Brighton & Hove SAB Safeguarding Adults Board

SAB East Sussex Safeguarding Adults Board

West Sussex Safeguarding Adults Board
Making Safeguarding Personal

Sussex Safeguarding Adults Policy and Procedures

Don't turn your back on abuse. Speak up and we will listen.

Version 5 | June 2024

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Foreword

Welcome to the revised Sussex Safeguarding Adults Policy and Procedures, edition 5.

The Policy sets out the approach taken to adult safeguarding across Sussex. The Procedures explain how agencies and individuals should work together to put the Sussex Safeguarding Adults Policy into practice. They have been updated in accordance with the Care Act 2014 and the Care and Support Statutory Guidance and should be read in conjunction with these. The update has taken into account lessons learnt from Safeguarding Adults Reviews (SARs), audits and practice. These Procedures represent the standards for good practice in adult safeguarding in Sussex and have been endorsed by Brighton & Hove, East Sussex and West Sussex Safeguarding Adults Boards.

Our thanks to all those who have contributed their expertise and time in the production of this Policy and Procedures, and all who made comments and gave feedback during the consultation process.

Seona Douglas, Interim Independent Chair, East Sussex Safeguarding Adults Board and Brighton & Hove Safeguarding Adults Board

Annie Callanan, Independent Chair, West Sussex Safeguarding Adults Board

Feedback

If you have any feedback about the Policy and Procedures, please do let us know by emailing:

- Brighton & Hove: SAB@brighton-hove.gov.uk
- East Sussex: ESSAB.Contact@eastsussex.gov.uk
- West Sussex: SafeguardingAdultsBoard@westsussex.gov.uk

Copyright information

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How to report suspected abuse or neglect of an adult at risk

For information about how to report suspected abuse or neglect of an adult at risk, please refer to the relevant individual Safeguarding Adults Board website.

- Brighton & Hove Safeguarding Adults Board
- East Sussex Safeguarding Adults Board
- West Sussex Safeguarding Adults Board

Please note, if you or someone else is in immediate danger, call the Police on 999.

1. Section 1: Sussex Safeguarding adults policy

1.1. Sussex safeguarding adults policy

1.1.1. Introduction

The Care Act 2014 was a major step forward in safeguarding adults who are experiencing, or are at risk of, abuse or neglect, and are unable to protect themselves.

Sections 42 to 47 of the Care Act set out the legal duties and responsibilities in relation to adult safeguarding.

The legal framework for the Care Act 2014 is supported by Care and Support Statutory Guidance which provides information and guidance about how the Care Act should operate 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 for care and support and carers.

Safeguarding means protecting an adult's right to live in safety, free from abuse and neglect. It is about working together to support people to make decisions about the risks they face in their own lives and protecting those who lack the mental capacity to make those decisions.

This policy and procedures provide an overarching framework to ensure a proportionate, timely and professional approach is taken, and that adult safeguarding is coordinated across all relevant agencies and organisations. This is essential for the prevention of harm and abuse.

The aims of adult safeguarding are to:

- Prevent harm and reduce the risk of abuse or neglect to adults with care and support needs.
- Stop abuse or neglect wherever possible.
- Safeguard adults in a way that supports them in making choices and having control about how they want to live.
- 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 information and support in accessible ways 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 wellbeing of an adult.

In order to achieve these aims it is essential that everyone, both individuals and in organisations, is clear about their roles and responsibilities in regard to safeguarding policy and procedures. Individual services and organisations should ensure their internal adult safeguarding policy and procedures reflect these Sussex safeguarding adults policy and procedures. This includes an expectation to report in a timely way any concerns or suspicions that an adult is at risk of being, or is, being abused. Where abuse or neglect takes place, it needs to be dealt with promptly and effectively, and in ways which are proportionate to the concern, ensuring that the adult stays in as much control of the decision-making as possible.

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1.1.2. Statutory safeguarding principles

The Care Act safeguarding duties 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 framework for statutory adult safeguarding set out within the Care Act states that 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 ensure others do so, when they believe that an adult is subject to, or is at risk of, abuse or neglect. An enquiry should establish whether any action needs to be taken to stop or prevent abuse or neglect, and if so, by whom.
- Establish a Safeguarding Adults Board (SAB) with core membership from the local authority, the police and the NHS (specifically the Integrated Care Board) with the power to include other relevant bodies.
- Arrange, where appropriate, for an independent advocate to represent and support a person who is the subject of a safeguarding enquiry or Safeguarding Adults Review (SAR) where the adult has 'substantial difficulty' in being involved in the process and where there is no other appropriate adult to help them.
- Cooperate with each of its relevant partners in order to protect adults who are experiencing, or at risk of, abuse or neglect.

Promoting wellbeing

Professionals should always promote the adult's wellbeing as part of safeguarding arrangements. People have many aspects to their lives and being safe may be only one of the things which are important to them. Professionals should work with each adult to establish what being safe means to them and how that can best be achieved.

1.1.3. Multi-agency working

Multi-agency working and safeguarding

Multi-agency working refers to a way of working that involves professionals from different agencies collaboratively combining their skills, expertise, and knowledge, with the joint goal of meeting an individual's needs, including multiple and compound needs. Good communication, common goals, understanding, and teamwork is essential for effective multi-agency working.

Working effectively together is critical to safeguarding to ensure that a high standard of coordinated care is provided to the adult, allowing them to feel better supported and more engaged within their own care. Multi-agency working allows for best practice, experience, and skill sharing, increasing

learning opportunities and leads to positive working relationships which in turn, increases the likelihood of positive outcomes for the adult.

For more information, please see the Government guidance on safeguarding practice, which references multi-agency working.

A key area of learning identified in many SARs which are commissioned in Sussex is the need for more effective partnership working in order to protect the adult.

Sussex Reviews and their accompanying learning resources can be accessed on the Safeguarding Adults Board (SAB) websites for Brighton & Hove, East Sussex and West Sussex.

Multi-agency meetings

The Local Government Association (LGA) note that by working together, organisations can deliver value and outcomes that would be difficult or impossible to deliver working individually.

Therefore, multi-agency meetings, whether held in-person or virtually, are the best way to ensure there is effective information sharing and communication, as well as a shared responsibility for assessing risks to the adult and agreeing an action plan to aim to mitigate these risks.

It is important to note that any agency can convene a multi-agency meeting; this should be the agency who is most involved in supporting the individual. If there is an active Section 42 enquiry, where the local authority has caused others to undertake and enquiry, the agency leading on this can be responsible for progressing the multi-agency response.

There are circumstances when a meeting should be considered, such as:

- Responding to self-neglect
- Risk sharing and safety planning
- Coordinating the response to safeguarding concerns and the quality-of-care provision
- Coordinating criminal investigations and safeguarding enquiries
- Reviewing outcomes and agreeing a safeguarding plan
- Managing multiple safeguarding enquiries such as for organisational abuse

Multi-agency meetings should have a clear agenda addressing the areas which need to be covered, and a comprehensive record of actions agreed, by whom and within clear timescales. This would include agreement on who will lead on tasks in relation to risk and safety planning.

It is good practice to identify a professional/s to coordinate agencies and their response to adults with complex needs. The professional/s will act as a single point of contact for involved agencies and will maintain oversight of the work being undertaken to support the adult, ensuring there is alignment in practice across different organisations.

When actions and responsibilities are agreed within a multi-agency meeting, these must be clearly documented within the adult’s care records; this could include safeguarding plans, risk assessments, care plans, or case notes. This evidences what is being done to mitigate risk to the adult. All participating agencies should have a copy of the safeguarding plan or meeting minutes.

If a multi-agency meeting is not possible to convene, the work needed between professionals should still take place and this could be achieved virtually or via calls/emails to all agencies involved to gain the information needed, advice and to agree actions. The lead agency working with the adult would take this forward.

