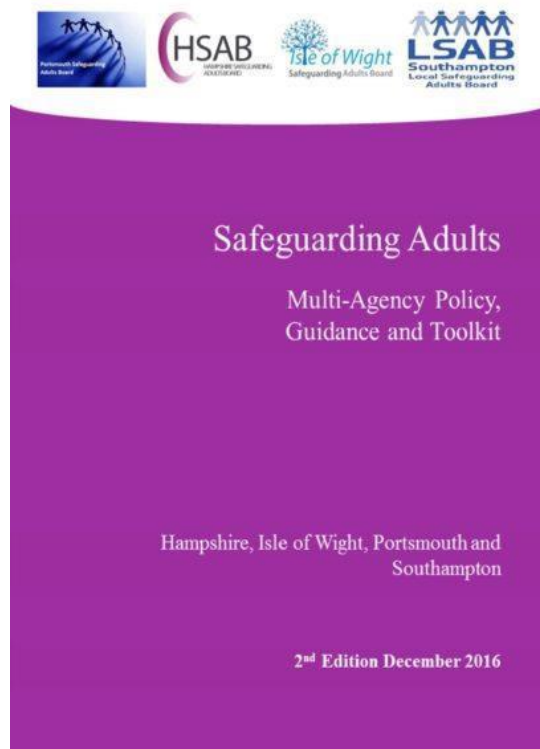


*Safeguarding is about making people aware of their rights, protecting them and preventing abuse.*



# Safeguarding Adults Section 42 Enquiries



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Delivered by: Jane Hughes  
Safeguarding Consultant on behalf  
of Hampshire Safeguarding Adults  
Board.

# Learning Outcomes:

- Understand the statutory safeguarding framework in the Care Act 2014
- Define the principles of information sharing
- Understand the triggers to a Section 42 Enquiry
- Consider other kinds of safeguarding responses
- Understand what triggers a provider led enquiry
- Identify person centred approaches and principles to safeguarding
- Identify roles and responsibilities in supporting adults at risk of abuse and neglect.

# Safeguarding is easy?

Procedures do not safeguard, good practice does

Perplexing language

Lack of clear definitions

Stakes are high

No guarantee of safety

There are victims (first and second order)

Competing priorities

Failures are visible

Multiple causes

Complexity is the rule

# Some simple caveats

No absolute answers – no single right way, but several wrong ones  
Procedures do not safeguard people, good practice does.

# Some key principles

Emphasis on openness, honesty and transparency  
Emphasis on prevention and early help  
Emphasis on asset based safeguarding  
Emphasis on person centred outcomes  
Emphasis on proportionality  
Emphasis on shared responsibility and professional accountability.

# Some of the problems in Practice?



# Culture Change

*The fundamental shift revolves around our practice.*

*Practice that puts the adult and their wishes and experience at the centre of safeguarding enquiries which seeks to enable people to resolve their circumstances, recover from abuse or neglect and realise the outcomes that they want.*

*It's not business as usual.*

*DH 2015*

Culture is the way  
you think, act, and  
interact.

# A Patchwork of Practice Dec 2017

## **A postcode lottery**

What we can say is this: some local authorities are taking a very cautious approach to interpreting the Care Act. Ten councils 'converted' all of their safeguarding concerns into Section 42 enquiries in 2016-17. At the other end of the scale, some councils turned barely 10% into enquiries.

## **No evidence of multi-agency working**

At Action on Elder Abuse, we have expressed our fear that the Care Act may be reinforcing an attitude in some circles that abuse of older people does not constitute 'real crime' and can therefore be dealt with by the social care sector behind closed doors.

## **Mental Capacity**

It also transpires that thousands of people whose concerns prompted an enquiry have not had their mental capacity recorded, despite this being critical to understanding how best to support and respond to victims.

