care. There is always a power imbalance in a relationship of trust.

**Safeguarding concerns between people with needs of care and support** – abuse can happen between adults at risk and organisations supporting these individuals have a responsibility to protect them from abuse as well as preventing them from causing harm to other adults. It is important the needs of the adult causing the harm are taken into consideration in the safeguarding responses for both parties.

**Personal budgets, direct payments and self-directed care** - people who direct their own care and support should be enabled to manage their personal budgets and direct payments in a safe way. A culture that promotes positive risk taking, based on appropriate person centred polices, supports this approach and seeks to enable and empower individuals.

**Scamming** - Scams are misleading or fraudulent offers designed to con people out of money. They may be received by post, email, telephone, text or face to face. They target millions of people, not just older or vulnerable people. These scams are becoming ever more sophisticated and elaborate. For example:

- Internet scammers can build very convincing websites
- People can be referred to a website to check the caller’s legitimacy but this may be a copy of a legitimate website
- Postal scams are massed-produced letters which are made to look like personal letters or important documents

Often fraudsters will target lonely people on the telephone. They will groom their victims and persuade them to part with money for fake shares etc. They will often pretend to be calling from the victim’s bank and get them to provide their bank account details over the telephone.
Doorstep criminals call unannounced at the adult’s home under the guise of legitimate business and offering to fix an often non-existent problem with their property. Sometimes they pose as police officers or someone in a position of authority.

In all cases this is financial abuse and the adult at risk can be persuaded to part with large sums of money and in some cases their life savings. These instances should always be reported to the local police service, Action Fraud and local authority Trading Standards Services for investigation.

These scams and crimes can seriously affect the health, including mental health, of an adult at risk. By working together, agencies can better protect adults at risk. Failure to do so can result in an increased cost to the state, especially if the adult at risk loses their income and independence.

21. Harm

In determining what justifies intervention and what sort of intervention is required the 4LSAB framework uses the concept of the harm caused. This refers to:

- Ill treatment (including sexual abuse and forms of ill treatment which are not physical)
- The impairment of, or an avoidable deterioration in, physical or mental health and/or
- The impairment of physical, intellectual, emotional, social or behavioural development.

The importance of this definition is that in deciding what action to take, consideration must be given not only to the immediate impact on and risk to the person, but also to the risk of future, longer term harm, neglect or exploitation. The seriousness of harm or the extent of the abuse is not always clear at the point of the concern being raised. All reports of suspicions or concerns should be approached with an open mind and could give rise to action under these arrangements. The actual or likelihood of harm may impact upon the person in one or more areas of their life:

- Exercising choice and control
- Health and well-being, including mental and emotional as well as physical health and well-being
- Personal dignity and respect
- Quality of life
- Freedom from discrimination
- Making a positive contribution
- Economic well-being
- Freedom from harm, abuse and neglect, taking into account wider issues of housing and community safety

Harm varies between individuals and it requires careful assessment using as much information as available before a decision is made as to how to proceed and should include consideration of the possibility of future harm. The seriousness or extent of the abuse, neglect or exploitation is often not clear.

Some incidents may not have caused immediate harm but if they were to happen again, could lead to harm to the adult, other adults or children. If there are not well managed measures in place to prevent another incident, a situation which has a high likelihood of potential serious abuse, neglect or exploitation could cross the threshold for use of safeguarding procedures.
Not everyone who needs support to live their everyday lives is in need of such services, therefore it is important to target resources on those who do. Resources must also be used proportionately, some people will need the safeguarding adult procedures to be used to fully protect them, in other situations the safeguarding adults procedures can be used to enable a person to protect themselves in the present, or in future circumstances.

22. Self neglect and persistent welfare concerns

The Care Act Guidance advises that ‘self neglect’ covers a wide range of behaviour neglecting to care for one’s personal hygiene, health or surroundings and includes behaviour such as hoarding. Research literature states the term ‘self-neglect’ is commonly used to refer to:

- Lack of self-care: in personal hygiene, in adhering to daily needs, in refusal of essential care or necessary medical treatment
- Lack of care of the living environment: hoarding, squalor and infestation

These definitions are a useful starting point, but interpretation needs to guard against an assessor’s subjective and value-based interpretations. The 4 LSAB therefore recommends agencies consider the following aspects in relation to self-neglect:

- lack of care for self to an extent it threatens personal health and safety
- neglecting to care for personal hygiene, health or surroundings such that it has significant impact on the person’s wellbeing or creates a public health hazard
- inability to avoid harm to self
- failure to seek help or access services to meet necessary health or social care needs

The LSAB requires agencies to think of these issues in a broad context – not just in terms of obvious manifestations such as hoarding. Other areas to consider would include; substance misuse issues, individuals with diagnosis of high functioning Autistic Spectrum Disorder who may have difficulties that bring them into frequent contact with services, prostitution wherein there may be situational incapacity or exploitation, people subject to frequent ‘Missing Persons Alerts’ wherein they may be putting themselves at risk of significant harm, people with significant mobility issues who are not taking action to protect themselves from fire risk, those who are non concordant with medication, whom are Bariatric patients or whom as a result of vulnerabilities linked to their care and support needs are putting themselves at repeated high risk of significant harm.

It should be noted that self-neglect may not prompt a section 42 enquiry. An assessment should be made on a case by case basis. A decision on whether a response is required under safeguarding will depend on the adult’s ability to protect themselves by controlling their own behaviour. There may come a point when they are no longer able to do this, without external support.

LSAB promotes the use of a ‘Social Psychological Model’ to assess and intervene in cases of self-neglect and persistent welfare concerns. This model recognizes the interplay of a variety of physical, mental, social,
personal and environmental factors – both internal and external. This model highlights a variety of important factors for consideration:

- underlying mental disorder, trauma response and/or neuropsychological impairment
- diminishing social networks and/or economic resource
- physical and nutritional deterioration
- personal philosophy and identify

For more information about responding to self neglect and persistent welfare concerns, please refer to the practice guidance located in Section 3 of this Policy and Guidance.

23. Vulnerability factors

There may be a number of factors which increase a person’s vulnerability to abuse, neglect or exploitation. A needs assessment will provide a useful insight into a person’s situation and any vulnerability factors and the support planning process is an opportunity to try and resolve these. The table below gives more information about this.

Factors which increase a person’s vulnerability to abuse and exploitation

<table>
<thead>
<tr>
<th>Personal characteristics of a person at risk that can increase vulnerability may include:</th>
<th>Personal characteristics of a person at risk that can decrease vulnerability may include:</th>
</tr>
</thead>
<tbody>
<tr>
<td>Not having mental capacity to make decisions about their own safety including fluctuating mental capacity associated with mental illness and other conditions</td>
<td>Having mental capacity to make decisions about their own safety</td>
</tr>
<tr>
<td>Communication difficulties</td>
<td>Good physical and mental health</td>
</tr>
<tr>
<td>Physical dependency – being dependent on others for personal care and activities of daily life</td>
<td>Having no communication difficulties or if so, having the right equipment/support</td>
</tr>
<tr>
<td>Low self esteem</td>
<td>No physical dependency or if needing help, able to self-direct care</td>
</tr>
<tr>
<td>Experience of abuse</td>
<td>Positive former life experiences</td>
</tr>
<tr>
<td>Childhood experience of abuse.</td>
<td>Self-confidence and high self-esteem</td>
</tr>
</tbody>
</table>
Social/situational factors that increase the risk of abuse may include:

- Being cared for in a care setting, that is, more or less dependent on others
- Not getting the right amount or the right kind of care that they need
- Isolation and social exclusion
- Stigma and discrimination
- Lack of access to information and support
- Being the focus of anti-social behaviour.

Social/situational factors that decrease the risk of abuse may include:

- Good family relationships
- Active social life and a circle of friends
- Able to participate in the wider community
- Good knowledge and access to the range of community facilities
- Remaining independent and active
- Access to sources of relevant information

24. Out of area safeguarding Adult Arrangements

In the case of a safeguarding concern raised for someone who is temporarily residing in a Local Authority area where they are not ordinarily resident the host authority will take the lead for the assessment and coordination of the safeguarding process. Examples include where someone is receiving hospital or residential care in another Local Authority. This includes care which is funded by the Local Authority or health and care which is paid for by individuals. Where there are repeat concerns about individuals in acute hospital settings the ordinary residence rule will apply and the person’s usual authority will lead rather than the host authority. Where the nature of the allegation gives rise to a concern that the alleged abuse or neglect may be linked to systemic issues affecting the whole organisation, the host authority will lead the investigation as a whole service investigation. In June 2016, the Association of Directors of Adult Social Services (ADASS) published new guidance on inter-authority adult safeguarding enquiries and protection arrangements. This is located in section 4 of this document.

25. Children

Local Authorities have specific duties under the Children Act 1989 in respect of children in need (Section 17) and children at risk of harm (Section 47). All those working with adults and children in health, social care and voluntary sector settings have a responsibility to safeguard children when they become aware of, or identify, a child at risk of harm. They should follow Local Safeguarding Children Board (LSCB) procedures which are based on the Government Guidance Working Together to Safeguard Children 2015. There is an expectation that health and social care professionals who come into contact with children, parents and carers in the course of their work are aware of their responsibilities to safeguard and promote the welfare of children and young people. Children identified as being placed at risk by the behaviour of their parents or carers should be referred by adult workers into Children’s Services. This action is supported by detailed local guidance contained within the 4 LSCB ’Joint Working Protocol (Safeguarding children and young people whose parents / carers have problems with: mental health, substance misuse, learning disability and emotional or psychological distress) 2014 adopted across Hampshire, Southampton, Portsmouth and the
IOW. This protocol gives information about research and guidance for good practice.

26. Concerns about children and adults at risk of abuse

This framework recognises the importance of the ‘think family’ approach to safeguarding adults. Where it is identified through the safeguarding adults process that a child may be at risk, the concern must be referred immediately to Children’s Services. Where it is identified by Children’s Services in the context of their work with children and families that a person at risk is experiencing abuse, then the concern must be referred to Adult Services. A decision will be made as to who will lead the safeguarding process. Regardless of who takes the lead, there should be appropriate representation from both Adult and Children’s Services within this joint process.

The Care Act 2014 statutory guidance stipulates that where someone is 18 or over but is still receiving children’s services and a safeguarding issue is raised, the matter should be dealt with through adult safeguarding arrangements. For example, this could occur when a young person with substantial and complex needs continues to be supported in a residential educational setting until the age of 25. Where appropriate, adult safeguarding services should involve the Local Authority’s children’s safeguarding colleagues as well as any relevant partners (e.g. the Police or NHS) or other persons relevant to the case. The level of needs is not relevant, and the young adult does not need to have eligible needs for care and support under the Care Act 2014, or be receiving any particular service from the Local Authority, in order for the safeguarding duties to apply.

27. Transitions between Children’s and Adult Services

Robust joint working arrangements between Children’s and Adult Services need to be put in place to ensure that the medical, psychosocial, educational and vocational needs of children moving from Children’s to Adult Services, including children with health or disability needs, or leaving care, are addressed as they move to adulthood and there are no gaps left in assessments of needs and service provisions. The care needs of the young person should be at the forefront of any support planning and require a co-ordinated multi-agency approach. Assessments of care needs at this stage should include issues of safeguarding and risk. Care planning needs to ensure that the young adult’s safety is not put at risk through delays in providing the services they need to maintain their independence and well-being and choice. Good practice includes:

• Having policies and procedures which support effective transition processes
• Shifting the general view of risk as a potential danger for a child, to one of potential opportunity for an adult, but acknowledging there are still potential risks
• Managing risks as a phased process with awareness of the psychological and emotional issues
• Managing family expectations (being clear about the level of support and resources available)
• Taking time to get to know the young person and their family, especially if they have communication difficulties
• Acknowledging the rights of adults to take more responsibility for their decisions.
28. Adult mental health services

The term Care Programme Approach (CPA) is used to describe the framework that supports and co-ordinates mental health care for people with severe mental health problems who are receiving treatment from mental health services. It is called an approach rather than a system because it covers:

An assessment of health and social care needs

A written care plan agreed with all those involved in the delivery of an individual’s support

The nomination of a care co-ordinator who acts as the main point of contact overseeing the delivery of an individual’s care

On-going and regular reviews of an individual’s care plan and health and social care needs.

Where there is a concern that someone who is known to Adult Mental Health services has been abused or is at risk of neglect or abuse, CPA processes should be used if the CPA is the most appropriate means to address the concern.

29. Safeguarding in prisons and approved premises

Under the Care Act 2014, prisons and approved premises retain responsibility for adult safeguarding within these settings. Senior representatives of local prisons and/or the National Offender Management Service are included on the 4LSAB (where relevant) and so have an opportunity to contribute to the strategic development of adult safeguarding locally. Additionally, membership on the Safeguarding Adult Boards enables constructive dialogue and shared learning around safeguarding in prisons and approved premises and provides important links and access to the local expert body of professionals. A framework has been agreed locally outlining how safeguarding will be addressed within prisons and other custodial settings which can be found in Part 3 of this Policy Framework.

30. Information sharing

The Information Sharing Guidance in Section 3 of this policy framework recognises that information sharing between organisations is essential to safeguard adults at risk of abuse, neglect and exploitation. In this context organisations could include not only statutory organisations but also voluntary and independent sector organisations, housing authorities and Crown Prosecution Service and organisations which provide advocacy and support where these organisations are involved in safeguarding enquiries, including raising a concern and participating in an investigation and/or making a contribution to Safeguarding Plans. Information will be shared within and between organisations in line with the principles set out below:

Adults have a right to independence, choice and self-determination. These rights extend to control over information about themselves and to determine what information is shared. Even in situations where there is no legal requirement to obtain written consent before sharing information, it is good practice to do so. The person’s wishes should always be considered. However, when there is a concern of abuse, a general principle is that an incident of suspected or actual abuse can be reported more widely and that in so doing, some information may need to be shared among those involved. Information given to an individual member is subject to the Data Protection Act 1998.

If there are concerns that a child may be at risk of harm; or an adult may be at risk of serious harm, then follow the relevant procedures without delay, seek advice if you are not sure what to do at any stage and ensure that the outcome of the discussion is recorded.
There will be occasions where practitioners believe it key that information is shared without consent or delay, such as in emergency or life threatening situations (vital interests, Data Protection Act 1998). However, where similar circumstances arise but not in an urgent situation, the decision to share information without consent should only be made after a risk assessment carried out by the organisation, rather than the individual practitioner. In all cases, the decision and rationale should be fully documented. This Policy and Guidance adopts the key principles of information sharing outlined below:

- Identify how much information it is appropriate to share
- Distinguish fact from opinion
- Ensure that the right information is being given to the right person
- Ensure information is shared securely

- Inform the data subject that the information has been shared if they are not already aware but only if this does not create or increase the risk of harm
- Record the information sharing decision and reasons, in line with the safeguarding information sharing framework found in Section 3 of this Policy and Guidance.

31. Duty of Candour

The Duty of Candour requires all health and adult social care providers registered with the Care Quality Commission (CQC) to be open with people when things go wrong. The regulations impose a specific and detailed duty on all providers where any harm to a service user from their care or treatment is above a certain harm threshold. The Duty of Candour is a legal requirement and CQC will be able to take enforcement action when it finds breaches. The Duty requires providers to offer an apology and state what further action the provider intends to take in this situation. In practice, this means that care providers are open and honest with patients when things go wrong with their care and treatment. To meet the requirements a provider must:

- Make sure it has an open and honest culture across and at all levels within its organisation
- Tell service users in a timely manner when particular incidents have occurred
- Provide in writing a truthful account of the incident and an explanation about the enquiries and investigations that they will carry out
- Supply the patient or representative with the results of any further enquiries into the incident and to keep records of all correspondence and notifications in person
- Offer an apology in writing
- Provide reasonable support to the person after the incident

For NHS bodies, the incidents covered by the Regulations include not only cases of death and severe harm, but also "moderate harm" in line with providers' existing contractual duty under the NHS Standard Contract.

The regulations apply to the adult themselves and, in certain situations, to people acting on the person’s behalf, for example when something happens to a child or to a person over the age of 16 who lacks the capacity to make decisions about their care.
If the provider fails to do any of the things above, CQC can move directly to prosecution without first serving a warning notice. This policy embraces this Duty in relation to safeguarding adults, and all section 42 enquiries and safeguarding processes must check that this duty has been fulfilled.

The regulations also include a more general obligation on CQC registered providers to "act in an open and transparent way in relation to service user care and treatment". This means that the default position should be to be open, honest and candid, unless there are justifiable reasons for not being so – for example because the service user actively says that they do not want further information about the incident. However, these circumstances should be the exception rather than the norm.

32. Safeguarding adults reviews

Section 44 of the Care Act 2014 requires Local Safeguarding Adult Boards to arrange a safeguarding adult review when an adult in its area dies as a result of abuse or neglect, whether known or suspected, and there is concern that partner agencies could have worked more effectively to protect the person at risk. It places a duty on all Board members to contribute in undertaking the review, sharing information and applying the lessons learnt. The purpose of the safeguarding adult review is not to hold any individual or organisation to account. Other processes exist for that, including criminal proceedings, disciplinary procedures, employment law and systems of service and professional regulation, such as Care Quality Commission and the Nursing and Midwifery Council, the Health and Care Professions Council, and the General Medical Council.

The purpose of conducting a safeguarding adult review is to establish whether there are any lessons to be learnt from the circumstances of the case, about the way in which local professionals and agencies work together to safeguard adults at risk. The safeguarding adult review brings together and analyses the findings from individual agencies involved in order to make recommendations for future practice where this is necessary. The Safeguarding Adults Board is the only body that can commission a Safeguarding Adult Review and must arrange a safeguarding adult review of a case of an adult in its area with needs of care and support (whether or not the Local Authority was meeting those needs) if:

- The case involves an adult with care and support needs (whether or not the Local Authority was meeting those needs)
- There is reasonable cause for concern about how the Safeguarding Adult Board, its members or organisations worked together to safeguard the adult
  
  **AND**
  
  - The person died (including death by suicide) and the SAB knows/suspects this resulted from abuse or neglect (whether or not it knew about this before the person died)
  
  **OR**
  
  - The person is still alive but the Safeguarding Adults Board knows or suspects they have experienced serious abuse/neglect, sustained potentially life threatening injury, serious sexual abuse or serious/permanent impairment of health or development.

The Care Act 2014 also enables Safeguarding Adults Boards to carry out reviews in other cases where it feels this would be appropriate in order to promote effective learning and improvement action to prevent future
deaths or serious harm occurring again. These may be cases which provide useful insights into the way organisations are working together to prevent and reduce abuse and neglect of adults but which may not meet criteria for a safeguarding adult review for example. The 4LSAB have agreed a shared Learning and Review Framework which operates across the area managed but this is managed within each area, in line with the governance arrangements of the individual Boards.
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>
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</thead>
<tbody>
<tr>
<td>• Managing and maintaining nutrition</td>
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<tr>
<td>• Maintaining personal hygiene</td>
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<td>• Managing toilet needs</td>
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<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>
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<tr>
<td>• Accessing and engaging in work, training, education or volunteering</td>
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<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

#### 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
• 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?

• 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 enquiries 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 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>Principle</th>
<th>Description</th>
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<tbody>
<tr>
<td>OUTCOME FOCUSED</td>
<td>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</td>
</tr>
<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>
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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>
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<tr>
<td><strong>Stage 1 – Safeguarding concern raised</strong></td>
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<tr>
<td>Safeguarding concern raised</td>
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</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>
<td></td>
</tr>
<tr>
<td><strong>Stage 2 – Information gathering</strong></td>
<td></td>
</tr>
<tr>
<td><strong>Stage 2a: Information gathering - screening</strong></td>
<td><strong>Within 24 hours of the safeguarding concern being raised</strong></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>
<td></td>
</tr>
<tr>
<td><strong>Stage 2b: Information gathering - initial contact</strong></td>
<td><strong>Within 72 hours of the safeguarding concern being raised</strong></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>
<td></td>
</tr>
</tbody>
</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>Within 72 hours of the safeguarding concern being raised</th>
</tr>
</thead>
<tbody>
<tr>
<td>Pause and review point:</td>
</tr>
<tr>
<td>Is the safeguarding enquiry duty engaged? If no, exit the process</td>
</tr>
<tr>
<td>And/or have initial actions resolved the situation? If yes, EXIT the safeguarding process</td>
</tr>
</tbody>
</table>

### Stage 3 – Safeguarding planning meeting

#### Timescales and decision-making

#### 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.

#### 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>Between initial contact and planning meeting</th>
</tr>
</thead>
<tbody>
<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 4 – Safeguarding enquiry

#### Stage 4a: Safeguarding enquiry (including completion of a report)

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>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Pause and review point:</strong></td>
</tr>
<tr>
<td>Within 28 days of the planning meeting</td>
</tr>
</tbody>
</table>

### Stage 5 – Checking and review

#### 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>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Pause and review point:</strong></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>

**Pause and review point:**

Within 7 days of receipt of the report
## Stage 6 – Safeguarding support plan

### 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><strong>Pause and review point:</strong></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>
<tr>
<td><strong>Over a period of 6 weeks from the review meeting</strong></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><strong>At the end of the 6 week monitoring period</strong></td>
</tr>
</tbody>
</table>
The following section provides more detailed information about each stage of the safeguarding process

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 alert 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 distur 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 alerting 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**
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.
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 alert 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.
Diagram 1B: part 1

- Sections 42 duty continues
- Outcomes achieved, no further Sec 42 required, agreed by local authority
- Evaluate need for other actions as necessary e.g. advice
  - No
  - Yes
- Decide on actions: Advice and information Assessment and support
- Final evaluation of outcomes
- Continue to work with individual(s) and develop strategies to reduce/manage risk
- Further action needed if adult deemed to be at continuing risk of harm
- Safeguarding plan needed
- Review Plan

Safeguarding Plan:
- Timescales for review and monitoring to be agreed
- Agree who will be the lead professional to monitor and review the plan

Sections 42 duty continues
Diagram 1B: part 2

- Agree who will do what
- Timescales to be agreed
- The local authority retains accountability and oversight of the enquiry and outcomes

Outcomes achieved. Section 42 duty ends. Agree other actions e.g., review care plans

Outcomes not achieved

Next steps planned. Desired outcomes established

Feedback to relevant people

Agree who is to take the action

Further possible actions identified

Further S.42 action not identified

Consider what other advice/action or information is still needed

Report criminal activity to police

Decide if any action required

Local Decision Making process
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, 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, etc.</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.
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 this Policy Framework.

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>
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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>
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<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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</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.
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:

<table>
<thead>
<tr>
<th>Activity</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>Personalised information and advice</td>
<td>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.</td>
</tr>
<tr>
<td>Ensuring support</td>
<td>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.</td>
</tr>
<tr>
<td>Formulation of a safeguarding plan</td>
<td></td>
</tr>
<tr>
<td>Practical support</td>
<td>Such as door locks, entry devices, personal alarms, telephone, CCTV, use of assistive technology.</td>
</tr>
<tr>
<td>Supporting the person</td>
<td>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.</td>
</tr>
<tr>
<td>Supporting the person</td>
<td>To develop their awareness, skills and confidence to recognise and manage potentially exploitative or harmful situations should these arise.</td>
</tr>
<tr>
<td>Promoting activities aimed at increasing health and well being</td>
<td></td>
</tr>
<tr>
<td>Encouraging the person to join a peer support and circles of support</td>
<td>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.</td>
</tr>
<tr>
<td>Offering counselling or other forms of person centred therapy</td>
<td>To help the person come to terms with their experience and to realise their ability to take control of their lives.</td>
</tr>
<tr>
<td>Using mediation and conflict resolution as a means of the respective</td>
<td>Parties reaching their own decisions about the situation and also to have the opportunity to improve their communication and chances of long-term cooperation.</td>
</tr>
<tr>
<td>Using restorative justice or practice to give the person the chance to</td>
<td>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.</td>
</tr>
<tr>
<td>Setting up a family group conference or network meeting</td>
<td>In order to engage and empower the network of extended family members and friends to participate in support for individuals.</td>
</tr>
<tr>
<td>Providing information about the civil remedies available to them</td>
<td>Such as applying for an injunction.</td>
</tr>
</tbody>
</table>
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.
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>
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</thead>
<tbody>
<tr>
<td>• All reasonable steps have been taken to avoid harm</td>
</tr>
<tr>
<td>• Reliable assessment methods have been used</td>
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<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>
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**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).
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 in 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).

On going action

- Ensure on going 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.
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
SECTION 3
PAN Hampshire and Isle of Wight Practice Guidance

64. Guidance on information sharing

Sharing the right information, at the right time, with the right people, is fundamental to good practice in safeguarding adults, though this is often complex. The Care Act 2014 emphasises the need to empower people, to balance choice and control for individuals against preventing harm and reducing risk, and to respond proportionately to safeguarding concerns.

This guidance is aimed at supporting partner organisations to understand their roles and responsibilities and to co-operate with one another to share information for safeguarding purposes in accordance with the statutory guidance provided by the Act.

The 4LSAB and their partner agencies also acknowledge their role in sharing strategic information to improve local safeguarding practice and highlight the responsibilities of partner agencies and others to comply with requests for information from the Board (Section 45 ‘the supply of information’). This guidance covers information sharing in a range of contexts relating to adult safeguarding including:

- Raising concerns about abuse or neglect (or risk of this of an adult with care and support needs)
- Undertaken and sharing the outcomes of safeguarding enquiries
- Responsibilities to share information and make referrals to DBS and/or professional bodies
- Exchange information in the context of allegation management with the relevant SAMA
- Exchange information between the SAMA and the Local Authority Designated Officer concerning children
- Share information arising from the context of a Safeguarding Adult Review or other form of multi agency learning review.

65. Key messages
When sharing people’s information, recognise that:

- Adults have a general right to independence, choice and self-determination including control over information about themselves. In the context of adult safeguarding these rights can be overridden in certain circumstances.
- Emergency or life-threatening situations may warrant the sharing of relevant information with the relevant emergency services without consent.
- The law does not prevent the sharing of sensitive, personal information within organisations. If the information is confidential, but there is a safeguarding concern, sharing it may be justified.
- The law does not prevent the sharing of sensitive, personal information between organisations where the public interest served outweighs the public interest served by protecting confidentiality – for example, where a serious crime may be prevented.
- The Data Protection Act enables the lawful sharing of information.
- There should be local agreements or protocols in place setting out the processes and principles for sharing information between agencies.
- An individual employee cannot give a personal assurance of confidentiality.
- Frontline staff and volunteers should always report safeguarding concerns in line with their organisation’s policy – this is usually to their line manager in the first instance except in emergency situations.
- It is good practice to try to gain the person’s consent to share information.
- As long as it does not increase risk, practitioners should inform the person if they need to share their information without consent.
- Organisational policies should have clear routes for escalation where a member of staff feels a manager has not responded appropriately to a safeguarding concern.
- All agencies must have a whistleblowing policy.
- The management interests of an organisation should not override the need to share information to safeguard adults at risk of abuse.
- All staff, in all partner agencies, should understand the importance of sharing safeguarding information and the potential risks of not sharing it.
- All staff should understand when to raise a concern with Adult Services.
- The six safeguarding principles should underpin all safeguarding practice, including information sharing.

66. The seven golden rules to sharing information

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• Remember that the Data Protection Act 1998 and human rights law are not barriers to justified information sharing, but provide a framework to ensure that personal information about living individuals is shared appropriately
• Be open and honest with the individual (and/or their family where appropriate) from the outset about why, what, how and with whom information will, or could be shared, and seek their agreement, unless it is unsafe or inappropriate to do so
• Seek advice from other practitioners if you are in any doubt about sharing the information concerned, without disclosing the identity of the individual where possible
• Share with informed consent where appropriate and, where possible, respect the wishes of those who do not consent to share confidential information. You may still share information without consent if, in your judgement, there is good reason to do so, such as where safety may be at risk. You will need to base your judgement on the facts of the case. When you are sharing or requesting personal information from someone, be certain of the basis upon which you are doing so. Where you have consent, be mindful that an individual might not expect information to be shared
• Consider safety and well-being: Base your information sharing decisions on considerations of the safety and well-being of the individual and others who may be affected by their actions
• Necessary, proportionate, relevant, adequate, accurate, timely and secure: Ensure that the information you share is necessary for the purpose for which you are sharing it, is shared only with those individuals who need to have it, is accurate and up-to-date, is shared in a timely fashion, and is shared securely (see principles)
• Keep a record of your decision and the reasons for it – whether it is to share information or not. If you decide to share, then record what you have shared, with whom and for what purpose.

67. Powers or obligations to share information for adult safeguarding

Referring to the Disclosure and Barring Service

The Safeguarding Vulnerable Groups Act (2006) places specific duties on those providing ‘regulated’ health and social care activities. They must refer to the Disclosure and Barring Service (DBS) anyone who has been dismissed or removed from their role because they are thought to have harmed, or pose a risk of harm to, a child or adult with care and support needs. This applies even if they have left their job and regardless of whether they have been convicted of a related crime. The statutory guidance to the Care Act 2014 requires Designated Adult Safeguarding Managers to work with partner agencies to ensure that referral of individual employees to the DBS is carried out promptly and appropriately.

Professional codes of practice

Many professionals, including those in health and social care, are registered with a body and governed by a code of practice or conduct. These codes often require those professionals to report any safeguarding concerns in line with legislation. The statutory guidance to the Care Section 3

Act 2014 requires all organisations in contact with people with care and support needs to have in place an allegations management process that enables referrals of individual employees to regulatory bodies are made promptly and appropriately.

The Health Care Professions Council (HCPC) is the Professional Body that regulates social workers and allied health professionals. HCPC professional standards were amended in Jan 2016 to require all those registered with that body to comply with a professional DUTY to take appropriate action to address and report concerns about safety or wellbeing of people using services, follow up concerns and be open and honest if things go wrong.

**Duty of Candour**

The Duty of Candour requires all health and adult social care providers registered with CQC to be open with people when things go wrong. The regulations impose a specific and detailed duty on all providers where any harm to a service user from their care or treatment is above a certain harm threshold.

The Duty of Candour is a legal requirement and CQC will be able to take enforcement action when it finds breaches. The Duty requires providers to offer an apology and state what further action the provider intends to take in this situation. In practice, this means that care providers are open and honest with patients when things go wrong with their care and treatment.

If the provider fails to comply with the Duty, CQC can move directly to prosecution without first serving a warning notice. This policy embraces this Duty in relation to safeguarding adults, and all Section 42 enquiries and safeguarding processes must check that this Duty has been fulfilled.

The regulations also include a more general obligation on CQC registered providers to "act in an open and transparent way in relation to service user care and treatment". This means that the default position should be to be open, honest and candid, unless there are justifiable reasons for not being so – for example because the service user actively says that they do not want further information about the incident. However, these circumstances should be the exception rather than the norm. Further information can be found at [Duty of Candour](http://www.cqc.org.uk/sites/default/files/20140725_nhs_fppr_and_doc_consultation_final.pdf).

**Commissioners**

Those commissioning services should consider whether contracts should place an obligation on service providers to share safeguarding information. Any specifications would need to be in line with policy, regulation and the law.
Sharing information on prisoners

The statutory guidance to the Care Act 2014 requires Local Authorities to share information about people with care and support needs in, or in transition from or to, prison or custodial settings. This includes ‘the sharing of information about risk to the prisoner and others where this is relevant’.

Sharing information on those who may pose a risk to others

The Police can keep records on any person known to be a target or perpetrator of abuse and share such information with safeguarding partners for the purposes of protection ‘under Section 115 of the Crime and Disorder Act 1998, and the Data Protection Act 1998, provided that criteria outlined in the legislation are met’. All police forces now have IT systems in place to help identify repeat and vulnerable victims of antisocial behaviour.

The statutory guidance to the Care Act 2014 states that Safeguarding Adults Boards should have a ‘framework and process for any organisation under the umbrella of the SAB to respond to allegations and issues of concern that are raised about a person who may have harmed or who may pose a risk to adults’. Designated Adult Safeguarding Managers should ‘ensure the control of information in respect of individual cases is in accordance with accepted Data Protection and Confidentiality requirements’.

Multi Agency Safeguarding Hubs

The establishment of Multi Agency Safeguarding Hubs (MASH) formalise arrangements for information sharing in the safeguarding context. The purpose is to ensure that relevant information about potential safeguarding concerns in respect of adults and children is shared appropriately by the partner agencies where necessary. This enables the level of risk to be assessed appropriately and allows for suitable responses to be agreed.

As the MASH model is implemented more widely locally, separate information sharing agreements and protocols will need to be put in place to provide the basis for sharing information between the agencies engaged in the MASH in order to facilitate and govern the efficient, effective and secure sharing of timely and accurate information. It is acknowledged that the disclosure of any personal data must be bound to both common law and statute, for example defamation, the common law duty of confidence, the Data Protection Act 1998 and the Human Rights Act 1998.

Information sharing agreements or protocols

This framework acknowledges that information sharing agreements and/or protocols are useful tools which enable inter-agency communication, facilitate effective partnership working and support decision making. Local agencies will put in place appropriate agreements to address key points from the Data Sharing Code of Practice including:

Section 3
• The information that needs to be shared
• The justification for sharing personal information
• Organisations that will be involved
• What people need to be told about the data sharing and how this information will be communicated
• Measures to ensure adequate security is in place to protect the data
• Arrangements to provide individuals with access to their personal data if requested
• Agreed common retention periods for the data
• Processes to ensure secure deletion takes place.

