

Understanding what constitutes a safeguarding concern and how to support effective outcomes

Suggested multi-agency framework to support practice, recording and reporting

Quick Guide 2 - based on the LGA/ADASS framework of this title, Published September 2020 See <https://www.local.gov.uk/understanding-what-constitutes-safeguarding-concern-and-how-support-effective-outcomes> Please make direct reference to this alongside this Quick Guide.

Introduction, background, and purpose

The [safeguarding concerns multi-agency framework](#) proposes a cross sector understanding of what constitutes a safeguarding concern. Its purpose is to support effective multi-agency outcomes that address risks to wellbeing and safety whether through a safeguarding response or another pathway. It promotes collaborative decision making and support, and joint accountability.

Networks across all sectors were engaged in producing the framework: scoping, attending four national workshops and through a group of critical readers who advised on drafts. The views and input of service users are reflected in it.

It aims to support:

- the whole range of sectors and organisations in making appropriate referrals of concerns to adult social care, by promoting a consistent and shared understanding of what constitutes a safeguarding adults concern
- a consistent response by adult social care to safeguarding concerns referred to them
- a shared responsibility across all organisations for addressing risks to wellbeing and safety, whether as a safeguarding concern, or outside of safeguarding responses, by jointly agreeing alternative pathways for support.
- a shared understanding of what to report as a safeguarding concern in the Safeguarding Adults Collection (SAC)¹
- current wide variation in practice and decision-making is reflected in the NHS Digital Safeguarding Adults Collection data.

This framework is not intended as guidance prescribing exactly what must be done. Its intention is to empower practitioners across all sectors, supporting consistent, confident decision-making about safeguarding concerns, which are rooted in the legal framework and statutory guidance. That confidence and consistency can in turn support individuals and communities to understand what kinds of concerns need to be discussed and reported. Consistent data recording and reporting flows from these decisions.

This framework connects with a [framework](#) (published August 2019 by LGA/ADASS) on *Making decisions on the duty to carry out safeguarding adults enquiries*. Together these offer robust support across the entire decision-making pathway. Both were prompted by wide variation in practice and decision-making, reflected in the NHS Digital Safeguarding Adults Collection (SAC) data on reporting of concerns and safeguarding enquiries under Section 42, Care Act (2014). They address a potential lack of equal access to adult safeguarding support, dependent on how safeguarding concerns are defined and addressed.

¹ Safeguarding Adults England, NHS Digital December 2019 <https://digital.nhs.uk/data-and-information/publications/statistical/safeguarding-adults>

This framework suggests that where it appears that criteria a and b of S42(1), Care Act (2014)² are met and the referring worker/ organisation believes therefore that the circumstances amount to a safeguarding concern, then this is raised to the local authority. Refer to definitions set out in the [framework](#) and in a separate ‘definitions’ quick guide. Use these to develop a common cross sector language and understanding of terms central to defining adult safeguarding concerns.

Key determinants for making decisions about potential safeguarding concerns	Key aspects of the underpinning legislation and guidance	Key considerations	Key actions
<p>1. Is this a safeguarding concern?</p> <p>The person raising the safeguarding concern and the local authority to consider:</p> <p>a) The definitions central to the decision</p> <p>i) Does this person have need for care and support? S42 (1) a, Care Act, 2014.</p>	<p>Care and Support Statutory Guidance (DHSC 2020) 14.6 14.16, 14.17³, 14.99</p> <p>Care and Support (Eligibility Criteria) Regulations, 2014</p> <p>Care and Support Statutory Guidance (DHSC 2020) 14.16, 14.17 - 14.24 14.33, 14.36</p>	<p>14.6 Local authority statutory adult safeguarding duties apply equally to those 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.</p> <p>14.17 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.</p>	<p>Develop across sectors clear and consistent definitions of key terms which appear in S42 (1) a and b, Care Act, 2014. For example, through formal training and local guidelines.</p> <p>Use these definitions in constructive mutual challenge across the partnership.</p> <p>Develop a partnership culture that supports all partners’ understanding and participation in decision making. See appendix 4 and 5 of the safeguarding concerns framework</p>

² Section 42, Care Act 2014²;

Enquiry by local authority (Referred to throughout the framework and this quick guide as S42.