## **MSP**

We were told by the Department of Health that Make Safeguarding Personal meant it was not 'business as usual' when the Care Act was introduced. And yet there is no mandatory data reporting, with nearly 40% of local authorities failing to supply information, and a very sketchy picture of its success in many of the local authorities who did report.



# The Care Act 2014

- Consolidates and modernises current law
- New duties for local authorities
- New rights for service users and carers
- Putting existing good practice into law.



# The Care Act 2014 who must work with it?

- Adult social care as well as wider elements of local authorities
- Health and other local authority partner organisations
- Social care provider and support organisations in all sectors
- Those involved in the governance of these organisations and people who work, care, support and volunteer in them
- All of the workforce working in the above.

# Safeguarding Adults

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**

**including, where appropriate, having regard to their views, wishes, feelings and beliefs in deciding on any action.** *Care and Support Statutory Guidance 2016*

# Types and Categories

The Care Act 2014 sets guidance as to the sort of behaviours that could give rise to a safeguarding concern, and identifies the following categories, within which **exploitation** is a common theme. *‘Local authorities should not limit their view of what constitutes abuse or neglect, as they can take many forms and the circumstances of the individual case should always be considered’.*

Care Act Statutory Guidance 2018.

Physical	Domestic Violence
Sexual	Neglect/acts of omission
Psychological	Financial/material
Self-Neglect	Discriminatory
Modern Slavery	Organisational