68. Key principles in line with Care Act 2014

Record-keeping

Good record keeping is a vital component of professional practice. Whenever a complaint or allegation of abuse is made, all agencies should keep clear and accurate records and each agency should identify procedures for incorporating, on receipt of a complaint or allegation, all relevant records into a file to record all action taken. When abuse or neglect is raised, managers need to look for past incidents, concerns, risks and patterns. We know that in many situations, abuse and neglect arise from a range of incidents over a period of time.

In the case of providers registered with CQC, records of these should be available to service commissioners and the CQC so they can take the necessary action. Staff should be given clear direction as to what information should be recorded and in what format.

The following questions are a guide to recording practice:

• What information do staff need to know in order to provide a high quality response to the adult concerned?
• What information do staff need to know in order to keep adults safe under the service’s duty to protect people from harm?
• What information is not necessary?
• What is the basis for any decision to share (or not) information with a third party?

Records should be kept in such a way that the information can easily be collated for local use and national data collections.

All agencies should identify arrangements, consistent with principles and rules of fairness, confidentiality and data protection for making records available to those adults affected by, and subject to, an enquiry. If the alleged abuser is using care and support themselves then information about their involvement in an adult safeguarding enquiry, including the outcome, should be included in their case record. If it is assessed that the individual continues to pose a threat to other people then this should be included in any information that is passed on to service providers or other people who need to know.

Section 3
The Care Act 2014 establishes the importance of organisations sharing vital information related to abuse or neglect with the Safeguarding Adult Board (SAB). In order to carry out its functions effectively, the SAB may need access to information that a wide number of people or other organisations hold in order to enable or assist the SAB to do its job.

Section 45 of the Act ensures that if the SAB requests information from a body or person who is likely to have information they MUST share what they know with the SAB at its request. However, the information requested must be for the purpose of enabling or assisting the SAB to perform its functions. The body or person requested to supply the information must have functions or engage in activities of a nature that the SAB considers it’s likely they have information relevant to a function of the SAB.

**Confidentiality**

Agencies should draw up a common agreement relating to confidentiality and setting out the principles governing the sharing of information, based on the welfare of the adult or of other potentially affected adults. Any agreement should be consistent with the principles set out in the Caldicott Review published 2013 ensuring that:

- Information will only be shared on a ‘need to know’ basis when it is in the interests of the adult
- Confidentiality must not be confused with secrecy
- Informed consent should be obtained but, if this is not possible and other adults are at risk of abuse or neglect, it may be necessary to override the requirement; and
- It is inappropriate for agencies to give assurances of absolute confidentiality in cases where there are concerns about abuse, particularly in those situations when other adults may be at risk.

Where an adult has refused to consent to information being disclosed for these purposes, then practitioners must consider whether there is an overriding public interest that would justify information sharing (e.g. because there is a risk that others are at risk of serious harm) and wherever possible, the appropriate Caldicott Guardian should be involved in the decision-making. In these circumstances it would be good practice to only share information without consent in the context of a documented risk assessment.

Decisions about who needs to know and what needs to be known should be taken on a case by case basis, within agency policies and the constraints of the legal framework. Principles of confidentiality designed to safeguard and promote the interests of an adult should not be confused with those designed to protect the management interests of an organisation. These have a legitimate role but must never be allowed to conflict with the welfare of an adult. If it appears to an employee or person in a similar role that such confidentiality rules may be operating against the interests of the adult then a duty arises to make full disclosure in the public interest.

Exchange or disclosure of personal information must be made in accordance with the law on confidentiality and the Data Protection Act 1998 where this applies. The Home Office and the Office of the Information Commissioner have issued general guidance on the preparation and Section 3

use of information sharing protocols. The Caldicott principles provide the basis of ethical and appropriate information sharing.

**The Caldicott Principles**

Based on the findings of the Information Governance Review – To Share or Not to Share?

- Justify the purpose(s). Every proposed use or transfer of personal confidential data within or from an organisation should be clearly defined, scrutinised and documented, with continuing uses regularly reviewed, by an appropriate guardian.
- Don’t use personal confidential data unless it is absolutely necessary. Personal confidential data items should not be included unless it is essential for the specified purpose(s) of that flow. The need for adults to be identified should be considered at each stage of satisfying the purpose(s).
- Use the minimum necessary personal confidential data. Where use of personal confidential data is considered to be essential, the inclusion of each individual item of data should be considered and justified so that the minimum amount of personal confidential data is transferred or accessible as is necessary for a given function to be carried out.
- Access to personal confidential data should be on a strict need-to-know basis. Only those individuals who need access to personal confidential data should have access to it, and they should only have access to the data items that they need to see. This may mean introducing access controls or splitting data flows where one data flow is used for several purposes.
- Everyone with access to personal confidential data should be aware of their responsibilities. Action should be taken to ensure that all those handling personal confidential data are made fully aware of their responsibilities and obligations to respect individuals’ confidentiality.
- Comply with the law. Every use of personal confidential data must be lawful. Someone in each organisation handling personal confidential data should be responsible for ensuring that the organisation complies with legal requirements.

The duty to share information can be as important as the duty to protect confidentiality. Health and social care professionals and other staff should have the confidence to share information in the best interests of adults within the framework set out by these principles. They should be supported by the policies of their employers, regulators and professional bodies.

**Links to relevant information**

For more information on information sharing please use the links below:

**SCIE Guidance on Information Sharing**

[2]

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Section 3

69. Guidance on managing allegations against people in a position of trust

Introduction
The Care Act 2014 requires the local authority, its relevant partners and those providing universal care and support services to have clear policies reflecting those from the local Safeguarding Adults Board for dealing with allegations against people in positions of trust i.e. anyone working in either a paid or unpaid capacity, with adults with care and support needs. These policies should clearly distinguish between an allegation, a concern about the quality of care or practice or a complaint.

Where concerns are raised about someone who works with adults with care and support needs, the employer (or student body or voluntary organisation) must assess any potential risk to adults with care and support needs who use their services, and, if necessary, to take action to safeguard those adults. This framework must have clear recording and information-sharing guidance and timescales for action and be mindful of the need to preserve evidence. This will be whether the allegation or concern is current or historical.

Hampshire and Isle of Wight 4LSAB Allegations Management Framework
In order to develop a consistent approach and to promote best practice across Hampshire and the Isle of Wight, the four Local Safeguarding Adults Boards have established a joint framework and process for how allegations against people in positions of trust should be notified and responded to.

The Allegations Management Framework is an overarching framework setting standards around the management of allegations against people in a position of trust, supported by clear reporting requirements and arrangements across the whole system - this includes clear information-sharing arrangements and explicit timescales for action. This is an overarching Framework and so individual organisations will be expected to develop its own business process detailing how it will implement this framework internally. This document replaces the 4LSAB DASM framework published in May 2015.

The Framework is based on the following principles:

- It reflects a proportionate, fair and transparent approach and seeks to build on current internal allegations management processes rather than replacing these.

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• It applies to anyone working in a position of trust such as employees, volunteers or students, in a paid or unpaid capacity regardless of the sector. It deals with current as well as historical allegations.

• The sharing of information will be justifiable and proportionate based on an assessment of the potential or actual harm to adults or children at risk.

• Partner organisations are expected to align (or develop) current allegations management processes in line with the standards set out in this framework.

In order to gain assurance of robust internal allegations management processes in organisations not represented on the LSAB, the Boards will look to commissioners to use existing frameworks and processes to ensure safe working procedures including the management of allegations, are implemented within the organisations from whom they commission services.

Commissioning organisations should build reporting requirements into their existing procurement, commissioning and contract arrangements to ensure that provider organisations promptly share information about incidents falling within the remit of this Framework with their commissioners.

**Responsibilities of partner organisations**
Individual organisations are responsible for responding to allegations regarding any person working for them in a position of trust with adults with care and support needs and for undertaking all necessary action in line with their internal process and agreed timescales. The specific responsibilities of individual organisations include:

• Establishing a clear internal allegations management procedure setting out the process, including timescales, for investigation and what support and advice will be available to individuals against whom allegations have been made. This procedure should reflect the 4LSAB Allegations Management Framework.

• Ensuring their staff and managers have access to expert advice and guidance to enable them to fulfil their responsibilities when responding to allegations.

• Responding promptly to allegations regarding their staff and for undertaking all necessary action in line with their internal process and agreed timescales.

• Monitoring the progress of cases to ensure that they are dealt with as quickly as possible, consistent with a thorough and fair process.

• Ensuring appropriate systems are in place to support and provide regular updates to the employee in respect of the investigation.

• Making prompt referrals to the Disclosure and Barring Service (DBS) and/or Professional Registration Bodies, as relevant.
• Ensuring appropriate recording systems are in place and that these provide a clear audit trail about the decision making process and any recommendations arising from the investigation and subsequent actions.

• Ensuring the control of information in respect of individual cases is in accordance with accepted data protection and confidentiality requirements.

• Maintain records of the number and nature of allegations made and using this data to inform service improvement and development.

Whilst no longer a requirement in the Care Act 2014, the LSABs strongly encourage partner organisations to establish a nominated lead or Safeguarding Allegations Management Advisor (SAMA), to provide advice and guidance to their organisation and to maintain oversight of complex cases involving allegations against people in a position of trust. The SAMA should have a significant level of expertise and knowledge in adult safeguarding and they should also have an operational leadership role in respect of their organisation.

70. Applying this Framework in practice
This section provides guidance on how concerns should be reported and the process to be used to respond to these. As this is an overarching framework, individual organisations will be responsible for providing detailed guidance for staff reflecting any organisational requirements and standards that must be followed.

If a ‘person in a position of trust’ is alleged to have abused or harmed an adult with care and support needs, or who may pose a risk of abuse to an adult with care and support needs, it is essential that the concerns are appropriately reported and responded to under the Hampshire 4LSAB Multi-Agency Safeguarding Adults Policy and Guidance (May 2015).

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

• Behaved in a way that has harmed, or may have harmed an adult or child

• Committed a criminal offence against, or related to, an adult or child

• Behaved towards an adult or child in a way that indicates they may pose a risk of harm to adults with care and support needs

• Concerns could also arise from the person’s home / personal life, as well as within their work and may include situations such as:

• A person has behaved (or is alleged to have behaved) towards another adult in a way that indicates they may pose a risk of harm to adults with care and support. For example, this may include situations where a person is being investigated by the police...
for domestic abuse to a partner, and undertakes voluntary work with adults with care and support needs.

- A person has behaved (or is alleged to have behaved) towards children in a way that indicates that they may pose a risk of harm to adults with care and support needs. For example, this may include situations where a person is alleged to have abused a child, and is a student undertaking professional training to work with adults with care and support needs.

- A person is the subject of a formal safeguarding enquiry into allegations of abuse or neglect which have occurred in one setting. However, there are also concerns that the person is employed, volunteers or is a student in another setting where there are adults with care and support needs who may also be at risk of harm.

- When a person’s conduct towards an adult may impact on their suitability to work with or continue to work with children, this must be referred to the local authority’s designated officer (LADO).

The purpose of the process is to ensure that risks potentially posed by the person are appropriately managed, alongside the specific safeguarding needs of the adult at risk. Allegations must be investigated promptly in line with the organisation’s internal allegations management policy. In the interests of transparency and accountability, organisations must ensure clear recording of decisions and recommendations arising from the investigation.

Where a formal section 42 safeguarding enquiry is being undertaken, the function can be carried out as part of the enquiry process and this should include:

- An assessment and management of risk posed by a ‘person in a position of trust’ to be considered in the initial safeguarding planning meeting and subsequent meetings

- Any action taken in respect of a person to be included in the safeguarding enquiry report

- Supporting documentation should be reviewed as part of the Checking and Review stage of the safeguarding enquiry

- Further actions to safeguard or manage risk should be included in the safeguarding plan

Where a formal safeguarding enquiry is not being undertaken, a ‘Managing Concerns Meeting’ should be convened to assess and determine the actions required to manage the risk posed by a ‘person in a position of trust’. Such meetings may need to include Care Quality Commission, safeguarding lead, LADO, commissioning, contracts, police and other relevant parties where appropriate to the case. Individual organisations will determine who should chair such meetings. The purpose of Managing Concerns Meeting is to undertake a collaborative assessment of the level of risk posed by the person about whom concerns have been raised and to clarify what information should be shared with the employer. The
sharing of information will be justifiable and proportionate based on an assessment of the potential or actual harm to adults or children at risk.

Where it is necessary to refer individuals to the DBS and/or the relevant professional body, these referrals will be made promptly and made no later than five working days from when the case is concluded.

71. Information Sharing
Decisions on sharing information must be justifiable, proportionate and based on the potential or actual harm to adults or children at risk. The rationale for decision-making should always be recorded. When sharing information between agencies about adults, children and young people at risk it should only be shared:

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

In deciding whether the information should be shared, it is necessary to consider the key question of whether the person has behaved or may have behaved, in a way that means their suitability to undertake their current role or to provide a service to adults with care and support needs should be reviewed.

There may be times when a person is employed to work with adults but their behaviour towards a child or children (for example outside of work) may impact on their suitability to work with or continue to work with adults. Likewise, there may also be times when a person’s conduct towards an adult outside of work may impact on their suitability to work with or continue to work with children. All these situations must be risk assessed individually in order to make a decision about referring the case to the relevant organisation.

Informing the person about whom concerns have been raised:

- Unless it puts the adult at risk or a child in danger, the person should be informed an allegation against them has been made and that it will be shared with their employer. They should be offered a right to reply.
- If possible, the person’s consent should be sought to share information and advised what information will be shared, how and who with. Each case must be assessed on its own individual merits as there may be cases where informing the person about details of the allegation increases the risks to a child or adult at risk.
- The person should be given the opportunity to inform their employer themselves – sometimes the immediacy and nature of the risk won’t allow for this.
- The organisation should check appropriate information has been shared with the employer to enable them to assess risk, and review the suitability of the person continuing to work and any other actions required.
Informing the employer:

a) The employer must be informed if there are concerns about an employee during the course of their work.

b) If concerns arise in the person’s personal or private life, or in another work setting, the decision to share information must be justifiable and proportionate and based on the potential or actual harm to adults at risk. The decision to share information and the rationale for doing so should be recorded.

c) Decisions about sharing information should consider the key question of ‘whether the person has behaved or may have behaved, in a way that questions their suitability to undertake their current role or to support adults at risk’.

d) The following issues should be taken into consideration when making decisions about sharing information with the employer:

- Nature and seriousness of the actions/behaviour
- The context within the actions/behaviour occurred
- Frequency or patterns of actions/behaviour
- Nature of the person’s access/role with adults at risk
- Potential impact on an adult with care and support needs

Informing other local authorities:

a) If the person is employed, volunteers or is a student (paid or unpaid) in another local authority area, inform the relevant local authority area.

b) If there is also a risk to children, also inform the relevant LADO.

Working jointly with the police:

a) If the concerns involve possible criminal offences to either an adult or child, liaise with the police about the need for possible criminal investigation.

b) When the police are undertaking criminal investigations, they have a common law power to disclose sensitive personal information to relevant parties where there is an urgent ‘pressing social need’.

c) A pressing social need might be the safeguarding or protection from harm of an individual, a group of individuals, or society at large. This could include informing a relevant employer about criminal investigations relating to their employee where this has been assessed as necessary and appropriate in a particular case.

Informing the LADO and children services:
a) If the person may pose a risk of harm to his/her own children, or other children/young people in the course of their private life, children services should be informed without delay.

b) If the person may pose a risk to children/young people in the course of their work, paid or unpaid, the LADO should be informed without delay.

**Informing Commissioning and Contracts Teams:**

a) Where the concerns involve a person working in a commissioned service, inform the relevant commissioning/contracts team.

b) Within their own procedures, commissioning/contracts teams can take action as deemed appropriate to ensure the service has appropriate standards of practice to prevent and respond to any future risk of harm.

c) In accordance with local arrangements, if the person works for the NHS, the CCG safeguarding lead must be informed.

d) If the person works for the police, the Police safeguarding lead must be informed.

**Informing the Care Quality Commission:**

a) If the person is employed or volunteers for a regulated service provider, CQC should be informed.

b) CQC can take action as deemed appropriate within their own procedures to ensure the service has appropriate standards of practice to prevent and respond to any future risks of harm.

c) This includes the employer’s ‘fitness’ to operate and responsibility to safeguard adults at risk

**Informing Professional Bodies:**

a) If the person is registered with a professional body and there are concerns about their fitness to practice, the employer/volunteer manager must refer to the professional body’s published guidance and consider the need to raise the concern with that professional body.

b) A Professional Body has a range of options where appropriate, these usually include suspending the person from practice, de-registering them or imposing conditions of practice that the person must work under. See Appendix A for more information about referrals to Professional Bodies.

### 72. Risk Management

**Employer risk assessment and management process:**

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a) The organisation must have a mechanism for gaining assurance that the presenting risks have been appropriately assessed and responded to seeking evidence of the action taken as required.

b) Employers are responsible for assessing the risk in the context of their service. Only the employer has the power to suspend an employee, redeploy them or make other changes to their working arrangements, and so must be responsible and accountable for the decision reached.

Risk management arrangements:

a) Risk management arrangements are the responsibility of the employing organisation taking into account their assessment of the risk, their own internal policies and procedures, and employment law.

Review of working arrangements:

a) The employer is responsible for assessing and managing the risk of harm posed by the person taking into account the nature and seriousness of the allegation, harm to any patients/service users, and the risk of repeated incidents/ongoing behaviour.

b) Sometimes the employer will need to consider suspending an employee - this should not happen automatically but only after they have considered if the circumstances of a case warrant a person being suspended until the allegation is resolved.

c) Whilst it’s the employer who makes this decision, it is entirely reasonable to request a risk assessment where the employer has decided NOT to suspend.

d) The employer should also make arrangements to keep the individual informed about developments in the workplace

Supervision and Training

a) Supervision and training may be relevant to managing aspects of a presenting risk.

b) Supervision is a formal process ensuring the performance of each member of staff in a team, section, or unit is evaluated and reviewed so that, where necessary, learning and change can take place. Supervision is an important vehicle for meeting practice standards.

c) Supervision should address any issues of practice that are below the expected standard; and be used to ensure the practice of employees and volunteers reflects essential values and principles of practice, including choice, capacity, consent, privacy, dignity and respect to patients/service users, as well as the promoting safeguarding and individual wellbeing.
Training should be used to ensure employees, students and volunteers have the appropriate skills, knowledge and attitudes; but also in response to identified needs as may emerge from practice, supervision or personal development programmes.

**Suspension:**

a) Suspension may not be required if risks can be managed through changes to working arrangements such as:

- Not working with a particular patient/service user
- Working in a non-patient/service user contact role whilst the allegations are being investigated.
- If a person is suspended, they are entitled to know in broad terms the reasons for this.

b) Whilst an individual must be afforded the right to respond, this must be at an appropriate time.

c) Care should be taken to ensure information is not shared at the point of suspension that may prejudice a subsequent enquiry/investigation or place any person at additional risk.

d) Suspension should always be considered in any case where there is cause to think:

- an adult with care and support needs is at further risk of abuse or neglect, or
- the allegation warrants investigation by the Police, or
- is so serious that it might be grounds for dismissal, or
- the presence of the person in the work place will interfere with the enquiry/investigation process

e) Where a person is suspended, they are entitled to know in broad terms the reasons for the suspension. Whilst an individual must be afforded the right to respond to allegations or concerns raised, this must be at an appropriate time and care should be taken to ensure information is not shared at the point of suspension that may prejudice a subsequent enquiry/investigation or place any person at additional risk.

73. **Support for the person against whom allegation has been made**

Alongside the duty of care towards the adult at risk, is the duty of care to the employee. The employer need to provide support to minimise stress associated with the process, this may need to include:

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• Support to understand the procedures being followed
• Updates on developments
• Opportunity to respond to allegations/concerns
• Support to raise questions or concerns about their circumstances.

There may be limitations on the amount of information that can be shared at a particular time in order not to prejudice any enquiry/investigation or place any person at risk. Support may be available via occupational health or employee welfare arrangements where they exist. If the person is a member of a union or professional association or network he or she should be advised that they may wish to seek support from that organisation.

The person may also wish to seek independent advice regarding employment issues. Such advice and support however, should be supplementary to that provided by the employer. There may be occasions where there is a need to agree changes to the person’s working arrangements or to the support provided, to safeguard them from unfounded allegations in the future.

74. Disciplinary hearing processes and responsibilities
The need for, and timing of, a disciplinary hearing is a decision for the employer and will depend on the specific circumstances of the situation. Consideration should be given to whether the decisions or findings within any police or safeguarding adults process may potentially affect decision making within the disciplinary process, and vice versa. Such decisions will need to be reached on a case-by-case basis.

Disciplinary hearings will be focused on the conduct of the individual as an employee. Decisions reached should, however, also give due consideration to the organisation’s responsibility to safeguard children and adults at risk. Employers who are also service providers or service commissioners have not only a duty to the adult at risk but also a responsibility to take action in relation to the employee when allegations of abuse are made against him or her. Employers must ensure that their disciplinary procedures are consistent with the responsibility to protect adults at risk of abuse or neglect.

If an organisation removes an individual (paid worker or unpaid volunteer) from work with an adult with care and support needs (or would have, had the person not left first) because the person poses a risk of harm to adults, the organisation must make a referral to the Disclosure and Barring Service. It is an offence to fail to make a referral without good reason. Please see Appendix B for more information about DBS referrals.

Where it is necessary to refer individual employees to the DBS and/or the relevant professional body, these will be made promptly and as soon as possible once the investigation has concluded. This includes sharing with the professional body, the supporting evidence required as part of the referral

75. Recording and data collection
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Individual organisations should maintain appropriate records of cases in line with the Data Protection Act 1998 requirements and individual organisational policies around information governance and record retention.

Individual organisations should also establish monitoring arrangements to enable to activity relating to allegations against staff to be tracked. Collated anonymised information about the number and nature of allegations made and their outcomes should be produced at least annually and these reports shared with relevant boards, committees and leadership teams to inform service improvement and development.

76. Support from the Local Safeguarding Adult Board
The LSABs will provide on their respective websites information about how and to whom to report concern about possible abuse or neglect which will ensure non commissioned or funded voluntary organisations and charities can access information about their responsibilities to act upon concerns about abuse or neglect.

The 4LSABs have established a SAMA network comprised of professionals who have an advisory or support role in their organisation around allegations management in order to facilitate all essential networking and information sharing across agencies. This also provides an opportunity for regular updating. It is anticipated that the SAMA network would meet every six months.

77. Appendix A: Referrals to Professional Bodies

If the person is registered with a professional body and there are concerns about their fitness to practice, the employer/volunteer manager must refer to the professional body’s published guidance and consider the need to raise the concern with that professional body.

A professional body has a range of options where appropriate, these usually include suspending the person from practice, de-registering them or imposing conditions of practice that the person must work under. The principal organisations within health and social care are:

- Nursing and Midwifery Council (www.nmc-uk.org)
- Health and Care Professions Council (www.hpc-uk.org)
- General Medical Council (www.gmc-uk.org)
- General Optical Society (www.optical.org)
- General Dental Society (www.gdc-uk.org)
- General Chiropractic Council (www.gcc-uk.org)
- Royal Pharmaceutical Society of Great Britain (www.rpsgb.org.uk)
- General Osteopathic Council (www.osteopathy.org.uk)
Each professional registration body:

- Maintains a public register of qualified workers
- Sets standards for conduct, performance and ethics
- Considers allegations of misconduct, lack of competence or unfitness to practice
- Makes decisions as to whether a registered worker can practice

Notification of a professional body is the responsibility of the employer. Where this action has been agreed with the organisation’s nominated safeguarding lead, confirmation should be provided to them that the action has been completed. As the responsible authority for adult safeguarding, the local authority has the power to make a referral where the relevant criteria have been met, and should do so where it is necessary to ensure an appropriate referral has been made.

78. Appendix B: Referrals to the Disclosure and Barring Service (DBS)

On the 1st December 2012 the Criminal Records Bureau (CRB) and the Independent Safeguarding Authority (ISA) merged and became the Disclosure and Barring Service (DBS). This means that these same services are now provided by a single organisation rather than two.

The Disclosure and Barring Service can bar a person unsuitable to work with vulnerable people, including children, from working in regulated activity in the future. If a person is barred it becomes an offence for an organisation to knowingly engage that person in regulated activity.

Employers and volunteer managers of people working in ‘regulated activity’ have a legal duty to make referrals to the Disclosure and Barring Service in certain circumstances. The local authority also has a power to make a referral, and should do where it is necessary to ensure the appropriate referral has been made. Regulated activity is work (both paid and unpaid) with children or vulnerable adults that meets certain criteria. In relation to vulnerable adults, regulated activity in broad terms includes activities involved in:

- Providing health care
- Providing personal care
- Providing social work
- Providing assistance with cash, bills and/or shopping
- Providing assistance in the conduct of personal affairs
- Conveying the person

There is a duty placed on regulated activity providers and personnel suppliers to make a DBS referral in circumstances where they have permanently removed a person from ‘activity’
through dismissal or permanent transfer (or would have if the person had not left, resigned, retired or been made redundant); because the person has:

- Been cautioned or convicted for a relevant offence; or
- Engaged in relevant conduct in relation to children and/or vulnerable adults [i.e. an action or inaction (neglect) that has harmed a child or vulnerable adult or put them at risk of harm]; or
- Satisfied the Harm Test in relation to children and/or vulnerable adults [i.e. there has been no relevant conduct (i.e. no action or inaction) but a risk of harm to a child or vulnerable adult still exists.

It is also possible to make a referral where this legal duty has not been met. For example, where there are strong concerns but the evidence is not sufficient to justify dismissing or removing the person from working with children or vulnerable adults. Such a referral would need to be compliant with relevant employment and data protection laws.

Where the need for a referral to the Disclosure and Barring Scheme (DBS) has been agreed with the organisation’s nominated safeguarding lead, confirmation should be provided to them that the action has been completed. As the responsible authority for adult safeguarding, the local authority has the power to make a referral where the ‘person in a position of trust’ is employed in another organisation, and should do so where it is necessary to ensure an appropriate referral has been made.

The full up-to-date guidance and definitions must be referred to when deciding whether to make a Disclosure and Barring Service referral. For further information contact the Disclosure and Barring Service (DBS):

Helpline: 03000 200 190

Website: www.homeoffice.gov.uk/agencies-public-bodies/dbs

Email: customerservices@dbs.gsi.gov.uk
79. Guidance on gaining access to an adult suspected to be at risk of neglect or abuse

This guidance is based on the guidance published by the Social Care Institute of Excellence in October 2014. The aim of the guide is to clarify existing powers relating to access to adults suspected to be at risk of abuse or neglect. The safeguarding duties under the Care Act 2014 apply to an adult who:

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

The guide has been created to provide information on legal options for gaining access to people who fulfill the three criteria above where access is restricted or denied. It is intended as a source of ready reference in situations of uncertainty, rather than as a learning tool, laying out the potential routes to resolution. It is important that social workers and their managers are as clear as possible on which legal powers or options apply to which situations, and in cases of any uncertainty that they consult their senior managers and/or the legal department of the Local Authority. Throughout the guide there are links to information on the relevant legislation and case law, should you wish to consult this.

80. Key messages

Under Section 42 of the Care Act 2014, Local Authorities have a duty to make, or cause to be made, enquiries in cases where they reasonably suspect that an adult with care and support needs is experiencing, or is at risk of, abuse or neglect, and, as a result of those needs, is unable to protect themselves from this actual or risk of abuse and neglect.

This duty to make or to cause adult safeguarding enquiries to be made does not provide for an express legal power of entry or right of unimpeded access to the adult who is subject to such an enquiry. Instead, there are a range of existing legal powers which are available to gain access should this be necessary. The powers which may be relevant to adult safeguarding situations derive from a variety of sources including the Mental Capacity Act 2005 (MCA), the Mental Health Act 1983 (MHA) and the Police and Criminal Evidence Act 1984 (PACE), along with the common law including the inherent jurisdiction of the High Court and common law powers of the police to prevent or deal with a breach of the peace.

Whether it is necessary to seek legal intervention and which powers would be the most appropriate to rely on in order to gain access to an adult to assess any safeguarding risk or otherwise protect an adult will always depend on the individual circumstances of the case.
The purpose of a safeguarding enquiry is for the Local Authority to clarify matters and then decide on what course of action (if any) is required in order to protect the adult in question from abuse and neglect. If any action is necessary, then it is for the Local Authority to take the lead in coordinating what action is appropriate and by whom. A safeguarding enquiry may not necessarily result in what is typically considered to be a ‘safeguarding response’, such as an investigation by the police or a health and social care regulator, but it could result in other action to protect the adult concerned, such as providing a care and support package for either or both the adult and their carer.

81. Practical issues to gaining access

The purpose of the safeguarding enquiry is to decide whether or not the Local Authority or another organisation, or person, should do something to help and protect the adult. In almost every case it is likely to be necessary to physically see and talk to the adult in order to be able to make that decision.

Good safeguarding practice begins with talking to the adult who there is concern about, unless there are exceptional circumstances that would increase the risk of abuse. That conversation will need to establish facts and, importantly, what the person wants to happen and how. Practitioners need to make personal contact with the people they are working with and establish a relationship. Therefore the issue of access and ability of the person to talk freely is critical.

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.

People must be assumed to have capacity to make their own decisions and be given all practicable help before anyone treats them as not being able to make their own decisions. Where an adult is found to lack capacity to make a decision then any action taken, or any decision made for them, or on their behalf, must be made in their best interests.

Organisations should always promote the adult’s wellbeing in their safeguarding arrangements. People have complex lives and being safe is only one of the things they want for themselves. Professionals should work with the adult to establish what being safe means to them and how that can be best achieved. Professionals and other staff should not be advocating ‘safety’ measures that do not take account of individual wellbeing, as defined in Section 1 of the Care Act.

82. Difficulties in gaining access

There will be a wide range of reasons why, and circumstances when, it may be difficult to gain access to an adult who is the subject of an adult safeguarding enquiry. Here are some examples:

• Access to the premises is being denied altogether by a third party on the premises, typically a family member, friend or other informal carer

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• Access to the premises can be gained, but it is not possible to speak to the adult alone – because the third party is insisting on being present

• The adult at risk themselves (whether or not unduly under the influence of the third party) is insisting that the third party be present – clearly in such cases if the person is known to have capacity the issue of access in terms of the law does not arise.

However, the simple fact of access being refused should not automatically lead to consideration of the use of legal powers. Such situations are often complex and highly sensitive and, if they are to be resolved successfully and safely, will need sensitive handling by skilled practitioners. All attempts to resolve the situation should begin with negotiation, persuasion and the building of trust. Denial of access may not necessarily be a sign of wrongdoing by the third party; it may be an indication of lack of trust of authority, guilt about their inability to care or fear that the adult will be removed from the home. It is vital that until the facts are established the practitioner adopts an open-minded, non-judgmental approach.

If all attempts fail then the Local Authority must consider whether the refusal to give access is unreasonable and whether the circumstances justify intervention. There will need to be a Local Authority-led discussion about what the perceived risks are, the likelihood of risk or neglect occurring and the potential outcomes of both intervening and not intervening. As in any other situation, any decisions and the reasons for them should be clearly and fully recorded and shared with others as necessary and lawful. If the conclusion is that the use of legal powers is necessary and justifiable, the next step is to consider what powers would be most appropriate.

Therefore, Local Authority managers and practitioners involved in safeguarding need to be aware of existing legal powers which can be used if necessary to gain access to make enquiries, or cause enquiries to be made, in order to assess what (if any) safeguarding action is needed to protect an adult thought to be at risk of abuse and neglect because of their care and support needs.

Recourse to the courts and legal powers should be considered carefully and only as a last resort. Local Authorities must satisfy themselves that there are grounds to seek access and that the use of such powers will not be unlawful or leave an adult in a worse position. Clearly any unlawful intervention could lead not only to judicial criticism but also to liability (whether as a result of a breach of human rights or otherwise).

83. Proportionality

Any interference by the state (meaning public bodies, or sometimes private bodies carrying out functions of a public nature) must be lawful and necessary. The stipulation of necessity encompasses a requirement of proportionality – that is, not ‘taking a sledgehammer to crack a nut’. Where the use of any power of entry is thought necessary, it should be exercised proportionately, in relation to the risk and the apparent gravity of the situation.

If powers of intervention are to be exercised lawfully and proportionately, it follows that practitioners involved in safeguarding require a basic knowledge of what powers are available; in particular, when and how they can be used – and, just as importantly, when they cannot be – and whom to consult in cases of uncertainty.

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Of course an emergency situation involving significant risk may justify the use of coercive powers – such as police entry to save life and limb – if there is clearly no time to attempt a negotiated, non-coercive approach.

84. **Principle of necessity and proportionality linked to the principle of the least restrictive option**

The principle of the least restrictive option helps to ensure that interventions are necessary and proportionate.

Section 1 of the MCA requires that, in respect of an act or decision done for a person who lacks capacity, consideration must be given to achieving the person’s best interests in a manner which is least restrictive of the person’s rights and freedom of action. Likewise the least restrictive principle is a guiding principle in the statutory Code of Practice for the Mental Health Act 1983: it states that:

‘People taking action without a patient’s consent must attempt to keep to a minimum the restrictions they impose on a patient’s liberty, having regard to the purpose for which the restrictions are imposed.’