If there is a disagreement between professionals across agencies in the approach to an adult's care, you should refer to our Sussex Safeguarding Escalation and Resolution Protocol, which supports consistent and timely decision-making in relation to adult safeguarding. The protocol includes guidance in relation to mental capacity issues and safeguarding and has a streamlined escalation process that explicitly ensures relevant safeguarding leads are consulted at an appropriate point.

Important aspects of multi-agency working

Making Safeguarding Personal and recording information

Making Safeguarding Personal (MSP) is a national approach to promote responses to 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 to identify the outcomes they want, with the aim of enabling them to resolve their circumstances and support their recovery. The West Sussex SAR in respect of Beverley includes a statement from Beverley's family encouraging practitioners to "reflect and strive to remember that within their individual roles, the most important person of a multidisciplinary team, is the person themselves."

Therefore, agencies are encouraged to actively involve the adult in discussions about their care, and to ensure that written evidence of the adult's views and thoughts are recorded and shared with relevant agencies. By doing so, the adult is kept central to the multi-disciplinary work taking place.

If a discussion with the adult is not possible or has not taken place, it is vital that the reason for this is also recorded in their care plan and/or other records. In addition, any multi-agency meeting where the person is not in attendance must consider the views of the adult and address how these will be responded to. views of family, carers, friends, or advocates should be sought and also recorded to evidence that a person-centred approach has been adopted.

Information sharing

Sharing information with the right people at the right time is vital to good practice and effective safeguarding. It allows professionals to make fully informed decisions about what action is best to take and how. All agencies have a responsibility to share any relevant information they have which may protect an adult from abuse or neglect.

Ideally, adults should provide consent before information about them is shared. They have the right to refuse, however, this wish can be overridden in circumstances which place them and/or others at significant risk of harm. For more information, please see the Sussex Information Sharing Guide and Protocol and accompanying learning briefing. There are also some useful resources on the SCIE website.

Multi-agency risk assessment

Risk assessment is the process of working with an adult to improve safety and to reduce future risk. Making Safeguarding Personal (MSP) is an integral part of safeguarding and professionals should adopt a strengths-based, flexible, and enabling approach to managing risk with the person and their network.

Casework involving significant risks often require a multi-agency approach, underpinned by clear and timely information sharing and shared risk-assessing resulting in multi-agency risk management plans. These should be proportionate and focussed on preventing, reducing or eliminating the future risk of harm. Risks can be evaluated through multi-agency meetings and should be reviewed regularly to reassess the level and nature of the risk.

Risk assessments and risk plans should clearly record:

- all relevant and anticipated risks
- the adult's views and wishes
- what action is being taken and by whom
- any issues with mental capacity and how this is to be addressed including the need, where appropriate, for best interest decisions
- how the understanding of risk and the actions available to support is shared with the adult.

Communication and developing working relationships

Effective communication is essential to enable professionals to develop strong working relationships, trust and shared ownership when supporting an adult with care and support needs. When working together, professionals from across different organisations should seek to understand and respect each other's roles in supporting the adult, as well as offering the flexibility which may be required to gain the best possible outcome for the adult. This will help to set expectations, clarify responsibilities; and avoid any misunderstanding when sharing work.

Supervision and management oversight

Skilled and knowledgeable supervision focused on outcomes for adults is critical in adult safeguarding. Managers have a central role in ensuring high standards of practice and that practitioners are properly equipped and supported. Employers should ensure they have robust management systems in place for training and support.

It is important that all safeguarding cases have supervision and management oversight. Supervision should encourage reflective practice and professional curiosity and should check that relevant actions to reduce risk to a vulnerable adult have been best explored in collaboration with multi-agency professionals.

Systems and processes

It is important to recognise that agencies often have different systems and processes, including for the way they record information. Access to this information to professionals outside of the organisation is often restricted. This emphasises the importance of information sharing with other

agencies, which can be arranged through other methods of communication including emails, telephone calls, or multi-agency meetings.

SAB information and resources

There are a number of Board subgroups across Sussex, as well as protocols and frameworks to encourage collaborative, multi-agency working. For more information on these, please visit the Board websites:

- Brighton and Hove SAB
- East Sussex SAB
- West Sussex SAB

1.1.4. Making Safeguarding Personal

Making Safeguarding Personal (MSP) is a national approach to promote responses to 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 to identify the outcomes they want, with the aim of enabling them to resolve their circumstances and support their recovery. Making Safeguarding Personal is also about collecting information about the extent to which this shift has a positive impact on people's lives.

People are individuals with a variety of different preferences, histories, circumstances and life-styles. Safeguarding arrangements must not prescribe a process to be followed whenever a concern is raised, but rather Making Safeguarding Personal emphasises the importance of a person-centred approach, adopting the principle of 'no decision about me without me'. Personalised care and support is for everyone, but some people will need more support than others to make choices and manage risks. A person led approach is supported by personalised information and advice and, where needed, access to advocacy support.

1.1.5. Key principles informing this policy

Six key principles underpin all adult safeguarding work. They apply to all sectors and settings including: care and support services, further education colleges, commissioning, regulation and provision of health and care services, social work, healthcare, welfare benefits, housing, wider local authority functions and the criminal justice system.

Empowerment

This is the presumption of person-led decisions and informed consent. In practice this means having clear and accessible systems for adult's views to be heard and influence change and giving people relevant information and support about safeguarding and the choices available to them to ensure their own safety. An outcome for the adult at risk may be, "I am asked what I want as the outcomes from the safeguarding process and these directly inform what happens."

Prevention

It is better to take action before harm occurs. In practice this means raising public awareness about safeguarding, including how to recognise and report it. All staff are clear on their roles and responsibilities in relation to safeguarding adults at risk. An outcome for the adult at risk may be, "I receive clear and simple information about what abuse is, how to recognise the signs and what I can do to seek help."

Proportionality

This is the least intrusive response appropriate to the risk presented. In practice this means the adult is at the centre of all responses to the safeguarding concern and any action taken is based on their preferred outcomes or best interests. It is an approach of positive risk taking in which the adult at risk is fully involved. An outcome for the adult at risk may be, "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."

Protection

This is support and representation for those in greatest need. In practice this means organisations having effective processes to be able to identify and respond to concerns or emerging risks. Consideration of mental capacity is part of the safeguarding process, and where people lack capacity decisions are always made in their best interests. An outcome for the adult at risk may be, "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 and to which I am able."

Partnership

This means local solutions through services working with their communities. Communities have a part to play in preventing, detecting and reporting neglect and abuse. In practice this means information is shared between organisations in a way that reflects its personal and sensitive nature, and ensuring local information sharing protocols are in place and staff understand and use them. An outcome for the adult at risk may be, "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 and with me to get the best result for me."

Accountability

This is accountability and transparency in delivering safeguarding. In practice this means the roles and responsibilities of the organisation are clear so that staff understand what is expected of them and others. An outcome for the adult at risk may be, "I understand the role of everyone involved in my life and so do they."

1.1.6. Trauma informed practice, care and approaches in adult safeguarding

What is trauma?

The term trauma can refer to a wide range of traumatic, abusive or neglectful events or series of events (including Adverse Childhood Experiences (ACEs) and trauma in adulthood) that are experienced as being emotionally or physically harmful or life threatening. Whether an event(s) is traumatic depends not only on our individual experience of the event, but also how it negatively impacts on our emotional, social, spiritual and physical wellbeing (National Trauma Training Programme - What is meant by trauma? (transformingpsychologicaltrauma.scot). Practitioners need to have an understanding that trauma exposure can impact on someone's neurological, biological, psychological, and social development

Trauma, particularly in early childhood, can have a severe impact throughout a person's life. For many children it can be expressed through behavioural issues, and often leads to having a severe effect on both mental and physical health. During adulthood the person is more likely to be drawn into violence, criminal activity, and self-harm, as well as being more likely to engage in health-harming behaviours (Bellis et al 2016).