# Categories also include:



Sexual  
exploitation



Trafficking



Radicalisation



Mate Crime



Hate Crime



Modern Day Slavery



Domestic  
abuse



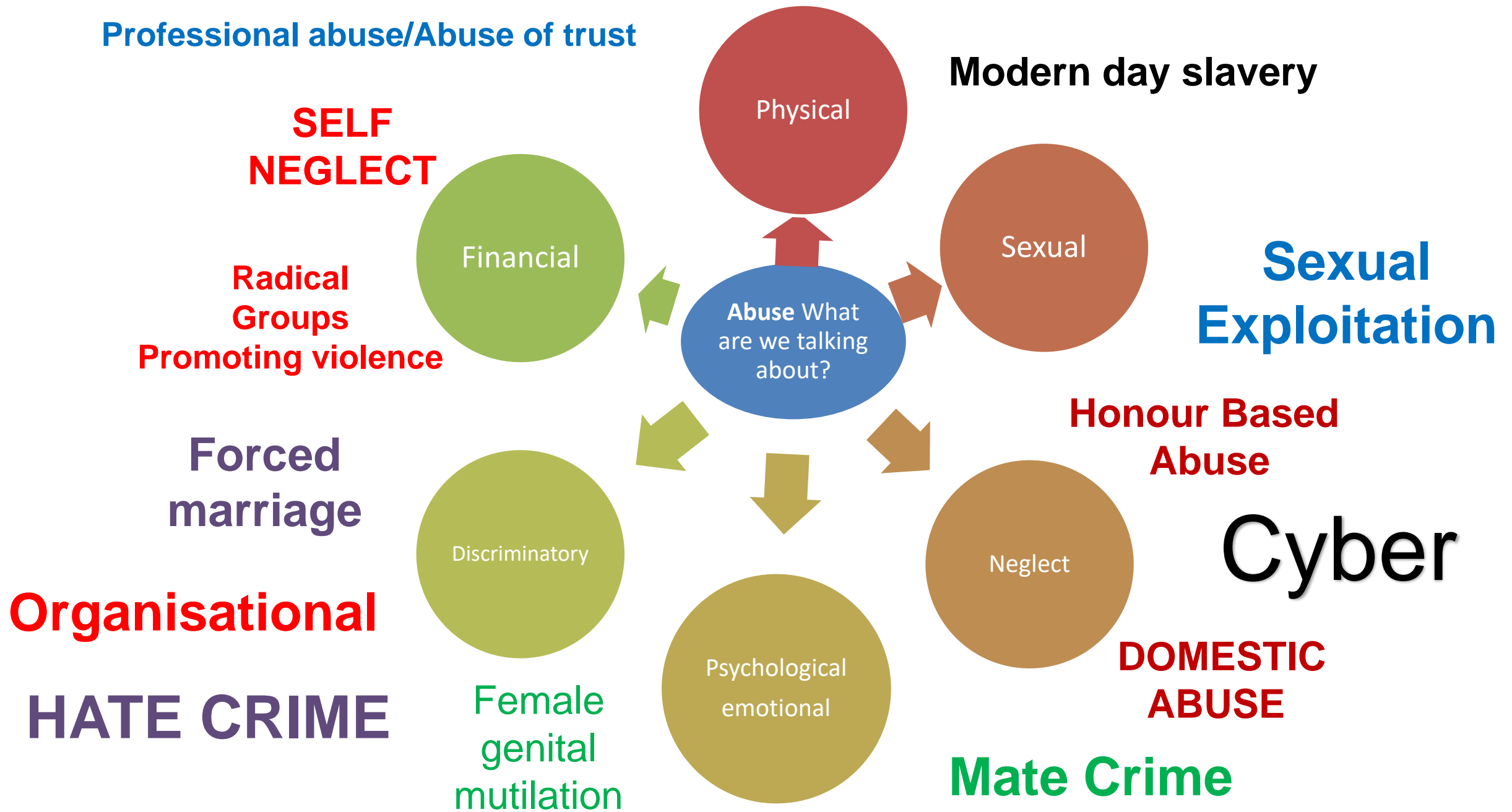
Forced  
marriage



Honour based  
abuse



Female  
genital  
mutilation



# Adult Safeguarding Language

Adult with care and support needs

Enquiry

Perpetrator

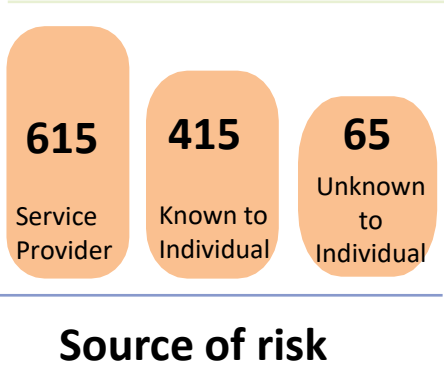
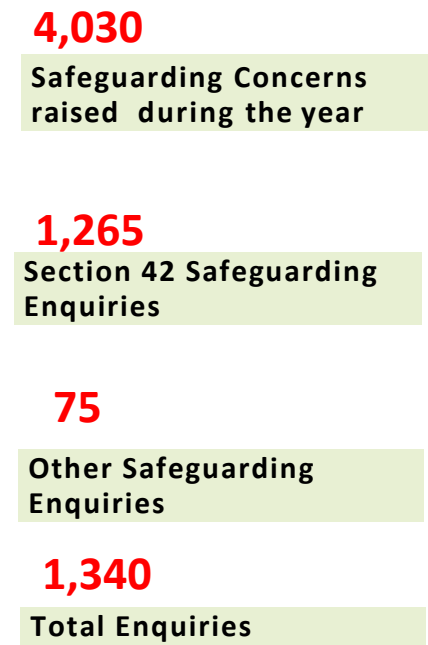
Adult  
Safeguarding  
Concern