Furthermore, Section 1 of the Care Act 2014 states that a Local Authority, in exercising its functions under Part 1 of the Act in the case of an individual, must promote that individual’s wellbeing and have regard to a number of factors including the need to ensure that any restriction on the individual’s rights or freedom of action is kept to the minimum necessary for achieving the purpose for which the function is being exercised.

85. **The duty to enquire arising during an 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.

The duty demands that either the Local Authority itself makes the enquiries, or (where appropriate) that it asks another person or agency to do so; for example, asking the police to investigate where a crime is suspected or asking a health professional if they visit the adult regularly.

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 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. The following legal powers may be relevant, depending on the circumstances:

- **If the person has been assessed as lacking mental capacity in relation to a matter relating to their welfare:** the Court of Protection has the power to make an order under Section 16(2) of the MCA relating to a person’s welfare, which makes the decision on that person’s behalf to allow access to an adult lacking capacity. The Court can also appoint a deputy to make welfare decisions for that person.

- **If an adult with mental capacity, at risk of abuse or neglect, is impeded from exercising that capacity freely:** the inherent jurisdiction of the High Court enables the Court to make an order (which could relate to gaining access to an adult) or any remedy which the Court considers appropriate (for example, to facilitate the taking of a decision by an adult with mental capacity free from undue influence, duress or coercion) in any circumstances not governed by specific legislation or rules.

- **If there is concern about a mentally disordered person:** Section 115 of the MHA provides the power for an approved mental health professional (approved by a Local Authority under the MHA) to enter and inspect any premises (other than a hospital) in which a person with a mental disorder is living, on production of proper authenticated identification, if the professional has reasonable cause to believe that the person is not receiving proper care.

- **If a person is believed to have a mental disorder, and there is suspected neglect or abuse:** Section 135(1) of the MHA, a magistrates court has the power, on application from an approved mental health professional, to allow the police to enter premises using force if necessary and if thought fit, to remove a person to a place of safety if there is reasonable cause to suspect that they are suffering from a mental disorder and (a) have been, or are being, ill-treated, neglected or not kept under proper control, or (b) are living alone and unable to care for themselves.

- **Power of the police to enter to arrest a person for an indictable offence:** Section 17(1)(b) of PACE.

- **Common law power of the police to prevent, and deal with, a breach of the peace:** Although breach of the peace is not an indictable offence the police have a common law power to enter and arrest a person to prevent a breach of the peace.

- **If there is risk to life and limb:** Section 17(1)(e) of PACE gives the police the power to enter premises without a warrant in order to save life and limb or prevent serious damage to property. This represents an emergency situation and it is for the police to exercise the power.

More detail as to the application and limitation of these legal powers follows in the sections below:
86. Context of the Mental Capacity Act 2005 (MCA) in gaining access to an adult suspected of being at risk of neglect or abuse

View the Mental Capacity Act 2005 (MCA)\(^7\)

An assessment to establish whether a person lacks capacity should take place whenever there is concern that an individual might lack the mental capacity to make a proposed decision. A person must be assumed to have capacity unless it is shown that they lack capacity.

Capacity must be assessed in accordance with Sections 2 and 3 of the MCA and decided on the balance of probabilities. Under Sections 2 and 3 of the MCA, it must be established that a person lacks capacity in relation to a specific and relevant matter at the material time. For example, a person lacks capacity to make a decision about whether or not to be admitted to a nursing home the following month for respite care.

In the context of this guide, the capacity in question could relate to, for example, the adult’s capacity to make decisions about their situation or to cooperate with the Local Authority in undertaking the safeguarding enquiry.

An application may be made to the Court of Protection under the MCA to facilitate gaining access to an adult who lacks capacity or who there is a reason to believe lacks capacity, in a case of suspected neglect or abuse, where that access is being denied or impeded. The Court’s permission to make an application will be needed. The Court of Protection must apply the fundamental principles in Section 1 of the MCA. The principles include:

- Assuming that a person has mental capacity unless it can be shown otherwise
- Not mistaking unwise decisions for decisions taken without capacity
- Acting in the person’s best interests
- Considering less restrictive ways of achieving those best interests.

87. Personal welfare orders

The Court of Protection could make an order under Section 16(2) of the MCA relating to a person who lacks capacity’s welfare, which makes the decision on that person’s behalf to

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allow a third party (including Local Authority practitioners) access to that person. Failure to comply with an order of the Court of Protection could be a contempt of Court. The Court can attach a penal notice to the order, warning that failure to comply could result in imprisonment or a fine.

88. Appointment of a deputy
The Court of Protection may appoint a deputy for a person who lacks capacity under Section 16(2) who can make the decision on that person’s behalf to allow a third party (including Local Authority practitioners) access to that person.

89. Interim orders and directions
The Court of Protection could make interim orders and directions under Section 48 if an application to the Court of Protection has been commenced but not yet determined if:

- There is reason to believe that a person lacks capacity in relation to the matter
- The matter is of a type covered by the powers of the Court, and it is in that person’s best interests to make an order or give directions without delay.

The pending application could be in relation to whether the person lacks capacity, what arrangements would be in that person’s best interests, or an application to authorise a deprivation of liberty. Interim orders/directions cannot be sought if there is no pending application.

90. Threshold for an interim order or directions
The Court may make interim orders or directions that include requiring immediate safeguarding steps relating to the adult’s personal welfare to be taken.

91. Access under an interim order or directions
The interim order or directions may contain directions to permit a person entry to premises and access to that person. Obstruction by a third party of access to and assessment of that person may be a contempt of Court. A penal notice may be attached to the order or directions, warning that a breach could result in imprisonment. The order or directions may be against not just the third party but also that person.

92. Inherent jurisdiction of the High Court
‘Inherent jurisdiction’ is a term used to describe the power of the High Court to hear any case which comes before it unless legislation or a rule has limited that power or granted jurisdiction to some other court or tribunal to hear the case. This means that the High Court has the power to hear a broad range of cases including those in relation to the welfare of
adults, so long as the case is not already governed by procedures set out in rules or legislation. It is ‘common law’ developed by the High Court to control the procedures before it and to stop any injustices arising from it being prevented from hearing any case. It is not normally used in relation to people who lack capacity, because such cases are dealt with by the Court of Protection under the procedures established by the MCA.

However, inherent jurisdiction may still be relevant to an adult lacking capacity if the matter and intervention required are not covered by the MCA; for example, when making a declaration of non-recognition of a marriage or depriving a person of their liberty for the purpose of enforcing physical treatment. It will also sometimes be necessary for a Local Authority to make an application to the High Court to ask the Court to exercise its inherent jurisdiction to protect an adult with mental capacity. The order could in principle be directed against a third party and so relevant to a situation on which this guide focuses: the denial of access by a third party to a person suspected of experiencing, or at risk of, abuse or neglect.

93. Does the Mental Capacity Act or inherent jurisdiction apply?

The MCA only applies if a person lacks capacity within the meaning of Sections 2 and 3 of the MCA, subject to the Court of Protection powers under section 48 (see above) even if capacity has not been formally determined. If, however, the person has capacity but cannot take a decision (freely) because of coercion, undue influence or constraint – or other circumstances – then an application can be made relying on the Court’s inherent jurisdiction.

94. Inherent jurisdiction and safeguarding

The courts continue to develop and explore the extent and application of its inherent jurisdiction, which is protective in relation to adults in vulnerable circumstances, and they will endeavour always to avoid undermining the principles in Section 1 of the MCA that an adult can take unwise decisions without this necessarily indicating a lack of capacity. Orders made under the Court’s inherent jurisdiction may or may not be time-limited.

The courts will also be mindful that rash use of the jurisdiction would risk breaching Article 8 of the European Convention on Human Rights (ECHR) which relates to the right to respect for private and family life. However, at the same time, so-called ‘positive obligations’ to protect an individual’s rights under the EHCR may require the courts to intervene by exercising its inherent jurisdiction. This implies that in appropriate cases, Local Authorities should also be asking the courts to consider exercising its inherent jurisdiction on human rights grounds.

According to the courts, the inherent jurisdiction can be exercised for vulnerable adults, with or without capacity, who are ‘reasonably believed’ to be ‘under constraint’ or ‘subject to coercion or undue influence’, or for another reason ‘deprived of the capacity to make the relevant decision’, or prevented from making a free choice, or from ‘giving or expressing a real and genuine consent’.

There has been no specific definition of what constitutes ‘vulnerable’ in such cases, and the jurisdiction is not confined to ‘vulnerable’ adults, but equally adults at risk of abuse and neglect do not automatically come under it. Factors to consider when an adult can be
considered ‘vulnerable’ have been suggested; for example, people unable to take care of themselves or protect themselves from harm or exploitation by others. Those suffering from mental illness or physical disability may also be considered vulnerable, depending on the circumstances. Clearly, it will be easier to make a case for exercising the jurisdiction in relation to apparently vulnerable adults than for those who do not appear vulnerable.

The important thing to remember when considering applying to the Court to use its jurisdiction to grant an access order is that its purpose is not to overrule the wishes of an adult with capacity, but to ensure that the adult is making decisions freely. In the context of this guide, constraint, coercion or the undue influence of a third party may be preventing the adult’s ability to make free decisions, and recourse to the Court’s jurisdiction may be used to assist professionals in gaining access to assess the adult.

95. Orders against a third party

In situations such as those on which this guide focuses, it is possible that an order could be made against the person responsible for undue influence, constraint or coercion if this is also necessary to protect the adult in question. In one case, an order was contemplated against a son who was allegedly mistreating his parents. But even in such a case, the Court would want to scrutinise carefully any application for such an order, especially if the person(s) to be protected – in this case, the parents – do not support it. For instance, if the third party undertakes, plausibly, to co-operate on relevant matters, then the Court will not grant an injunction against them.

96. Context of the Mental Health Act 1983 in gaining access to an adult suspected of being at risk of neglect or abuse

View the Mental Health Act 1983 8

Section 115

Under Section 115 of the Mental Health Act 1983 (Powers of entry and inspection) an approved mental health professional (AMHP) may at all reasonable times enter and inspect any premises (other than a hospital) in which a mentally disordered person is living – if the professional has reasonable cause to believe that the person is not receiving proper care.

This power can only be used after the approved mental health professional, if asked, has produced a duly authenticated document showing that he or she is such a professional. Section 115 does not allow for forced entry, the use of force to override the owner’s refusal to give permission to enter, or for force to be used to talk to a person alone in the dwelling. However, obstruction without reasonable cause by a third party of the approved professional acting under Section 115 could constitute an offence under Section 129 of the Act. If entry is


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still refused, the AMHP may consider whether an application for a warrant under Section 135 is justified.

**Section 135(1)**

This section of the Act is relevant to the focus of this guide because it is one way of gaining access to a person reasonably suspected of being ill-treated or neglected. In addition, the ‘reasonable cause to suspect’ condition is mirrored in Section 42 of the Care Act (‘making enquiries’).

Under Section 135(1), a magistrate may issue a warrant authorising a police officer to enter premises specified in the warrant, using force if necessary, and if it is thought fit, to remove a person to a place of safety (defined in Section 135(6)) for a mental health assessment. The constable must be accompanied by an AMHP and a doctor.

Such a warrant may be issued only if it appears to the magistrate from information received on oath from an AMHP, that there is reasonable cause to suspect that a person believed to be suffering from mental disorder (a) has been, or is being, ill-treated, neglected or not kept under proper control, or (b) is unable to care for himself or herself and is living alone. A person who is removed to a place of safety can be held there for a period not exceeding 72 hours. This would be with a view to making an application for detention under the MHA or other arrangements for care and treatment. There also has to be a belief, but not a certainty, concerning the existence of a mental disorder – which is defined widely in Section 1 of the MHA.

Removal of the person to a place of safety is not inevitable. It should only take place ‘if thought fit’. Having spoken to the person, it might be decided that removal is not necessary. Once a person has been removed to a place of safety, this does not necessarily mean an application for detention will be made under the MHA. It may be that ‘other arrangements’ for care can be made instead, such as an informal hospital admission, or regular home visits from a crisis resolution or community mental health team. In some cases, it may be decided to do nothing, once the person has been spoken to. In these instances, the legal authority to detain the person at a place of safety will lapse.

97. Context of the Police and Criminal Evidence Act 1984 in gaining access to an adult suspected of being at risk of neglect or abuse:

View the Police and Criminal Evidence Act 1984[^9]

[^9]: http://www.legislation.gov.uk/ukpga/1984/60/contents

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98. Powers of entry under the Act - ‘saving life or limb’

Section 17(1)(e) of PACE gives the police the power to enter and search premises without a warrant, in order to ‘save life or limb’ or prevent serious damage to property. However, it is not enough that the police should have a general welfare concern about somebody in order to use this power of entry, which may only be used in cases of emergency, not general welfare.

99. Application of Section 17(1)(e)

View the Police and Criminal Evidence Act 1984 Section 17(1).

Serious bodily injury: the case of 'Baker' v. 'Crown Prosecution Service' [2009] EWHC 299 (Admin), para 25 In this case, the court held that the police would need to be concerned about serious bodily injury. The expression ‘saving life or limb’ is a colourful, slightly outmoded expression. It is here used in close proximity with the expression ‘preventing serious damage to property’. That predicates a degree of apprehended serious bodily injury. Without implicitly limiting or excluding the possible types of serious bodily injury, apprehended knife injuries and gunshot injuries will obviously normally be capable of coming within the subsection. If the abuse suspected is of a type not related to seriously bodily injury, this section will be of no use.

100. Breach of the peace

There is a common law (i.e. not in legislation) power of entry to deal with a breach of the peace. It is in addition, and separate from, the powers of entry in Section 17 of PACE. A breach of the peace occurs when harm is actually done, or likely to be done, to a person or their property in their presence. It also occurs in instances when a person is in fear of being harmed in this way through assault, affray, a riot or other unlawful disturbance. In such cases an arrest can be made without a warrant.

In general, the power of the police to enter premises to prevent a breach of the peace only applies in emergencies. It is therefore unlikely to be justified in the majority of welfare-related cases.

101. Arrest without a warrant for an indictable offence

However, if Section 24(1) or (2) or (3) can be shown to apply (arrest without a warrant for an indictable offence), then the police do have the power to enter premises under Section 17(1)(b). An indictable offence is one that can or must be tried in a Crown Court. In relation to safeguarding, examples of this would be evidence of:

- Ill-treatment or wilful neglect (see Section 44 ?? of the Mental Capacity Act11 and Section 127 of the Mental Health Act12)

http://www.legislation.gov.uk/ukpga/1984/60/section/17

Section 3

102. Power to arrest a person, without a warrant, who is committing, is about to commit, or has committed a summary (i.e. non-indictable – Magistrates Court only) offence

Section 24 (4) and (5) of the Act deals with the power to arrest a person, without a warrant, who is committing, is about to commit, or has committed an offence. The police will need reasonable grounds for believing an arrest is necessary for one of the reasons listed in Section 24(5), before being able to act. Two key reasons that may be relevant in terms of safeguarding are:

- To protect a vulnerable person likely to be harmed or at risk of being harmed if the person in question is not arrested and other arrangements for the prevention of harm cannot be made
- To prevent that person from causing physical injury to another person.

In the context of this guide, if a Local Authority has reasonable cause to suspect that an adult is being subjected to abuse or neglect, the question will be whether this translates, under Section 24, into knowledge and reasonable grounds for suspicion; that the abuse constitutes a criminal offence; and whether it is therefore necessary to arrest the person for one of the reasons listed in Section 24 (4) & (5). There is no power of entry linked to Section 24 (4) & (5), unless it meets the criterion of Section 17(1)(e) – saving life or limb.

103. Summary of gaining access to an adult suspected of being at risk of neglect or abuse

This guide aims to clarify the different types of legal powers that can be called upon when access to an adult who is suspected to be at risk of neglect or abuse is required but, for whatever reason, is being denied or restricted. In this guide, such an access requirement is triggered by a Local Authority’s enquiry duty under Section 42 of the Care Act 2014. Although
there is no express legal power of entry or right of access contained in this Act, other existing powers can be drawn upon. Which existing power is most appropriate depends on the circumstances of the case. Therefore, knowledge of the relevant sections of the Mental Capacity Act 2005 (MCA), the Mental Health Act 1983 (MHA) and the Police and Criminal Evidence Act 1984 (PACE), along with an understanding of the inherent jurisdiction of the High Court and the common law powers of the police are essential tools for social workers. However, it is strongly advised that advice and confirmation be sought from senior managers or legal teams before any action is taken, unless it is clear that the situation is an emergency (‘saving life or limb’). In such emergency cases, the matter should be referred to the police for immediate action under Section 17(1)(e) of PACE.

104. References for SCIE’s ‘gaining access to an adult suspected of being at risk of neglect or abuse: a guide for social workers and their managers in England’

- Adult safeguarding: statement of government policy
- Code of Practice: Mental Capacity Act 2005
- Care Act 2014 Section 42
- Mental Capacity Act Section 1(2)
- Mental Capacity Act Section 50

105. Guidance on honour based violence, forced marriage and female genital mutilation

106. Honour based violence, forced marriage and female genital mutilation

The 4LSAB area has developed a multi-agency guidance document for agencies and organisations to use with cases or suspected cases of honour based violence in 4LSAB area. It

14 http://www.legislation.gov.uk/ukpga/2005/9/section/1
explains how pan Hampshire agencies should respond to incidents, (crime and non-crime) where honour based violence, forced marriage and female genital mutilation may be a consideration. This is generic guidance designed to maximise agencies’ responses to cases of honour based violence. The information outlines a range of possibilities and issues that need to be considered in all HBV cases. It should also be recognised that HBV occurs across a range of differing and diverse communities for a number of different reasons, and the information needs to be applied on a case by case basis.

107. Forced marriage

Forced marriage has become a criminal offence under provisions brought in under the Anti-social Behaviour, Crime and Policing Act 2014. This legislation bans:

- Marrying someone who lacks the mental capacity to consent to the marriage, regardless of whether they are pressured to do it
- Taking someone overseas to force them to marry even if the marriage does not take place
- The use of violence, threats or coercion to cause someone else to marry, or behaviour that they should reasonably believe may cause the other person to marry without free and full consent.

The offences apply if either the perpetrator or victim is in England and Wales, habitually resident there or a UK national. Forcing someone to marry is now punishable by up to seven years in prison. The breaching of forced marriage protection orders will now become a criminal offence resulting in up to five years in prison. Anyone who has been forced to marry or threatened with it can apply for a protection order as can third parties such as the police, relatives and voluntary organisations.

108. References:

New Forced Marriage Offences\textsuperscript{16}

\textbf{A Right to Choose - Forced Marriage Statutory Guidance (HM Government, 2010)}\textsuperscript{17}


This guidance is designed to provide a clear framework with which to respond to safeguarding concerns occurring in regulated NHS and social care settings. This framework recognises that promoting well being and safeguarding adults against abuse and neglect is an integral part of the commissioning and contracts processes and is underpinned by the following six principles:

<table>
<thead>
<tr>
<th>Principle</th>
<th>Outcome Statement</th>
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<tbody>
<tr>
<td>Empowerment – people being supported and encouraged to make their own decisions and informed consent</td>
<td>“I am asked what I want as the outcomes from the safeguarding process and these directly inform what happens.”</td>
</tr>
<tr>
<td>Prevention – it’s better to take action before harm occurs</td>
<td>“I receive clear and simple information about what abuse is, how to recognise the signs and what I can do to seek help.”</td>
</tr>
<tr>
<td>Proportionality – least intrusive responses appropriate to presenting risks</td>
<td>“I am sure that the professionals will work in my interests, as I see them and they will only get involved as much as needed.”</td>
</tr>
<tr>
<td>Protection – support and representation for those in greatest need</td>
<td>“I get help and support to report abuse and neglect. I get help so that I am able to take part in the safeguarding process to the extent to which I want.”</td>
</tr>
<tr>
<td>Partnership – local solutions through services working with their communities. Communities have a part to play in preventing, detecting and reporting neglect and abuse</td>
<td>“I know that staff treat any personal and sensitive information in confidence, only sharing what is helpful and necessary. I am confident that professionals will work together and with me to get the best result for me.”</td>
</tr>
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</table>

110. Provider responsibilities

There is an expectation that commissioned and grants funded services must have in place a range of processes to enable them to meet their duty of care to safeguard their service users. In addition to providing high quality and safe care, service providers are expected to:

- Have an up to date clear internal adult safeguarding policy and procedure consistent with the local Multi Agency Safeguarding Adults Policy and ensure all staff are aware of, and can act on concerns and allegations in accordance with the policy
- Have clear care governance arrangements in place to prevent abuse or neglect
- Have robust reporting mechanisms from the point of care to the senior management/Board and from the management/Board to the point of care to proactively monitor the risk of abuse and neglect in the care setting
- Adopt robust recruitment and employment practices, with checkable references, checkable ID, and appropriate DBS checks in place at the commencement of employment
- Ensure all staff receive training on the nature of abuse and neglect, recognising the signs and how to report concerns
- Ensure all staff have training in the Mental Capacity Act, Deprivation of Liberty Safeguards, and the Prevent Agenda commensurate with their roles and responsibilities
- Have a whistle blowing policy to enable staff to raise concerns outside their own chain of line management, including outside their organisation to the Local Authority where necessary
- Have robust mechanisms for service users, relatives and visitors to raise concerns including how to make a complaint and the contact number for the local safeguarding adults team
- Ensure where necessary, all service users are supported by an advocate
- Ensure staff governed by professional regulation, understand how their professional standards and requirements underpin their organisational roles to prevent, recognise and respond to abuse and neglect
- Ensure all Job Descriptions include a clear statement on the responsibility to prevent abuse and neglect and to report concerns. This statement must be commensurate with the responsibilities of the post
- Ensure that disciplinary procedures are compatible with the responsibility to protect adults at risk of abuse or neglect
- Correct abuse or neglect in their organisation and protect the adult from further harm as soon as possible. The Local Authority must be informed as well as the CQC and also the CCG where the latter is the commissioner
- Respond to allegations of abuse, neglect or misconduct including having robust processes in place to investigate the actions of members of staff
• Lead (at the request of the Local Authority) a section 42 enquiry providing any additional support the adult may need. This may be when the safeguarding enquiry relates to the conduct or actions of a staff member
• Information relating to the action taken and what the outcome is must be made available to the Local Authority in line with s67 or s68 Care Act 2014
• Fully co-operate with section 42 safeguarding enquiries being made by or on behalf of the Local Authority and to provide access to premises, staff and service users and relatives (including people funding their own care)
• Records should also be made available any independent advocate supporting the adult
• Report allegations against staff to the Designated Safeguarding Adults Manager for their sector or the Safeguarding Adults Lead in their organisation
• Ensure that the person who is alleged to have caused harm is appropriately informed and supported during the process and that information, advice and support is provided to the adult(s) harmed or their representative.

111. Commissioner responsibilities

As part of this framework, there is an expectation that commissioners will have in place a range of processes to ensure service users receive good quality and safe care. They must assure themselves that a provider is capable and competent in responding to allegations of abuse or neglect, including having robust processes in place to investigate the actions of members of staff.

Commissioners should encourage an open culture around safeguarding, working in partnership with providers to ensure the best outcome for the adult. Commissioners will be transparent and proportionate in any decisions and actions taken to safeguarding service users and specifically it will:

• Place service users’ well-being, quality of life and safety at the centre of all commissioning activity.
• Offer regular assurance of the safety and effectiveness of the services commissioned.
• Respond promptly and robustly to concerns about possible abuse or neglect arising in regulated care and support settings, adopting a person-led and outcome-focused approach.
• Make available a continuum of responses in order to ensure responses are proportionate to the nature and level of concerns raised and that these are undertaken by the appropriate body or organisation.
• Inform providers at the onset about the nature of any concerns and share minutes of meetings as appropriate.
• Request the provider to lead a section 42 enquiry when the concern relates to the actions or conduct of staff. However, the Local Authority will have to satisfy itself that the provider’s response has been sufficient to deal with the safeguarding issue and, if not, to undertake any enquiry of its own and any appropriate follow up action (e.g. referral to CQC, professional regulators).
112. Responding to concerns about individuals

Concerns relating to individual service users will be assessed by the Local Authority. If there is reasonable cause to suspect that an adult may be experiencing or at risk of abuse or neglect, then it will make (or cause to be made) enquiries to determine what (if any) action needs to be taken and by whom. The adult at risk (or their representative) should be asked their views on the situation and what outcome they are seeking and should be involved as far as possible in the process.
A person who has been assessed as lacking capacity to make decisions about their care and support should be provided with an IMCA if there is no one suitable to represent and support them. A person assessed as having capacity to make decisions about their care and support may be offered the support of an independent advocate if they would experience ‘substantial difficulty’ in being involved in the process and where there is no other suitable person to represent and support them. It would be the responsibility of the Local Authority to arrange advocacy support even when another organisation is leading the section 42 enquiry. The outcome of the safeguarding enquiry and subsequent actions should be recorded on the client record system.

113. Responding to concerns about organisational abuse

In cases of organisational abuse and where there are systemic issues, an appropriate manager will be designated to lead the safeguarding activity and to chair safeguarding meetings. This manager will oversee the formulation and implementation of service development plans.

If care reviews are required on other service users to ascertain if they are also at risk, these should take place within the usual care management process and recorded as such. If harm or risk of harm, is indicated for any other service user during the course of these reviews, a safeguarding adults’ concern should then be raised for each individual for whom this is the case.

Contracts, procurement and quality improvement representatives should be actively involved in the safeguarding activity relating to organisational abuse and attend meetings as appropriate. In some circumstances, it may be appropriate for commissioning, contract team or quality improvement teams to lead the safeguarding enquiry.

Equally, where there is evidence of systemic abuse and neglect and non compliance with regulatory standards, the CQC must be informed and requested to take action.

Where there is evidence of potential criminal offences including offences relating to willful ill-treatment or neglect, the police must be informed and requested to take action.

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Willful ill-treatment or neglect of an adult with needs of care and support is an offence under a number of statutes. Where the person lacks capacity, their willful ill treatment or neglect is an offence under section 44 of the Mental Capacity Act 2005. Section 127 of the Mental Health Act 1983 Act 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.
Commissioners will maintain a record system to log all concerns and enquiries relating to the services they commission. These records will indicate whether the concerns raised were substantiated, unsubstantiated or undetermined. Upon subsequent safeguarding concerns being raised this record system will be interrogated to ascertain any history of previous concerns relating to the service in question and the outcome of these. The name of the service will be recorded instead of the service users’. The following additional information will be recorded:

- Name of the care provider
- Company name (if applicable)
- Client group served
- Type of concerns alleged
- Number of service users referred
- Number of service users reviewed
- Number of meetings and action taken.

Any repeating and/or escalating pattern of concerns within a service should trigger a review to identify any underlying issues which may be adversely impacting on the operational effectiveness of the service and the improvement actions required.

114. Process for suspending or terminating placements

Restrictions on admissions or the suspension or termination of placements are consistent with the commissioner’s duty of care but a specific process should be followed to avoid or minimise the risk of litigation. This process would include making sure there is a clear evidence trail to justify the decision and ensuring that issues and concerns are compared to the requirements of the contract. Safeguarding provisions have been built into commissioning and contract requirements.

In the case of serious risk to the life, health or well being of a service user and/or severe risk immediate action should be taken as part of the coordinated safeguarding process to protect the safety and well being of service users such as suspending new placements, removal of the alleged perpetrator, bringing in specialist staff to address issues identified and removing service users based on evidence of risk.

The safeguarding process must be formally invoked (via a section 42 enquiry), be clearly documented and the evidence trail should provide information including the following:

- The nature of any allegations and evidence of harm arising from the neglect/poor practice alleged
• Information about who is involved (adults harmed and people alleged to have caused harm), the period of time in which the harm is thought to have been occurring
• Any history of safeguarding concerns, subsequent interventions and the outcome of these
• Whether the allegations/concerns have been upheld and an assessment of these in the context of the provider’s contractual requirements
• Any other action taken to rectify the situation
• An assessment of the risks posed to the service user(s) by remaining in the placement including an assessment of the broad risks to all service users and how this informs the purchasing decision.

The responsible manager and/or registered manager or owner of the service should be informed as soon as possible of the concerns. Initially this should be done verbally and subsequently followed up in writing (a letter should be by recorded delivery). Both communications should explain the nature of the concerns, what aspect of the contract these relate to, the action needed to rectify the situation and the timescales within which this is to be achieved. The sanctions that will be applied in the case of non compliance with the contract should also be stated.

Following the letter, the provider may be invited to attend a specific meeting for further discussion about the concerns raised and to agree an action plan with specified timescales to rectify the situation. A review date will be set at which progress can be assessed. This meeting can be part of the safeguarding planning meeting or in addition to it.

The action plan should be reviewed within a specified date to ascertain if the agreed action has been undertaken and that any risks have been eliminated, minimised and/or managed.

The above process must be clearly and properly documented so as to provide evidence that safeguarding/adult protection concerns have been formally raised with the provider and the action needed to rectify the situation requested within a reasonable timescale and as agreed in the action plan. If there is sufficient evidence of the harm/neglect/poor practice and the provider has not taken the necessary steps to rectify the concerns raised, placements can be suspended and/or terminated.

The decision to suspend and/or terminate a placement can be made independently of any enforcement action CQC may be taking and criminal justice action.

The decision to continue with a placement must be subject to a full written risk assessment and the production of a safeguarding plan detailing monitoring and review arrangements.

Existing complaints procedures and/or legal processes should be referred to by providers where there is a dispute.

Contracts and any other service specifications will reflect this framework and will include a clause stating that placements may be suspended or terminated where service users are at risk and where there is evidence that the provider has not taken the necessary action to address the situation.

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If admissions are restricted or placements suspended and/or terminated, the person responsible for the contract should inform other neighbouring Local Authority and NHS commissioners. In addition, they should consider (on a case by case risk assessed basis) the need to share this information more widely, for example by informing service users, relatives, Local Authorities further a field, other organisations and the public. This is consistent with the commissioner’s duty of care and the need to protect the public interest. This action will help ensure that purchasers (who may not have direct knowledge of safeguarding concerns about providers locally) can make informed purchasing decisions. Please refer to Appendix A for suggested criteria for placing cautions or suspending placements.
## Appendix A: Suggested criteria for placing cautions or suspending placements

<table>
<thead>
<tr>
<th>Cautions</th>
<th>Suspensions</th>
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<tbody>
<tr>
<td>Single issue rather than systemic</td>
<td>Concerns form part of a pattern of organisational abuse placing service users at significant risk</td>
</tr>
<tr>
<td>Not part of an apparent pattern of abuse</td>
<td>Section 42 enquiry relating to an individual service user identifies serious concerns for others</td>
</tr>
<tr>
<td>No previous history of similar incidents recorded for the service provider</td>
<td>Serious harm, injury or fatality involved</td>
</tr>
<tr>
<td>Concerns have occurred in the past, but at lengthy and infrequent intervals</td>
<td>Deliberate intent to exploit/harm indicated</td>
</tr>
<tr>
<td>Police investigation to establish if a crime has been committed</td>
<td>Criminal offences may have been committed</td>
</tr>
<tr>
<td>No clear criminal offence described in the safeguarding concern</td>
<td>Care/clinical/nursing standards fall well below accepted standards placing service users at significant risk</td>
</tr>
<tr>
<td>No indication of on-going risk to the adult or other service users</td>
<td>Significant breach of an implied or actual ‘duty of care’</td>
</tr>
<tr>
<td>Provider co-operative and willing to engage</td>
<td>Systemic and on-going poor management of service placing service users at significant risk</td>
</tr>
<tr>
<td>Incident being managed appropriately by the service provider</td>
<td>Inability of provider to sustain improvements</td>
</tr>
<tr>
<td>Limited involvement with the safeguarding process</td>
<td>Inability or unwillingness of provider to engage in the safeguarding process</td>
</tr>
</tbody>
</table>
Recognising risk of abuse and neglect is an essential component of the safeguarding duty, but so to is ensuring an effective response that manages that risk in a manner that respects an adult’s personal dignity, physical, mental and emotional wellbeing and the control they wish to exert over their own lives. Failure to do so can alienate the adult at risk and unwittingly increase the risk of harm if the adult then withdraws from necessary support.

When an adult with needs for care and support appears to be at risk of self neglect, is refusing care and support despite persistent welfare concerns or whose self-neglecting behaviours pose a risk to others it can be difficult for practitioners or concerned carers, friends/family members to understand how various legal powers and duties should be applied to find an appropriate solution.

The purpose of this guidance is to support practitioners, adults and their carers/family members to identify when to raise concerns regarding poor self care or lack of care for living conditions, set out what they may expect by way of a response and support defensible decision making in accordance with our duty of care.