Trauma informed practice/care and approaches

Being 'Trauma Informed' means being able to recognise when someone may be affected by trauma, collaboratively adjusting how we work to take this into account and responding in a way that supports recovery, does no harm and recognises and supports people's resilience. Trauma-informed care aims to increase practitioners' awareness of how trauma can negatively impact on individuals and communities, and their ability to feel safe or develop trusting relationships with services and their staff.

Organisations must aim to improve the accessibility and quality of their services by creating culturally sensitive, safe services that people trust and want to use. Trauma informed care seeks to prepare practitioners to work in collaboration and partnership with people and empower them to make choices about their health and wellbeing' (Office for Health Improvement and Disparities 2022 Working definition of trauma-informed practice - GOV.UK (www.gov.uk)).

Being "trauma informed" is multi-layered and requires a whole system approach. It applies to all areas of an organisation and across the system. This includes integrating trauma related aspects, knowledge, and concepts into things such as training, recruitment, induction, policies, procedures, mission statements, language used, having experts of experience, the environment, team meetings, supervision, reflective practice, leadership style and so much more (Treisman, 2017). Trauma-informed practice acknowledges the need to see beyond an individual's presenting behaviours and to ask, 'what has happened to you' rather than 'what is wrong with you?'.

In our Adult Safeguarding procedures this means that we are making a commitment to this approach, across Sussex and the three Safeguarding Adults Boards. This commitment should be visible in our safeguarding practice with people, and also ensuring this commitment through our policies, training and development and leadership.

The four R's of trauma informed care are key factors in providing a trauma informed approach. SAMHSA (Substance Abuse and Mental Health Services Administration 2014, p.9-10):

- **Realising** how common the experience of trauma and adversity is
- **Recognising** the different ways that trauma can affect people
- **Responding** by taking account of the ways that people can be affected by trauma to support recovery
- Opportunities to **Resist** re-traumatisation and offer a greater sense of choice and control, empowerment, collaboration and safety with everyone that you have contact with.

This is expanded further in the working definition guide to [Trauma Informed Practice: Working definition of trauma-informed practice - GOV.UK (www.gov.uk)].

Trauma and safeguarding

Trauma-informed practice seeks to avoid re-traumatisation by using the principles of safety, trustworthiness, choice, collaboration, empowerment and cultural consideration (Office for Health Improvement and Disparities 2022). This aligns with the principles of adult safeguarding in the Care Act (2014), empowerment, prevention, proportionality, protection, partnership, accountability, and Making Safeguarding Personal approaches.

The impact of trauma is identified as a theme in many local and National Safeguarding Adult Reviews. The impact can be across the life course and often increasing further vulnerability and barriers to accessing services (see further reading). Trauma informed care ensures services are delivered in ways which prevent further harm and re-traumatisation. Trauma can affect people at any point in their life course and this should be recognised. Making sure that the person is at the centre of practice and the person is empowered in making choices being the expert of their own care, support, and safety planning.

Trauma informed safeguarding in practice

Recording in a trauma informed way

The Sussex thematic review regarding women with multiple compound needs identified a need for all professionals and agencies to change the language and terminology used in engaging with women who have multiple and compound needs. They noted that all three women were frequently described as having a 'chaotic lifestyle' or as being difficult to engage with but what they all had in common was that they had been exploited, mostly by men. They state that simple changes of language can have a substantial effect upon thinking – if we refer to them as 'women who have been exploited' then the fact that they have a chaotic lifestyle, or may be difficult to engage with, comes into the correct context or disappears altogether. This then changes the way in which we view the support they need and can reduce inequalities and barriers to accessing services.

"We know that language matters. Our words are powerful. The way we communicate with and about people reveals and shapes attitudes and behaviours. Some words lift people up and build bridges. And some words build walls and bring people down or exclude them altogether" (Think Local Act Personal).

Please see Multiple Compound Needs chapter and Self Neglect chapter for further reading.

Examples in practice

- Describing someone's 'possessions' rather than 'rubbish' when a person is experiencing hoarding challenges.
- Change language from "She keeps changing her accounts to services, so we don't know what actually happened" to "There is a risk of coercive control due to the variety of accounts given by the victim/survivor to agencies".
- Change language from "There is no evidence to corroborate her account" to "There is insufficient evidence against the perpetrator for further action to be taken".
- Change language from "These are just allegations" to "The victim/survivor has disclosed abuse".
- Change language from "The onus is on the victim/survivor to engage with us" to "Does anyone have any suggestions on how to safely engage with the victim/survivor?"
- Change language from "She let him in, despite there being bail conditions in place" to "The perpetrator broke his bail conditions by attending the address".
- Change language from "The victim/survivor failed to engage" to "Our agency was unable to engage with the victim/survivor".
- Change language from "The victim/survivor is continuing to have contact with the perpetrator despite the risks" to "There is a risk due to the perpetrator continuing to have contact with the victim/survivor".
- Change language from "She has placed herself at serious risk of abuse because of her substance use" to "The victim/survivor has substance use issues which increases her vulnerability".

Source: Brighton and Hove Safeguarding Adults Board Thematic Review.

Understanding trauma and its impact on a person's communication

It is vital to understand trauma responses. What is happening in the body when someone is traumatised or in advertently we are retraumatising them – we are working with them when they are in survival mode – what does that mean for 'engagement' and what may we see and experience?

Examples: when we aren't able to engage someone it could be because they are dissociating or in fight or flight response to us actually trying to talk with them, or we may say something that triggers a trauma response and therefore in simplistic terms a person enters one of the trauma states (fight, flight, freeze or fawn). They change the subject, try to get away or stand up and show us how physically bigger they are than us. Also how a traumatised brain works e.g. focus/memory they will never remember because they are in a heightened state of anxiety that, for example, that we said we would meet them at the office on Tuesday at 10am. We should consider communication methods which may be able to facilitate contact and engagement which they would find easier to participate in for a first meeting for example. Are we flexible in our approach? When in a trauma state a person can't process information in the way that people who aren't in a trauma state can.

When liaising with multi agency partners, what do we understand of this person's communication/what can we learn. What is successful and what is not. How do they engage (or not)

about their trauma? What can we share about how this may present and the impact of this trauma in their responses and communication?, this will help us prepare to communicate and try to engage with this person? This can ensure we are delivering our making safeguarding personal approach in our practice.

Practice examples

- Communicating in a different way. Use letters/WhatsApp for questions for them to take away, digest and respond to when they are not in a heightened state of anxiety.
- Ensuring adequate preparation – taking the time to read the person's notes before we contact them, preventing re traumatisation through re telling of their trauma, promoting building trust
- working in pairs to notice a person's responses/language and taking opportunities immediately afterwards to reflect together – did you notice when I mentioned X he did Y etc. reviewing what worked and what seemed less successful.
- Giving a person information about how trauma impacts on interactions and developing formulation and work arounds that suits the person

Following the DJT Safeguarding Adults Review in West Sussex further learning on practice tips on providing a trauma informed approach in adult safeguarding have been developed: Trauma-informed approach learning briefing (westsussexsab.org.uk).