Victim

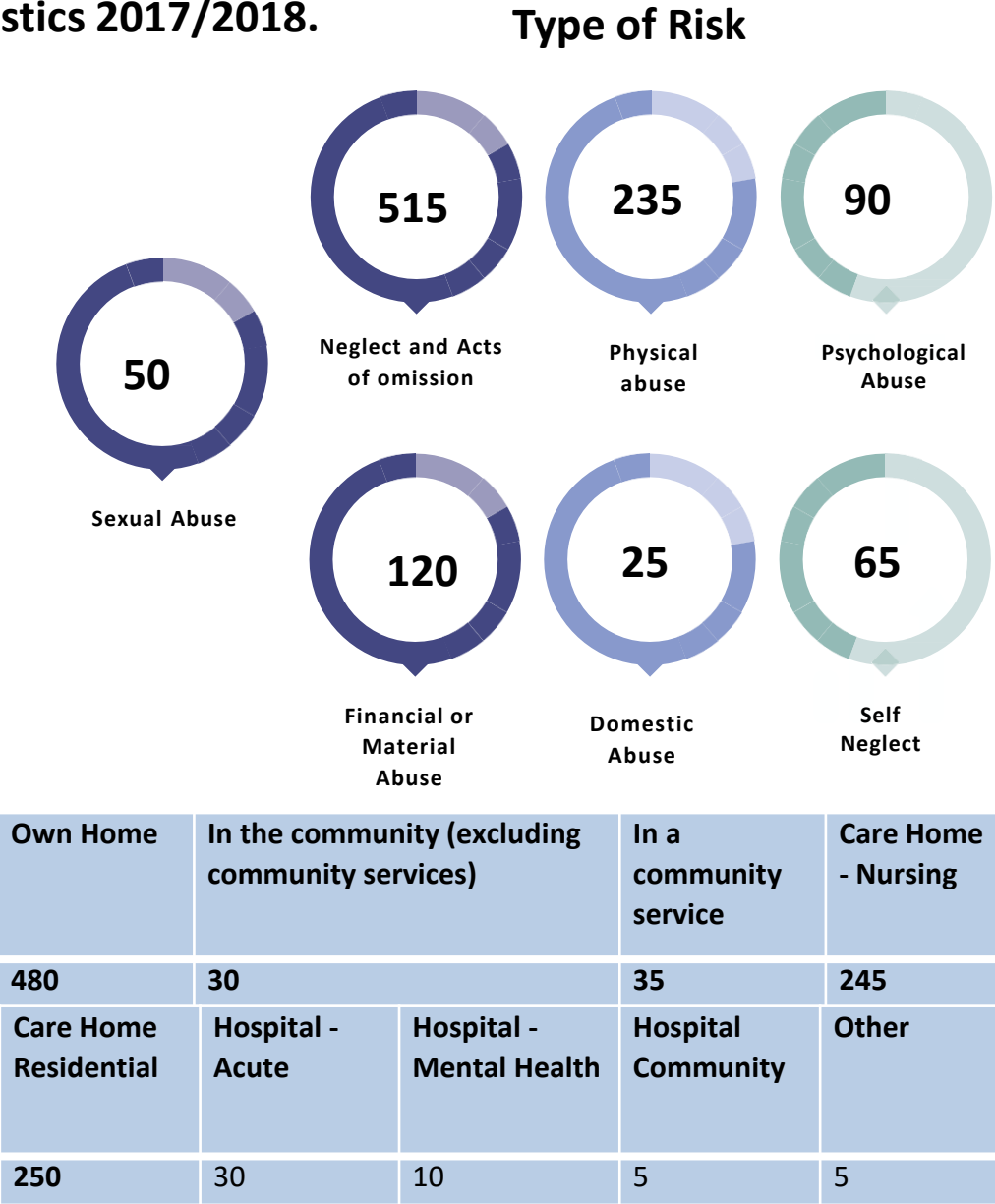
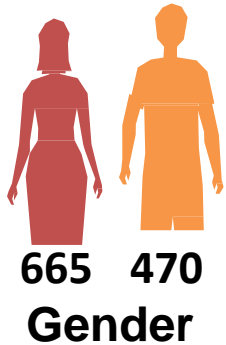
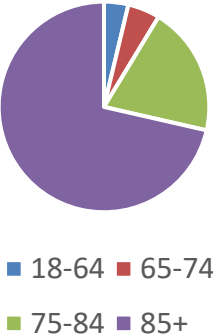
Safeguarding Adults Review



Hampshire County Council – National Statistics 2017/2018.