**117. What is self neglect?**

The Care Act Guidance advises that ‘self neglect’ covers a wide range of behaviour including neglecting to care for one’s personal hygiene, health or surroundings and includes behaviour such as hoarding. Research literature states the term ‘self-neglect’ is commonly used to refer to:

- Lack of self-care: in personal hygiene, in adhering to daily needs, in refusal of essential care or necessary medical treatment
- Lack of care of the living environment: hoarding, squalor and infestation

These definitions are a useful starting point, but interpretation needs to guard against an assessor’s subjective and value-based interpretations. The 4 LSAB therefore recommends agencies consider the following aspects in relation to self-neglect:

- lack of care for self to an extent it threatens personal health and safety
- neglecting to care for personal hygiene, health or surroundings such that it has significant impact on the person’s wellbeing or creates a public health hazard
- inability to avoid harm to self
- failure to seek help or access services to meet necessary health or social care needs
The LSAB requires agencies to think of these issues in a broad context – not just in terms of obvious manifestations such as hoarding. Other areas to consider would include; substance misuse issues, individuals with diagnosis of high functioning Autistic Spectrum Disorder who may have difficulties that bring them into frequent contact with services, prostitution wherein there may be situational incapacity or exploitation, people subject to frequent ‘Missing Persons Alerts’ wherein they may be putting themselves at risk of sexual exploitation or other significant harm, people with significant mobility issues who are not taking action to protect themselves from fire risk, those who are non concordant with medication, whom are Bariatric patients or whom as a result of vulnerabilities linked to their care and support needs are putting themselves at repeated high risk of significant harm.

LSAB promotes early intervention as the most effective means to manage cases where self-neglect is suspected or there are concerns regarding a vulnerable person’s disengagement despite persistent welfare concerns. Experience has demonstrated that delaying intervention under a person’s circumstances have become severe is costly, both in terms of the person’s wellbeing and public resources.

People working in LSAB partner agencies therefore have a vital role in the early recognition and prevention of self neglect and have a responsibility to recognise and act upon the risk factors associated with self neglect. This includes undertaking sufficiently robust initial enquiries to identify the type and level of risk to ascertain an appropriate response according to the attached toolkit.

An initial response should take into account the underlying MSP principles, but it should be understood that it is not necessary to obtain consent to share information or conduct enquiries where there is a significant risk of harm or where the behaviours pose a risk of harm to others. This is explored in more detail later.

118. Assessment of risks associated with self neglect and persistent welfare concerns

Working together to effectively assess the needs of people at risk of self-neglect or with persistent welfare concerns.

The LSAB promotes the use of a ‘Social Psychological Model’ to assess and intervene in cases of self-neglect and persistent welfare concerns. This model recognizes the interplay of a variety of physical, mental, social, personal and environmental factors – both internal and external. This model highlights a variety of important factors for consideration:

- underlying mental disorder, trauma response and/or neuropsychological impairment
- diminishing social networks and/or economic resource
- physical and nutritional deterioration
- personal philosophy and identify

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Where a person with needs of care and support is self neglecting and/or refusing services and in so doing placing themselves or others at risk of significant harm, a multi-disciplinary approach may be the most effective in gathering information regarding the extent of the risk and identifying an appropriate person or agency to take the lead in coordinating a person centred, outcome focused response.

The 4 LSAB recommend the use of the attached threshold toolkit to identify poor self care and determine the appropriate response. This incorporates HFRS’s flags which highlight serious risk in respect of home fires and includes the Clutter Image rating tool to assist practitioners objectively assess the impact of living conditions. Practitioners from across the partnership agencies are expected to complete this tool in order to assist them to determine the most effective pathway for support, but the LSAB would also invite non-statutory agencies, carers, family or friends to use the tool where they have concerns.

Pathways for support may vary across the pan Hampshire areas, this toolkit has been designed to support robust risk analysis and takes into account concerns that could trigger a response in line with various agencies’ statutory or contractual duties. It is important therefore that all sections are completed and that those making the referral use the comments section to explain what evidence they have to justify the level of concern.

If, following completion of the threshold toolkit, a practitioner believes further work should be undertaken either to prevent needs for care and support escalating, in line with duties under s2 Care Act 2014 or to address a moderate risk they may wish to work with the adult to complete a comprehensive assessment form. This comprehensive assessment form must be completed In all cases where the needs are identified as high.

The risk assessment gives consideration to the following aspects of the person’s life:

- Presentations of self-neglect and Observation of home situation
- The individual’s perception of their situation
- Engagement in activities of daily living
- Functional and cognitive abilities of the person
- Family and social support networks, including support by voluntary organisations
- Underlying medical conditions
- Underlying mental health conditions or substance misuse issues

The assessment should also consider

- Environmental factors

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• Domiciliary care and other services offered/in place and whether living conditions are preventing necessary care being provided
• Environmental health monitoring
• Money management and budgeting.

119. Intervention and management

Research has confirmed that the most important factor in securing successful outcomes from interventions is for practitioners to build a positive relationship with people. The focus should be on assisting them achieve outcomes that matter to them and promote their wellbeing within a jointly acceptable timeframe.

In line with ‘Making Safeguarding Personal’ principles of good practice the person should, as far as possible, be included and involved in the assessment process and in developing a plan to reduce or eliminate identified risks. The person should be invited to attend any meetings and comment on any findings or proposed actions.

The Care Act guidance [pg.14.14] advises a ‘broad community approach’ to safeguarding responsibilities so it is vital that statutory bodies understand the full extent of statutory powers for intervention when living conditions pose risk to an adult at risk or others. A list of relevant statutory and common law provision is set out below, together with links to relevant statutory guidance and Codes of Practice practitioners and carers will be required to follow.

It is also important, however, to note that some agencies may have statutory duties to intervene which are not dependent on the characteristics of the adult at risk. They may also have wider powers and duties to support information gathering. Practitioners should also refer to the guidance on gaining access to an adult suspected to be at risk of neglect and abuse (at section 72) for support in relevant cases.

120. Key Agencies and their role

Local Safeguarding Adults Boards
The Care Act 2014 established Local Safeguarding Adults Boards as a forum where key leaders from the criminal justice, health and care system work together to improve the health and wellbeing of their local population. As such they will have strategic oversight of this policy and monitor the successful implementation of this policy.

Public Health and Environmental Health Service ['EHS']
Currently this agency has a range of powers to intervene where a property is in a condition that is prejudicial to health, these powers do not rely on a presumption that the individual

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affected by such intervention lacks capacity. Under s31 of the Public Health Act 1984 a local authority has the power to cleanse premises, and if the occupier fails to comply or is incapable of doing it themselves, take the necessary action and charge. Section 32 permits the entry and removal of a person from the property to enable action under s31. The Environmental Protection Act 1990 provides powers of entry to inspect premises and serve improvement or prohibition notices where there is a hazard.

It is anticipated that EHS will have a crucial role under the protocol as a frontline agency in raising concerns and early identification of such cases. In addition, where properties are verminous or pose a statutory nuisance, EHS will take a leading role in case managing the necessary investigations and determining the most effective means of intervention.

However, where the individual residing in conditions that pose a threat only to their own welfare the powers available to the EHS may have limited or no effect. In cases involving persistent hoarders the powers may only temporarily address and/or contain the problem.

Landlords
Landlord’s, including in the private sector, have an obligation to ensure that their properties are in a good state of repair and are fit for human habitation. Where the tenant is responsible for the disrepair the landlord has a right of action, including ultimately seeking possessions of the premises. The role of the landlord and powers afforded to them suggests they have a key role in raising concerns to the statutory authorities to particular cases and that consideration should always be given to their inclusion within protection planning discussions.

Housing Department
Under Part 1 of the Housing Act 2004 the Housing department have powers to take enforcement action where there is any risk of harm to the health or safety of an actual or potential occupier of a dwelling or HMO which arises from a deficiency in the dwelling or HMO or in any building or land in the vicinity (whether the deficiency arises as a result of the construction of any building, an absence of maintenance or repair, or otherwise) and can require access to residential premises in their district to assess if such a hazard exists. The duty to inspect the property is restricted to where there is an official complaint made by either a Justice of the peace or parish council. However, where there is evidence that there is imminent risk of serious harm to the health and safety of the occupier the local authority has emergency powers to serve a Remedial Action notice or an emergency probation notice prohibiting the use of the property. Further there are powers to serve a deferred action notice and take emergency remedial action. There is no requirement that the property is owned by the local authority, nor is the capacity of the inhabitant relevant to the exercise of those powers. But similarly the use of these powers in isolation will have limited effect on those who have persistent behaviours.

Local Authority Housing Department will be key partners, where an adult is at risk of homelessness as a result of self-neglect or hoarding behaviour, the housing department will offer pro-active advice and assistance to individuals and practitioners involved in their care.

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to minimise any risk of homelessness. Early involvement from this team, particularly when considering alternative temporary or permanent accommodation options, is therefore essential.

**Adult Social Care Department**

In many cases an assessment of the person’s needs for care and support (s9-10 Care Act) or more detailed consideration of their ability to protect themselves from risk (under MCA and/or s42 Care Act) procedures will be the best route to provide an appropriate intervention in situations of hoarding or self-neglect.

Under this protocol where an individual is already in receipt of ASC, known to the service or appears eligible for ASC support the relevant team manager will initiate the first strategy discussion and will ensure an allocated social worker is assigned to complete necessary assessments, including of the individual’s capacity and social care needs. The allocated worker will then lead the strategy meeting and act as lead in coordinating any plan for intervention.

**Mental Health Services**

Aside from the role as lead agency where the individual is eligible or believed to be eligible for services from secondary mental health service the mental health team will have a crucial role within any investigation under this protocol, not least because, for many individuals, hoarding or self-neglect are the manifestations of an underlying mental health condition.

Powers conferred by the Mental Health Act 1983 [‘MHA’] to Approved Mental Health Professionals (AMHP) afford this team opportunity to take such steps as they consider reasonably necessary and proportionate to protect a person from the immediate risk of significant harm.

Section 115 MHA confer powers of entry and inspection, whether there is approved mental health on a particular person, the council may at all reasonable times enter and inspect any premises other than a hospital in which a mentally disordered patient is living, where the assessor has reasonable cause to believe that the patient is not under proper care. It must be recognised that this power is reliant on the reasonable suspicion that the individual is suffering from a mental illness. If there is no such suspicion this power is not available. Similarly, where an AMHP believes a person is suffering from a mental disorder is unable to care for himself and living alone (or otherwise being ill-treated or neglected) the AMHP can apply for a warrant under s135 MHA to enter a property, using force if necessary, to remove a patient for treatment or care. Individuals acting under powers conferred by the Act benefit from immunity under s129 MHA, whereas those seeking to obstruct the inspection of premises or the exercise of functions under the act are guilty of an offence under s.129 MHA, but it must be noted that this would only assist where a third party sought to obstruct an assessment.

Further the powers available under the MHA to detain an individual for compulsory treatment are limited in cases of hoarding because expert opinion believes the most effective treatment is that which is provided consensually. However, it may be useful in
cases of self-neglect or where it is required to treat the manifestations or symptoms of hoarding.

Finally Mental Health services may also be included within strategy discussions/meetings to advise on access to secondary psychological treatment options and to secure access for the individual.

**Police**

As with AMHPs the Police have powers of entry and so may prove pivotal in gaining access to conduct assessments if all else fails for persistent cases. Under Section 17 (1) (a) of the Police and Criminal Evident Act 1984, the police has power to enter without a warrant if required to save life; or limb or prevent serious damage to property; or recapture a person who is unlawfully at large while liable to detained. Under the common law, the doctrine of necessity would provide a defence if force is used to gain entry to private property to apprehend a dangerous mentally disordered person in cases of serious harm to themselves or others within the community. Therefore, the reasonableness of time will presumably depend upon the urgency of the situation.

Where a third party seeks to obstruct assessment or frustrate lawful intervention by statutory services the Police may have additional powers of arrest for offences under either s127 MHA or s44 MCA, but again it is recognised that these powers will be used only in exceptional circumstances.

**Primary Health Services** (GPs, SCAS Ambulance Service and District nurses)

Anecdotally it is believed that in cases of chronic or persistent self-neglect, where individuals are reluctant to engage with social care services they remain compliant with primary healthcare services and will access their GP, district nursing service etc. As such it is envisaged that primary healthcare services will adopt this protocol and work as part of the multi-disciplinary team. The key role for primary health services will be to raise concerns and provide information to the strategy discussions and continue to meet need in accordance with their professional standard and duty of care.

As set out above they will also be expected under the protocol to provide preventative advice and support and monitor adults at risk who are engaged with their service, show signs of self-neglect or hoarding but where this does not pose a risk of significant harm.

**Hampshire Fire and Rescue Service**

HFRS are best placed to work with individuals to assess and address any unacceptable fire risk or risk to wellbeing and to develop strategies to minimise significant harm cause by

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21 R. ( on the application of Munjaz) v Mersey Care NHS Trust [2003] All ER (D) 265 (Jul) Neutral Citation: [2003] EWCA Civ 1036
potential fire risks. In the past they have also raised concerns where called to addresses repeatedly or where homes have significant damage because of a fire and the individual continues to reside at that address.

Research into case reviews highlight that utilising public health/ housing legislative powers in isolation may not be the most effective use of resources, particularly where a coordinated approach could provide protection and promote a long term solution. However, partner agencies must consider their statutory duties and the powers they have that may aid in gathering information to enable an assessment. ‘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’\(^ {22}\). The LSAB support a multi-agency response, all partners must be mindful of their respective duty of care and exercise powers in accordance with this. They should also be mindful of the duty (under s6-7 Care Act) to cooperate and that this must be performed in a way that promotes the well-being of adults [s.6(6) Care Act]. Agencies who determine that they are required to act, notwithstanding the person’s capicated or incapacitated opposition, should set out in writing their reasons for doing so.

**Key considerations for assessment and protection planning processes**

**121. Mental Capacity Act and Best Interests**

If the person leading the enquiry believes that the person lacks capacity to be involved in the assessment or planning process an assessment should be carried out to determine if the person has the capacity to make decisions. Where there is a dispute between practitioners or with the adult, carers or family members regarding a person’s capacity then local authorities can seek a declaration from the Court of Protection.

Findings from safeguarding case reviews and audits identified practitioners have historically wrongly believe that because a person appears lucid or articulates opposition, they have capacity to 'choose' to reside in poor living conditions and that therefore statutory services have no powers to intervene. This guidance intends to challenges assumptions.

Capacity assessments will need to accurately record how the various statutory and contractual duties of the relevant agencies were explained to the person, consider whether the person understands those and the cumulative impact of seemingly smaller decisions and analyse whether resistance to accept support or execute actions to address concerns is due to an impairment affecting their decision making capacity.

*When someone is believed to be lacking mental capacity to make decisions for him/herself*

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\(^ {22}\) Pg 14.43 Care Act guidance

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any intervention or support offered must comply with the duties set out in the Mental Capacity Act 2005 and associated MCA Code of Practice.

Where the person continues to refuse all assistance and they have been assessed as having the mental capacity to understand the consequences of such actions, this should be fully recorded. Practitioners should also include a record of the efforts and actions taken by all agencies involved to provide support and confirmation that they have considered alternative means to meet any duty of care owed to the person or others affected by the living conditions. 23

122. Advocacy

Section 67 of the Care Act imposes a duty on the local authority to arrange an independent advocate to facilitate an individual’s involvement in their assessment, care planning, review and any safeguarding enquiry or SAR where they have ‘substantial difficulty’ participating. ‘Substantial difficulty’ is explained by reference to the 4 stage test of decision making under s.3 MCA [see s67(4) CA and pg. 6.33 guidance]. The duty to appoint an independent advocate falls away if the local authority is satisfied that an appropriate person, who is not professionally engaged in care or treatment for that individual, is available and willing to support the adult and the person consents to the appropriate person acting or, where lack capacity, it is in their best interests for that person to act.

If the person is believed to lack capacity to agree to support or execute agreed actions because of an impairment to the mind or brain, then there is a duty to appoint an independent advocate under s35 MCA.

The advocate or appropriate person must take an active role, assisting the adult understand their rights and challenge decisions they believe are inconsistent with local authority’s duties to promote wellbeing. Where the person is lacks capacity on the specific decision then the advocate or appropriate person advises the local authority to identify the person’s ‘best interest’ under s4 Mental Capacity Act 2005.

Considering impact on wellbeing

Practitioners assessing an adult for care and support or a carer’s need for support must carefully consider the consequential impact on wellbeing. Whilst the person’s own view is an essential factor in that decision the assessor is ultimate responsible for determining whether there is consequential significant impact on a person’s wellbeing. Therefore, if a capacitated person was neglecting their self care or living in poor housing conditions, denying any impact on their wellbeing, they could still be found to have eligible needs


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because it is for the assessor’s to determine *objectively* whether the impact is consequential.

However, the duty to meet needs under the Care Act 2014 hinges on what needs the person themselves wants met. So whilst they may be found eligibility for care and support under the Care Act, the local authority has no explicit powers to compel an adult to accept care and support. Even where the person lacks capacity you may need additional legal authority to act to remove risk. Such cases may require the lead agency to make an application to the Court of Protection, or if the person has capacity to the High Court under their Inherent Jurisdiction. Practitioners should always seek legal advice from their respective services in those circumstances.

### 123. Links to relevant legislation, policy documents and Codes of Practice

**Legislative Framework**

- Human Rights Act 1998
- Care Act 2014
- National Health Service Act 2006
- Mental Capacity Act 2005
- Inherent Jurisdiction of the High Court
- Mental Health Act 1983
- Public Health Act 1936, Environmental Protection Act 1990
- Police & Criminal Evidence Act 1984
- Rights of Entry (Gas and Electricity Boards) Act 1986
- Animal Welfare Act 2006
- Prevention of Damage by Pests Act 1949
- Housing Act 2004
- Refuse Disposal (Amenity) Act 1978
- Coroners & Justice Act 2009
- Common Law – Gross negligence manslaughter
- Willful Neglect (Mental Capacity Act 2005, s44)
- Building Act 1984
- Public Health (Control of Disease) Act 1984
- Crime & Disorder Act 1998

**Codes of Practice**

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Mental Capacity Act 2005
Mental Health Act 1983 (revised 2007)

Office of the Public Guardian (Mental Capacity Act)
Department of Health (Mental Capacity Act Deprivation of Liberty Safeguards)

Policy Documents

Multi-agency Policy, Procedures and Guidance (Southampton, Hampshire, Isle of Wight and Portsmouth)

Selected references


26 http://www.publicguardian.gov.uk/mca/mca.htm
124. Guidance on prevention and early intervention in adult safeguarding

Critical to the vision in the Care Act 2014 is that the care and support system works to actively promote well being and independence, and does not just wait to respond when people reach a crisis point. It is vital that the care and support system intervenes early to support individuals, helps people retain or regain their skills and confidence, and prevents need, or delays deterioration wherever possible. This approach applies equally to adult safeguarding.

The Care Act 2014 places a duty on Local Safeguarding Adults Boards to develop and implement a clear strategy around the prevention of abuse or neglect of adults at risk. Prevention is one of the core principles of safeguarding and as such forms a fundamental part of local adult safeguarding policy framework and arrangements.

The Safeguarding Adults Board will have an overview of the prevention work taking place in its area and will maintain links with other strategic forums and plans to ensure this work ties in with their work. These include links with the Health and Wellbeing Board, Local Safeguarding Children Board, Quality Surveillance Group, Community Safety Partnerships, Police and Crime Commissioner’s Office and the Care Quality Commission.

This strategy recognises that there are a number of building blocks for prevention and early intervention, including:

- A well trained workforce operating in a culture of zero tolerance of abuse
- People being informed of their rights to be free from abuse and supported to exercise these rights, including access to advocacy
- A sound framework for confidentiality and information sharing across agencies
- Access to good universal services, such as community safety services
- Needs and risk assessments to inform people’s choices
- Safeguarding to achieve a balance between protecting people and preserving their right to make decisions for themselves
- Availability of a range of options for tailored support to keep people safe from abuse
- An informed public that is aware of the issues to ensure the success and effectiveness of the strategy.

This guidance has been agreed by the four LSABs in Hampshire and the Isle of Wight and provides an overarching framework for the prevention and early intervention in safeguarding. Member organisations are invited to use this framework to inform the development of local plans and guidance to support this work.

125. Key messages

The following principles and key messages underpin this strategy:

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• Prevention in safeguarding should be broadly defined and should include all health and social care user groups and service settings
• Prevention needs to take place in the context of person-centred support and personalisation, with individuals empowered to make choices and supported to manage risks
• Safeguarding monitoring data and other intelligence should be used to identify people, groups or localities most at risk in order to target preventive work
• Any not yet reached groups should be identified and strategies put in place to raise awareness and improve reporting amongst these groups and communities
• Implementation and extension of the personalisation agenda and direct payments has highlighted the need for the agencies to work preventively to ensure service users are supported to protect themselves and make informed decisions about action when experiencing or likely to experience abuse, neglect or exploitation
• Service users and their families, friends and carers should be actively encouraged to participate in developing solutions to challenges they may be facing. ‘Co-production’ is an approach which enables the individual to influence the support and services they receive (or when groups of people get together to influence the way services are designed, commissioned and delivered). This approach contributes to developing the resilience of individuals and helps promote self reliance and independence
• Effective prevention requires good partnership working and a multi disciplinary approach adopted within and across local services
• Robust risk management (undertaken within the context of positive risk taking) is an important tool in effective prevention and early intervention
• Safeguarding training strategies and programmes should address prevention and early intervention and include as core skills Making Safeguarding Personal, risk enablement, risk management, community safety, legal powers and remedies. Staff will access such training as relevant to their role.

126. Activities to promote prevention in safeguarding

Local services are encouraged to undertake a range of activities aimed at promoting general well being and maintaining independence as a means of eliminating or reducing the service user’s vulnerability to potential exploitation, abuse or neglect.

General activities to promote well being may include:
• Providing universal access to good quality information
• Supporting safer neighbourhood
• Actively addressing hate crime or anti-social behaviour
- Promoting healthy and active lifestyles
- Reducing loneliness or isolation, such as via befriending schemes or community activities
- Encouraging early discussions in families/groups about potential future changes
- Having conversations about care arrangements if a family member becomes ill or disabled.

**Specific activities to prevent exploitation, abuse or neglect may include:**

- Identifying vulnerability factors and potential risks as part of the needs assessment and addressing these as part of the support planning process
- Using support plans to reduce loneliness or isolation and helping the person to strengthen or build their social and support networks
- Using accessible ways and support to help people understand the different types of abuse and its prevention including what to look out for and the steps to take if abuse is suspected
- Providing people with information about sources of independent information, advice and advocacy
- Providing people with information about the role of the Court of Protection and Office of the Public Guardian as well as the mechanisms available (e.g. power of attorney, deputyship, Department of Work and Pensions appointee-ship) to ensure their best interests are protected and to safeguard against financial exploitation if they lose their capacity to make welfare and/or property and financial decisions in the future
- Reinforcing through literature and day to day interactions with service users that everyone has the right to be free from abuse and ensuring where someone needs support in exercising this right, they can access appropriate support, including advocacy services
- Providing training and education of service users on exploitation and abuse in order to help them to recognise this and to have the interpersonal skills necessary to deal with the situation should this occur
- Developing and promoting a range of ‘Keeping Safe’ initiatives e.g. Mail and Telephone Preference Services, Safer Places, Safe and Sound, Buy with Confidence, Making Money Matter, No Cold Calling Zones, Mate Crime Awareness, Neighbourhood Watch, Dementia Friendly Communities.
- Ensuring there are effective links between local adult safeguarding arrangements and government strategies on PREVENT and Human Trafficking
- Monitoring adults for the risk of radicalisation given that current research has highlighted that radicalisers are increasingly targeting people with a learning disability or other vulnerabilities
• Ensuring people are safe in whatever setting they live and that they are protected by the crime prevention measures aimed at the whole community and that they can access mainstream criminal justice and victim support services. This requires effective links between adult safeguarding arrangements and the full range of community safety services and resources

• Supporting carers by offering a needs or carer’s assessment and use this as an opportunity to explore the individuals’ circumstances and consider whether it would be possible to provide information, or support that prevents abuse or neglect from occurring, for example, by providing training to the carer about the condition that the adult they care for has or to support them to care more safely

• Recognition that abuse or neglect 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

• Ensuring the person is able to access support and services to help them recover from the abuse or neglect they have experienced. This approach will also help build future resilience.

Activities to promote prevention and early intervention in care settings may include:

• Organisations should ensure that the principles of well being and adult safeguarding are directly linked into commissioning, contract and procurement activity

• Commissioners should assure themselves, through contracting arrangements that providers have clear arrangements in place to prevent abuse or neglect and that they undertake a range of activities aimed at keeping service users safe

• Care providers should be able to demonstrate a person centred approach to care; a zero tolerance of abuse and neglect which encourages whistleblowing; staff, service user and family awareness of the nature of abuse and what to do if this is suspected; safe recruitment practices; regular quality monitoring and audit of care; regular staff training and updating of skills and clear policies and practice guidance available to all staff and volunteers

• Care providers should make their staff aware through internal guidelines of what to do when they suspect or encounter abuse of adults in vulnerable situations. This should be incorporated in staff manuals or handbooks detailing terms and conditions of appointment and other employment procedures so that individual staff members will be aware of their responsibilities in relation to safeguarding adults. This information should emphasise that all those who express concern will be treated seriously and will receive a positive response from managers

• Commissioners should assure themselves, through contracting arrangements that a provider is capable and competent in responding to allegations of abuse or neglect, including having robust processes in place to investigate the actions of members of staff
• Commissioners should put in place robust arrangements to enable poor or unsafe care to be identified and addressed at an early stage

• All commissioners or providers of services in the public, voluntary or private sectors should disseminate information about the multi-agency safeguarding policy and procedures.

127. Guidance on modern slavery and human trafficking

Modern Slavery includes human trafficking, slavery, servitude ad forced and compulsory labour. The Modern Slavery Act 2015 became law on 26 March 2015 and is designed to tackle slavery in the UK and consolidates previous offences relating to trafficking and slavery.

What is human trafficking?

• Human trafficking is defined as the recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation.

• Human trafficking is international organised crime, with the exploitation of human beings for profit at its heart. It is an abuse of basic rights, with organised criminals preying on vulnerable people to make money. In most cases, victims are brought to the UK from abroad, but trafficking also occurs within the UK and children in particular are increasingly vulnerable to falling victim to exploitation. The United Nations Convention against Transnational Organised Crime (the ‘Palermo Protocol’) describes trafficking as: “The recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation. This includes the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs. However, recent trends suggest that trafficking for labour exploitation could become more prevalent than other forms of trafficking. Child trafficking victims are brought to the UK for many purposes, including sexual exploitation, domestic servitude, benefit fraud, cannabis farming, street begging, theft and shoplifting”.

• The greatest numbers of adult victims come to the UK from China, South East Asia, and Eastern Europe; child victims are trafficked in the greatest numbers from Vietnam, Nigeria, China and Eastern Europe. However, this is a truly international crime, with potential victims from over 80 different countries referred to the National Referral Mechanism since its inception and 47 different counties identified as sources of child trafficking to the UK by the Child Exploitation and Online Protection Centre (CEOP).
• Victims may travel to the UK willingly, in the belief that they are destined for a better life, including paid work and may start their journey believing they are economic migrants, either legally or illegally. They may also believe that the people arranging their passage and papers are merely facilitators, helping with their journey, rather than people who aim to exploit them. In other cases, victims may start their journey independently and come to rely on facilitators along different stages of their journey to arrange papers and transportation.

• The ease of international travel has led to the opportunity for increased movement of people across borders, both legally and illegally, especially from poorer to wealthier countries such as the UK. This has created opportunities for traffickers who use poverty, war, crisis and ignorance to lure vulnerable migrants to the UK for exploitation.

• Traffickers use threats, force, coercion, abduction, fraud, deception, abuse of power and payment to control their victim. And most traffickers are organised criminals. It is estimated that 17% of organised criminal networks operating in the UK are involved in organised immigration crime, of which a small proportion is human trafficking. Some groups organise the trafficking process from beginning to end, while others sub-contract aspects of the process, such as money laundering, or obtaining illegal passports and visas.

• The Government has produced a strategy on human trafficking and this forms part of its wider strategy on violence against women and girls. It focuses on victim care and sets out how efforts to prevent people from becoming trafficking victims in the first place must be strengthened. To view a copy of this strategy click here: Home Office Strategy on Human Trafficking

Identifying victims

There is no typical victim and some victims don’t understand they have been exploited and are entitled to help and support. Victims are often trafficked to a foreign country where they cannot speak the language, have their travel and identity documents removed, and are told that if they try to attempt an escape, they or their families will be harmed. The following questions may be helpful in identifying potential victims of human trafficking:

• Is the victim in possession of a passport, identification or travel documents? Are these documents in possession of someone else?

• Does the victim act as if they were instructed or coached by someone else? Do they allow others to speak for them when spoken to directly?

• Was the victim recruited for one purpose and forced to engage in some other job? Was their transport paid for by facilitators, whom they must pay back through providing services?


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• Does the victim receive little or no payment for their work? Is someone else in control of their earnings?
• Was the victim forced to perform sexual acts?
• Does the victim have freedom of movement?
• Has the victim or family been threatened with harm if the victim attempts to escape?
• Is the victim under the impression they are bonded by debt, or in a situation of dependence?
• Has the victim been harmed or deprived of food, water, sleep, medical care or other life necessities?
• Can the victim freely contact friends or family? Do they have limited social interaction or contact with people outside their immediate environment?
Role of Local Authorities

Research work undertaken by the SOLACE Study Group on Human Trafficking in 2008 identified five key areas of competence for Local Authorities in responding to the crime of human trafficking:

- Prevention of human trafficking – Local Authorities may have a role to play in assisting the police in disrupting organised criminal networks and reducing demand for victims of trafficking in their area
- Victim identification – Local Authority staff need to be able to recognise the signs that indicate that someone may be a victim of trafficking
- Victim support – Local Authorities will need to attend to the immediate physical needs of victims, as well as the longer term social and psychological needs
- Assistance with the repatriation of victims – in some instances, Local Authorities will be involved in the return of a victim to their country of origin
- Working in partnership – Local Authorities will need to cooperate with other agencies such as Third Sector and community organisations, the Police and immigration services, as well as other levels of government
- This highlights the need for Local Authorities to work closely with other agencies if they are to successfully address the challenges of human trafficking. At a local level, cooperation between councils, the police, clinical commissioning groups, safeguarding boards and voluntary bodies is essential
- The role of Local Authorities in combating human trafficking of adults goes well beyond referral to the police. Relevant frontline staff - social services, environmental health, licensing and housing officers for example, are expected to be equipped to identify possible victims. Local Authorities are also expected to provide advice and where necessary refer possible victims to appropriate bodies for safe accommodation and support. Local Authorities should also be sure they are not themselves employing, or using contractors who employ trafficked labour (e.g. cleaners, building workers)

- Training frontline staff to spot possible victims of trafficking is key to prevention and early intervention. A trafficking toolkit has been developed for Local Authorities and provides a wide range of information on responding to human trafficking. Please use this link to access the Trafficking Toolkit for Local Authorities[^29]

The role of health services

- The NHS, both in the form of providers and commissioners, also has a critical role in understanding the agenda and in identifying potential victims of human trafficking and modern day slavery. Raising awareness through training and education is vital together with referral of concerns to their local Adult Services department.

- The second role for health providers is to provide a health response to any local operations led by the police, and commissioners have a role in ensuring that local NHS providers meet this obligation.

Reporting human trafficking

- Any suspicion that someone is at risk of harm or exploitation due to trafficking should be referred to the police for investigation. If there is immediate danger to the suspected victim or if it is believed the suspected victim is under 18 or a vulnerable adult, the police should be contacted straightaway. If there is urgent information that requires an immediate response, dial 999. If general information is held that could lead to the identification, discovery and recovery of victims in the UK, the police should be contacted using the 101 number.

- The UK Human Trafficking Centre (UKHTC) is a multi-agency organisation led by the National Crime Agency. It can help with advice on whether someone may be a victim of trafficking UKHTC’s tactical advisors can also help you in engaging the police and other agencies investigating human trafficking. The UKHTC manages the National Referral Mechanism which is the process by which an individual is identified as a victim of human trafficking.

- The Salvation Army under a contract with the Ministry of Justice has responsibility for overseeing and co-ordinating the provision of a diverse range of quality support services to all identified adult victims of human trafficking in England and Wales. In accordance with Article 12 (1) and (2) of the Council of Europe Convention on Action against Trafficking in Human Beings possible victims of trafficking are entitled to such support, from the moment they are referred into the National Referral Mechanism for a minimum recovery and reflection period of 45 days. The Salvation Army has a 24-hour confidential Referral Helpline on 0300 3038151 available 24 hours a day, seven days a week which can be called not only by people who consider themselves a victim of trafficking and are in need of assistance but also nominated First Responders, other professionals or concerned individuals who have come into contact with someone they suspect may be a victim of trafficking and in need of assistance.

Making a referral about human trafficking
The National Referral Mechanism is the process by which an individual is identified as a victim of human trafficking. Anyone considered under the National Referral Mechanism to be a possible victim of human trafficking is entitled to support – provided centrally, not locally - for a minimum recovery and reflection period of 45 days, during which any action to remove them from the UK is halted.

Referrals to the National Referral Mechanism can only be made by authorised agencies known as First Responders. Authorised agencies in the UK are the Police, UK Border Force, Home Office Immigration and Visas, adult and children’s social services and certain Non-Governmental Organisations.

Regarding referrals from Adult Services, any social worker can make the referral to the UKHTC. However, internal organisations (such as Trading Standards, etc.) would need to refer into Adult Services anyone they suspected of being a victim of human trafficking. Staff in other organisations such as the NHS and the voluntary sector could also refer to Adult Services using this mechanism.