References

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MA Bellis, K Ashton, K Hughes, K Ford, J Bishop, S Paranjothy. (2016).Adverse Childhood Experiences (ACEs) in Wales and their Impact on Health in the Adult Population: Mariana Dyakova

National Trauma Training Programme - What is meant by trauma? (transformingpsychologicaltrauma.scot)

SAMHSA (2014) "SAMHSA's Concept of Trauma & Guidance for a Trauma-Informed Approach" Available at: https://store.samhsa.gov/shin/content/SMA14-4884/SMA14-4884.pdf

Treisman, K. (2017) Working with Relational and Developmental Trauma in Children and Adolescents. Routledge: London

Working definition of trauma-informed practice. (2022). Office for Health Improvement and Disparities. (Working definition of trauma-informed practice - GOV.UK (www.gov.uk))

Further reading

Brighton and Hove Safeguarding Adults Board (2023) Thematic-Learning-Review-Final-Report.pdf (bhsab.org.uk)

East Sussex Safeguarding Adults Boards (2020) SAR-Adult-C-final-report.pdf (eastsussexsab.org.uk)

East Sussex Safeguarding Board | Thematic Review: Working with Multiple Complex Needs and Trauma (eastsussexsab.org.uk)

West Sussex Safeguarding Adults Board (2023) Safeguarding Adults Review in respect of DJT (westsussexsab.org.uk)

West Sussex Safeguarding Adults Board | Learning and podcasts | Safeguarding Adults Board (westsussexsab.org.uk)

2. Section 2: Sussex safeguarding adults procedures

2.1. Sussex safeguarding adults procedures

2.1.1. Preventing harm and abuse

This section outlines a range of strategies and considerations about the prevention of abuse and neglect of adults, from raising public awareness, to utilising approaches that empower the individual to be able to recognise, address and report abuse.

2.1.2. Prevention in safeguarding

The most effective way to safeguard adults from abuse is to enable them to safeguard themselves. For some people this may involve their own support networks, or support or care services, depending on their individual circumstances.

Effective prevention in safeguarding is not about over–protective or risk averse practice. The prevention of abuse should occur in the context of person-centred support and personalisation, with individuals empowered to make choices and be supported to manage risks. Prevention of abuse includes multi-agency working (including information sharing), community safety, community participation and public awareness, as well as awareness raising and skills development with adults at risk.

There are many ways in which people can reduce the risks they may face, including:

- Recognising potential risks to themselves and considering how they wish to reduce the risks of being harmed or exploited.
- Identifying what strengths, skills, support and networks they could use to avoid potentially abusive situations.
- Being aware of what to do if an abusive situation arises i.e. how to get help, how to report concerns.

All processes and checks for those who work with adults must include measures to avoid abuse occurring, including:

- Staff recruitment and vetting.
- Policies and procedures staff work to, including confidential reporting (whistle-blowing) and complaints procedures.
- Staff induction and training, including safeguarding adults policy and procedures and awareness of abuse and how to raise safeguarding concerns.
- Staff supervision and support.
- Professional codes of conduct or practice and relevant service standards e.g. compliance with standards as detailed by the Care Quality Commission.

Employers should ensure they:

- Meet their responsibilities for obtaining Disclosure & Barring Service (DBS) checks and referring to the DBS and relevant professional bodies.
- Meet their professional responsibilities under employment and other legislation.
- Have robust management systems in place for training and support.

Agencies and organisations must have a local policy and procedure in place detailing how these processes will be implemented to safeguard adults. If managers are not upholding their responsibilities this could leave adults at risk of abuse.

Commissioning for better outcomes

Safeguarding should be integral to the commissioning process for care services.

SCIE have produced guides to support NHS and local authority commissioners of care homes to ensure that safeguarding is central to the commissioning process and a primary concern for residential and nursing care home providers:

- Social Care Institute for Excellence 2012, Safeguarding and quality in commissioning care homes
- Social Care Institute for Excellence 2012, Commissioning care homes: common safeguarding challenges

Family and friends as carers

Family and friends as carers are often the mainstay of ensuring that people are protected from abuse and as such they should be supported and aided in this task. Carers could be at risk of abuse themselves due to their caring role. Carers are entitled to an assessment of their needs in their own right.

It is important to ensure that family and friends as carers are aware of how to get advice and help when needed, to support them and avoid potential risk of abuse to them or the adult. All carers should have access to information regarding the Sussex Safeguarding Adults Policy and Procedures, so they can recognise and prevent abuse, raise concerns and seek advice or support where needed.

2.1.3. Promoting wellbeing

All organisations working with adults who are, or may be at risk of, abuse and neglect, must aim to ensure that adults in their care remain safeguarded from harm. This should underpin every activity through effective safeguarding adults work.

The Care Act states that local authorities must promote wellbeing when carrying out any of their care and support functions in respect of a person. This may sometimes be referred to as ‘the wellbeing principle’ because it is a guiding principle that puts wellbeing at the heart of care and support.

‘Wellbeing’ is a broad concept, and it is described as relating to the following areas:

- Personal dignity (including treatment of the individual with respect).
- Physical and mental health and emotional wellbeing.
- Protection from abuse and neglect.
- Control by the individual over their day-to-day life.
- Participation in work, education, training or recreation.
- Social and economic wellbeing.
- Domestic, family and personal.
- Suitability of accommodation.
- The individual’s contribution to society.

The wellbeing principle should apply to all agencies involved in safeguarding adults.

2.2. Recognising and reporting abuse and neglect

2.2.1. Introduction

This section sets out the signs of abuse and neglect, the contexts in which this takes place, and details the process for raising safeguarding concerns.

Everyone is responsible for preventing abuse by raising any concerns they have. It really is ‘Everyone’s Business’.

No-one should have to live with abuse or neglect. It is always wrong, whatever the circumstances. Don’t assume that someone else is doing something about the situation.

Abuse and neglect could be prevented if concerns are identified and raised as early as possible. It is important that everyone knows what to look for, and who they can go to for advice and support.

Changes in someone’s physical or emotional state, or injuries that cannot be explained, may be a sign of abuse.

2.2.2. Who may be at risk of abuse or neglect?

Under the Care Act 2014, specific adult safeguarding duties apply to any adult (18 years or over) who:

- has care and support needs and,
- is experiencing, or is at risk of, abuse or neglect and,
- is unable to protect themselves because of their care and support needs.

Local authorities also have safeguarding responsibilities for carers and a general duty to promote the wellbeing of the wider population in the communities they serve.

Safeguarding duties apply regardless of whether a person’s care and support needs are being met, whether by the local authority or anyone else. They also apply to people who pay for their own care and support services.

An adult with care and support needs may be:

- a person with a physical disability, a learning difficulty or a sensory impairment,
- someone with mental health needs, including dementia or a personality disorder,
- a person with a long-term health condition,
- someone who misuses substances or alcohol to the extent that it affects their ability to manage day-to-day living.

This is not an exhaustive list. In its definition of who should receive a safeguarding response, the legislation could also include people who are victims of sexual exploitation, domestic abuse and modern slavery. These are all largely criminal matters, and safeguarding duties would not be an alternative to police involvement and would only be applicable where an adult is not able to protect themselves due to their care and support needs.

Adult safeguarding duties apply in whatever setting people live, with the exception of prisons and approved premises such as bail hostels. They apply regardless of whether or not someone has the ability to make specific decisions for themselves at specific times. There may be times when an adult has care and support needs and is unable to protect themselves for a short, temporary period, for example, if they were significantly unwell due to an infection.

The wellbeing of people who live and sleep on the street may need to be considered under a safeguarding response. Homelessness may be a consequence of health problems and is very commonly a cause of worsening health. Many people who ‘sleep rough’ may have significant needs in relation to physical health, mental health and substance misuse. Amongst the population of people who sleep rough there are significantly higher prevalence rates of organic and functional mental illness, substance use, acquired brain injury, autistic spectrum conditions and learning difficulties, and some communicable diseases. Any of these conditions can contribute to behaviours which result in self-neglect. The requirements set out in Section 2.8 Safeguarding and Self-Neglect may need to be considered for people who sleep rough.

People with care and support needs are not inherently vulnerable, but they may come to be at risk of abuse or neglect at any point due to:

- physical or mental ill-health,
- becoming disabled,
- frailty,
- not having support networks,
- inappropriate accommodation,
- financial circumstances or,
- being socially isolated.