Age group



Location of risk



2720

Safeguarding Concerns raised during the year

970

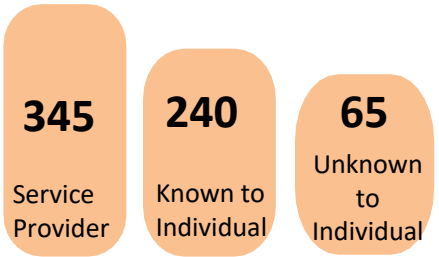
Section 42 Safeguarding Enquiries

40

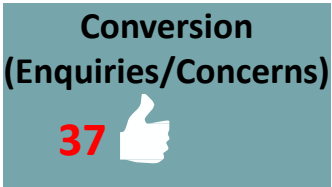
Other Safeguarding Enquiries

1010

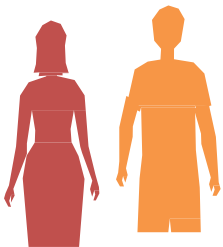
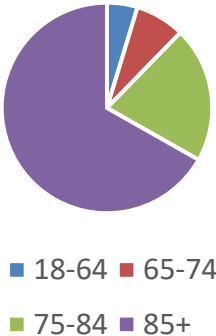
Total Enquiries



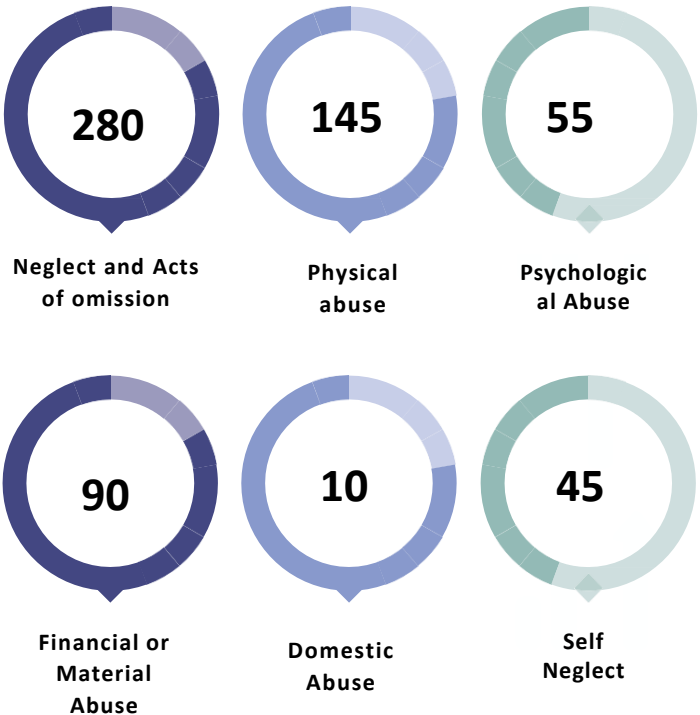
Source of risk



Age group



Gender



Own Home	In the community (excluding community services)		In a community service	Care Home - Nursing
320	20		35	120
Care Home Residential	Hospital - Acute	Hospital - Mental Health	Hospital Community	Other
135	15	*	*	5

Location of risk

# Safeguarding Statutory Duties and some other statutory links

Section 11

Section 42

Section 43

Section 44

Section 45



Section 46

Section 68

Section 81

Section 92

Name the statutory  
safeguarding principles

# Why make safeguarding personal – the Care Act guidance says.....

- The adult should be involved at the beginning of the enquiry,
- and their views and wishes ascertained (14.77, 14.78)
- The wishes of an adult who lacks mental capacity ‘are of equal importance’ to someone with mental capacity (14.80)
- Safeguarding plans involve joint discussion, decision making and planning with the adult for their future safety and wellbeing’ (14.90)
- Safeguarding Adult Boards should ‘gain effectiveness of the assurance of its arrangements’ (14.110) and seek feedback from adults who have been involved in an enquiry (14.116).