The First Responder should complete a referral form to pass the case to the UK Human Trafficking Centre (UKHTC) which deals with referrals from the police, Local Authorities and Non-Governmental Organisations. The Home Office Immigration and Visas Service deals with referrals identified as part of the immigration process, for example where trafficking may be an issue as part of an asylum claim.

Referral to the UKHTC is voluntary and can happen only if the potential victim gives their permission by signing the referral form. In the case of children their consent is not required. Where an adult who is thought to be a potential victim of trafficking and may lack capacity, a best interest decision may be needed about making the referral. To download an adult or child referral form go to the Gov.uk website. Completed forms should be sent to the UKHTC Competent Authority via e-mail at UKHTC@nca.x.gsi.gov.uk or by fax to 0870 496 5534.

After a referral about human trafficking

Stage one – “Reasonable grounds”

The National Referral Mechanism Team has a target date of 5 working days from receipt of referral in which to decide whether there are reasonable grounds to believe the individual is a potential victim of human trafficking. This may involve seeking additional information from the first responder or from specialist NGOs or social services. The threshold at the Reasonable Grounds stage for the case manager is “From the information available so far I believe but cannot prove” that the individual is a potential victim of trafficking.

If the decision is affirmative then the potential victim will be:

- Allocated a place within Government funded safe house accommodation, if required


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• Granted a recovery and reflection period of 45 days. This allows the victim to begin to recover from their ordeal and to reflect on what they want to do next, for example, co-operate with police enquiries, return home.
• The referred person and the first responder are both notified of the decision by letter.

Stage two – "Conclusive decision"

During the 45 day recovery and reflection period the UKHTC will gather further information relating to the referral from the first responder and other agencies. This additional information is used to make a conclusive decision on whether the referred person is a victim of human trafficking. The target for a conclusive decision is within the 45 recovery and reflection period. The case manager’s threshold for a Conclusive Decision is that on the balance of probability “it is more likely than not” that the individual is a victim of human trafficking.

The First Responder and the potential victim will both be notified of the decision. If the referred person is conclusively identified as a victim of trafficking, what happens next will depend on their wishes.

What happens next?

Co-operating with police enquiries

The victim may be granted discretionary leave to remain in the UK for one year to allow them to co-operate fully in any police investigation and subsequent prosecution. The period of discretionary leave can be extended if required.

Other circumstances

If a victim of trafficking is not involved in the criminal justice process, the Home Office may consider a grant of discretionary leave to remain in the UK, dependent on the victim’s personal circumstances.

Returning home

If they are from outside the European Economic Area, the victim can receive help and financial assistance to return home through the Home Office Assisted Voluntary Return of Irregular Migrants (AVRIM) process. If they are an EEA national, support organisations will put them in touch with their embassy and any relevant non-government organisations who may be able to help.

What if the referred person is not found to be a victim?
If at any stage the referred person is confirmed not to be a victim of trafficking then dependent on the circumstances they may be referred to the appropriate law enforcement agency – the relevant police force or the Home Office. If it is decided by the Home Office that the person was not trafficked, and there are no other circumstances that would give them a right to live in the UK, they will be offered support to voluntarily return to their country of origin. The person can also be offered support to return to their country if they have been trafficked and do not wish to stay in the UK.

**The Modern Slavery Act 2015**

The legislation came into force in 2015 and strengthens the response of law enforcement and the courts by consolidating and simplifying existing modern slavery offences into one Act. Previously, modern slavery and trafficking offences were spread across a number of different Acts.

The legislation has introduced Slavery and Trafficking Prevention Orders and Slavery and Trafficking Risk Orders to restrict the activity of individuals where they pose a risk of causing harm.

The Modern Slavery Act has ensured victims receive protection and support by creating a statutory duty for public bodies including the police, Local Authorities and immigration personnel to notify the National Crime Agency about potential victims of modern slavery. Other measures to enhance the protection and support of victims of human trafficking include:

- Creation of a statutory defence for victims of modern slavery so that those who are compelled to commit an offence are not treated as criminals by the criminal justice system
- New powers for Courts to order perpetrators of slavery and trafficking to pay Reparation Orders to their victims
- Extension of special measures so that all victims of modern slavery can be supported through the criminal justice process
- Provision of statutory guidance on victim identification and victim services
- A power for child advocates to support child victims of trafficking.
128. Guidance on safeguarding in prisons and approved premises

Introduction

Prisons and approved premises, like hospitals and care homes, should have their own internal safeguarding arrangements to respond to safeguarding concerns arising in prisons. Her Majesty’s Inspectorate of Prisons (HMIP) has detailed these in *Expectations* published in 2012. This Framework outlines best practice in responding to the safeguarding needs of prisoners with needs of care support. It is not prescriptive but it is a tool to help inform and shape the development of safeguarding arrangements in local prisons and other settings. It seeks to establish a consistent approach and may also be used by local prisons and other settings as a tool to benchmark their practice against the locally agreed multi-agency safeguarding arrangements. The legal and policy framework underpinning this guidance is detailed in Appendix A.

Partnership and constructive dialogue

This Framework seeks to engage local prisons in local safeguarding arrangements at the strategic level and to this end, to gain representation on local Safeguarding Adults Boards (SAB). The intention is to encourage constructive dialogue and shared learning around safeguarding in prison and support to prisons not only keep up to date with safeguarding requirements and guidance but also to help ensure safeguarding arrangements in prisons are robust and benefit from constructive dialogue with the local expert body of professionals.

Principles underpinning the framework

- Partnership and constructive dialogue between the local SAB and prisons will help prison staff to determine when safeguarding concerns can be appropriately and safely managed through internal procedures and when they might benefit from the support of external agencies.

- The local safeguarding team will not necessarily intervene in the prison as it may be more appropriate for the prison to do this. This Framework will build on existing processes within the prison to safeguard and there will be the opportunity for dialogue on the best approach.

- The notion of equivalence of care applies to prisoners, and this extends to safeguarding and to how safeguarding concerns are dealt with.

- Safeguarding is everyone’s business and prisons should operate a zero tolerance of abuse and/or or exploitation of all prisoners, particularly adults at risk.
The prison should have robust safeguarding arrangements in place, integral to its ‘duty of care’, to ensure that ‘prisoners, particularly adults at risk, are provided with a safe and secure environment which protects them from harm and neglect.’

The prison has a general duty of care to safeguard and to promote the welfare of all prisoners. However, it has additional safeguarding duties to prisoners with needs of care and support.

The prison’s safeguarding arrangements will address the following issues:

- Recognition that in a prison environment that a person may not present as a vulnerable adult (because of the structured environment) but could be considered a person at risk if living in the community
- Prevention and early identification of risk to reduce harm will form an integral part of the prison’s safeguarding arrangements
- A concern for safeguarding will be built into all standard operational procedures with prompts at each stage of the prisoner’s journey in prison from reception to release
- Recognition that grooming and mate crime to exploit adults at risk fall within the remit of the prison’s safeguarding procedures
- Recognition that some prisoners when released from prison, pose a risk to adults at risk living in the community and that appropriate information sharing and joint working with relevant agencies must take place
- Ensuring clear links between its safeguarding adults procedures and other protective, risk management and review processes. These include the local multi agency adult safeguarding procedures, Violence Reduction, MAPPA, Serious Case Review, PREVENT, Persistent and Prolific Offenders and initiatives such as Safer Custody, Through the Gate.

**Key components of the safeguarding framework**

The following section identifies the five key components of this framework which are safeguarding policy and procedures, information and awareness, prevention, workforce development and quality assurance. Benchmark standards have been set out for each of these domains and these are detailed under each heading:

**Prison safeguarding policy and procedures**

- This is consistent with local Multi Agency Safeguarding Adults Procedures and HMIP Expectations.

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• The prison has identified safeguarding lead who sits at senior management team level and who is directly accountable to the prison governor regarding their safeguarding role.

• Safeguarding is addressed at each stage of prisoner’s journey in prison.

• The Safeguarding Policy and Procedures have been cross referenced with standard operating procedures and are referenced in other policies e.g. whistleblowing, complaints information sharing.

• Mechanisms to ensure prisoners’ vulnerabilities are recognised and responded to appropriately and in a timely manner.

• The prison ensures prisoners can access advocacy support where appropriate.

• The prison ensures that victims of abuse are able to access victim support services such as the Samaritans.

• The prison ensures prisoners can access where appropriate, access to pastoral and/or therapeutic support to help in the recovery from abuse.

• There is an internal escalation protocol highlighting when safeguarding concerns should be shared with the senior management team and/or prison governor.

• Thresholds have been defined to help the prison to determine when safeguarding concerns can be appropriately and safely managed through internal procedures or when they might to be addressed with the support of external agencies for example in highly complex cases and/or where the person at risk is judged to lack capacity.

• Safeguarding Policy and Procedures define the links and interfaces with other internal and external risk management and protective processes.

• Safeguarding expectations and requirements built into contracts with external providers.

Awareness and information

• Accessible leaflets and other publicity material (prisoners, staff, visitors and outside professionals) are readily available.

• Awareness raising sessions are provided for prisoners and staff.

• There is clear information about how to report concerns.

• There is a dedicated telephone number for prisoners to report safeguarding concerns.

• A network of safeguarding champions (prisoners and staff) is in place.

Prevention

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- Tools are used to identify prisoner vulnerabilities upon admission (such as *Through the Gate*).
- Abusive and exploitative behaviour is cross referenced in prisoner behaviour code and disciplinary procedure.
- Keeping safe activities and materials are provided for prisoners.
- The prison operates a ‘buddy’ system and/or existing approaches such as Listeners or Insiders are expanded to include adult safeguarding.
- Robust risk assessment and risk management processes are in place.
- A multi agency safeguarding panel is in place to facilitate partnership working to respond collaboratively to safeguarding needs.
- Information sharing and risk management occurs to address the risks posed by prisoners upon release.

**Workforce development**
- There is a safeguarding training strategy defining the knowledge and skills required per role type.
- The prison operates safe recruitment practice (staff, contractors, volunteers).
- The professional duty of care and duty to act is built into the code of conduct of all staff, contractors, volunteers, etc. and is reflected in all contracts.
- The prison makes making referrals to DBS vetting and barring, professional bodies, etc. as appropriate.
- There is management oversight of safeguarding case work (such as supervision agenda item).

**Quality assurance**
- The prison undertakes regular practice audits.
- The prison participates in peer review processes with other prisons.
- There is a robust ‘Learning from Experience’ framework for when things go wrong and partner agencies are invited by the Prison to participate in case reviews and safeguarding adult reviews.

**Legal and policy context for safeguarding in prisons and approved premises**

**The Care Act 2014**
Under the Care Act 2014, prisons and approved premises have responsibility for safeguarding prisoners with needs of care and support. Prison governors and the National Offender Management Service (NOMS) may ask for advice from the Local Authority when faced with a...
safeguarding issue that they are finding particularly challenging. Local Authorities should follow the safeguarding policies and procedures of custodial settings in their area and work with prison and approved premises staff to ensure that all people in custodial settings are safeguarded.

Local Authority and care provider staff must understand what to do where they have a concern about abuse and neglect of an adult in custody. The prison must ensure that it has clear safeguarding policies and procedures that are explained to all visiting staff. Prison and probation staff may approach the Local Authority for advice and assistance in individual cases although the Local Authority will not have the legal duty to lead. Separate guidance for prisons and probation is being developed by the National Offender Management Service on safeguarding adults.

The Care Act statutory guidance (chapter 17) states that Local Authorities should consider inviting prison and probation staff to be members of Safeguarding Adult Boards. The inclusion of prison and probation staff on safeguarding adult boards should be agreed with all statutory board members and the SAB “can act as a forum for members to exchange advice and expertise to assist prison and probation staff in ensuring that all people in custodial settings are safeguarded”.

Her Majesty’s Inspectorate of Prisons (HMIP)

HMIP has shown its commitment to address the complex area of safeguarding adults at risk in prison through the inclusion in 2012 of a safeguarding section in its methodology Expectations. This outlines a prison’s responsibilities to safeguard people at risk in the prison environment and also provides benchmark standards against which prisons will be judged in this respect. These are summarised below.

Safeguarding arrangements in prisons

- The prison promotes the welfare of all prisoners, particularly vulnerable adults at risk, and protects them from all kinds of harm and neglect.

- Prisoners, particularly adults at risk, are provided with a safe and secure environment which protects them from harm and neglect. They receive safe and effective care and support.

Indicators

- The risks to prisoners are recognised and there are guidance and procedures to help reduce and prevent harm or abuse from occurring.

- When abuse is alleged or suspected to have occurred, prompt and appropriate action is taken to protect the prisoner.

- An individual care plan is in place to address a prisoner’s assessed needs. Care plans are thorough, reviewed regularly and involve staff from a range of disciplines.
• Up to date government and local guidance is accessible and safeguarding procedures are known and used by all staff, including how to raise a safeguarding concern.

**Mental Capacity Act 2005**

HMIP Expectations requires that the safeguarding policy and any prison codes of conduct are informed by the underlying five principles of the Mental Capacity Act 2005:

• A presumption of capacity
• The right for individuals to be supported to make their own decisions
• Individuals must retain the right to make what might be seen as unwise decisions
• Best interests
• Least restrictive intervention.

Where possible, access to advocates and/or appropriate adults is in place to aid prisoners’ capacity to understand and consent.

**Code of conduct and duty to report concerns**

The prison has a code of conduct informing staff of their duty to raise legitimate concerns about the conduct of an individual in relation to the treatment and management of prisoners.

• Staff feel confident and safe to raise concerns.
• Staff awareness of their personal and professional responsibility to protect adults at risk.
• Staff undergo appropriate training.
• Safe recruitment practice and vetting procedures which comply with necessary legislation.
129. Guidance on multi-agency safeguarding roles and responsibilities

Introduction

The revised statutory guidance to the Care Act (2014) clarifies that there should be clear and collaboration should take place at all the following levels:

- Operational
- Supervisory line management
- Practice leadership
- Strategic leadership within the senior management team
- Corporate/cross authority
- Chief officers/chief executives
- Local authority members and PCC
- Providers of services
- Voluntary organisations

Local Authorities

Local Authorities with social services responsibilities have the lead co-ordinating role for safeguarding adults at risk of abuse, neglect or exploitation. This includes the co-ordination of the application of this Policy Framework into practice; lead responsibility for statutory safeguarding enquiries including the coordination of activity between organisations; ensuring that enquiries undertaken by other bodies on its behalf are robust and satisfactorily resolve the situation; lead the wider implementation of the making Safeguarding Personal approach; review of practice; facilitation of joint training; dissemination of information; and monitoring and review of progress within the Local Authority area.

In addition to that strategic co-ordinating role, the Local Authority adult social care department and integrated health and social care teams, also have responsibility for co-ordinating the action taken by organisations in response to concerns that a person at risk is being, or is at risk of being, abused or neglected.

All social workers undertaking work with adults should have access to a source of additional advice and guidance particularly in complex and contentious situations. Principal social workers are often well-placed to perform this role or to ensure that appropriate practice supervision is available.

Principal social workers in the local authority are responsible for providing professional leadership for social work practice in their organisation and organisations undertaking statutory responsibilities on behalf of the local authority. Practice leaders/principal social workers should ensure that practice is in line with this guidance.

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As the professional lead for social work, principal social workers and senior healthcare safeguarding professionals should have a broad knowledge base on safeguarding and making safeguarding personal and are confident in its application in their own and others’ work.

Health Care Professions Council (HCPC)

The HCPC is the Professional Body that regulates social workers and allied health professionals. HCPC professional standards were amended in Jan 2016 to require all those registered with that body to comply with a professional DUTY to take appropriate action to address and report concerns about safety or wellbeing of people using services, follow up concerns and be open and honest if things go wrong.

Elected members (Councillors)

Elected members have the following responsibilities in relation to safeguarding adults:
- They and their fellow councillors understand their responsibilities for safeguarding persons at risk
- The corporate strategy identifies the council’s role in safeguarding persons at risk and what priority this is given
- The council formally considers the annual report of the Safeguarding Adults’ Board, and the issues this identifies for the local council area.

Director of Adult Social Services

The Director of Adult Social Services has specific responsibilities under statutory guidance issued by the Department of Health. Within adult social services, the director has a responsibility to:
- Maintain a clear organisational and operational focus on safeguarding adults
- Make sure relevant statutory requirements and other national standards are met
- Make sure DBS standards are met.
- The Director is also responsible for either chairing, or ensuring the effective chairing of the local Safeguarding Adults Board.

Police

Hampshire Constabulary is determined to achieve equality of outcome for victims of crime. It is recognised that the impact of events which lead to the involvement of police services differ...
according to the needs of the recipient. All police officers and staff in the Constabulary must take into consideration that persons at risk in particular may have difficulty in engaging with the police service due to learning difficulties or other disabilities as well as cultural, language or other communication difficulties.

It is the responsibility of the police to lead investigations where criminal offences are suspected by preserving and gathering evidence at the earliest opportunity. Where necessary the police will interview the alleged victim, the alleged person causing harm, and any witnesses. As the lead investigating agency they will work with the Local Authority and other partner agencies in line with the local Safeguarding Adults Policy Framework to ensure that all relevant information is shared and identified risks are acted on with a risk management or safeguarding support plan being agreed at an early stage.

In cases where criminal proceedings are deemed inappropriate, the police will work with partnership agencies in order to share information and agree courses of action to effectively safeguard adults at risk of harm.

Clinical Commissioning Groups (CCGs)

CCGs are groups of GPs that are responsible for designing local health services in England. They will do this by commissioning or buying health and care services including elective hospital care, rehabilitation care, urgent and emergency care, most community health services, mental health and learning disability services.

All staff and volunteers

All staff and volunteers from any service or setting should have in place adult safeguarding policy and procedures. Staff and volunteers from any service or setting who have contact with persons at risk have a responsibility to be aware of issues of abuse, neglect or exploitation. This includes personal assistants paid for from direct payments or personal budgets. All staff and volunteers have a duty to act in a timely manner on any concern or suspicion that an adult who is vulnerable is being, or is at risk of being, abused, neglected or exploited and to ensure that the situation is assessed and investigated.

All managers

All Managers in any service or setting should ensure that they:

- Make staff aware of their duty to report any allegations or suspicions of abuse to their line manager, or if the line manager is implicated, to another responsible person or to the Local Authority
- Meet their responsibilities under the Health and Social Care Act 2008 and ensure compliance with the CQC Essential Standards of Quality and Safety
- Operate safe recruitment practices and routinely take up and check references
- Adhere to and operate within their own organisation’s whistleblowing policy in relation to any member of staff who raises concerns
- Link safeguarding procedures into internal quality assurance, governance and risk
management processes

- Have mechanisms in place to ensure that learning from investigations leads to positive change and influences practice.

- Managers of ‘regulated activity’ must fulfil their legal obligations under the *Safeguarding Vulnerable Groups Act 2006*. Managers have responsibility for making checks on and referring staff and volunteers who have been found to have harmed a person at risk or put a person at risk of further harm.

Managers in regulated health settings should also report concerns as a Serious Incident Requiring Investigation (SIRI) in line with clinical governance procedures and a decision must be made whether the circumstances meet the criteria for raising a safeguarding concern in line with the Multi-agency Safeguarding Adults Policy and Procedures.

**All commissioners and contractors**

Commissioners and contractors of services should set out clear expectations of provider agencies and monitor compliance to defined quality standards or benchmarks. NHS commissioners have responsibilities for commissioning high quality health care for all patients in their area. However, they have particular duties for those patients who are less able to protect themselves from harm, neglect or abuse, for example, due to impaired mental capacity. All commissioners and contractors have a responsibility to:

- Ensure that they play an active role in the Adult Safeguarding Boards and liaise with regulatory bodies
- Ensure that managers are clear about their leadership role in safeguarding adults and assuring the quality of outcomes for people using services, the supervision and support of staff, and responding to, and investigating, a concern about a person at risk
- Ensure that agencies, from whom services are commissioned and contracted with, know about and adhere to relevant CQC registration requirements, guidance and CQC Essential Standards of Quality and Safety
- Ensure that all documents such as service specifications, invitations to tender, service contracts and service level agreements adhere to the Multi-agency Safeguarding Adults Policy and Procedures
- Commission a workforce with the right skills to understand and implement adult safeguarding principles
- Ensure staff have received induction and training appropriate to their levels of responsibility
- Ensure that people who commission their own care are given the right information and support to do so from those providing their care
- Ensure that the commissioning and contracting of services such as brokerage services includes information on safeguarding and dignity
- Ensure that services are commissioned in a way that raises service users’ and carers’
expectations in relation to quality of services

- Ensure that commissioning staff develop links with front-line staff to review performance of providers in relation to complaints, standards of care and safeguarding

- Ensure that commissioning and contracting sets out quality assurance and service standards that safeguard service users and promote their dignity and control, with clear reporting requirements placed on providers

- Ensure that contract monitoring has a clear focus on safeguarding and dignity, and that any shortfalls in standards are actively addressed

- Ensure that commissioning and contracting regularly audit reports of risk and harm and require providers to address any issues identified

- Ensure that reporting across providers is tracked, and under or over reporting patterns are addressed

- Ensure that when there is a pattern of concerns, a root cause analysis is carried out and where appropriate, a safeguarding concern is raised

- Ensure that there is robust, timely action when standards in services place service users at risk.

**NHS funded services**

The NHS is accountable to patients for their safety and well-being through delivering high quality care. This duty is underpinned by the NHS Constitution that all providers of NHS services are legally obliged to take account of. Quality is defined as providing care that is effective and safe and which results in a positive patient experience.

Some patients may be unable to uphold their rights and protect themselves from harm or abuse. They may have the greatest dependency and yet be unable to hold the service to account for the quality of care they receive. The NHS has particular responsibilities to ensure that those patients receive high quality care and that their rights are upheld, including their right to be safe.

All providers of healthcare should have in place named professionals, who are a source of additional advice and support in complex and contentious cases within their organisation. There should be a designated professional lead in the CCG, who is a source of advice and support to the governing body in relation to the safeguarding of individuals and is able to act as the lead in the management of complex cases.

All commissioners and providers of healthcare should ensure that staff have the necessary competences and that training in place to ensure that their staff are able to deliver the service in relation to the safeguarding of individuals. This is strengthened by the development of the safeguarding adults: roles and competences for health care staff - intercollegiate document, which details the levels of training and competencies required for the different groups of staff in the organisations.

Managers of health services, their commissioners and regulators will also need assurance that
where harm or abuse occurs, responses are in line with local Multi-agency Safeguarding Adults Procedures and national frameworks for Clinical Governance and investigating patient safety incidents. Health services must produce clear guidance to managers and staff that sets out who is responsible for any decision making processes and for initiating action under the above processes and to support clarity about what constitutes a safeguarding adults incident. Safeguarding in the NHS encompasses:

- A patient centred approach to how services are commissioned and assured
- Leading an organisational culture that safeguards patients
- Using systems and processes that support safeguarding and connect aligned areas
- Developing partnerships with patients, public and multi-agency partners
- Using robust assurance to understand and improve safeguarding adult’s arrangements
- Commissioners working with providers, regulators and multi-agency partners to address concerns in services.

**NHS managers and Boards**

Managers and Boards have responsibility for implementing six fundamental actions to safeguard adults:

- Use the safeguarding principles to shape strategic and operational safeguarding arrangements
- Set safeguarding adults within the strategic objectives of the service
- Use integrated governance systems and processes to prevent abuse occurring and respond effectively where harm does occur
- Work with the Local Safeguarding Adults Board, patients and community partners to create safeguards for patients
- Provide leadership to safeguard adults
- Ensure accountability and use learning within the service and the partnership to bring about improvement.

**Health practitioners**

Health care staff are often working with patients who, for a range of reasons, may be less able to protect themselves from neglect, harm or abuse. Health care practitioners play a vital role in prevention and reporting, responding and supporting the recovery of adults who may have experienced or are at risk of abuse.

**Ambulance service**

There are a number of ways in which staff may receive information or make observations.
which suggest that a person at risk has been abused or is at risk of harm. Staff will often be
the first professionals on the scene and their actions and recording of information may be
crucial to subsequent enquiries. Staff will not investigate suspicions and, if there is someone
else present, will avoid letting the person know they are suspicious. If the patient is conveyed
to hospital, the staff should inform a senior member of the A&E staff, or nursing staff if
conveying to another department, of their concerns about possible abuse. They will complete
a patient report form and give a copy to the staff at A&E or other location where clinical
responsibility is being handed over. Staff should also follow local procedures for contacting
the Local Authority

**General Practitioners (GPs)**

The British Medical Association issued *Safeguarding Persons at risk – a Tool Kit for General
Practitioners* in October 2011, which contains the following guidance for GPs:

“Where doctors or other health professionals suspect that a serious crime may have been, or
may be about to be, committed, action should be taken as a matter of urgency. Although
health professionals owe a duty of confidentiality to all their patients, this duty is not absolute.
Where an adult has the relevant decision making capacity, they retain the freedom to decide
how best to manage the risks to which they may be exposed, including whether a referral
through multi-agency procedures would help them. Where other individuals may be at risk of
harm, however, or where there is concern that a serious crime may be, or may have been,
committed a referral must be made through appropriate procedures. In these circumstances
health professionals should discuss the matter with the social services adult protection team
as a matter of urgency. It may also be necessary directly to contact the police.”

The toolkit also refers to measures GPs should consider in relation to information sharing,
reporting wider patient safety concerns and concerns in relation to regulated services and
colleagues.

**Patient Advice and Liaison Service (PALS) and complaints departments**

PALS and complaints departments provided by acute, specialist and community health trusts
have been established to provide confidential advice and support to patients, families and
carers, including providing confidential assistance in resolving problems and concerns. PALS
act as a focal point for feedback from patients to inform service developments and as such
can act as an early warning system about concerns including quality of care for NHS trusts and
Commissioning Care Groups.

PALS staff are in a position to recognise that a concern which is raised with them either by a
patient or a carer or friend could indicate that the person is at risk of abuse or neglect. They
should raise that concern with their own health trust via senior managers and safeguarding
adult’s leads and raise a concern to the relevant Local Authority to ensure that appropriate
action is taken under the Multi-agency Safeguarding Adults Policy and Procedures.
NHS Improvement Agency (NHSI)

The NHSI is the independent regulator of NHS Foundation Trusts. They were established in January 2004 to authorise and regulate NHS foundation trusts. They are independent of central government and directly accountable to Parliament. The three main strands to their work are:

- Determining whether NHS trusts are ready to become NHS foundation trusts
- Ensuring that NHS Foundation Trusts comply with the conditions they signed up to including that they are well-led and financially robust
- Supporting NHS Foundation Trust development.

HealthWatch

HealthWatch is an independent consumer champion and a statutory part of the Care Quality Commission (CQC), to champion services users and carers across health and social care.

At local level:

- Local HealthWatch organisations ensure that the views and feedback from patients and carers are an integral part of local commissioning across health and social care
- Local Authorities are able to commission local HealthWatch or HealthWatch England to provide advocacy and support, helping people access and make choices about services, and supporting individuals who want to make a complaint. In particular, they will support people who lack the means or capacity to make choices; for example, helping them choose which General Practice to register with
- Local HealthWatch organisations are funded by and accountable to, Local Authorities and will be involved in Local Authorities’ new partnership functions. To reinforce local accountability, Local Authorities are responsible for ensuring that local HealthWatch are operating effectively, and for putting in place better arrangements if they are not
- Local HealthWatch organisations provide a source of intelligence for national HealthWatch and will be able to report concerns about the quality of providers, independently of the Local Authority.

At national level:

- HealthWatch England provides leadership, advice and support to local HealthWatch, and is able to provide advocacy services on their behalf if the Local Authority wishes
- HealthWatch England provides advice to the Health and Social Care Information Centre on the information which would be of most use to patients to facilitate their choices about their care
- HealthWatch England provides advice to the NHS Commissioning Board, Monitor and the Secretary of State
- Based on information received from local HealthWatch and other sources, HealthWatch England has powers to propose CQC investigations of poor services.

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Faith communities

Churches, other places of worship and faith-based organisations provide a wide range of activities for persons at risk and have an important role in safeguarding persons at risk and supporting their families. Religious leaders, staff and volunteers who provide services in places of worship and in faith-based organisations will have various degrees of contact with persons at risk.

Like other organisations that work with persons at risk, churches, other places of worship and faith-based organisations need to have appropriate arrangements in place for safeguarding and promoting the welfare of persons at risk. In particular these should include:

- Procedures for staff and others to report concerns that they may have about the abuse, neglect or exploitation of a person at risk
- Appropriate codes of practice for staff, particularly those working directly with persons at risk
- Safe recruitment procedures, alongside training and supervision of staff (paid or voluntary).

Fire and Rescue Services

When adults become vulnerable they become vulnerable to fire. While the number of people within the population who meet the No Secrets definition of a vulnerable adult is very small the overwhelming majority of fire deaths occur within this population of people. For this reason The Fire and Rescue Service have two roles to play in safeguarding adults at risk.

The first is to support other agencies to recognise, assess and manage fire risks for vulnerable adults. Fire and rescue services will provide awareness raising and training around identifying and managing fire risks in the domestic environment and, through the home fire safety visit programme, visit identified adults at risk and provide advice that is specific to the occupant and their home environment.

The second is to have good internal safeguarding procedures. Fire and Rescue personnel respond to emergencies, visit people in their homes when carrying out Home Safety Checks and undertake Fire Safety (Protection) visits in residential/institutional settings. Fire and Rescue service staff should be trained to recognise a concern and report it appropriately. Where Fire and Rescue personnel have a concern that a person at risk may be being abused, neglected or exploited they must follow their internal safeguarding procedure.

Care Quality Commission (CQC)

The CQC regulates and inspects health and social care services including domiciliary services and protects the rights of people detained under the Mental Health Act 1983. They have a role in identifying situations that give rise to concern that a person using a regulated service is or has been at risk of harm, or may receive an allegation or a complaint about a service that
could indicate potential risk of harm to an individual or individuals. CQC Safeguarding Protocol describes their role in safeguarding both children and adults. It covers all the relevant health and social care sectors for which CQC has regulatory responsibility. It provides the principles for how CQC will work to help ensure people are protected. It may also provide helpful guidance for stakeholders, providers of services and members of the public on the role of CQC in local safeguarding procedures.

**Office of the Public Guardian (OPG)**

The Office of the Public Guardian Safeguarding Adults Policy states that the organisation will strive to ensure that persons at risk receive their entitlement to safeguards that:

- Prevent abuse from occurring and/or continuing, where possible
- Identify abuse promptly
- Ensure the abuse ceases and the person causing harm is dealt with, wherever possible.

The OPG also undertakes to notify Local Authorities, the police and other appropriate agencies when an abuse situation is identified. The OPG may be involved in safeguarding persons at risk in a number of ways, including:

- Promoting and raising awareness of legal safeguards and remedies, for example, lasting powers of attorney and the services of the OPG and the Court of Protection
- Receiving reports of abuse relating to persons at risk (‘whistleblowing’)
- Responding to requests to search the register of deputies and attorneys (provided free of charge to Local Authorities and registered health bodies)
- Investigating reported concerns, on behalf of the Public Guardian, about the actions of a deputy or registered attorney, or someone acting under a single order from the court
- Working in partnership with other agencies, including adult social care services and the Police.

The OPG can carry out an investigation into the actions of a deputy, of a registered attorney (lasting powers of attorney or enduring powers of attorney) or someone authorised by the Court of Protection to carry out a transaction for someone who lacks capacity, and report to the Public Guardian or the court.

Local Authorities can use the OPG protocol to refer concerns to the OPG relating to anyone who falls within the OPG definition of an adult at risk, as given above. The OPG will refer all concerns and allegations relating to people not covered by the OPG Safeguarding Adults Policy to the relevant adult social care service. Where it is considered that a crime has or may have been committed, a report will be made to the police.

**Housing organisations**

Staff who work in housing organisations are in a position to identify tenants who are vulnerable and are at risk of abuse, neglect and exploitation. They are therefore required to
follow a multi agency policy guidance and toolkit in relation to this responsibility.

**Crown Prosecution Service (CPS)**

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

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

The CPS has a key role to play in making sure that special measures are put in place to support vulnerable or intimidated witnesses to give their best evidence. Special measures were introduced by the Youth Justice and Criminal Evidence Act 1999 and are available both in the Crown Court and in the magistrates’ courts.

These include the use of trained intermediaries to help with communication, screens and arrangements for evidence and cross-examination to be given by video link.

**Coroners**

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

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

In the above situations the local Safeguarding Adults Board should give serious consideration to instigating a safeguarding adult review.

**Probation Services**

Following government reorganisation ‘probation’ has been split into two services: Community
Rehabilitation Companies and the National Probation Service. These services protect the public by working with offenders to reduce re-offending and harm. It works jointly with other public and voluntary services to identify, assess and manage the risk in the community of offenders who have the potential to do harm. The services use the Offender Assessment System (OASys) to assess risk and identify factors that have contributed to offending. The Probation Service also has a remit to be involved with victims of serious sexual and other violent crimes.

Probation services share information and work in partnership with other agencies including Local Authorities and health services, and contribute to local Multi Agency Public Protection Arrangements to help reduce the re-offending behaviour of sexual and violent offenders in order to protect the public and previous victims from serious harm. Although the focus of the probation services is on those who cause harm, they are also in a position to identify offenders who themselves are at risk from abuse and to take steps to reduce the risk to those offenders in line with the principles of this Policy Framework.