Abuse can happen anywhere, for example:

- at home,
- in a care home, hospital or day service,
- at work or college, or,
- in a public place or in the community.

Abuse can be caused by anyone, for example:

- a partner, carer, relative, child, neighbour or friend,
- a health, social-care or other worker, whether they are paid or a volunteer,
- a stranger, or,
- an adult with care and support needs.

Family and friends as carers may be involved in situations which require a safeguarding response, for example:

- A carer may witness or speak up about abuse or neglect.
- A carer may experience intentional or unintentional harm from the adult they are trying to support, or from professionals and organisations they are in contact with.
- A carer may intentionally, or unintentionally, harm or neglect the adult they support on their own or with others.

Assessment of both the carer and the adult they care for must include consideration of the wellbeing of both of them. In these situations 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.

Below is a list of types of abuse. This list is not exhaustive.

Physical abuse

Behaviour includes being pushed, shaken, pinched, hit, held down, locked in a room, restrained inappropriately, or knowingly giving an adult too much or not enough medication.

Sexual abuse

Behaviour includes an adult being made to take part in sexual activity when they do not, or cannot, consent to this. It includes rape, indecent exposure, inappropriate looking or touching, or sexual activity where the other person is in a position of power or authority.

Financial abuse

Behaviour includes misusing or stealing an adult’s money or belongings, fraud, postal or internet scams tricking adults out of money, or pressuring an adult into making decisions about their financial affairs, including decisions involving wills and property.

Neglect

Behaviour includes not meeting an adult’s physical, medical or emotional needs, either deliberately, or by failing to understand these. It includes ignoring an adult’s needs, or not providing them with essential things to meet their needs, such as medication, food, water, shelter and warmth.

Self-neglect

Behaviour includes being unable, or unwilling, to care for their own essential needs, including their health or surroundings (for example, their home may be infested by rats or very unclean, or there may be a fire risk due to their obsessive hoarding).

Psychological or emotional abuse

Behaviour includes being shouted at, ridiculed or bullied, threatened, humiliated, blamed for something they haven't done, or controlled by intimidation or fear. It includes harassment, verbal abuse, cyber-bullying (bullying which takes place online or through a mobile phone) and isolation.

Discriminatory abuse

Behaviour includes forms of harassment, ill-treatment, threats or insults because of an adult's race, age, culture, gender, gender identity, religion, sexuality, physical or learning disability, or mental-health needs. Discriminatory abuse can also be called 'hate crime'.

Modern slavery

Behaviour includes an adult being forced to work for little or no pay (including in the sex trade), being held against their will, tortured, abused or treated badly by others. For more information on modern slavery, see Section 3.1.19 Modern Slavery Act 2015.

Domestic violence

Behaviour includes psychological, physical, sexual, financial or emotional abuse by someone who is a family member or is, or has been, in a close relationship with the adult being abused. This may be a one-off incident or a pattern of incidents or threats, violence, controlling or coercive behaviour. It also includes so called 'honour' based violence, being forced to marry or undergo genital mutilation.

Organisational abuse

Behaviour includes neglect and providing poor care in a care setting such as a hospital or care home, or in an adult's own home. This may be a one-off incident, repeated incidents or on-going ill-treatment. It could be due to neglect or poor care because of the arrangements, processes and practices in an organisation.

More information

For more information visit the Social Care Institute for Excellence 2020, Types and indicators of abuse.

2.2.3. Scenarios in which abuse may take place

Controlling or coercive behaviour

This 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. Section 76 of the Serious Crime Act 2015 has created an offence in relation to coercive control within domestic abuse and sets out the importance of recognising the harm and cumulative impact on the victim caused by these patterns of behaviour.

Stalking and harassment

Stalking refers to unwanted, persistent or obsessive attention by an individual or group towards another person causing fear, anxiety, emotional or psychological distress to the victim. Harassment can include repeated attempts to impose unwanted communications and contact upon a victim in a manner which causes fear or distress to the victim. Stalking and harassment behaviours may include nuisance telephone calls, sending excessive emails, regularly sending gifts, following the person or spying on them and making death threats. The Protection from Harassment Act 1997 makes stalking a specific offence.

Hate crime

This 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. Such incidents may constitute a criminal offence.

Cuckooing

This is a form of crime in which drug dealers take over the home of a vulnerable person in order to use it as a base for criminal activity. Organised criminal groups are increasingly targeting adults with care and support needs in this way, and the level of coercion and control involved with cuckooing often leaves the victims with little choice but to cooperate with the perpetrators.

County Lines

This is the police term for groups who are supplying drugs to suburban areas and market and coastal towns using dedicated mobile phone lines or “deal lines”. It can involve child criminal exploitation and using adults who are vulnerable to move drugs and money. Groups establish a base in the market location, typically by taking over the homes of local adults by force or coercion in a practice referred to as ‘cuckooing’. The Home Office County Lines guidance describes County Lines as a major, cross-cutting issue involving drugs, violence, safeguarding, criminal and sexual exploitation, modern slavery, and missing persons. The response to tackle this activity involves the police, the National Crime Agency, a wide range of government departments, local government agencies, voluntary and community organisations and groups. County Lines activity and the associated violence, drug dealing and exploitation have a devastating impact on young people, adults at risk of exploitation and local communities.

‘Honour’-based violence

This is a crime or incident which may have been committed to protect or defend the perceived ‘honour’ of the family and/or community. Women are predominantly (but not exclusively) the victims and the violence is often committed with a degree of collusion from family members and/or the

community. Many victims are so isolated and controlled that they are unable to contact the police or other organisations.

Forced marriage

This 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 disabilities and people lacking capacity.

Female genital mutilation (FGM)

This 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 first born, during childhood or adolescence, just before marriage or during the first pregnancy. FGM constitutes a form of abuse and violence against women and girls. In England and Wales the practice is illegal under the Female Genital Mutilation Act 2003.

Sexual exploitation

This involves exploitative situations, contexts and relationships where adults at risk (or a third person or persons) receive 'something' (e.g. food, accommodation, drugs, alcohol, cigarettes, affection, gifts, money) as a result of them performing, and/or another or others performing on them, sexual activities. It affects men as well as women. People who are sexually exploited do not always perceive that they are being exploited. Those exploiting the adult have power over them such as by virtue of their age, gender, physical strength, and economic or other resources. There is a distinct inequality in the relationship.

Extremism by Radicalisation: Prevent

This is a key part of the government's counter-terrorism strategy. Its aim is to stop people becoming terrorists, or supporting terrorism, including preventing the exploitation of susceptible people who are at risk of being drawn into violent extremism by radicalisation.

For more information about the Prevent strategy, visit the Gov.uk website 2021, Prevent duty guidance.

Sexual and Violent Offenders: Multi-Agency Public Protection Arrangements (MAPPA)

This is a framework to reduce the risks posed by sexual and violent offenders in order to protect the public, including previous victims, from serious harm.

For more information about MAPPA, visit the Gov.uk website 2023, Multi-agency public protection arrangements (MAPPA): Guidance.

Abuse by children

If a child or children is/are causing harm to an adult, this should be dealt with under the safeguarding adults' policy and procedures but will also need to involve the local authority Children's Services.

2.2.4. Raising a safeguarding concern

Anybody can raise a safeguarding concern for themselves or for another person.

What is a safeguarding concern?

A 'safeguarding concern' is when any person has a reasonable cause to believe that:

- an adult has needs for care and support and,
- may be experiencing, or is at risk of abuse or neglect and,
- is unable to protect themselves from that abuse or neglect because of their care and support needs.

If on the basis of the presenting information available, it appears that these stages are met then a safeguarding concern should always be raised with the local authority. In an emergency, the emergency services should be contacted.