# 6 Statutory Safeguarding Principles

**Empowerment** - support for individuals to make their own decisions.

**Proportionality** - the least intrusive or restrictive intervention appropriate to the risks presented.

**Partnership** - working across services and communities to prevent, detect and report neglect and abuse.

**Prevention** - taking action before harm occurs or risk escalates.

**Protection** - supporting those in need as a result of abuse or neglect.

**Accountability** - enabling service users and leaders to challenge agencies for their responses to those at risk of harm.

## 6. Accountability

*I am clear about the roles and responsibilities of all those involved in the solution to the problem.*

## 1. Empowerment

*I am consulted about the outcomes I want from the safeguarding process and these directly inform what happens.*

## 5. Partnership

*I am confident that information will be appropriately shared in a way that takes into account its personal and sensitive nature. I am confident that agencies will work together to find the most effective responses for my own situation.*

## 6 Safeguarding Principles

## 4. Protection

*I am provided with help and support to report abuse. I am supported to take part in the safeguarding process to the extent to which I want and to which I am able.*

## 2. Prevention

*I am provided with easily understood information about what abuse is, how to recognise the signs and what I can do to seek help.*

## 3. Proportionality

*I am confident that the responses to risk will take into account my preferred outcomes or best interests.*

## Information Sharing is Key



14.34. Early sharing of information is the key to providing an effective response where there are emerging concerns (see information sharing (14.150) and confidentiality (14.157)).

### **To ensure effective safeguarding arrangements:**

- all organisations must have arrangements in place which set out clearly the processes and the principles for sharing information between each other, with other professionals and the SAB; this could be via an Information Sharing Agreement to formalise the arrangements.
- No professional should assume that someone else will pass on information which they think may be critical to the safety and wellbeing of the adult.
- If a professional has concerns about the adult's welfare and believes they are suffering or likely to suffer abuse or neglect, then they should share the information with the local authority and, or, the police if they believe or suspect that a crime has been committed.

# Information Sharing

- Vital Interests
- Public Interests
- Best Interests.





# Safeguarding Concerns

- A 'safeguarding concern' is when any person has a **reasonable cause to think that an adult with care and support needs, who is unable to protect themselves because of those needs, is experiencing, or is at risk of, abuse or neglect**
- The local authority is required to provide information regarding the number of 'safeguarding concerns' it has received and in this context a 'safeguarding concern' is defined as the first contact between a person concerned about abuse or neglect of an adult and the local authority.





# Responsibility of Care and Support Providers

- 14.68 It is important that all partners are clear where responsibility lies where abuse or neglect is carried out by employees or in a regulated setting, such as a care home, hospital, or college
- The first responsibility to act must be with the employing organisation as provider of the service
- 14.69 When an employer is aware of abuse or neglect in their organisation, then they are under a duty to correct this and protect the adult from harm as soon as possible and inform the local authority, CQC and CCG where the latter is the commissioner
- Where a local authority has reasonable cause to suspect that an adult may be experiencing or at risk of abuse or neglect, then it is still under a duty to make (or cause to be made) whatever enquiries it thinks necessary to decide what if any action needs to be taken and by whom
- The local authority may well be reassured by the employer's response so that no further action is required
- However, a local authority would have to satisfy itself that an employer'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 (for example, referral to CQC, professional regulators).

# Contact with the adult

A starting point for you is to talk to adult and/or their representatives about what their goals are and how they want to live their lives. The aim is to help people to develop their resilience and retain their independence. The focus should be on all aspects of the person's wellbeing, not just their safety.

Adults with care and support needs should be encouraged to think about their strengths, existing resources and any informal support networks they have around them. They can then be helped to identify what their particular needs are, what complex situations may exist and whether they face any risks.