**Prison Service**

The Prison Service promotes the welfare of all prisoners, particularly persons at risk, and protects them from all kinds of harm and neglect. Prisoners, particularly adults at risk, are provided with a safe and secure environment which protects them from harm and neglect. They receive safe and effective care and support. Prisons work to the following benchmark standards:

- The risks to prisoners are recognised and there are guidance and procedures to help reduce and prevent harm or abuse from occurring
- When abuse is alleged or suspected to have occurred, prompt and appropriate action is taken to protect the prisoner
- An individual care plan is in place to address a prisoner’s assessed needs
- Care plans are thorough and reviewed regularly, involving all relevant staff
- Up-to-date Government and local guidance about safeguarding adults is accessible and safeguarding procedures are known and used by all staff, including how to raise a safeguarding concern
- The safeguarding policy and any prison codes of conduct are informed by the underlying five principles of the Mental Capacity Act 2005
- Where possible, access to advocates and/or appropriate adults is in place to aid prisoners’ capacity to understand and consent
- The prison has a code of conduct informing staff of their duty to raise legitimate concerns about the conduct of an individual in relation to the treatment and management of prisoners
- Staff feel confident and safe to raise concerns
- Staff are aware of their personal and professional responsibility to protect persons at risk
and undergo appropriate training

- Staff are subject to recruitment and vetting procedures which comply with necessary legislation.

**Disclosure and Barring Service**

The primary role of the Disclosure and Barring Service (DBS) is to help employers make safer recruitment decisions and prevent unsuitable people from working with vulnerable groups including children. The DBS was established under the Protection of Freedoms Act 2012 and merges the functions previously carried out by the Criminal Records Bureau (CRB) and Independent Safeguarding Authority (ISA).

**Local Area Teams (LAT)**

The LAT is a local extension of the NHS Commissioning Board and will have the following core functions of clinical commissioning group development and assurance, ensuring emergency planning within the NHS to secure both resilience and response and oversight of the whole health system within their area, with a particular focus on quality and safety. The LAT is responsible for commissioning of highly specialist services in addition to GP and dental services, pharmacy and certain aspects of optical services.
130. Multi-Agency Risk Management Framework

1. Introduction

This guidance has been developed in partnership with the four Safeguarding Adult Boards in Hampshire and Isle of Wight and respective partner organisations. It sits alongside the Hampshire 4LSAB Multi-Agency Safeguarding Policy and Guidance (2015) and designed to provide guidance on managing cases relating to adults where there is a high level of risk but the circumstances may sit outside the statutory adult safeguarding framework but for which a multi-agency approach would be beneficial.

This guidance should be read in conjunction with the Hampshire 4LSAB Multi-Agency Safeguarding Policy and Guidance (www.hampshiresab.org.uk) and the 4LSAB related guidance Information Sharing and Prevention and Early Intervention. The guidance does not replace single agency risk management arrangements and instead seeks to build on and complement these by providing a multi-agency dimension. Professionals must also refer to relevant statutory frameworks and operational policies (such as the Care Programme Approach) which they are required to follow. It is intended as an overarching framework and so it is the responsibility of respective organisations to develop more detailed workplace guidance around its implementation.

This guidance is likely to be useful to any professional who is working with adults experiencing an unmanageable level of risk as a result of circumstances which create the risk of harm but not relating to abuse or neglect by a third party such as:

a) Vulnerability factors placing them at a higher risk of abuse or neglect including mate crime, network abuse, etc.;

b) Self neglect including hoarding and fire safety;

c) Refusal or disengagement from care and support services;

d) Complex or diverse needs which either fall between, or span a number of agencies’ statutory responsibilities or eligibility criteria;

e) On-going needs or behaviour leading to lifestyle choices placing the adult and/or others at significant risk;

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f) Complex needs and behaviours leading the adult to cause harm to others;

g) ‘Toxic Trio’ of domestic violence, mental health and substance misuse and

h) Risks previously addressed via a section 42 enquiry but for which the need for on-going risk management and monitoring has been identified.

This guidance recognises that in complex cases, professionals are often dealing with long term and entrenched behaviours to which responses require a commitment to a longer term, solution-based approach which has at its core, a focus on building trust and a rapport with the adult. The guidance aims to provide an effective, coordinated and multi-agency response to these ‘critical few’ cases in order to facilitate:

- Timely information sharing around risk;
- Identification and holistic assessment of risk;
- Development of shared risk management plans;
- Shared decision making and responsibility;
- The adult’s involvement and engagement in the process
- Improved outcomes for the adult at risk.

This guidance should be viewed and applied in the context of the general provisions of the Care Act 2014 which are intended to promote and secure wellbeing. The statutory guidance to the Care Act 2014 states that agencies should implement robust risk management processes in order to prevent concerns escalating to a crisis point requiring action under local safeguarding arrangements.

Partner organisations should ensure that they have the mechanisms in place to enable early identification and assessment of risk through timely information sharing and targeted multi-agency intervention. Multi-Agency Safeguarding Hubs may be one model to support this approach but they are not the only one. Individual organisations’ policies and strategies for adult safeguarding should include measures to minimise the circumstances of risk including isolation, which can make adults vulnerable to harm.

2. Underpinning Principles

The following principles should be applied and integrated into risk management policy and practice across all organisations:

- All professionals and other staff have a vital role to play to make early, positive interventions with individuals and families so as to make a difference to their lives, preventing the deterioration
of a situation or breakdown of a vital support network.

- All agencies - and the individuals employed within these - should work together to achieve the best outcome for the service user, whilst satisfying legal, professional and organisational responsibilities and duties.

- The support offered or provided under this Framework will form part of the organisation’s ‘business as usual’ process.

- Partner organisations should ensure that they have in place mechanisms that enable early identification and assessment of risk through timely information sharing and targeted multi-agency intervention.

- Where there is risk of harm, appropriate action within an appropriate timescale must be taken. This framework adopts the principle of ‘NO DELAY’ so that the 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.

- Timescales adopted will be based on judgements about 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.

- All professionals should be aware of the rights of individuals in law and of the duties, powers and responsibilities of local authorities, health, housing, police as well as other agencies.

- Any agency or professional can initiate a multi-agency risk management meeting. However, a responsible manager from that organisation should be involved in the decision making process.

- Responses should be person centred and designed around the needs and wishes of the adult who will be actively encouraged to engage and participate in the management of the risks they are experiencing in their day to day life.

- Responses must reflect the five key principles of the Mental Capacity Act 2005 in which the adult is assumed to have capacity and, therefore, be able to make their own decisions (even unwise ones).

- Consideration of mental capacity should be made regularly throughout the process. Where a person is found to lack capacity in any area of decision-making, a best interest

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decision will be made and this must take into account the adult’s views and wishes in accordance with the MCA Code of Practice.

- It is vital that the adult has as much control and choice as possible, and that process is guided by their needs and circumstances. Personalised information, advice, support and good advocacy are essential components to this.

- Having access to information and advice will assist the adult to make informed choices about support and will help him/her to weigh up the benefits and consequences of different options. Information and advice can enable the person to keep themselves safe in the first place by helping him/her understand their situation and what is needed to keep him or herself safe now and in the future.

- Professionals should aim to involve (with the consent of the adult) relatives and informal carers, friends, etc. as much as possible in the process as a means of building and/or strengthening the adult’s support network.

- Professionals should adopt a flexible, innovative and solution focused approach to mitigating risk. This may involve trying out new ways of working or retrying previous ideas.

- Each agency involved in this process must allocate a lead worker to agree actions and make operational decisions about this case. The multi-agency forum must also identify someone to act as the lead coordinating professional for the process.

- Effective risk management is underpinned by clear, timely information sharing within and across organisations.

- The multi-agency risk management plan must be proportionate and focussed on the prevention, reduction or elimination of future risk of harm. This plan will be jointly owned by the adult and the professionals working with them.

- Professionals will be responsible for recognising, assessing, and recording areas of risk and actively responding to the identified risks. This includes the on-going monitoring and review of all risks.

- Professionals should seek legal advice from within their own at various stages throughout process from within their organisation as appropriate.
• All decisions and actions taken throughout the process must be accurately recorded, and a note made of all those involved in the decision making process and the rationale for the decision made. This is to support defensible decision making, a guide to which is outlined in section six.

3. Overview of the Multi-Agency Risk Management Process

A failure to engage with people who are not looking after themselves, whether the have mental capacity or not, can have serious implications for their health and well being as well as for the people involved in their care and support. An adult will be considered to be ‘at risk’ under this framework where s/he is unable or unwilling to provide adequate care for him/herself and:

• Is unable to obtain necessary care to meet their needs; and/or

• Is unable to make reasonable or informed decisions because of their state of mental health or because they have a learning disability or an acquired brain injury; and/or

• Is unable to protect themselves adequately against potential exploitation or abuse; and/or

• Has refused essential services without which their health and safety needs cannot be met but do not have the insight to recognise this.

The nature of any involvement centres on whether the adult concerned has the mental capacity to make decisions that have legal force. A person may have mental capacity and yet disagree with the views of the professional. This right is a right that cannot be taken away from a person who has mental capacity. It does not preclude the professional from entering into a dialogue with the person in order to explore the area of concern.

Involvement and the offer of support 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.

It is important that the rights of the adult to make apparently unwise lifestyle choices and to refuse support are respected. However, consideration of the person’s mental capacity (decisional and executive) to make a decision must be taken into account as well as their ability to understand and to manage in practice any risks and safety implications of the choice or decision being made.
Mental Capacity Act and Best Interests

When someone is believed to be lacking mental capacity to make decisions for him/herself staff should always consider:

- Is there a need to formally assess and record that the person who is believed to be lacking mental capacity - to make a specific decision - is in fact mentally incapable of making that decision?
- Is it likely that the person may regain mental capacity in the future and therefore should be involved and can make that decision for him/herself in the future?
- The wishes, feelings, values and beliefs of the person who has been assessed as lacking mental capacity.
- The views of family members, parents, carers and other people interested in the welfare, if this is practical and appropriate, of the person who has been assessed as lacking mental capacity.
- The views of any person who holds a valid Enduring Power of Attorney or a Lasting Power of Attorney (finance and/or welfare) made by the adult now lacking capacity (the Office of the Public Guardian can advise if a power of attorney is valid.)
- The views of any deputy appointed by the Court of Protection to make decisions on the person’s behalf.
- Whether any decisions that need to be made have in fact already been made based merely on the appearance, age, medical condition or behaviour of the person who has been assessed as lacking mental capacity.
- Whether people are being motivated by a desire to bring about the death of the person who has been assessed as lacking mental capacity, or are making assumptions about the quality of that person’s life.
- Any other information that may be relevant.

This Framework promotes an active rather than a passive approach to supporting an adult whose circumstances place them at risk. However, information and advice about how to minimise risk should be given to the individual who, with capacity, has refused to accept support together with information about how they can access reassessment in the future should they change their minds. It is important that decisions (either by the adult or the agency) are kept under constant review and re-evaluated as circumstances change or new information becomes available.
4. Identification and assessment of risk

*Effective joint working to identify and assess risk*

Where a person with needs of care and/or support is refusing support and in so doing so is placing him/herself or others at risk of harm, advice and information should be shared with the adult about the risk(s) of non intervention or intervention. Each agency involved with the adult should, as part of usual case management arrangements maintain a chronology of key events and complete and document their internal risk assessment and management plan.

Professional judgement will determine whether or not the level of risk has reached an unmanageable level for the organisation. Where this is the case, a multi-agency risk management process should be set in motion. Any agency can initiate this process and in doing so, it becomes the lead coordinating agency with responsibility for convening and chairing the initial meeting.

The purpose of the multi-agency risk management process is to ensure timely information sharing between agencies, to gain a holistic (multi-agency) overview of presenting risks and to develop a shared risk management plan. Decisions should be recorded and continually reviewed throughout the process.

The multi-agency risk assessment should consider the following aspects of the situation:

**Risk Assessment**

- Observation of the home situation and environmental factors
- Engagement in activities of daily living
- Functional and cognitive abilities of the person
- Underlying medical conditions
- Underlying mental health conditions or substance misuse issues
- Internal or external factors hindering the adult’s implementation of decisions
- Domiciliary care and other services offered/in place
- Engagement in care and support plans
- Family and social support networks Environmental health monitoring
- Neighbourhood visiting by voluntary organisations
- Money management and budgeting.
- Impact of the situation on the individual.
- Public safety and risks to others.
This risk assessment may highlight circumstances or risks which would be more appropriately dealt with under another process such as the Care Programme Approach, Multi-Agency Risk Assessment Conference, Channel Panel, children’s safeguarding, a ‘Think Family’ initiative or a s42 enquiry under adult safeguarding arrangements.

5. Support and management

Building trust and a positive relationship with the adult

The adult should, as far as possible, be included and involved in the assessment process and in developing a risk management plan to reduce or eliminate identified risks. Under normal circumstances, the person should be invited to attend any meetings with them being offered any support needed to enable them to participate fully. This support may also include offering and arranging an advocate if the adult is likely to experience substantial difficulty in participating in the meetings.

Where the adult continues to refuse all assistance and they have been assessed as having the mental capacity to understand the consequences of such actions, this should be fully recorded. This should also include a record of the efforts and actions taken by all agencies involved to provide support.

A capacity assessment should be carried out if appropriate, to determine if the person has the capacity to make specific decisions. Where a person is unable to agree to have their needs met because they lack the mental capacity to make this decision, then the ‘best interest’ decision making process should be used.

If the multi-agency risk management process has not been able to mitigate the risk of any behaviour which could result in harm, the professionals involved should consider notifying the relevant authority with safeguarding responsibilities (the local authority) of the steps taken (assuming the multi-agency lead has received consent to share personal information or deems it is necessary due to the exemptions in the Data Protection Act 1998). The local authority should then assess the circumstances of the case as well as the steps already taken to minimise presenting risks in order to determine what if any, further steps are required in accordance with the duty under section 42 of the care Act 2014 to undertake a safeguarding enquiry. If further steps are deemed necessary then these might be undertaken in the context of a statutory safeguarding enquiry process but not necessarily.

In cases of self neglect, it is important to note that this does not necessarily prompt a s42 enquiry and decisions should be made on a case by case basis and will depend on the adult’s ability to protect themselves by controlling their own behaviour. There may come a point when they are no longer able to do this, without external support. This process will not affect an individual’s human rights but it will ensure that respective partner agencies exercise their Section 3


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duty of care in a robust manner as far as is reasonable.

**Effective risk assessment will be based on:**

- An up to date chronology (e.g. events and other factors which have increased risks)
- A clear analysis of risks to the adult, others people and the wider public
- Analysis of the benefits and risks of both intervention and non-intervention
- Activity linked to care and support plans
- A multi-agency approach and involvement of a wide range of appropriate professionals
- Active participation of the adult and a focus on building their networks of support
- Risk taking and risk management decisions being continually reviewed throughout
- Clear monitoring and review arrangements
- Regular review of the plan
- Effective management oversight, support and supervision
- Clear and accurate recording of decisions, actions and the rationale for these

6. **Stages of the process**

This section explains the various stages of the multi-agency risk management process.

a) **Stage 1 - concern raised:**

**Key actions:**

- Discussion with the person raising the concern.
- Discussion with the person about whom concerns have been raised.
- Ascertains what (if any) care and support the person is receiving from what agency.
- Ascertains whether any children or other vulnerable adults are at risk.
- considers the mental capacity of the person (decisional and executive)
- If appropriate, carry out a capacity assessment on the specific issue.
- Consider whether referral to another process would be more appropriate.
- Consider whether the circumstances of the case engage the s42 enquiry duty.
- If no to the above, the responsible manager should convene a multi-agency meeting.
- Allocate the case to a lead professional.
- Lead professional compiles a chronology of risk and support offered/in place to date.
- Contact involved agencies (or agencies who may have a potential future role).
- Set up a multi-agency risk planning meeting.
- Attendees should be able to make decisions and commit resources for their agency.
• Each agency to be asked to identify a lead professional.
• Consider how the adult will be involved and if advocacy support is needed.
• Meeting to be chaired by the initiating organisation manager.

b) Stage 2 - multi-agency risk management planning meeting:

(The purpose of the meeting will be to consider the situation and clarify whether any further action can be taken, making the necessary recommendations)

Key actions:

• Provide a summary of any care and support offered or in place.
• Outline of the nature of the concerns and risks to the adult and others.
• Consideration of the adult’s mental capacity.
• Produce a collaborative and holistic assessment of the risks.
• Identify any legal powers and remedies potentially available.
• Agree who will act as lead coordinating professional for the process.
• Agree information sharing arrangements.
• Agree a contingency and an escalation plan.
• Identify who is best placed to engage with the adult at risk.
• Consider how the adult will be involved and kept up to date.
• Agree who and how to engage with the adult and relationship building.
• Agree a SMART action plan, with timescales a named lead against each action.
• Set date for Review Meeting.
• Ensure the adult is given a copy of the risk assessment.

c) Stage 3 – review meetings

Key actions:

• Involve the adult (and others such as their advocate or members of their social/carer network)
• Update the risk assessment
• Update the escalation and contingency plan.
• Agencies share any new information.
• Consider mental capacity.
• Review multi-agency action plan.
• If insufficient progress has been made, consider an alternative approach.
• Other flexible, creative solutions may need to be explored.
• Revise action plan.
• Agree on-going monitoring and review arrangements.

The multi-agency monitoring and review process will continue until the identified risks are either resolved or managed to an acceptable level. It is important that consideration is given
to the support needed by the adult to ensure their well-being and safety is maintained. Any on-going support should be clearly identified and agreed by relevant agencies before being referred back into the relevant case management process for on-going work.

The following table provides guidance on recording and defensible decision making. Practitioners should ensure that their recording in individual cases not only reflects the good practice highlighted below but also relevant legal, professional and organisational requirements and standards:

A defensible decision is one where:

- All reasonable steps have been taken to avoid harm.
- Reliable assessment methods have been used.
- Information has been collected and thoroughly evaluated.
- Decisions are recorded and subsequently carried out.
- Policies and procedures have been followed.
- Practitioners and their managers adopt an investigative approach and are proactive.

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

- Are a contemporaneous record maintained 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.
Appendix A: Summary of key actions at each stage of the multi-agency risk management process

This process recognises that in complex cases, professionals are often dealing with long term and entrenched behaviours to which responses require a commitment to a longer term, solution-based approach which has at its core, a focus on building trust and a rapport with the adult. The guidance aims to provide an effective, coordinated and multi-agency response to these ‘critical few’ cases in order to facilitate:

- Timely information sharing around risk;
- Identification and holistic assessment of risk;
- Development of shared risk management plans;
- Shared decision making and responsibility;
- The adult’s involvement and engagement in the process
- Improved outcomes for the adult at risk.

Stage 1 - concern raised:

Key actions:

- Discussion with the person raising the concern.
- Discussion with the person about whom concerns have been raised.
- Ascertaining what (if any) care and support the person is in receipt of.
- Ascertaining if any children or other vulnerable adults are at risk.
- Consider the mental capacity of the person (decisional and executive).
- If appropriate, carry out a capacity assessment on the specific issue.
- Consider if referral to another process would be more appropriate.
- Consider if the circumstances of the case engage the s42 enquiry duty.
- If no, the responsible manager should convene a multi-agency meeting.
- Allocate the case to a lead professional.
- Compiles a chronology.
- Contact involved agencies and those who may need to have a future role.
- Set up a multi-agency risk planning meeting.
- Attendees to be able to make decisions and commit resources for their agency.
- Each agency to be asked to identify a lead professional.
- Consider how the adult will be involved and if advocacy support is needed.
- Meeting to be chaired by the initiating organisation manager.

Stage 2 - multi-agency risk management planning meeting:

The purpose of the meeting will be to consider the situation and clarify whether any further action can be taken, making the necessary recommendations.

Key actions:

- Provide a summary of any care and support offered or in place.
- Outline of the nature of the concerns and risks to the adult and others.
- Consideration of the adult’s mental capacity.
- Produce a collaborative and holistic assessment of the risks.
- Identify any legal powers and remedies potentially available.
- Agree who will act as lead coordinating professional for the process.
- Agree information sharing arrangements.
- Agree a contingency and an escalation plan.
- Identify who is best placed to engage with the adult at risk.
- Consider how the adult will be involved and kept up to date.
- Agree who and how to engage with the adult and relationship building.
- Agree a SMART action plan, with timescales a named lead against each action.
- Set date for the review meeting.
- Ensure the adult is given a copy of the risk assessment.

Stage 3 – review meetings

Key actions:

- Involve the adult and others e.g. advocate or people in the social/carer network.
- Update the risk assessment.
- Update the escalation and contingency plan.
- Agencies share any new information.
- Consider mental capacity.
- Review multi-agency action plan.
- If insufficient progress has been made, consider an alternative approach.
- Other flexible, creative solutions may need to be explored.
- Revise action plan.
- Agree on-going monitoring and review arrangements.
Appendix B: Legal and Policy Context

Legislation

a) Care Act 2014

Section 1 – Wellbeing and prevention
Section 6 – Carers
Section 9 - Assessment
Section 42 – Safeguarding enquiry (neglect, abuse and self-neglect)

b) Public Health Act 1936 allows District/Borough Councils to give notice to owners or occupiers of premises if those premises are "in such a filthy or unwholesome condition as to be prejudicial to health". The notice can require the owner or occupier to clean the premises. If they do not, the District/Borough Council can arrange to carry out the works themselves.

c) Health Services and Public Health Act 1968 – including S.45: Duty to make arrangements for promoting the welfare of old people.

d) Health and Social Care Act 2008 introduced a new single regulatory framework for health and social care. The registered person - usually the owner or manager - has a duty to inform the registration authority within 24 hours of any event that threatens the well-being of any resident (Regulation 18 notification). The registration authority is the Care Quality Commission.

e) Mental Health Act 1983 (revised and extended in 2007) provides a comprehensive legislative framework to support the needs of both children and adults. It is based on the presumption that the right of people who have been assessed as having a 'disorder or disability of mind or brain' is safeguarded when they are being admitted to or treated within a psychiatric hospital. In addition, as much care and treatment as possible, both in hospital and outside, should be given on an informal basis – where the individual patient is able to exercise their own judgement in the matter (with certain additional safeguards in place for children and young people) - and in the least restrictive conditions possible. The Act also presumes that the main emphasis of care is care within local communities, not within hospital settings. S.135 specifically provides the authority to seek a warrant authorising a police officer to enter premises if it is believed that someone suffering from mental disorder is being ill-treated or neglected or kept otherwise than under proper control anywhere within the jurisdiction of the Court or, being unable to care for himself, is living alone in any such place. Mental Health Act 1983 (revised 2007)
f) **Mental Capacity Act 2005** became operational during 2007. Underpinning the Act are five statutory principles, the most important of which centre on the presumption of capacity unless proven otherwise, and the requirement to enable mentally capable individuals (aged 16+) to make decisions for themselves, even where those decisions may be at variance with what other people and organisations feel would be best. The MCA also provides a statutory framework to enable social care (and allied disciplines) to intervene in the lives of a person (aged 16+) where it can be demonstrated that, in relation to a specific decision that needs to be taken, the person lacks mental capacity to make that decision and therefore a decision needs to be made by a third party in the person’s best interests. From April 2009, the Mental Capacity Act 2005 has made it unlawful to deprive of his/her liberty any adult person lacking mental capacity who is living in a care home or staying in a hospital. This can only be lawful if a Deprivation of Liberty Standard Authorisation is in place or a decision has been made to this effect by the Court of Protection.

**Statutory Guidance:**

- Care Act 2014 - Statutory Guidance
- Mental Capacity Act Code of Practice 2007
- Hampshire and Isle of Wight Policies and Guidance:
### Appendix C: Example of a process for managing high risk cases

<table>
<thead>
<tr>
<th>Area</th>
<th>Key actions</th>
<th>Outcomes</th>
</tr>
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</table>
| a) High risk cases | To produce a team ‘risk register’ reflecting all high risk cases.  
  - All cases on the Register must be allocated to a named professional.  
  - A flag must be added on to the client record system file to reflect high risk status.  
  - The Register will be available to duty officers to assist in triaging calls.  
  - The duty officer will alert the named professional of any contact from or about a person on the Register.  
  - The Register will be reviewed and updated on a weekly basis.  
  - If a person is removed from the Register, the manager will ensure that the flag is taken off the client record system.  
  - The Register will be revised to indicate if there is an active multi-agency risk management process or another process such as a s 42 enquiry, MARAC, Channel Panel, etc.  
  - Supervisors will review (with the relevant lead professional) all cases which are on the register.  
  - The following criteria will be used to determine high risk cases: | Active case load focuses on the “critical few”.  
  Complex, high risk cases are managed effectively. |
<table>
<thead>
<tr>
<th>Area</th>
<th>Actions</th>
<th>Outcomes</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>• Vulnerability factors placing them at a higher risk of abuse or neglect including mate crime, network abuse, etc.;</td>
<td></td>
</tr>
<tr>
<td></td>
<td>• Self neglect including hoarding and fire safety;</td>
<td></td>
</tr>
<tr>
<td></td>
<td>• Refusal or disengagement from care and support services;</td>
<td></td>
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<tr>
<td></td>
<td>• Complex or diverse needs which either fall between, or span a number of agencies’ statutory responsibilities or eligibility criteria;</td>
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<tr>
<td></td>
<td>• On-going needs or behaviour leading to lifestyle choices placing the adult and/or others at significant risk;</td>
<td></td>
</tr>
<tr>
<td></td>
<td>• Complex needs and behaviours leading the adult to cause harm to others and</td>
<td></td>
</tr>
<tr>
<td></td>
<td>• Risks previously addressed via a s42 enquiry but for which the need for on-going risk management and monitoring has been identified.</td>
<td></td>
</tr>
<tr>
<td></td>
<td>• ‘Toxic Trio’ of domestic violence, mental health and substance misuse.</td>
<td></td>
</tr>
<tr>
<td>Area</td>
<td>Actions</td>
<td>Outcomes</td>
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<tr>
<td>------------------------------------------</td>
<td>-------------------------------------------------------------------------</td>
<td>--------------------------------------------------------------------------</td>
</tr>
<tr>
<td>Managing refusal or disengagement from support</td>
<td>Agree process for responding to non delivery of support e.g.:</td>
<td>Prevention and early intervention re service users who have disengaged from support.</td>
</tr>
<tr>
<td></td>
<td>• <em>Allocation</em></td>
<td>Improved risk management of these clients.</td>
</tr>
<tr>
<td></td>
<td>• <em>Review of support needs</em></td>
<td>Timely reviews of support needs and adjustments as necessary to support plans.</td>
</tr>
<tr>
<td></td>
<td>• <em>Capacity assessment on specific areas of decision-making</em></td>
<td></td>
</tr>
<tr>
<td></td>
<td>• <em>Monitor delivery of support</em></td>
<td></td>
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<tr>
<td></td>
<td>• <em>Agree a reporting and escalation protocol with care provider.</em></td>
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<td></td>
<td>Agree thresholds at which the provider must inform the lead coordinating professional of undelivered 1 to 1 support and a trigger point for a review.</td>
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<td></td>
<td>Agree a standard regarding frequency of the provider’s review of individual support plans (to be included in contracts) – monthly.</td>
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<td></td>
<td>Refer to Multi-Agency Risk Management Practice Guidance if concerns escalate.</td>
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<tr>
<td></td>
<td>Agree criteria for referring the case for a s42 enquiry.</td>
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131. National practice guidance adopted locally

There are a number of nationally published guidance documents that this Policy framework has adopted. A summary is provided for each together with a link to the document:

**Inter-Authority Safeguarding Arrangements (ADASS June 2016)**

The guidance has been reviewed and updated to reflect new safeguarding duties under the Care Act (2014) and the accompanying Care and Support Statutory Guidance (2016). This includes, as fundamental, the person-centred, outcome-focused approach enshrined in Making Safeguarding Personal and the six national safeguarding adults principles. This document provides guidance for partner agencies when dealing with complex cross boundary issues. It is not a substitute for locally agreed multi-agency safeguarding adults policies and procedures, whether at individual Safeguarding Adults Board, sub regional or regional level. Local multi-agency procedures, together with the Care Act and statutory guidance take precedence.

**Making safeguarding Personal - a toolkit for responses (Local Government Association, 2015)**

The toolkit is set out in a modular format with a summary of key areas. These areas range from models, theories and approaches to skills and areas of specialism that safeguarding practitioners need to be aware of. It can be used as a practitioner guide for pointers on how to respond to individual cases, or as a starting point resource for service development. It has been designed as a resource that will develop over time and allow updates and amendments to be made as development takes place or innovative and effective practice comes to light.

**Adult Safeguarding and Domestic Abuse - a guide for practitioners (Local Government Association, 2015)**

This guide is for practitioners and managers in councils and partner agencies engaged in working directly or indirectly with people who have care and support needs, whose circumstances make them vulnerable, and who may also be victims of domestic abuse. Its purpose is to help staff to give better informed and more effective support to people who need an adult safeguarding service because of domestic abuse. It addresses situations where an adult who has care and support needs is being harmed or abused by an intimate partner or close family member in a way which could also be defined as domestic abuse.

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32 http://www.local.gov.uk/c/document_library/get_file?uuid=5928377b-8eb3-4518-84ac-61ea6e19a026&groupId=10180
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Gaining access to an adult suspected to be at risk or abuse or neglect - a guide for social workers and managers in England (SCIE, 2014) 33

This guide clarifies existing powers and legal options relating to access to adults suspected to be at risk of abuse or neglect where access is restricted or denied. It is intended as a source of ready reference rather than as a learning tool, laying out the potential routes to resolution. It is important that social workers and their managers are as clear as possible on which legal powers or options apply to which situations, and in cases of any uncertainty that they consult their senior managers and/or the legal department of the Local Authority. Throughout the guide there are inks to information on the relevant legislation and case law.

Safeguarding adults from harm - a legal guide for practitioners (SCIE, 2011)34

This guide is aimed primarily at practitioners working in various settings for organisations involved in safeguarding. But it may also be useful for volunteers and family. It aims to equip practitioners with information about how to assist and safeguard people. Knowing about the legal basis is fundamental, because the law defines the extent and limits of what can be done to help people and to enable people to keep themselves safe. This guide is intended to serve as a pointer to the law and to how it can be used. It tries to explain the law in reasonably simple terms, so it is selective and does not set out full details of each area of law covered. When it comes to the law, further advice will often be needed, but an awareness of it can help practitioners ask the right sort of question and explore possible solutions.


Section 3

Hampshire, Isle of Wight, Portsmouth and Southampton Safeguarding Boards

A Family Approach Protocol

<table>
<thead>
<tr>
<th>Date</th>
<th>8th November 2018</th>
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<tbody>
<tr>
<td>Authors</td>
<td>4LSCB and 4LSABs</td>
</tr>
<tr>
<td>Version No.</td>
<td>V11</td>
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</table>

**Background and Purpose of the Protocol**

This Protocol has been commissioned by the 4 Safeguarding Children Boards (4LSCBs) and 4 Safeguarding Adult Boards (4LSABs) in Hampshire, Isle of Wight, Portsmouth and Southampton. The protocol was commissioned in response to findings from a range of reviews across all Board’s which highlight the need for professionals to work effectively together to achieve better outcomes for adults, children and their families across all areas.

This protocol, and its supporting documents in the online toolkit replace what was previously produced in the Joint Working Protocol (JWP). The information from the JWP has been distilled and presented in a more digestible format, and has been co-produced by agencies in both the children’s and adult’s workforce. The summary and flowchart from the JWP is still available for professionals [here](#).

The aspects of practice described in this protocol are a shared responsibility, and must be at the heart of practice across all partner agencies of the 4LSAB and 4LSCBs.
**Scope**

This Protocol applies to any partner organisation working with children, adults with care and support needs and their families in and across Pan-Hampshire. This extends to unborn babies and their parents. Agencies should note that the likelihood of the risk and harm to children and an adult with care and support needs increases when they live with a family member with one of the following vulnerability factors:

- Domestic abuse
- Parental/familial mental ill-health
- Learning disabilities
- Substance misuse
- Sexual exploitation

It should be noted that families can often experience more than one of any of the above factors at any one time. The co-existence of any of the above factors will increase the overall risk for a child / adult / family. Where this occurs assessments should be updated frequently to ensure there is an accurate understanding of risk factors and how they may impact on each other.

A protective factor can be defined as “a characteristic at the biological, psychological, family, or community (including peers and culture) level that is associated with a lower likelihood of problem outcomes or that reduces the negative impact of a risk factor on problem outcomes.” A non-affected partner can be a protective factor. It should be emphasised that a child should not be considered to be a protective factor for an adult on the basis that they are not able to impact on risk or outcomes.

Agencies should note that there are a range of vulnerability factors which may impact on an adult with care and support needs and their ability to protect themselves from harm. These include:

- Loneliness, social isolation, limited social contacts and living alone. No family, no friends, visitors or professionals to tell
- Poor health or disability
- Dependence on others to meet vital care needs, lack of suitable alternative accommodation
- Mental frailty – poor memory, lack of or fluctuating capacity, medication effects, depression
- Tolerance of abuse by other vulnerable adults
- Low expectations of families and service users about the quality of care they’re entitled to.
- Barriers to reporting – powerlessness, dependence on others, fear of consequences of speaking out
- Fear of loss of relationships
- Self neglect.
- Adult Sexual Exploitation
The protocol should be used by:

- Practitioners and their managers;
- Voluntary and community organisations
- Commissioners;
- Organisations working with adults, children and their families;
- Members of the 4LSABs and 4LSCBs.