Whenever there is information which indicates that an adult may be, or is, at risk of experiencing abuse, neglect or exploitation, this should be shared with the local authority even when it is also shared with other agencies that may need to be advised, such as the Care Quality Commission or the police.

Where possible and safe to do so, the person contacting the local authority about a safeguarding concern would have had a conversation with the adult regarding their consent, views and wishes.

The exception to this could be if the person contacting the local authority was unable to have a conversation because of concerns that it would have increased the risk for the adult.

Remember:

- You may not be the only person who has noticed or experienced the abuse or neglect.
- There could be lots of people who have 'low-level' concerns about the same thing but if you do not pass the information on it cannot be addressed.
- Even if it has not affected you, or someone you know directly, it could be affecting someone else who may not be able, or in a position, to say something about it.
- Abuse and neglect does not just appear from nowhere. Sharing information before something becomes abuse or neglect is really important – do not think you are making a fuss about nothing!

Immediate actions to be considered by the person raising the concern

- Make an evaluation of any risks and take steps to ensure that the adult or others are not in immediate danger. Ensure that other people are also not in danger.
- If a crime is in progress, or life is at risk, dial emergency services on 999.
- Encourage and support the adult to report the matter to the police if a crime is suspected and not an emergency situation.
- Safeguard any potential evidence. Do not tamper with, clean up or move any potential evidence if a crime is suspected. Expert advice may be needed from the police.
- If you believe a crime has been committed, contact the police and then contact Adult Social Care.
- Contact Children's Services if a child or young person is also at risk.
- If you are a member of staff, inform your manager, unless your manager is implicated, then talk to an appropriate independent manager.
- Record any information received and all actions taken.

Good practice guidance to disclosure

Talk with the adult as soon as possible unless this would put them, others or you at risk.

- Speak in a private and safe place.
- Accept what the adult is saying without judgement.
- Don't 'interview' the adult - just gather information to establish the basic facts. This will help when you inform Adult Social Care or the police. Ask the adult what they would like to happen.
- Never promise the adult that you'll keep what they tell you confidential; explain who you will tell and why.
- If there are grounds to override an adult's consent to share information, explain what these are.
- Explain to the adult how they will be involved and kept informed.
- Provide information and advice on keeping safe and the safeguarding process.
- Keep an accurate record of your conversations, and actions or decisions taken by you and others.

Reporting an adult safeguarding concern to the local authority

For information about how to report suspected abuse or neglect of an adult at risk, please refer to the relevant individual Safeguarding Adults Board website.

- Brighton & Hove Safeguarding Adults Board
- East Sussex Safeguarding Adults Board
- West Sussex Safeguarding Adults Board

Reporting a concern about a child to the local authority

For information about how to report suspected abuse or neglect of a child, please refer to the relevant individual Safeguarding Children Partnership.

- Brighton & Hove Safeguarding Children Partnership
- East Sussex Safeguarding Children Partnership
- West Sussex Safeguarding Children Partnership

2.2.5. Consent and empowerment of the adult when raising a safeguarding concern

A Making Safeguarding Personal approach is about ensuring adults have their right to make decisions about their own lives. As a general principle, no action should be taken for, or on behalf of, any adult without first obtaining their consent.

If the adult is not the person raising the safeguarding concern, wherever possible every effort should be made to seek their views and agreement regarding this, unless doing so is likely to increase the risk to the adult or put others at risk.

Adults who may be at risk of, or who are, experiencing abuse and neglect, may often feel disempowered by the abuse, and acting without involving them or seeking their consent will often disempower them further.

Empowering adults in this situation involves a proactive approach to seeking consent and maximising the person's involvement in decisions about their care, safety and protection, and this includes decisions regarding whether to raise a safeguarding concern.

All interventions must take into account the mental capacity of the adult to make informed choices and specifically the adult's ability:

- To understand the implications of their situation and to take action themselves (or with support) to prevent abuse.
- To participate to the fullest extent possible in decision-making about safeguarding interventions.

Having a conversation with the adult

Wherever possible there should be a conversation with the adult at the earliest opportunity to establish their views including:

- Whether they see the issue as a cause for concern or not.
- What they want to happen, if anything, including any actions they may or may not want to take themselves.

Things to consider:

- Always speak to the adult in a private place where they are likely to feel safe and inform them about the concerns.
- Use open questions e.g. ‘tell, explain, describe’ to gain an understanding of the situation, the adult’s wishes, what actions may need to be taken, including raising a safeguarding concern. Do not ask leading questions or begin to make enquiries inappropriately.
- If something has happened, get the adult’s views on what has happened and what they want done about it.
- Give the adult information about advice, support and different options that may be available to them in an accessible format, and about the safeguarding adults’ procedures and how these could help to make them safer, and about responsibilities of people working with adults to share information where there may be concerns of abuse or neglect.
- Support the adult to ask questions about issues of confidentiality.
- Consider any advocacy support needs.
- Explain what will happen next, and how they will be kept informed and supported.

Balancing individual choice and risk

An adult’s right to make choices about their own safety has to be balanced with the rights of others to be safe. Information must only be shared on a ‘need to know basis’ when it is in the interests of the adult. If it is not possible to have obtained informed consent and other adults are at risk of abuse or neglect, it may be necessary to override the requirement to share information.

The individual/practitioner will have to assess whether providing the information will be necessary and consider the risk of not sharing the information.

In these situations the adult must always be:

- Advised about what information will be shared, with whom and the reasons for this.
- Advised that their views and wishes will be respected as far as possible by the local authority or other agencies in relation to any response they may have a duty to make.
- Provided with relevant information regarding what happens when a local authority is advised of a safeguarding concern.

It is not possible, nor arguably desirable, to eliminate risk. Empowerment in safeguarding involves risk management that is based on understanding the autonomy of the adult and how they view the risks they face. There may be risks the adult welcomes because they enhance their quality of life, risks the adult is prepared to tolerate and risks they want to eliminate.

If the adult has capacity to make an informed decision that they do not want the information to be shared, and there is no indication that they may be experiencing undue influence, then the adult's wishes would be respected. However there are circumstances in which an adult's consent may be overridden, including:

- If the adult is at significant risk of serious harm.
- If there is a risk to others.
- If a criminal offence has taken place.
- Where action is needed in the public interest, such as where a member of staff is in a position of trust.

Adults who lack capacity to make relevant decisions

The Mental Capacity Act 2005 was designed to protect and restore power to those vulnerable people who lack capacity.

Where an adult is unable to make a specific decision for themselves, the Act sets out a clear process that must be followed before a decision can be made on the adult's behalf.

Where an adult is found to lack capacity to make a specific decision any action taken must be taken in their best interests.

Professionals and other staff need to understand and always work in-line with the Mental Capacity Act 2005.

If the adult lacks capacity to make decisions about the incident and their ability to maintain their safety and they do not want a safeguarding concern to be raised, and / or other action to be taken, professionals have a duty to act in their best interests in accordance with the Mental Capacity Act 2005.

Adults who are thought to lack capacity to make a specific decision need to be provided with all practicable support to enable them to make their own decision before it can be concluded that they lack capacity regarding the decision and a best interests process is entered into. This may be achieved in a variety of ways such as the help of a family member or friend (as long as they are not the person thought to be the cause of risk), an advocate or Independent Mental Capacity Advocate, an interpreter or other communication assistance or aids.

Where a crime may have been committed

If it is suspected that a crime may have been committed, there should always be a conversation with the adult regarding whether they wish the police to be involved.

If the adult does not want the police to be involved, this does not override a practitioner's responsibility to share information regarding a potential or actual offence with them.