(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)

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

(b) is experiencing, or is at risk of, abuse or neglect, and

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

³ Neither the Care Act (2014) nor the associated Care and Support Statutory Guidance (DHSC, 2020) state that all three criteria (S42, Care Act, 2014) must be fulfilled in order for **all organisations** to conclude (from available information) that an issue constitutes a safeguarding concern and to refer it to the local authority. Note that 14.17 of the Care and Support Statutory Guidance (DHSC, 2020) advises **local authorities** to consider the three criteria and to explore concerns raised in a person-centred way. There may be considerable complexity and time involved in deciding whether there is reasonable cause to suspect that, as a result of care and support needs the adult is unable to protect himself or herself against the abuse or neglect or the risk of it (the third criterion in S42(1c), Care Act (2014)).

<p>ii) 'Is this person 'experiencing, or ...at risk of, abuse or neglect'? S42 (1) b, Care Act, 2014.</p> <p>b) Consider differentiating between safeguarding concerns and quality of care concerns⁴</p> <p>Care and health provision require a particular focus in partnership development and support in defining safeguarding concerns. See section 5 of the concerns framework</p>	<p>Care and Support Statutory Guidance (DHSC 2020) 14.7, 14.9, 14.68 - 14.74, 14.92</p>	<p>Developing cultures of collaboration, parity of esteem, trust, honesty, transparency is vital. Examples supporting such a culture are set out in appendix 4 and 5, concerns framework</p> <p>This encourages conversations to enable informed decisions about the range of pathways rather than defaulting to raising a safeguarding concern.</p> <p>The Oxfordshire decision support tool (see appendix 4, concerns framework) and the local support offered alongside this has helped in this regard. (Other localities have based tools on this.)</p>	<p>Protocols support best practice where they emphasise core considerations set out in this framework rather than just offering lists of examples or 'thresholds' that must be met to receive safeguarding support.</p> <p>Refer to specialist advice/decision making protocols on specific issues, for example national guidance on pressure areas⁵.</p> <p>Horizon scanning for forthcoming cross sector support should be ongoing in the context of developing decision making on safeguarding concerns. For example, CQC has indicated forthcoming revised guidance on statutory notifications.</p>
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⁴ See section 5 of the [safeguarding concerns framework](#) (LGA/ADASS 2020) 'Supporting decision making in relation to provider concerns in social care and health; linking this to the core messages'

⁵ DHSC 2018 Safeguarding Adults protocol: pressure ulcers and the interface with a safeguarding enquiry. Make reference to other available guidance for example on: medication errors; falls; manual handling; use of restrictive practices.

Key determinants for making decisions about potential safeguarding concerns	Key aspects of the underpinning legislation and guidance	Key considerations	Key actions
<p>2. Base decisions on a shared understanding and application of fundamental principles⁶</p> <p>These are at the heart of the Care Act (2014) and the associated Care and Support Statutory Guidance (DHSC,2020).</p> <p>This includes a duty to promote wellbeing and to adopt a flexible approach, focusing on what matters most to the individual.⁷</p>	<p>Care and Support Statutory Guidance (DHSC 2020) 14.8, 14.13 - 14.15, 14.17 14.92 (principles for local decision-making process) 14.99</p> <p>Care Act (2014) Sections 1, 6, 7, 9, 10, 11, 68</p> <p>Mental Capacity Act 2014 Human Rights Act 1998 Data Protection Act 2018</p>	<p>The six statutory safeguarding adults principles⁸ in the context of the Human Rights Act (1998) are central to decisions/actions.</p> <p>Alongside this application of the five principles of the Mental Capacity Act (2005).</p> <p>There must be a strong focus on the person and their wishes, offering support for decision making where the adult has a ‘substantial difficulty’ in being involved.</p> <p>There should be transparency about the decisions made.</p> <p>There should be partnership cooperation to address wellbeing issues of which abuse/neglect is one such issue.</p>	<p>Records of the rationale for decision making include reference to the six statutory safeguarding adults principles and other core principles.</p> <p>Establish the wishes and views of the adult/their representative. <i>Does the adult want a safeguarding concern to be raised?</i> Consider the need for an independent advocate.</p> <p>However, if someone declines safeguarding support, there is still a duty to consider how to reduce or manage risk.</p> <p>Those who have raised concerns should receive feedback about the decisions made (consistent with data protection legislation).</p>