All professionals need to avoid focusing ONLY on the individuals to whom they have a responsibility to offer support. When children’s services staff know of adults in need of care and support in the families or linked to the children with whom they have contact, they should be liaising with colleagues in Adult Services about the Adult’s needs. Similarly, when Adult Services staff know of children who live with or are in regular contact with adults with care and support needs and who may benefit from an assessment of their own needs or the risks they might face, then they should liaise with Children’s services colleagues about the child’s needs.
**Definition**

A Family Approach is one that secures better outcomes for children (including unborn babies), adults with care and support needs, children and their families by co-ordinating the support they receive from Adult and Children and Family Services. The support provided by these services should be focused on problems affecting the family as this is the only effective way of working with families experiencing the most significant problems.

1. **Why is it important to work with a Family Approach?**

   Research and data show that many families face multiple, entrenched and serious problems that will have a serious impact on the children and adults within the family. Research suggests that a multi-agency, ‘family approach’ can be effective in helping families, even for those who have not benefited from traditional service approaches. This can be for a variety of reasons;

   - Multi-agency, flexible and coordinated services, with an underpinning ‘think family’ ethos, are most effective in improving outcomes. This includes staff in adults’ services being able to identify children’s needs, and staff in children’s services being able to recognise needs of adults with care and support needs. Such services are viewed positively by families and professionals alike.

   - Early intervention prevents problems becoming entrenched; the practical help, advice and emotional support can often be given without referral to specialist services. People also prefer an informal approach.

   - In order to access services, people must feel reassured that they are not being judged or stigmatised, and be helped to overcome their fears of having their children removed.

2. **Family Approach Principles for Successful Partnership Working**

   Successful partnership working puts the adult, children and families at the centre. It recognises the importance of family, relationships and environment on their health, wellbeing and aspirations. The partners to this protocol understand that safeguarding is a shared responsibility.

   Effective partnership working is enabled by:
   - Timely sharing of vital information
   - Avoidance of a ‘refer on’ culture
   - A family approach
   - Attention to developing or strengthening a support network
   - Clarity about the respective roles and responsibilities of each agency involved
   - A solution focused approach

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• Co-ordination and management of case work and the interface with other processes
• Regularly review and communicating progress
• Ability to provide professional challenge to resolve issues and escalation

3. **What will the Safeguarding Children and Safeguarding Adults Boards do?**

1. Provide strong leadership on a Family Approach and safeguarding at a senior level to ensure it has a high strategic profile;

2. Provide joint training to the adults and children’s workforce in their respective areas;

3. Produce ‘quick guides’ on key safeguarding themes relevant to the collective workforce;

4. Ensure that publications from the Boards are ‘jargon free’ to enable ease of access and understanding to professionals from both the adults and children’s workforce;

5. Provide opportunities for shared learning from relevant board activity, for example, Serious Case Reviews, Safeguarding Adult Reviews, Domestic Homicide Reviews, Mental Health Homicide Reviews, audits.

6. Provide a glossary of common references and legal frameworks to assist professionals in both workforces’ understand the other.

7. Seek assurance that a Family Approach is embedded, for example, through audits, reviews and training.

8. Ensure that there are clear pathways for referral and communication to key agencies in the Children’s and Adults workforce.

9. Ensure there is an effective Conflict Resolution and Escalation Policies in place to ensure there is a clear process for resolving any disagreements between services over the handling of concerns and referrals.

4. **What will agencies do?**

10. Ensure all staff are aware of the protocol and online resources.
11. Ensure that basic induction / training for staff includes information and / or placements in other areas of the business, e.g. information on adults services for the children’s.

12. Add information on the importance of working with the family into agency training material and organisational procedures.

13. Provide appropriate supervision to enable professionals to reflect on the needs of the family.

14. Promote the importance of information sharing with partners in both the children and adults workforce.

5. **What will professionals do?**

15. Make a commitment to take a ‘family approach’ in their work.

16. Be professionally curious when working with families. Find out who is living in a household, who cares for whom. Staff need to remain curious and inquisitive about what they are seeing and assessing in terms of indicators of potential harm.

17. Ensure that they are familiar with the referral pathways for both children and adults.

**Key areas of focus**

**Restorative Practice**

Whilst there may be a range of different working practices and approaches across adults and children’s services in Hampshire, Isle of Wight, Southampton, Portsmouth and Southampton; national and local research and evidence highlights how applicable Restorative Practice is across a range of settings and professional disciplines, bringing a shared sense of direction, a common language and improved outcomes to children and families.

Restorative Practice is about building and maintaining relationships. It's about working 'with' people at every opportunity and in doing so:

- Providing meaningful challenge and setting clear boundaries i.e. holding parents to account in a meaningful and constructive way - **high challenge**; and at the same time
- Providing the right support and encouragement to enable them to reach agreed goals - **high support**

Creating meaningful and lasting change requires both high challenge and high support.

Restorative Practice is a way to be, not a process to follow or a thing to do at certain times. It’s a term used to describe principles, behaviours and approaches which build and maintain healthy relationships. It is a way of being with people that can enable workers, parents and children to communicate effectively by removing barriers, developing family led problem solving and decision making, and leads to shared accountability.

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When we work with and alongside people, rather than make decisions about them in isolation, there is strong evidence to say that outcomes for children and their families are improved.

**Strength based approach**

This protocol endorses the work already underway in both Children’s and Adult’s services to develop a ‘strengths based approach’ to the way that professionals work with children, adults and their families. Strengths-based practice is a collaborative process between the person / family supported by services and those supporting them, allowing them to work together to determine an outcome that draws on the person’s / families strengths and assets. As such, it concerns itself principally with the quality of the relationship that develops between those providing and those being supported, as well as the elements that the person / family seeking support brings to the process.

**Person centred working**

Responses should be person centred and designed around the needs and wishes of the person with a focus on actively encouraging them to engage and participate in the support offered or provided. This will ensure they experience help and support that is both joined up and effective, which will in turn achieve better outcomes.

The person centred approach reflects the core values and practice which are understood to be valued by service users. It is an approach which recognises the person as an expert in their own life and the importance of being able to participate as fully as possible in decision making. Core values include:

- “No decision about me, without me”
- Information, advice and advocacy
- Holistic approach
- Flexibility
- Person-centred support
- Professionals who listen /communicate well while displaying warmth and respect.

In relation to the children’s workforce this would be known as taking a child centred approach. In relation to safeguarding adults this would be known as ‘making safeguarding personal’.

**Mental Capacity Act 2005**

The Mental Capacity Act states that responses must reflect the five key principles of the Mental Capacity Act (MCA) 2005 in which the person aged 16 years + is assumed to have capacity and, therefore, be able to make their own decisions (even unwise ones). Practitioners will need to have regard for the five statutory principles of the MCA 2005:

- Every adult / child has the right to make his or her own decisions and must be assumed to have capacity to do so unless it is proved otherwise.
- All practicable steps must have been taken to help them understand the information relevant to the decision.
People have the right to make unwise or eccentric decisions that carry risks.

A decision made on behalf of the person who lacks capacity must be done so in their best interests.

When making the decision on behalf of the person, regard must be given for achieving this in a way that is least restrictive for the person.

A person’s mental capacity should be considered regularly. Where a person is found to lack capacity in any area of decision-making, a best interest decision will be made and this must take into account the child / adult’s views and wishes in accordance with the MCA Code of Practice.

It is vital that the child/ adult has as much control and choice as possible, and that process is guided by their needs and circumstances. Personalised information, advice, support and good advocacy are essential components to this.

Having access to information and advice will assist the child / adult to make informed choices about support and will help him/her to weigh up the benefits and consequences of different options. Information and advice can enable the person to keep themselves safe in the first place by helping him/her understand their situation and what is needed to keep him or herself safe now and in the future.

**Professional curiosity**

Professionals will often come into contact with a child, or adult with care and support needs. These contacts present vital opportunities for professionals to identify concerns and intervene early to prevent further harm occurring. Responding to these opportunities requires the ability to identify the signs of vulnerabilities and potential or actual risks of harm, maintaining an open stance of professional curiosity (or enquiring deeper) and understanding one’s own responsibility and knowing how to raise concerns.

People rarely directly disclose abuse and neglect to practitioners and, if they do, it will often occur indirectly through unusual behaviour or comments. This makes recognition and response to abuse and neglect a priority for professionals. However, it is understood that it is better to offer help as early as possible, before issues get worse and escalating to crisis point. This means that all agencies and practitioners need to work together - the first step is to be professionally curious and to be willing to engage with children, their families and adults with care and support needs around promoting their safety and wellbeing.

Professional curiosity is a mind set and is about the capacity and communication skill to explore and understand what is happening within an environment rather than making assumptions or accepting things at face value. In practice, this requires practitioners to consider:

- Am I remaining CURIOUS and INQUISTIVE about what I’m seeing and assessing?
- Are there indicators of potential harm towards the child, or adult with care and support needs?
- Are there indicators that a tipping point may have been reached where not to intervene, poses significant risk to wellbeing and safety?
Not attending / not being brought to medical and health appointments

All children and adults are entitled to receive services to promote their health, wellbeing and development. Where health or medical services for children / adults with care and support needs are refused, or where they are repeatedly not being brought for health appointments by their parents or carers, professionals should consider reasons behind the disengagement. This includes refusing home visits when a professional has deemed this to be appropriate. It is important to be aware of the impact of missed appointments on a child / adults health and wellbeing, this includes monitoring of medication they may be taking.

Disengagement by a family / parent / child / adult with care and support needs may be partial, intermittent, or persistent. It is important to be aware that this may be a signal of increased stress within a family and/or potential abuse or neglect of children / adults with care and support needs, and so it is important to identify early signs of disengagement so that any potential risk can be assessed.

Examples of disengagement include parental refusal for the child(ren) to be assessed, repeated non-attendance for medical appointments, or failure to attend or be available for pre-arranged appointments. It includes those who discharge child(ren) / adults with care and support needs against medical advice and those who fail to wait for medical care.

It is also important to be aware that over engagement of services can be a cause for concern about a child’s welfare, especially if there are medically unexplained symptoms or possible fabrication. It is also important to bear in mind that some parents/carers may be disengaging with healthcare for themselves or their own agenda; this may be a precursor to something more serious happening within the family.

Professionals need to consider why families are not engaging and consider the risk in these situations.

Transition to Adulthood

Partners in the 4LSCBs and 4LSABs must work together to support children in transition to adulthood. This is particularly important where young people have ongoing care and support needs or significant safeguarding concerns have been identified and require a robust and seamless plan of intervention and support. Partners across all Safeguarding Boards must plan transition together with the full involvement of the child / young adult. The 4LSABs have developed the Multi-Agency Risk Management Framework relating to adults where there is a high level of risk the circumstances of which sit outside the statutory adult safeguarding framework but for which a multi-agency approach is needed to manage these risks in the most effective way.
Review of the Protocol

The 4LSCBs and 4LSABs will review the Think Family protocol as a part of the reviews of their strategic plans.

This protocol should be used in conjunction with the 4LSAB Safeguarding Adults Escalation Protocol found here and the 4LSAB Multi Agency Risk Management Framework found here.
Multi-agency Hoarding Guidance
2019

This guidance was created with key contributions from Radian Housing, Hampshire Fire and Rescue, Hampshire MASH, Capsticks Solicitors and all 4 local Safeguarding Adults Board.

Section 3
Introduction

This document sets out a framework for collaborative multi-agency working across Hampshire and the Isle of Wight using a ‘person centred solution’ based model to support those demonstrating hoarding behaviours.

In August 2018 The World Health Organisation categorised for the first time, Hoarding as a stand alone medical disorder. It is hoped that this will raise awareness and support professionals to address the issues this behaviour may present.

Recognising risk of abuse and neglect is an essential component of safeguarding duties, but so too is ensuring an effective response that manages that risk in a manner that respects an adult’s personal dignity, physical, mental and emotional wellbeing and the control they wish to exert over their own lives. Failure to do so can alienate the adult at risk and unwittingly increase the risk of harm if the adult then withdraws from necessary support.

When an adult with needs for care and support appears to be self neglecting and displaying hoarding behaviours, refusing care and support despite persistent welfare concerns or whose self-neglecting behaviours pose a risk to others, it can be difficult for practitioners or concerned carers, friends/family members to understand how various legal powers and duties should be applied to find an appropriate solution.

The purpose of this guidance is to support providers, practitioners, and other professionals to identify when to raise concerns regarding poor self care or lack of care for living conditions, identify agencies who can provide support and set out what they may expect by way of a response and encourage and support defensible decision making in accordance with our duty of care. This guidance should be read in conjunction with the Hampshire 4LSAB Multi-Agency Safeguarding Policy.
1. The aims of the framework are to:

Create a safer and healthier environment for the individual and others affected by the hoarding behaviour, e.g. the person, neighbours, family etc.

Deal with incidents of hoarding in a consistent evidence based approach, with a structured multi-agency pathway which will maximise the use of existing services and resources and which may reduce the need for enforcement action.

Ensure that when interventions are required, that there is a clear process tailored to the individual, using a holistic approach. The intervention should include a combination of therapeutic and enforcement tools to reach the required outcome. This needs to include monitoring after resolution to prevent re-occurrence.

Ensure the individual with hoarding behaviour is fully engaged in the process and include family and peer support to achieve this where possible.

Establish best practice and share case studies that relate to hoarding behaviour through the hoarding forum to improve knowledge of hoarding, successful interventions and changes in legislation.

The networking of staff to work in partnership in order to support where possible a successful outcome for all involved.

To have the expressed commitment for those signed up to the guidance to support and work with other agencies on specific cases where requests are made.

The prevention of consequential outcomes for the person, the landlord, health, housing and social care services are potentially:

- Improved fire safety for person, neighbours and fire services
- Prevention of tenancy enforcement action
- Prevention of financial and material consequences
- Prevention of homelessness
- Improved health, reduction in hospital admissions and prevention of loss of life
- Improved mental health and sense of wellbeing
- Improved social interaction with friends and family, reduction of isolation
- Increased capacity to provide a suitable home for children
- Prevention of vermin infestations and associated health problems
- Prevention of targeting of the person with ASB or other criminal offences.
- Improved property conditions and maintaining standards of stock property
- Improved safety for professionals
- Improved service due to multi-agency information sharing
2. Information Sharing Guidance

The 4LSAB Multi-agency Hoarding Guidance is underpinned by:

- Data Protection Act 1998 (Appendix A)
- The General Data Protection Regulation (GDPR) (Appendix B)
3. Definition of hoarding

‘Hoarding is the excessive collection and retention of any material to the point that living space is not able to be used for its intended purpose.’

The World Health Organisation say hoarding is characterised by an ‘accumulation of possessions due to excessive acquisition of – or difficulty discarding – possessions, regardless of their actual value.

Hoarding disorder is a persistent difficulty in discarding or parting with possessions. A person with a hoarding disorder may experience distress at the thought of getting rid of the items or simply be unable, either physically or through other health related factors, to get rid of items despite an acknowledgment that changes need to be made. They will have an excessive accumulation of items, regardless of actual financial value.

Hoarding is considered a standalone mental health disorder and is included in the 5th edition of the Diagnostic and Statistical Manual of Mental Disorders (DSM) 2013. However, hoarding can also be a symptom of other medical disorders; it is highly unlikely to be a lifestyle choice. In any event, hoarding must always be treated as a sign of vulnerability and considered in this light.

Hoarding does not favour a particular gender, age, ethnicity, socio-economic status, educational / occupational history or tenure type.

Anything can be hoarded, including animals, in many different areas including the property, garden or communal areas. In certain circumstances additional storage may have been acquired such as rented garages, storage units, friends’ sheds etc.
4. Types of hoarding

There are typically three types of hoarding:

**Compulsive / Generalist hoarding:**
Clinical compulsive hoarding - This is the most common. This could consist of one type of object or collection of a mixture of objects, such as old clothes, newspapers, food, containers, human waste or papers. This will often manifest from an emotional attachment to inanimate items creating conflict in disposal. (Also known as Disposophobia).

**Bibliomania:** Books and written information – such as newspapers, magazines and articles, and to include DVDs and videos, and Data Hoarding. It could present with the storage of data collection equipment such as computers, electronic storage devices or paper. A need to store copies of emails, and other information in an electronic format.

**Animal hoarding:** Often accompanied with the inability to provide minimal standards of care. The hoarder is unable to recognise that the animals are at risk because they feel they are saving them. The homes of animal hoarders are often eventually destroyed by the accumulation of animal faeces and infestation by pests.

In addition the following maybe useful in considering the type of hoarding taking place:

**Instrumental saving pattern** – ‘What if I or someone else needs it’

**Sentimental saving** – ‘It means so much’

**Aesthetic saving** – ‘I love it’

**General Characteristics of Hoarding**

Fear and anxiety: compulsive hoarding may have started as a learnt behaviour or following a significant event such as bereavement. The person who is hoarding experiences comfort in buying or saving things which may relieve the anxiety and fear they feel. Any attempt to discard the hoarded items can induce feelings varying from mild anxiety to a panic attack with sweats and palpitations.

Long-term behaviour pattern: possibly developed over many years where comfort is attained by buying, and a value attributed to the item through the process of purchasing, then experiencing anxiety at the idea of merely throwing away such item.

Excessive attachment to possessions: people who hoard may hold an inappropriate emotional attachment to items.

Indecisiveness: people who hoard may struggle with the decision to discard items that are no longer necessary, including rubbish. This can cause a distraction from the real issue by deflecting and raising other concerns eg pest control.

Unrelenting standards: people who hoard will often find faults with others, require others to perform to excellence while struggling to organise themselves and complete daily living tasks.

Socially isolated: people who hoard will typically alienate family and friends and may be embarrassed to have visitors.
They may refuse home visits from professionals and not engage well with any agency.

Large number of pets: people who hoard may have a large number of animals that can be a source of complaints by neighbours due to insanitary conditions that the large number of animals creates.

Churning: hoarding behaviour can involve moving items from one part of the property to another, without ever discarding them.

Self-care: a person who hoards may appear unkempt and dishevelled, due to lack of bathroom or washing facilities in their home. However, some people who hoard will use public facilities in order to maintain their personal hygiene and appearance.

A person who hoards may see nothing wrong with their behaviour and the impact it has on them and others.

Please refer to the clutter image rating which is widely used around the world Appendix E. This was initially developed by The International OCD Foundation and were originally a study by Frost RO. Steketee G, Tolin DF, Renaud S. Development and validation of the Clutter Image Rating. Journal of Psychopathology and Behavioural Assessment 2008; 32: 401-417
5. Legislation relevant to hoarding behaviours

- Human Rights Act 1998
- Care Act 2014
- National Health Service Act 2006
- Mental Capacity Act 2005
- Inherent Jurisdiction of the High Court
- Mental Health Act 1983
- Public Health Act 1936, Environmental Protection Act 1990
- Police and Criminal Evidence Act 1984
- Rights of Entry (Gas and Electricity Boards) Act 1986
- Animal Welfare Act 2006
- Prevention of Damage by Pests Act 1949
- Housing Act 2004
- Refuse Disposal (Amenity) Act 1978
- Coroners and Justice Act 2009
- Common Law – Gross negligence manslaughter
- Wilful Neglect (Mental Capacity Act 2005, s44)
- Building Act 1984
- Public Health (Control of Disease) Act 1984
- Crime and Disorder Act 1998

Codes of Practice

- Mental Capacity Act 200523
- Mental Health Act 1983 (revised 2007)24
- Office of the Public Guardian (Mental Capacity Act)25
- Department of Health (Mental Capacity Act Deprivation of Liberty Safeguards)26
- Policy Documents
- Multi-agency Policy, Procedures and Guidance (Southampton, Hampshire, Isle of Wight and Portsmouth)

The Care Act 2014

The Care Act 2014 builds on recent reviews and reforms, replacing numerous previous laws, to provide a coherent approach to adult social care in England. Local authorities (and their partners in health, housing, welfare and employment services) must now take steps to prevent, reduce or delay the need for care and support for all local people.

The Care Act introduced three new indicators of abuse and neglect to Adult Safeguarding. The most relevant to this framework is self-neglect. The guidance states; this covers a wide range of behaviour neglecting to care for one’s personal hygiene, health or surroundings and includes behaviour such as hoarding. In practise, this means that when an adult at risk has care and support needs, their case may require a safeguarding enquiry.

The following six key principles underpin all adult safeguarding work:

1. **Empowerment**: people being supported and encouraged to make their own decisions and give informed consent
2. **Prevention**: it is better to take action before harm occurs
3. **Proportionality**: the least intrusive response appropriate to the risk presented
4. **Protection**: support and representation for those in greatest need
5. **Partnership**: local solutions through services working with their communities – communities have a part to play in preventing, detecting and reporting neglect and abuse
6. **Accountability**: accountability and transparency in safeguarding practice

Partner agencies therefore have a vital role in the early recognition and prevention of self neglect and hoarding. They have a responsibility to recognise and act upon
the risk factors associated with self neglect. Early intervention is the most effective means to manage cases where self-neglect/hoarding is suspected or there are concerns regarding a vulnerable person’s disengagement despite persistent welfare concerns. Experience has demonstrated that delaying intervention regarding a person’s circumstances has become severe, is more costly, both in terms of the person’s wellbeing and public resources.

The initial intervention from Adult Social Care would be to offer an individual an assessment of their care and support needs; this may avoid the need to enter formal Safeguarding procedures. An initial response should take into account the underlying MSP principles, but it should be understood that it is not necessary to obtain consent to share information or conduct enquiries where there is a significant risk of harm or where the behaviours pose a risk of harm to others.

It should be noted that self-neglect/hoarding may not prompt a section 42 enquiry. A judgement should be made on a case by case basis. A decision on whether to respond is required under safeguarding and will depend on the adult’s ability to protect themselves by controlling their own behaviour. There may come a point when they are unable to do this without external support. The multi-agency Risk Management Framework included at Appendix C to this guidance (and available at the following link) provides an effective tool for responding to cases of self neglect and persistent welfare concerns where a section 42 enquiry is not being undertaken.


Section 3

**Mental Capacity 2005**

When working with people with hoarding behaviour it is important to remember that capacity is assumed unless it has been formally assessed otherwise by a person qualified to make that decision. The Mental Capacity Act (MCA) 2005 provides a statutory framework for people who lack the capacity to make decisions by themselves.

The Act has five statutory principles and these are legal requirements of the Act:

1. A person must be assumed to have capacity unless it is established that they lack capacity.
2. A person is not to be treated as unable to make a decision unless all practicable steps have been taken without success.
3. A person is not to be treated as unable to make a decision merely because he/she makes an unwise decision.
4. 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 the person’s best interests.
5. 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.

The core principles of the MCA 2005 clearly identify that professionals should always start from an assumption of capacity. Doubts about a person’s capacity may arise because of: their behaviour, circumstances or concerns raised by a third party.
When a person’s hoarding behaviour poses a serious risk to their health and safety, professional intervention may be required. With the exception of statutory requirements, the intervention or action proposed must be a proportional response.

Although the person maybe considered to have poor mental health this does not mean that they have issues with capacity.

Capacity can fluctuate and when someone’s capacity is being assessed, there is a test which in brief is as follows:

- Does the person have an impairment of the mind or brain or is there some sort of disturbance affecting the way their mind or brain works (whether the impairment or disturbance is temporary or permanent)?
- If so, does the impairment or disturbance mean that the person is unable to make the decision in question at the time it needs to be made?

Consequently, a person can have mental capacity to carry out certain acts or make certain decisions but lack capacity for others.

Section 67 of the Care Act imposes a duty on the local authority to arrange an independent advocate to facilitate an individual’s involvement in their assessment, care planning, review and any safeguarding enquiry or SAR where they have ‘substantial difficulty’ participating.

‘Substantial difficulty’ is explained by reference to the 4 stage test of decision making under s.3 MCA [see s67(4) CA and pg. 6.33 guidance]. The duty to appoint an independent advocate falls away if the local authority is satisfied that an appropriate person, who is not professionally engaged in the care or treatment for that individual, is available and willing to support the adult. In addition, the person consents to the appropriate person acting or, where they lack capacity, it is considered in their best interests for that person to act. If the person is believed to lack capacity to agree to support or execute agreed actions because of impairment to the mind or brain, then there is a duty to appoint an independent advocate under s35 MCA.

The advocate or appropriate person must take an active role, assisting the adult to understand their rights and challenge decisions they believe are inconsistent with local authority’s duties to promote wellbeing. Where the person lacks capacity on the specific decision then the advocate or appropriate person advises the local authority to identify the person’s ‘best interest’ under s4 Mental Capacity Act 2005.

Public Health Act 1936 and Environmental Protection Act 1990

12.2 Environmental Protection Act 1990
Section 80: Dealing with Statutory Nuisances (SNs)
SNs are defined in section 79 of the Act and include any act or omission at premises that prevents the normal activities and use of another premises, including the following:
Section 79 (1) (a) any premises in such a state as to be prejudicial to health or a nuisance (c) fumes or gases emitted from [private dwellings] premises so as to be prejudicial to health or a nuisance (e) any accumulation or deposit which is prejudicial to health or a nuisance

Section 3
(f) any animal kept in such a place or manner as to be prejudicial to health or a nuisance.

The LA serves an Abatement Notice made under section 80 to abate the nuisance if it exists at the time or to prevent its occurrence or recurrence.

**Town and Country Planning Act 1990**

**Section 215: Power to require proper maintenance of land**

(1) If it appears to the local planning authority that the amenity of a part of their area, or of an adjoining area, is adversely affected by the condition of land in their area, they may serve on the owner and occupier of the land a notice under this section.

(2) The notice shall require such steps for remedying the condition of the land as may be specified in the notice to be taken within such period as may be so specified.

(3) Subject to the following provisions of this Chapter, the notice shall take effect at the end of such period as may be specified in the notice.

(4) That period shall not be less than 28 days after the service of the notice.

12.3 For further guidance and information please refer to the Chartered Institute of Environmental Health Officers Professional Practice Note: Hoarding and How to Approach it:

6. Fire safety

Hoarding can be a fire hazard and many occupants are at greater risk of death or serious injury from fires in these homes. Often, blocked exits prevent escape from the home. In addition, many people who are hoarding are injured when they trip over things or when materials fall on them. Responding firefighters can be put at risk due to obstructed exits, falling objects, and excessive fire loading that can lead to structural collapse. Hoarding makes fighting fires and searching for occupants far more difficult.

Also, those living adjacent to a hoarder can be quickly affected when a fire occurs, due to increased smoke and fire conditions.

A multi-agency approach to sharing information about hoarding enables Hampshire Fire and Rescue Service to enforce relevant legislation and to be compliant with the provisions within the Fire and Rescue Services Act 2004. This information sharing also strengthens the operational risk assessment when dealing with incidents and fires where hoarding is present. Hampshire Fire and Rescue Service will facilitate special measures when a hoarding case is discovered to mitigate the risks described above.

Hampshire Fire and Rescue Service is committed to reducing the risk of death or serious injury to anyone living, working or visiting our communities. As a Service they undertake Safe and Well visits, carried out by their Community Safety Officers and operational crews. This visit is intended to provide advice and equipment to enable the occupier to be alerted to any fire, then quickly and safely evacuate. Any agency can send a referral to Hampshire Fire and Rescue Service for a Safe and Well visit to be carried out for a vulnerable person, to make them safer from fire. A referral can be made by following this link: https://www.hantsfire.gov.uk/keeping-safe/loveyourhome/safeandwell/safe-and-well-assessment/

In the event where an individual has not consented for HFRS to complete a Safe and Well visit and conditions within a property are identified to be at level 6 or above (in accordance to Appendix 6 - Clutter Rating Index), practitioners are encouraged to continue with making a referral to HFRS. This will enable HFRS to apply a ‘flag’ against the address of which will better prepare responding crews to any risks they are likely to encounter at the property. The ‘flag’ will be a temporary arrangement and subject to regular review until such time the presented risks have been reduced and are being appropriately managed.

Hampshire Fire and Rescue Service is required to be compliant with the Fire Services Act, 2004, Regulation 7.2d to make arrangements for obtaining information needed for the purpose of extinguishing fires and protecting life and property in their area. The multi-agency approach to sharing information about hoarding enables compliance with the Act and also strengthens the operational risk assessment when dealing with incidents and fires where hoarding is present.
7. Safeguarding children and adults

Safeguarding Children refers to protecting children from maltreatment, preventing the impairment of their health or development and ensuring that they are growing up in circumstances consistent with the provision of safe and effective care. Growing up in a hoarding property can put a child at risk by affecting their development and, in some cases, leading to the neglect of a child, which is a safeguarding issue.

The needs of the child at risk must come first and any actions we take must reflect this. Where children live in the property, a Safeguarding Children concern must always be raised.

There is the potential that offences of child neglect may be ongoing and referrals through should be considered for these to be assessed:

IN AN EMERGENCY CONTACT THE POLICE BY DIALING 999

Southampton:
Telephone (office hours): 023 8083 3336
Out of hours: 023 8023 3344

Hampshire:
Phone 0300 555 1384 during office hours 8.30am to 5pm Monday to Thursday, 8.30am to 4.30pm on Friday
Phone 0300 555 1373 at all other times to contact the Out of Hours service

IOW:
Isle of Wight Children’s Services: 0300 300 0117 (24 hours).

Portsmouth:
Phone 023 9268 8793 (office hours)
At all other times, phone the out-of-hours service on 0300 555 1373

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

When concerns are highlighted refer to your own Safeguarding Policy and consider using the Hampshire, Southampton, Portsmouth and IOW Safeguarding Adults Board (4LSAB) Multi-agency risk management framework Appendix C.

Safeguarding is ‘everybody business’ as in line with the Care Act 2014. It is therefore key that any agency involved provide guidance and support to the individual that they are working with, as they are seen at that time as the most appropriate agency involved. This Section 3

would ensure the person has relevant information to keep themselves safe and make informed choices. All agencies have that responsibility and the Care Act promotes Multi-agency working. Contacts to raise a concern about an adult who is believed to have care and support needs and is at risk of or experiencing abuse or neglect (including self-neglect):

**IN AN EMERGENCY CONTACT THE POLICE BY DIALING 999**

**Southampton:**
Health and Social Care - 023 8083 3003

**Hampshire:**
Adult Health and Care - 0300 555 1386
Agencies can also contact the Hampshire Safeguarding Advice line on 01962 847214 this is managed by the Hampshire MASH team who can provide further advice and guidance. This line is for advice only and referrals are not accepted via this number.

**IOW:**
Adult Social Care - 01983 814980

**Portsmouth:**
Adult Safeguarding - 023 9268 0810.

The person can be referred in for either further signposting or assessment of needs or if person is a subject of abuse, a Safeguarding concern can be raised.

If it is deemed that the safeguarding concern meets threshold for section 42 duties according to The Care Act 2014, this will be sent to the appropriate community team for further coordination and establishing individual’s views and wishes, according to legal obligation of Making Safeguarding Personal.

An ‘adult at risk’ may also be living with a person who is hoarding in a property. There may be a safeguarding concern about the adult if they are at risk of harm due to the way the person who is hoarding is choosing to live in the property. If in doubt, discuss the issue with a manager or contact the local authorities’ safeguarding team.
8. Multi-agency response

It is recognised that hoarding is a complex condition and that a variety of agencies will come into contact with the same person.

It is also recognised that individuals that have recognised hoarding behaviours will receive support from agencies in line with their qualifying criteria.

Any professional working with individuals who may have, or appear to have, hoarding behaviours should ensure they complete an assessment of the situation and use the Clutter Image Rating in the Hoarding Tool Kit to decide what steps to take.

Often the response can be to advise the relevant agencies involved to co-ordinate the Multi-agency risk management framework. This guidance is designed to support cases relating to adults where there is a high level of risk but the circumstances may sit outside of the statutory adult safeguarding framework but for which a multi-agency approach would be beneficial. This should be read in conjunction with the Hampshire 4LSAB Multi-agency safeguarding policy and guidance http://www.hampshiresab.org.uk/

Evidence of animal hoarding at any level should be reported to the RSPCA as well as other relevant agencies.
9. The hoarding journey – what to consider

Recognising someone with a hoarding disorder means you need to determine if a person has good, fair or poor insight. Consider also if they have absent (delusional) insight or detached insight with assigned blame (i.e. it’s someone else’s fault).