Such situations should always be approached sensitively. The adult should be advised that the police will be contacted and assured that the police will be informed that the adult does not wish to pursue this matter or speak to the police. It is for the police to determine if they feel it is necessary for them to speak to the adult, or if there is further action they may need to take.

See Section 2.4 Safeguarding and Criminal Investigations for additional guidance.

2.2.6. What happens next?

When the local authority receives a safeguarding concern, they will check to see if they already have any other information that would help determine how best to support the adult and address any immediate risks. This will also take account of the adult's wishes and what they want to happen, as far as this is known.

Under Section 42 of the Care Act, the safeguarding duties 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.

These are referred to as the 'three key tests'. If these tests are met the local authority has a legal duty to make enquiries or cause others to do so.

If the presenting information is unclear proportionate fact finding should be undertaken to support decision making and determine if the three key tests are met or not.

Enquiries will always be undertaken using the six principles outlined in the Care Act and using a Making Safeguarding Personal approach.

In undertaking an enquiry the local authority will seek relevant information, including talking with the adult who might be at risk as well as to the person who raised the concern. The local authority will always consult with the adult unless there is a significant reason not to do this, for example if talking to them at this point might put them at further risk.

It is important to note that concerns that do not meet the threshold for the Section 42 duty to make enquiries may be resolved through other actions, for example an assessment of care and support needs, or passing information onto another service or agency.

The person who raised the safeguarding concern should always be informed by the local authority that it has been received and where appropriate notified as to the outcome of how the concern is being progressed. Adult Social Care can be contacted directly for further information on specific safeguarding concerns, in accordance with information sharing protocols.

2.3. Receiving concerns and undertaking enquiries

2.3.1. Introduction

This section outlines the framework which should be followed when responding to safeguarding concerns and undertaking enquiries. It sets out the expectations regarding the standards, roles and responsibilities of agencies and organisations and practice of staff and managers involved in safeguarding work.

- Figure 1: Overview of the safeguarding process (PDF, 240KB)

Please note that there is scope at each stage of the enquiry to review the situation and consider if it is necessary to continue with the safeguarding enquiry or if it can be safely concluded at that point. Decision-making will be based on professional judgement and informed by a combination of:

- the adult's wishes,
- an analysis of risks,
- whether actions already taken have resolved the situation.

2.3.2. Responding to safeguarding concerns

When the local authority receives a safeguarding concern, it will initially check if any action is required to address immediate risks, for example by contacting emergency services if there is an imminent serious or life-threatening risk to the adult or others.

The Care Act places a duty on the local authority to undertake a safeguarding enquiry 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.

If the information received gives the local authority reasonable cause to suspect that these three key tests are met, then the duty to enquire is triggered.

If the information received is not sufficient to enable the local authority to make a reasonable judgement as to whether the duty is triggered, then it may seek further information until there is sufficient information to make a decision. This could include:

- reviewing previous records,
- gathering further information from the person who raised the concern.

Once the duty to enquire is triggered any following actions undertaken are taken under Section 42 of the Care Act, where each local authority must make enquiries or cause others to do so. An enquiry should establish whether any action needs to be taken to prevent or stop abuse or neglect and if so, by whom. An enquiry must take into account the adult's views as to what actions, if any, they wish to happen as part of the enquiry (see Section 2.3.3 Undertaking a safeguarding enquiry).

Care and support needs

The decision to carry out a safeguarding enquiry does not depend on the adult's eligibility to receive local authority services, and the duty extends to someone who is self-funding their care. There is no legal definition of care and support needs, each case needs to be dealt with and considered on its own set of facts. Care and support could be the mixture of practical, financial and emotional support for adults who need extra help to manage their lives and be independent, for example

accommodation in a care home, care and support in the community, health or social care professional support.

Where the adult does not meet the criteria as outlined in Section 42 of the Care Act, the local authority is not required by law to carry out a safeguarding enquiry. However the local authority may do so at its own discretion if the local authority believes it is proportionate to do so, and it will promote the adult's wellbeing and support a preventative agenda. Situations in which the local authority may decide to use its discretionary power to undertake a safeguarding enquiry could include:

- where a concern is raised which does not trigger a response under Section 42, but the significant level of risk warrants a response under safeguarding procedures, or,
- where an adult has passed away, but an enquiry into the concerns raised is still required due to potential risk to others. Consideration should be given to whether the case meets the criteria for the Sussex Adult Death Protocol- See Section 2.3.4 'Interface with other investigations and reviews'. A referral for a Safeguarding Adults Review (SAR) should also be considered. Refer to the Sussex SAR Protocol.

If the local authority considers that the duty is not triggered to undertake an enquiry, the person making this decision must record their decision making as to why there was not reasonable cause to suspect that the three key tests were met. The local authority will consider any other appropriate actions to support the adult, for example the provision of preventative services, providing advice and support or carrying out an assessment of need.

A safeguarding enquiry

A safeguarding enquiry is any action taken or instigated by the local authority in response to a concern that abuse or neglect may be taking place.

The purpose of the safeguarding enquiry is to establish with the adult and/or their representative(s) what action, if any, is required in relation to the concern and who should take such action. The first priority should always be to ensure the safety and well-being of the adult. However this should be carefully balanced with the adult's views and wishes and any risks to others. The adult should experience the safeguarding process as empowering and supportive.

The specific objectives of an enquiry into abuse or neglect are to, where possible:

- Establish facts.
- Ascertain the adult's views, wishes and desired outcomes.
- Protect the adult from abuse or neglect, in accordance with their wishes.
- Assess the needs of the adult for protection, support and redress, and how these might be met.
- Make decisions as to what action should be taken with regard to the person or organisation thought to be the cause of risk.
- Enable the adult to achieve resolution and recovery.

It may transpire it was reasonably suspected the concern regarding the adult met the three key tests, but after closer examination as part of the enquiry, they do not. In these instances the enquiry can be concluded (See Section 2.3.11 Concluding a safeguarding enquiry).

Enquiry timescales

Where there is risk of abuse or neglect, prompt action must be taken to ensure an effective response to the concern(s). The principle of ‘no delay’ emphasises that enquiries must be conducted in a timely way, and one which is proportionate to the presenting level of risk.

In practice, this means that the pace of the enquiry will be determined by the individual circumstances of the adult, the outcomes they wish to achieve and the risks involved.

At the outset of the enquiry the person coordinating the enquiry should determine what timescales are necessary to respond to the concern(s). The following must always be in place:

- Clear systems for monitoring and reviewing the progress of enquiry actions to avoid undue delays. This is including where enquires are made by other organisations.
- Clear recording of the reasons for decisions regarding the timescales for enquiry and, if they need to be reviewed, the reasons for this, the adult’s views and agreements regarding this, and the measures in place to ensure the timescales will be achieved.

Availability of resources is not seen as an acceptable reason for delay where an adult is, or may be, experiencing abuse or neglect. There must also be clear and agreed local multi-agency escalation processes in place to address any delays should these occur.

Roles and responsibilities

The local authority has the lead coordinating role for safeguarding enquiries.

The local authority is responsible for:

- Ensuring that the enquiry is undertaken.
- Ensuring the enquiry meets required standards.
- Ensuring that any actions arising from the enquiry are completed.

At the point where a safeguarding enquiry is started, the local authority will appoint a Lead Enquiry Officer (LEO). Their overall role is to have responsibility for co-ordinating responses and decision making, and to ensure that enquiry actions are undertaken in accordance with Care Act duties and statutory guidance.

In order to address the safeguarding concern(s) and ongoing risks, an enquiry may require actions to be undertaken by a number of different individuals, practitioners and organisations. It is important that this is co-ordinated as effectively as possible, whilst maintaining a focus on the adult and the outcomes they want to achieve.