## Section 42 Enquiry

### Decision by Local Authority

1. This section applies where a local authority has reasonable cause to suspect that an adult in its area (whether or not ordinarily resident there)—

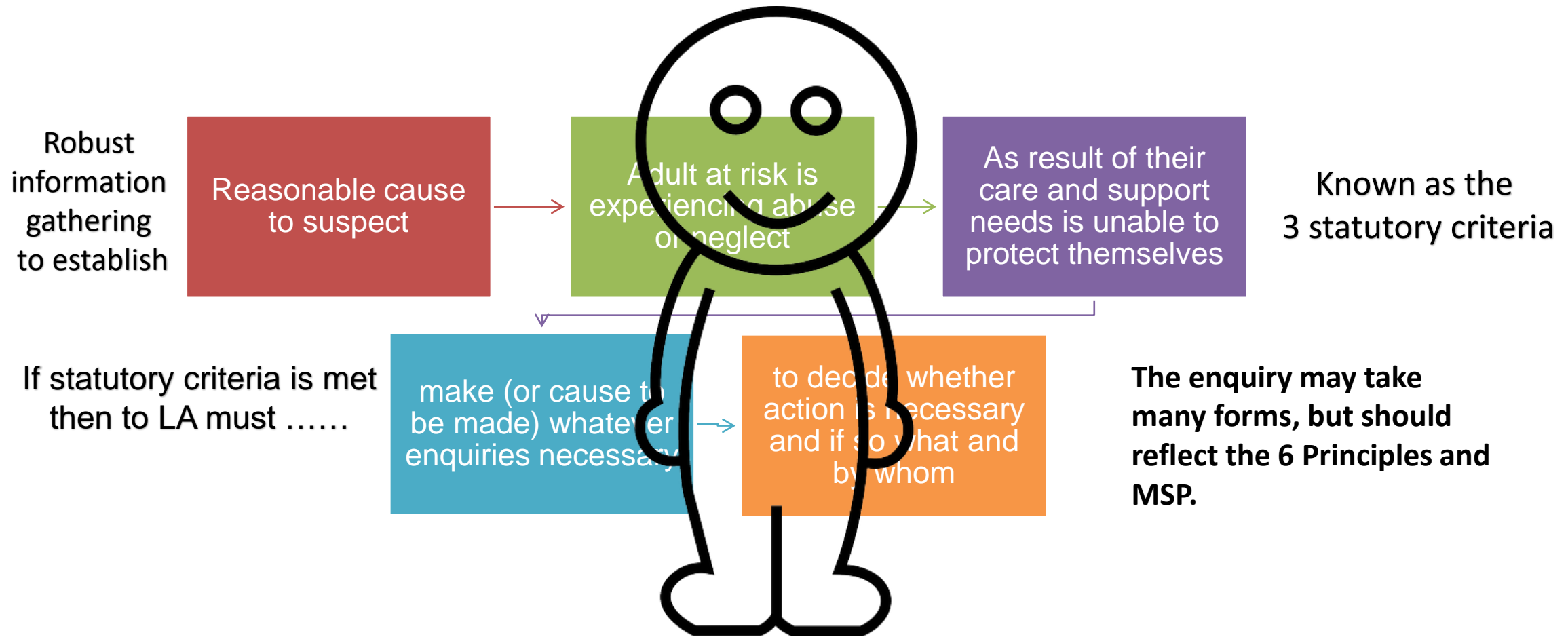
has needs for care and support (whether or not the authority is meeting any of those needs)

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

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

2. The local authority must make (or cause to be made) whatever enquiries it thinks necessary to enable it to decide whether any action should be taken in the adult's case (whether under this Part or otherwise) and, if so, what and by whom.

# S42 Enquiry Duty



# Purpose of a Section 42 Enquiry



- The purpose of the enquiry is to decide whether or not the local authority or another organisation, or person, should do something to help and protect the adult.
- If the local authority decides that another organisation should make the enquiry, for example a care provider, then the local authority should be clear about timescales, the need to know the outcomes of the enquiry and what action will follow if this is not done.
- What happens as a result of an 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.