Further things to consider:

- Initial concern of hoarding
- Hoarding assessment
- Fire risk and environmental impact
- Personal risks and care needs assessment
- Self-neglect safeguarding
- Multi-agency response
- Action plan
- Care and support
- Funding and resources
- Mental capacity
- Enforcement
- Monitoring

What to do:

- Gather as much information as is reasonable to support your understanding of the case.
- Don’t judge the person focus on the situation.
- Rational arguments may not help.
- Try to empathise and see the situation through the person’s eyes.
- Be congruent, honest about your position and part to play in what may now happen and the goals you need to achieve, time scales and consequences.
- Find out if there are people to help.
- Know what help is available – go with the knowledge of who can support the situation.
10. Funding and cost implications

Managing a hoarding case can be very costly in staff time, specialist support, court costs and ultimately clearing the property. Consider funding strategies for Managing cost implications.
11. Appendix

Appendix A. Data Protection Act 1998

Appendix B. The General Data Protection Regulation (GDPR)

Appendix C. Multi-agency risk management framework

Appendix D. Glossary of legal powers

Appendix E. Clutter image rating
### Appendix D. Glossary of legal powers

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<thead>
<tr>
<th>AGENCY/SERVICES</th>
<th>LEGAL POWER AND ACTION</th>
<th>CIRCUMSTANCES REQUIRING INTERVENTION</th>
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</table>
| **Environmental Health** | Section 83 Public Health Act 1936  
Filthy /Unwholesome premises which are prejudicial to health or verminous.  
Service of Notice requiring clearance/cleansing/pest control treatment. No appeal.  
Council has powers to enter premises by warrant if reasonable access not given after giving notice. This will be to assess the conditions or carry out works in default. Possible prosecution and Council can recover expenses for works in default. | Where hoarded materials result in filthy, unwholesome or vermin infested premises. This is often where there is a lack of engagement or co-operation of occupier.  
There must be likelihood of adverse health effect to occupant or rodents or insects present. There may also be complaints from neighbours which must be investigated by the Council. |
| **Environmental Health** | Section 79/80 Environmental Protection Act 1990  
Statutory Nuisances Service of Abatement Notice requiring action to remove nuisance and/or prevent a recurrence.  
Appeal against notice possible.  
Warrant powers similar to above.  
Possible prosecution and Council can recover expenses for works in default.  
Injunctive proceedings may be taken. | Council has a legal duty to investigate complaints of statutory nuisance and must take action if nuisance proven.  
The premises must be in such a state that they are prejudicial to healthy or a nuisance to neighbours. This may be from condition of the premises, accumulations, deposits or even animals kept in unsanitary conditions.  
Intervention often prompted by complaints from neighbours.  
For exceptional situations where widespread nuisance to neighbours continues after intervention and usually after service of notice. |
| **Environmental Health** | Housing Act 2004  
Housing hazards such as Domestic Hygiene, Pests and Vermin, Excess Cold, Fire.  
Service of Improvement or Awareness Notice usually on owner of premises requiring removal of hazards. Council can charge for costs incurred serving notices. Appeal provisions. Possible prosecution and Council can recover expenses for works in default | Relates to possible health and safety affects on occupier. Hoarding can lead to fire hazards from accumulated materials.  
Due to hoarding, there may be a lack of repair/maintenance of property leading to other health effects on occupier such as lack of heating (excess cold) or washing/sanitary facilities. |
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<tbody>
<tr>
<td>Environmental Health</td>
<td>Prevention of Damage by Pests Act 1949 (section 4)</td>
<td>Powers usually used for accumulations of rubbish or items attracting/ harbouring rodents on private land. This is usually used for external parts of property e.g. gardens.</td>
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<tr>
<td></td>
<td>Service of Notice to keep land free from rats or mice</td>
<td></td>
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<tr>
<td></td>
<td>No warrant powers</td>
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<tr>
<td></td>
<td>Possible prosecution and Council can recover expenses for works in default</td>
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<tr>
<td>Police</td>
<td>Power of Entry (S17 of Police and Criminal Evidence Act)</td>
<td>Information that someone was inside the premises was ill or injured and the Police would need to gain entry to save life and limb.</td>
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<tr>
<td>Hampshire Fire and Rescue</td>
<td>Enforcement of the Regulatory Reform (Fire Safety) Order 2005</td>
<td>Any hoarder in need of fire safety advice for their dwelling or place of residence would be entitled to a Safe and Well visit. Only when all other, directly applicable legislation has been exhausted, would the Fire and Rescue Service consider an Article 31 Notice.</td>
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<td></td>
<td>The Fire Service can attend and carry out a Safe and Well visit, working with the occupier to reduce the risk in their home and establish means for raising the alarm in case of fire, and establishing safe escape routes for the occupier(s).</td>
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<td></td>
<td>Under exceptional circumstances and only where the hoarding causes a risk to other occupiers will the Fire and Rescue Service consider a prohibition or restriction under Article 31 of the Fire Safety Order. An example would be a ground floor dwelling within a block of flats.</td>
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<tr>
<td>Animal Welfare agencies such as RSPCA/Local authority e.g. Environmental Health/DEFRA</td>
<td>Animal Welfare Act 2006 Offences (Improvement notice) Education for owner a preferred initial step, Improvement notice issued and monitored, If not complied can lead to a fine or imprisonment</td>
<td>Cases of Animal mistreatment/ neglect. The Act makes it not only against the law to be cruel to an animal, but that a person must ensure that the welfare needs of the animals are met. See also: <a href="http://www.defra.gov.uk/wildlife-pets/">http://www.defra.gov.uk/wildlife-pets/</a>.</td>
</tr>
<tr>
<td>Local Authority/ Adult Social Care</td>
<td>S.46 of the Care Act 2014 This is the power to remove but not necessarily to resolve so would have to be used in conjunction with other measures. An assessment would have to be carried out regarding the person’s living conditions and their best interest. This would always have to be undertaken by a professional.</td>
<td>Where a person by way of chronic disease, age infirmity or physical incapacity is living in insanitary conditions and is unable to care for themselves. However, this action may be open to challenge under the Human Rights Act 1998 and should only ever be used as an absolute last resort, with justification such as reasonable belief it is to prevent death.</td>
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<tr>
<td>Mental Health Services</td>
<td>Mental Health Act 1983 Section 135(1) Provides for a police officer to enter a private premises, if need be by force, to search for and, if though fit, remove a person to a place of safety if certain grounds are met. The police officer must be accompanied by an Approved Mental Health Professional (AMHP) and a doctor. In general practice an AMHP would apply for the 135(1) warrant at the appropriate Magistrates Court. Section 135(1) permits removal to a place of safety for up to 72 hours with a view to the making of an application under the provisions of the Mental Health Act or other arrangements for the persons care or treatment. NB. Place of Safety is usually the mental health unit, but can be the Emergency Department of a general hospital, or anywhere willing to act as such.</td>
<td>Evidence must be laid before a magistrate by an AMHP that there is reasonable cause to believe that a person: • Is suffering from mental disorder, and is being • Ill-treated, or • Neglected, or • Being kept other than under proper control, or • If living alone is unable to care for self And that the action is a proportionate response to the risks involved.</td>
</tr>
<tr>
<td>AGENCY/SERVICES</td>
<td>LEGAL POWER AND ACTION</td>
<td>CIRCUMSTANCES REQUIRING INTERVENTION</td>
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| Mental Health Services | Section 4 of the Mental Health Act 1983. Admission for assessment in cases of emergency.  
In any case of ‘urgent necessity’.  
The criteria for detention mirror Section 2 (below) but Section 4 may be used in cases of emergency where it has not been possible to secure an assessment by a second doctor.  
This section expires after 72 hours unless a second medical recommendation is received within this time period.                                                      | In any case of ‘urgent necessity’ an application may be made by an AMHP or Nearest Relative and founded on one medical recommendation made by, if practicable, a doctor with previous knowledge of the person or a Section 12 approved doctor.                                                                 |
| Mental Health Services | Section 2 of the Mental Health Act 1983.  
Admission to hospital for assessment. Application can be made by an AMHP or Nearest Relative based on 2 medical recommendations in the prescribed form by 2 independent doctors.  
The person may be detained for a period of up to 28 days.                                                                 | The following grounds must be met:  
The person is suffering from a mental disorder of a nature or degree which warrants the detention of that person in hospital for assessment (or assessment followed by treatment).  
That the person ought to be detained in the interests of his/her own health or safety or with the view to the protection of others. |
| Mental Health Services | Section 3 of the Mental Health Act 1983  
Admission to hospital for treatment. Application can be made by an AMHP or Nearest Relative and is based on 2 medical recommendations in the prescribed form by 2 independent doctors.  
The person may be detained initially for a period of up to 6 months for the purposes of treatment.  
Section 17a of the amended Mental Health Act                                                                 | The following grounds must be met:  
That the person is suffering from a mental disorder of a nature or degree which makes it appropriate for him/her to receive medical treatment in a hospital.  
That it is necessary for the health or safety of the person or for the protection of others that he/she should receive this treatment and it cannot be provided unless the person is detained under this section.  
That appropriate treatment is available for him/her.                                                |
<p>| Community Treatment Order |                                                                                                                                                                                                                                                                                 |                                                                                                                                                                                                                                                                                                                      |</p>
<table>
<thead>
<tr>
<th>Grounds for seeking possession, which may relate to Hoarding Conditions</th>
<th>The Housing Act 1988 (amended by the Housing Act 1996)</th>
</tr>
</thead>
</table>
| **Ground 12**
Breach of Tenancy | Any obligation of the tenancy (other than one related to the payment of rent) has been broken or not performed. It is, of course for the Court to decide in each case whether possession should be granted (and, if so, whether the possession order should be suspended) but it is much likelier to grant possession if the breach is still in progress. |
| **Ground 13**
Deterioration of premises | The condition of the dwelling-house or any of the common parts has deteriorated owing to acts of waste by, or the neglect or default of, the tenant or any person residing in the dwelling-house and, in the case of an act of waste by, or the neglect or default of, a person lodging with the tenant or a sub-tenant of his, the tenant has not taken such steps as he ought reasonably to have taken for the removal of the lodger or sub-tenant. |
| **Ground 14**
Nuisance | The tenant or a person residing in or visiting the dwelling-house: (a) Has been guilty of conduct causing or likely to cause a nuisance or annoyance to a person residing, visiting or otherwise engaging in a lawful activity in the locality, or (b) Has been convicted, or (i) Using the dwelling-house or allowing it to be used for immoral or illegal purposes, or (ii) An arrestable offence committed in, or in the locality of, the dwelling-house. |
### Landlord Related Housing Support for Hoarding

Social landlords must also be mindful of any potential Human Rights Act defence under Article 8 (right to private and family life, home and correspondence). Again this hangs on proportionality and the court will only have to consider whether the making of a possession order is proportionate if the defence is raised by the occupier and it crosses the high threshold of being seriously arguable. This will be more relevant with possession claims based on mandatory grounds – such as Section 21 notices. With discretionary grounds, the court will assess the proportionality of the eviction as part of its judicial function looking at what is reasonable in all the circumstances.

<table>
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<tr>
<th>Landlord</th>
<th>Acceptable Behaviour Contracts</th>
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<td>Will need the agreement and co-operation of the tenant and it may also be possible to enlist the assistance of family and friends to ensure that the purpose of the ABC is understood and complied with. A term of the ABC may be to allow officers or support of a third person giving routine access to the property;</td>
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<tr>
<th>Landlord</th>
<th>Injunctions</th>
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<td></td>
<td>An injunction can be an effective remedy as it should either force the tenant to deal with the problem or may allow the landlord to enter the property and resolve the issues. However, if there is a real possibility that the tenant will lack the capacity to understand or comply with an injunction then it will not be granted. There must be solid evidence to support an application for an injunction; also please note if an injunction order is breached, the court will view it as contempt of court and the punishment for this is either a fine or imprisonment. It is unlikely to result in any order permitting the landlord to force entry to the property and resolve the hoard. It is however good evidence to show a court that you have tried a lesser remedy than seeking a possession order to resolve the situation.</td>
</tr>
</tbody>
</table>
| Landlord | Possession proceedings | Such proceedings can be complicated by defence arguments relating to capacity and The Equality Act 2010 so these matters must have been dealt with prior to issue. The case will be decided on the question of reasonableness and it is essential that a landlord’s policies and procedures have been complied with so as to demonstrate that a possession order is necessary and a proportionate response to the hoarding behaviours displayed and is a measure of the last resort/no lesser remedy is likely to resolve the issue.

** The threshold will be crossed in only a small number of cases and the question is whether the making of a possession order is a proportionate means of achieving a legitimate aim. As such, to show this, evidence of the risk to the residents/neighbours health, safety and wellbeing will be paramount. |
| Environmental Health (Local Authority Power Only) | Local Authority statutory powers | Enforcement using the Local Authority’s statutory powers under the Public Health Act 1936 and Environment Protection Act 1990 which are concerned with health and amenity. Potentially the court can grant a power to force access to the property. |
| Mental Health Services | Court of Protection for tenants who lack mental capacity | In cases where the tenant is found to lack capacity, the Court of Protection could (not always – sometimes this would take too long to process) be used instead of possession proceedings. The Court of Protection has extensive decision-making powers on behalf of vulnerable individuals which includes personal welfare matters. There is case law to demonstrate that this can be a very effective with the potential for an order to be effective for an unlimited amount of time i.e. a tenant is decanted every 6 months to allow the landlord to remove hoarded goods and clean a property so as to deal with fire hazards, smells, pests etc. The test that the Court of Protection applies is whether a proposed decision or course of action is in the person’s ‘best interests’ in all the circumstances. The Court of Protection will expect evidence from most parties involved in the care and wellbeing of the resident to support the application and give evidence of the same. |
| Social Care (Local Authority Power Only) | Safeguarding and Self Neglect | Safeguarding Enquiry  
Care Needs Assessment  
Multi-Agency Proportionate Response |
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Appendix E. Clutter image rating


The Clutter image rating tool can support practitioners to assess an individual's case.

**Level 1 (numbers 1 – 3)** Household environment is considered standard and no specialised assistance is needed. If the resident would like assistance at this stage or feels they are declining towards a higher clutter scale, appropriate referrals may be considered.

**Level 2 (numbers 4 - 6)** Household environment requires professional assistance to resolve the clutter and any maintenance issues that may have occurred. This support may need to continue with follow up appointments to ensure escalation hasn't taken place. Referrals to agencies or services may be required at this stage depending on the nature of the hoarding behaviour.

**Level 3 (numbers 7 – 9)** Household environment will require intervention with a collaborative multi-agency approach with the involvement from a wide range of professionals. This level of hoarding constitutes a safeguarding alert due to the significant risk to health of the householder, surrounding properties and residents. Residents are often unaware of the implication of their hoarding behaviour and the risks it possesses.
Clutter Image Rating Scale - Lounge

Please select the photo that most accurately reflects the amount of clutter in the room.

1  2  3

4  5  6

7  8  9
Clutter Image Rating Scale - Bedroom

Please select the photo that most accurately reflects the amount of clutter in the room.

1 2 3

4 5 6

7 8 9
Clutter Image Rating Scale – Kitchen

Please select the photo that most accurately reflects the amount of clutter in the room.

1 2 3

4 5 6

7 8 9
134. Legislation and national policies

This section of the Policy Framework outlines eight key documents that lay the foundation for effective safeguarding at the local level. A summary is provided for each document together with a link if more detailed information is required.

**Care Act 2014 Statutory Guidance (Department of Health, 2014)**

The legal framework for the Care Act 2014 is supported by this statutory guidance which provides information and guidance about how the Care Act works in practice. The guidance has statutory status which means that there is a legal duty to have regard to it when working with adults with needs of care and support and carers.


**Mental Capacity Act 2005 Code of Practice (Department of Constitutional Affairs, 2007)**

The legal framework provided by the Mental Capacity Act 2005 is supported by this Code of Practice (the Code), which provides guidance and information about how the Act works in practice. The Code has statutory force, which means that certain categories of people have a legal duty to have regard to it when working with or caring for adults who may lack capacity to make decisions for themselves.


The document outlines the Government’s policy on safeguarding adults vulnerable to abuse and neglect. It includes the statement of principles for Local Authority Social Services and housing, health, the police and other agencies to use, for both developing and assessing the effectiveness of their local safeguarding arrangements. It also describes, in broad terms, the outcomes for adult safeguarding, for both individuals and organisations.

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Government Statement of Policy on Adult Safeguarding

Safeguarding; roles and responsibilities in health and care services (Department of Health, Local Government Association, ADASS, NHS Confederation, Association of Chief Police Officers, 2013)

This guidance provides clarity about the roles and responsibilities of the key agencies involved in adult safeguarding. The aim is to ensure that the right things are done by the right people at the right time, working within their own agency and with partners.


This guidance supports good practice in information sharing by offering clarity on when and how information can be shared legally and professionally, in order to achieve improved outcomes. This guidance will be especially useful to support early intervention and preventative work where decisions about information sharing may be less clear than in safeguarding situations.

NHS Accountability and Assurance Framework (Department of Health, 2015)

This document sets out the safeguarding roles, duties and responsibilities of all organisations in the NHS. It has been refreshed in partnership with colleagues from across the health and social care system, the Department of Health and the Department for Education.

Making Safeguarding Personal Guide 2014 (Local Government Association)

This guide is intended to support councils and their partners to develop outcomes-focused, person-centred safeguarding practice. It was originally drafted to support the 53 councils who signed up to Making Safeguarding Personal (MSP) in 2013/14. It has been updated based on their experience. It gives some guidance about how to embark upon and take forward Making Safeguarding Personal in your council if your local area is interested in the approach.

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**Commissioning for Better Outcomes (Department of Health, Local Government Association, ADASS, Think Local, Act Personal)**

This guidance outlines standards to support a dynamic process of continuous improvement and, through self-assessment and peer review, to challenge commissioners and their partners, to strengthen and innovate to achieve improved outcomes for adults using social care, their carers, families and communities. The standards are relevant to all aspects of commissioning and service redesign, including decommissioning. The standards have been designed to reflect the improvements that experience has shown are needed, to support the transformation of social care to meet people’s reasonable aspirations, and to support the implementation of the Care Act 2014.

[Commissioning for Better Outcomes](http://www.local.gov.uk/documents/10180/5756320/Commissioning+for+Better+Outcomes+A+route+map/8f18c36f-805c-4d5e-b1f5-d3755394cfab)

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**Prevention in Safeguarding (Social Care Institute of Excellence, 2011)**

This guidance outlines a range of methods of preventing the abuse of vulnerable adults, from public awareness campaigns through to approaches that empower the individual to be able to recognise, address and report abuse. In addition, it examines policy and practice guidance and examples of emerging practice.

[Prevention in Safeguarding](http://www.scie.org.uk/publications/reports/report41/)

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135. Glossary

This section explains the meaning of the different terms used throughout this document:

**Abuse:** includes physical, sexual, emotional, psychological, financial, material, neglect, acts of omission, discriminatory and organisational abuse.

**Association of Chief Police Officers (ACPO):** an organisation that leads the development of police policy in England, Wales and Northern Ireland.

**Association of Directors of Adult Social Services (ADASS):** the national leadership association for directors of Local Authority adult social care services.

**Advocacy:** support to help people say what they want, secure their rights, represent their interests and obtain services they need. Under the Care Act, the Local Authority must 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 need help to understand and take part in the enquiry or review and to express their views, wishes, or feelings.

**Concern:** a concern that a person at risk is or may be a victim of abuse, neglect or exploitation. A concern may be a result of a disclosure, an incident, or other signs or indicators.

**Alerter:** the person who raises a concern that an adult is being, has been, or is at risk of being abused or neglected. This could be the person themselves, a member of their family, a carer, a friend or neighbour or could be a member of staff or a volunteer.

**Assessment:** a process to identify the needs of the person and how these impact on the wellbeing and outcomes that they wish to achieve in their day to day life.

**Best interests decision:** a decision made in the best interests of an individual defined by the Act when they have been assessed as lacking the mental capacity to make a particular decision. The best interest decision must take into consideration anything relevant such the past or present wishes of the person, a lasting power of attorney or advance directive. There is also a duty to consult with relevant people who know the person such as a family member, friend, GP or advocate.

**Care Act 2014:** came into force in April 2015 and significantly reforms the law relating to care and support for adults and carers. This legislation also introduces a number of provisions about safeguarding adults at risk from abuse or neglect. Clauses 42-45 of the Care Act provide the statutory framework for protecting adults from abuse and neglect.

**Care and support needs:** the support a person needs to achieve key outcomes in their daily life as relating to well being, quality of life and safety. The Care Act 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.
Care Programme Approach (CPA): an approach introduced in England in the joint Health and Social Services Circular HC(90)23/LASSL(90)11, *The Care Programme Approach for people with a mental illness, referred to specialist psychiatric services*, published by the Department of Health in 1990. This requires health authorities, in collaboration with social services departments, to put in place specified arrangements for the care and treatment of people with mental ill health in the community.

Care Quality Commission (CQC): the body responsible for the registration and regulation of health and social care in England.

Carer: unpaid carers such as relatives or friends of the adult. Paid workers, including personal assistants, whose job title may be ‘carer’, are called ‘staff’.

Care settings or services: health care, nursing care, social care, domiciliary care, social activities, support setting, emotional support, housing support, emergency housing, befriending and advice services and services provided in someone’s own home by an organisation or paid employee for a person by means of a personal budget.

Channel Panel: essentially a safeguarding programme aimed at supporting individuals identified as vulnerable to being drawn into violent extremism or terrorist related activity. As with other safeguarding practices Channel is reliant on a multi-agency response and multi-disciplinary work to minimise and manage the risk to an individual. Channel is voluntary and so the individual must give consent. Channel draws on existing collaboration between local authorities, the police, statutory partners and the local community.

Clinical Commissioning Group (CCG): these were formally established on 1 April 2013 to replace Primary Care Trusts and are responsible for the planning and commissioning of local health services for the local population.

Central Referral Unit: is where all referrals to the police are received, risk assessed, graded and allocated for action by the most appropriate police team and/or partner agency.

Clinical governance: the framework through which the National Health Service (NHS) improves the quality of its services and ensures high standards of care and treatment.

Community safety: a range of services and initiatives aimed at improving safety in the community. These include Safer Neighbourhoods, anti-social behaviour, hate crime, domestic abuse, PREVENT, human trafficking, modern slavery, forced marriage and honour violence.

Consent: the voluntary and continuing permission of the person to an intervention based on an adequate knowledge of the purpose, nature, likely effects and risks of that intervention, including the likelihood of its success and any alternatives to it.
Contemporaneous notes: notes taken at the time of meetings with individuals, telephone calls, visits to premises during the course of an investigation. These may also be important in the context of giving evidence in legal proceedings.

Community Safety Partnership: a strategic forum bringing agencies and communities together to tackle crime within their communities. Community Safety Partnerships (CSPs) are made up of representatives from the responsible authorities, these are Police, police authorities, Local Authorities, Fire and Rescue authorities, Clinical Commissioning Groups and Community Rehabilitation Companies and the National Probation Service.

Crown Prosecution Service (CPS): the government department responsible for prosecuting criminal cases investigated by the police in England and Wales.

Domestic Abuse, Stalking and Harassment and ‘ Honour’ Based Violence (DASH): a risk identification checklist (RIC) is a tool used to help front-line practitioners identify high risk cases of domestic abuse, stalking and ‘honour’-based violence.

Disclosure and Barring Service (DBS): a government body established in 2012 through the Protection of Freedoms Act and the merger of two former organisations, the Criminal Records Bureau and the Independent Safeguarding Authority. The DBS is designed to help employers make safer recruitment decisions and prevent unsuitable people from working with vulnerable adults. The DBS search police records and barring lists of prospective employees and issue DBS certificates. They also manage central barred lists of people who are known to have caused harm to adults with needs of care and support.

Defensible decision making: providing a clear rationale based on legislation, policy, models of practice or recognised tools utilised to come to an informed decision. This decision is based on the information known at that particular time and it is important to accurately and concisely record the decision making process, in order to explain how and why the decision was made at that time.

Deprivation of Liberty Safeguards (DOLs): measures to protect people who lack the mental capacity to make certain decisions for themselves which came into effect in April 2009 as part of the Mental Capacity Act 2005, and apply to people in care homes or hospitals where they may be deprived of their liberty.

Domestic abuse: any incident or pattern of incidents of controlling, coercive or threatening behaviour, violence or abuse between those aged 16 or over who are or have been intimate partners or family members regardless of gender or sexuality. This can encompass, but is not limited to psychological, physical, sexual, financial and emotional abuse. Controlling behaviour is a range of acts designed to make a person subordinate and/or dependent by isolating them from sources of support, exploiting their resources and capacities for personal gain, depriving them of the means needed for independence, resistance and escape and regulating their everyday behaviour. Coercive behaviour is an act or a pattern of acts of assault, threats, humiliation and intimidation or other abuse that is used to harm, punish, or frighten their victim. Family members are defined as mother, father, son, daughter, brother, sister and grandparents, whether directly related, in-laws or step-family (Home Office 2012).

Domestic Homicide Reviews: statutory reviews commissioned in response to deaths caused through domestic violence. They are subject to the guidance issued by the Home Office in 2006 under the Domestic Homicide Reviews Pilot Programme.
Violence Crime and Victims Act 2004. The basis for the domestic homicide review (DHR) process is to ensure agencies are responding appropriately to victims of domestic abuse offering and/or putting in place suitable support mechanisms, procedures, resources and interventions with an aim to avoid future incidents of domestic homicide and violence.

**Duty of Candour:** a requirement on all health and adult social care providers registered with the Care Quality Commission (CQC) to be open with people when things go wrong. The duty of candour means that providers have to act in an open and transparent way in relation to service user care and treatment.

**Family Group Conferences (FGC):** an approach used to try and empower people to work out solutions to their own problems. A trained FGC co-ordinator can support the person at risk and their family or wider support network to reach an agreement about why the harm occurred, what needs to be done to repair the harm and what needs to be put into place to prevent it from happening again.

**Harm:** involves ill treatment (including sexual abuse and forms of ill treatment which are not physical), the impairment of, or an avoidable deterioration in, physical or mental health and/or the impairment of physical, intellectual, emotional, social or behavioural development.

**Hate Crime:** any crime that is perceived by the victim, or any other person, to be racist, homophobic, transphobic or due to a person’s religion, belief, gender identity or disability.

**Health Care Professions Council (HCPC):** the Professional Body that regulates social workers and allied health professionals. HCPC professional standards were amended in Jan 2016 to require all those registered with that body to comply with a professional DUTY to take appropriate action to address and report concerns about safety or wellbeing of people using services, follow up concerns and be open and honest if things go wrong.

**HealthWatch:** an independent consumer champion created to gather and represent the views of the public. It exists in two distinct forms - local Healthwatch and Healthwatch England at a national level. The aim of local Healthwatch is to give citizens and communities a stronger voice to influence and challenge how health and social care services are provided within their locality. Local Healthwatch has taken on the work of the Local Involvement Networks (LINks).

**Health and Well Being Board:** a statutory, multi-organisation committee of NHS and Local Authority commissioners coordinated by the Local Authority which gives strategic leadership across the Local Authority area regarding the commissioning of health and social care services.

**Human Trafficking:** the recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation”.

**Independent Mental Capacity Advocate (IMCA):** established by the Mental Capacity Act 2005, IMCAs are a legal safeguard for people who lack the capacity to make specific important decisions, including decisions about where they live and serious medical treatment options. IMCAs are mainly instructed to represent...
people where there is no one independent of services (such as a family member or friend) who is able to represent the person. However, in the case of safeguarding concerns, IMCAs can be appointed anyway (i.e. irrespective of whether there are friends or family around and irrespective of whether accommodation or serious medical treatment is an issue).

**Local Safeguarding Adults Board (LSAB):** a statutory, multi-organisation partnership committee, coordinated by the Local Authority, which gives strategic leadership for adult safeguarding, across the Local Authority. A SAB has the remit of agreeing objectives, setting priorities and coordinating the strategic development of adult safeguarding across its area.

**Making Safeguarding Personal (MSP):** an approach to safeguarding work which aims to move away from safeguarding being process driven and instead, to place the person at risk at the centre of the process and work with them to achieve the outcomes they want.

**Mate Crime:** a form of exploitation which occurs when a person is harmed or taken advantage of by someone they thought was their friend.

**Mental Capacity:** refers to whether someone has the mental capacity to make a decision or not. The Mental Capacity Act 2005 and the Code of Practice outlines how agencies should support someone who lacks the capacity to make a decision.

**Modern slavery:** includes human trafficking, slavery, servitude ad forced and compulsory labour. The Modern Slavery Act 2015 became law on 26 March 2015 and is designed to tackle slavery in the UK and consolidates previous offences relating to trafficking and slavery.

**Multi-Agency Public Protection Arrangements (MAPPA):** statutory arrangements for managing sexual and violent offenders.

**Multi-Agency Risk Assessment Conference (MARAC):** a multi-agency forum of organisations that manage high risk cases of domestic abuse, stalking and ‘honour’-based violence.

**Multi-Agency Safeguarding Hub (MASH):** a joint service made up of Police, Adult Services, NHS and other organisations. Information from different agencies is collated and used to decide what action to take. This helps agencies to act quickly in a coordinated and consistent way, ensuring that the person at risk is kept safe.

**National Health Service (NHS):** the publicly funded health care system in the UK.

**No Delay:** the principle that safeguarding responses are made in a timely fashion commensurate with the level of presenting risk. In practice, this means that timescales act as a guide in recognition that these may need to be shorter or longer depending on a range of factors such as risk level or to work in a way that is consistent with the needs and wishes of the adult.

**Patient Advice and Liaison Service (PALS):** a NHS service created to provide advice and support to NHS patients and their relatives and carers.
**Public interest:** a decision about what is in the public interest needs to be made by balancing the rights of the individual to privacy with the rights of others to protection.

**Office of the Public Guardian (OPG):** the administrative arm of the Court of Protection and supports the Public Guardian in registering enduring powers of attorney, lasting powers of attorney and supervising Court of Protection appointed deputies.

**PREVENT:** the Government strategy launched in 2007 which seeks to stop people becoming terrorists or supporting terrorism. It is the preventative strand of the government’s counter-terrorism strategy and aims to respond to the ideological challenge of terrorism and the threat from those who promote it; prevent people from being drawn into terrorism and ensure that they are given appropriate advice and support and work with sectors and institutions where there are risks of radicalisation that need to be addressed. It is the preventative strand of the government’s counter-terrorism strategy, CONTEST.

**Prevention:** describes how the care and support system (and the organisations forming part of this system) work to actively promote the well being and independence of people rather than waiting to respond when people reach a crisis point. The purpose of this approach is to prevent, reduce or delay needs escalating.

**Protection of property:** the duty on the Local Authority to protect the moveable property of a person with care and support needs who is 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).

**Radicalisation:** involves the exploitation of susceptible people who are drawn into violent extremism by radicals often using a persuasive rationale and charismatic individuals to attract people to their cause. The aim is to attract people to their reasoning, inspire new recruits and embed their extreme views and persuade vulnerable individuals of the legitimacy of their cause. The PREVENT Strategy, launched in 2007, seeks to stop people becoming terrorists or supporting terrorism.

**Safeguarding:** activity to protect a person’s right to live in safety, free from abuse and neglect. It involves people and organisations working together to prevent and stop both the risks and experience of abuse or neglect, while at the same time making sure that their well being and safety is promoted.

**Safeguarding activity:** actions undertaken upon receipt of a safeguarding concern. This may include information gathering, holding a safeguarding planning meeting, activities to resolve the risks highlighted, safeguarding review meetings and developing a safeguarding plan with the adult at risk.

**SAMA (Safeguarding Allegations Management Adviser):** the person responsible within an organisation for the providing advice and guidance on cases involving allegations against people in a position of trust working in the organisation e.g. an employee, volunteer or student, paid or unpaid. The SAMA will maintain an oversight of individual complex cases and gain assurance that allegations have been responded to appropriately.
**Safeguarding support plan:** one outcome of the enquiry may be the formulation of agreed actions for the adult which should be recorded on their care plan. This will be the responsibility of the relevant agencies to implement.

**Safeguarding planning meeting:** a multi-agency meeting (or discussion) involving professionals and the adult if they choose, to agree how best to deal with the situation as determined by the views and wishes of the individual.

**Safeguarding work:** describes all the work multi-agency partners undertake either on a single agency basis (as part of their core business) or on a multi agency basis within the context of local adult safeguarding arrangements.

**Safeguarding Adult Review (SAR):** a statutory review commissioned by the Safeguarding Adults Board in response to the death or serious injury of an adult with needs of care and support (regardless of whether or not the person was in receipt of services) and it is believed abuse or neglect was a factor. The process aims to identify learning in order to improve future practice and partnership working.

**Safeguarding enquiry:** the action taken or instigated by the Local Authority in response to a concern that abuse or neglect may be taking place. An enquiry could range from a conversation with the adult, or if they lack capacity, or have substantial difficulty in understanding the enquiry their representative or advocate, prior to initiating a formal enquiry under section 42, right through to a much more formal multi-agency plan or course of action. This is sometimes referred to as a section 42 enquiry’.

**Self neglect:** the inability (intentional or non-intentional) to maintain a socially and culturally accepted standard of self-care with the potential for serious consequences to the health and well being of the self-neglecters and perhaps even to their community.

**Harm:** the ill treatment (including sexual abuse and forms of ill treatment which are not physical), and impairment of, or an avoidable deterioration in, physical or mental health, and the impairment of physical, intellectual, emotional, social or behavioural development.

**Serious Incident Requiring Investigation (SIRI):** a process used in the NHS to investigate serious incidents resulting in serious harm or unexpected or avoidable death of one or more patients, staff, visitors or members of the public.

**Vital interests:** a term used in the Data Protection Act 1998 to permit sharing of information where it is critical to prevent serious harm or distress or in life-threatening situations.

**Willful neglect or ill treatment:** an intentional, deliberate or reckless omission or failure to carry out an act of care by someone who has care of a person who lacks capacity to care for themselves.