⁶ Principles referred to here include: Human Rights Act (1998) principles; the six statutory principles for safeguarding adults, alongside Making Safeguarding Personal (Care and Support Statutory Guidance, 2020 14.13-14.15) and the five core principles of the Mental Capacity Act, 2005. (see section 3 of this framework, below)

⁷ Section 1, Care Act (2014); Care and Support statutory Guidance, para 1.1, DHSC, 2020

⁸ Paragraph 14.13, Care and Support Statutory Guidance, DHSC, 2020 – **Empowerment, Prevention, Proportionality, Protection, Partnership and Accountability.**

Key determinants for making decisions about potential safeguarding concerns	Key aspects of the underpinning legislation and guidance	Key considerations	Key actions
<p>3. Consider the broad range of safeguarding responsibilities where there is risk of abuse/neglect. This includes prevention and early intervention</p>	<p>Care and Support Statutory Guidance (DHSC 2020)</p> <p>Chapter 2</p> <p>Chapter 14: 14.7, 14.9, 14.11</p>	<p>A safeguarding concern can relate to <i>risk of abuse or neglect</i>.</p> <p>There must be a focus on the prevention of abuse and neglect.</p> <p>Formal local pathways with a focus on identifying and mitigating risk (in the form of multi-agency meetings, panels, forums) create a common framework that can be activated and used by any concerned organisation, they do not rely on adult safeguarding services to initiate actions or convene meetings.</p>	<p>Joint responsibility and working alongside the person are at the heart of a partnership approach that seeks to address risk, whether or not as a safeguarding concern.</p> <p>Consider the range of possible responses that may contribute to keeping an individual safe and/or to an individual's wellbeing⁹. For example, there might be a need for an assessment of need for care and support (Section 9, Care Act, 2014) or a response from commissioners about quality of care issues, or multi-agency support for people experiencing domestic abuse or hate crime.</p>

⁹ 14.9 Care and Support Statutory Guidance (DHSC, 2020) 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
- the Care Quality Commission (CQC) ensuring that regulated providers comply with the fundamental standards of care or by taking enforcement action
- the core duties of the police to prevent and detect crime and protect life and property

Key determinants for making decisions about potential safeguarding concerns	Key aspects of the underpinning legislation and guidance	Key considerations	Key actions
<p>4. a) Decide what should be reported as a safeguarding concern in the Safeguarding Adults Collection (SAC)?</p> <p>The framework supports a view that where the referring worker/organisation believes that the circumstances amount to a safeguarding concern because it appears that criteria a and b of S42 (1) are met then, where the local authority agrees that there is a clear case set out to show this, it will be reported in the SAC as a safeguarding concern.</p> <p>b) Promote and develop local recording across organisations to support practice and its development.</p>	<p>Section 42, Care Act (2014)¹⁰</p> <p>Care and Support Statutory Guidance (DHSC 2020) 14.16, 14.17</p> <p>Care and Support (Eligibility Criteria) Regulations, 2014</p> <p>Guidance for completing the Safeguarding adults Collection (SAC) , NHS Digital. (This will be further developed in light of the safeguarding concerns framework).</p>	<p>The SAC data will reflect the range of activity across sectors within the scope of safeguarding responsibilities (from the start of activity), including early intervention and prevention, whether or not concerns go on to be the subject of a safeguarding enquiry.</p> <p>Robust recording of decisions and the rationale for them is the means through which defensible decision making¹¹ can be worked through and evidenced. It supports practice development.</p> <p>The Safeguarding Adults Collection (SAC) data can be used as a ‘can opener’ and should be supplemented with other local information (such as audits, peer reviews).</p>	<p>Local authorities will report a safeguarding concern in the SAC where referrer and local authority agree S42(1) a and b are met.</p> <p>Clear recording of issues not pursued as a safeguarding concern facilitates identification of cumulative patterns. It helps identify organisations where support is needed in defining safeguarding concerns.</p> <p>All organisations should audit decision making, using recording and data to understand where organisations need support in defining safeguarding concerns.</p> <p>Safeguarding Adults Boards seek assurance on the quality of decision making across the partnerships.</p>

¹⁰ Referred to throughout the framework and this quick guide as S42.

¹¹ Considerations in support of defensible decisions are set out in Kemshall, H, 2009. They are readily accessible and reproduced in DH, 2010 https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/215960/dh_121493.pdf