# Objectives of an Enquiry



**Establish the facts**



**Ascertain the adults views and wishes - MSP**



**Assess the needs of the adult for protection, support & redress & how they'll be met**



**Protect from abuse and neglect in accordance with the wishes of the adult**



**What follow up action should be taken with the source of risk**



**Enable the adult to achieve resolution and recovery.**

# Non Statutory Enquiry

- Safeguarding enquiries carried out on behalf of adults who DO NOT fit the criteria outlined in Section 42 of the Care Act 2014. Local authorities are NOT required by law to carry out enquiries for these individuals; they do so at their own discretion. These enquiries would relate to an adult who:
- Is believed to be experiencing, or is at risk of, abuse or neglect
- Does not have care AND support needs (but might have just support needs)
- These enquiries might be about a carer for example.

# Enquiries by Others

- The local authority retains the responsibility for ensuring that the enquiry is referred to the right place and is acted upon
- The local authority, in its lead and coordinating role, should assure itself that the enquiry satisfies its duty under section 42 to decide what action (if any) is necessary to help and protect the adult and by whom and to ensure that such action is taken when necessary
- In this role if the local authority has asked someone else to make enquiries, it is able to challenge the body making the enquiry if it considers that the process and/or outcome is unsatisfactory.



# Terms of Reference for a Section 42 Enquiry

You can refuse to undertake the enquiry... provide your rationale in writing.

*What is the scope of this enquiry?  
(remember the purpose of an enquiry).*

The TOR should be discussed and agreed with the person from adult social care, who has asked you to undertake the enquiry. Agree the timescales.

You should receive the agreed TOR in writing.  
You should agree what should be included in the enquiry report. (they may have a report template).

Ensure that your enquiry approach reflects MSP and the 6 safeguarding principles.

Have you addressed the safety needs of the adult at risk, have you addressed their desired outcomes.

# Purpose of a Provider Led Enquiry

- What are the view, wishes and desired outcomes of the adult
- Maximise the adult's decision making ability
- Support decision making
- Consider advocacy
- What needs to happen to help the person secure any changes they want, who needs to do this, when and how?
- Has the person experienced, or been at risk of, abuse or neglect?
  - What needs to happen to help the person protect himself or herself?
  - What do others need to do?
  - What needs to happen to help the person secure justice or redress?
  - How can we meet the adult's outcomes?
- If there has been abuse or neglect, or risk of this, What were the causes, what needs to happen to apply any lessons learned?
- What organisational systems and process need addressing?
- What staffing issues need addressing?
- Feedback – when and how?

# What Do We Mean by Outcomes

- The focus is on both how people experience safeguarding services and the difference that it makes (through outcomes and through experience of the process)
- What do people want our involvement to achieve – how can we help to make a difference?
- How can we help them to express what they want through social work?
- How can we work out what people who lack capacity would want through engaging with them, and with their representatives, Independent Mental Capacity Advocates or Best Interests Assessment?
- How can we develop/ support practice that does this effectively?
- How do people experience the support they receive?
- What is best practice in terms of working with people to achieve effective outcomes?

# Celebrating SAFEGUARDING

**Safeguarding IS NOT ADULT Abuse**

**Make ADULT Safeguarding a culture not a process**

**Identify with ADULT Safeguarding Principles**

**Look for opportunity, listen to understand, have conversations to help**

**Embrace concept that ADULT Safeguarding extends to children**

**Step into the ADULT Safeguarding Footprint.**



# Learning Outcomes:

- Understand the statutory safeguarding framework in the Care Act 2014
- Define the principles of information sharing
- Understand the triggers to a Section 42 Enquiry
- Consider other kinds of safeguarding responses
- Understand what triggers a provider led enquiry
- Identify person centred approaches and principles to safeguarding
- Identify roles and responsibilities in supporting adults at risk of abuse and neglect.

# What have I learnt today?

Take a few minutes to think of at least one thing you are going to stop doing and one thing you are going to start doing to safeguard adults at risk following this course