Enquiry supervision

Skilled and knowledgeable supervision focused on outcomes for adults is critical in adult safeguarding. Managers have a central role in ensuring high standards of practice and that practitioners are properly equipped and supported. Local authorities will ensure arrangements are in place to ensure effective and regular practice supervision of the Lead Enquiry Officer, and to ensure that the enquiry meets legal duties and practice standards.

Responsibilities of other organisations and agencies

The Care Act recognises that safeguarding individuals requires multi-agency responsibility and emphasises the need for co-operation and partnership work. If there is a suspected crime then the police lead on all criminal investigations (see Section 2.4 Safeguarding and Criminal Investigations). Health related concerns should involve organisations such as the relevant Integrated Care Board and/or Health Trust. Organisations and agencies are required to respond to safeguarding concerns and undertake enquiries when these are requested by the local authority.

Inter-authority safeguarding arrangements

When a safeguarding concern is raised for an adult who is temporarily in a local authority area where they are not ordinarily resident or for an adult who has been placed in residential or nursing care in another local authority area, the host authority (i.e. the area where the abuse or neglect occurred) will take the lead in terms of responding to the safeguarding concern, using their local safeguarding adult procedures. The placing authority/Integrated Care Board should be involved in, and contribute to, any enquiry undertaken. In certain situations, discussions will need to take place between the host and placing authorities as to who is best placed to take the lead in responding to the concern and coordinate any enquiry. For further guidance please refer to the Association of Directors of Adult Social Services (ADASS) 2016, Inter-authority Safeguarding Arrangements.

Where a safeguarding enquiry is being undertaken by a local authority and the adult moves to reside in another local authority then the local authority who is undertaking the enquiry will ensure contact is made with the new local authority to pass on any information as required and agree roles and responsibilities in concluding the enquiry.

Young people moving into adulthood and care leavers (transition)

Where a concern of abuse relates to a person under 18 years, child protection procedures will apply. If the person is 17 years of age and about to become 18, discussion should be held between child protection and adult services regarding which service and procedures would be most appropriate to take forward the enquiry if one is required.

Robust joint working arrangements between Children's Services and Adult Social Care need to be put in place to ensure that the medical, psychosocial and vocational needs of children leaving care are addressed as they move to adulthood.

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, well-being and choice.

2.3.3. Undertaking a safeguarding enquiry

When the local authority undertakes a safeguarding enquiry, it is important that the next steps are effectively planned and coordinated.

The purpose of planning the enquiry is to agree upon an action plan which clarifies the main focus of the enquiry, who should carry out specific actions, and within what timescales. Consideration must be given to the most proportionate and least intrusive response informed by the wishes of the adult and professional judgements about risks.

Planning should always consider a range of options. Action may be primarily supportive or therapeutic, or it may involve the application of civil orders, sanctions, regulatory activity, criminal prosecution, disciplinary action or de-registration from a professional body. Planning can include consideration of any modifications that may be required to services the adult is receiving, for example, making amendments to existing home care arrangements, such as a change of care worker or agency. Planning should also take into account any contingency arrangements required to respond effectively should the situation change or risks escalate.

A decision will need to be made as to whether a formal planning meeting is required (see Section 2.3.6 Safeguarding meetings), or whether a discussion, for example by telephone, will suffice. Planning should be seen as an ongoing process rather than a single event and can be undertaken as a series of conversations or meetings with relevant people and agencies. In some cases the complexity of the situation will require a formal multi-agency meeting to be held.

2.3.4. Interface with other investigations and reviews

It may be necessary to consider whether the safeguarding enquiry meets the criteria for other investigations and reviews.

Investigations that may need to be coordinated with a safeguarding enquiry could include those outlined below.

Criminal investigations

There may also be criminal investigation running concurrently with the safeguarding enquiry (see Section 2.4 Safeguarding and Criminal Investigations).

Serious incident investigations

Serious Incidents include acts or omissions occurring as part of NHS-funded healthcare (including in the community) that result in; unexpected or avoidable death, unexpected or avoidable injury resulting in serious harm or actual or alleged abuse; sexual abuse, physical or psychological ill-treatment, or acts of omission which constitute neglect, exploitation, financial or material abuse, discriminative and organisational abuse, self-neglect, domestic abuse, human trafficking and modern day slavery where:

- healthcare did not take appropriate action/intervention to safeguard against such abuse occurring or,
- where abuse occurred during the provision of NHS-funded care.

For further detail please see NHS England, Serious Incident Framework.

Investigations carried out under the Serious Incident Framework are conducted for the purposes of learning to prevent recurrence.

Serious Incidents must be declared within the NHS by appropriate NHS staff as soon as possible and immediate action must be taken to establish the facts, ensure the safety of the patient(s), other services users and staff, and to secure all relevant evidence to support further investigation.

A number of events that are reported as a serious incident are often safeguarding concerns too (for example, neglect or poor care in a health setting). Whilst such incidents should always be a serious incident and reported as serious incidents, they are also a safeguarding concern and a safeguarding referral must also be raised in line with these procedures.

The coordination of serious incident investigations and safeguarding enquiries requires shared understanding of each organisation's statutory and legal responsibilities, effective communication, transparency, learning and co-operation across the multi-agency safeguarding adults' partnership.

As the focus of a safeguarding enquiry is different from a serious incident investigation, the findings of one do not in itself determine the conclusions of the other. The Lead Enquiry Officer for the safeguarding enquiry and the lead practitioner undertaking the serious incident investigation must plan and co-ordinate the approach and tasks within these processes.

Child protection and safeguarding procedures

If there are concerns about a child as well as an adult safeguarding enquiry, the Lead Enquiry Officer should link with the Children's Services to agree any co-ordinated actions in line with both the Sussex Child Protection and Safeguarding Procedures and these Sussex Safeguarding Adults Procedures.

Reviews/investigations which may be undertaken following the death or significant injury of an individual

It is likely that a safeguarding enquiry would precede any decision making about the reviews below being undertaken, and information for safeguarding enquiries undertaken for that individual, or other affected individuals, may be shared as part of the review process.

Sussex Adult Death Protocol

The Sussex Adult Death Protocol provides a framework for establishing an agreed standard between partners to ensure a rapid, coordinated response to unexpected adult deaths involving abuse and neglect.

The adult death protocol applies to the following criteria:

- an adult dies in unexpected or unnatural circumstances, and
- there is a suspicion, or it is known, that abuse or neglect was a contributory factor in their death, and
- the abuse or neglect was caused by a third party.

Any situation involving a suspected homicide will not be covered by the protocol, and the homicide investigation and Domestic Homicide Review process takes precedence.

Safeguarding Adults Reviews

Safeguarding Adults Reviews (SARs) are a statutory duty under the Care Act for Safeguarding Adults Boards to undertake. This is when:

- an adult 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 adult.
- an adult is still alive but has experienced serious neglect or abuse and there is concern that partner agencies could have worked more effectively to protect the adult.

For further information please see the Sussex SAR Protocol.

Child Safeguarding Practice Reviews

Local Safeguarding Children's Partnerships undertake reviews of serious cases in specific circumstances, such as the death of a child where abuse or neglect are known or suspected and advise on lessons to be learned.

Refer to the Sussex Child Protection and Safeguarding Procedures for more information.

Domestic Homicide Reviews

Domestic Homicide Reviews are statutory reviews, reviewing the circumstances in which the death of a person aged 16 or above appears to have resulted from domestic violence and abuse.

For more information about Domestic Homicide Reviews, visit the Gov.uk website .

Coroner investigations

Coroners investigate deaths that have been reported to them if it appears that: the death was violent or unnatural; the cause of death is unknown, or the person died in prison, police custody, or another type of state detention. In these cases coroners must investigate to find out, for the benefit of bereaved people and for official records, who has died and how, when, and where they died.

If it is not possible to find out the cause of death from a post-mortem examination, or the death is found to be unnatural, the coroner has to hold an inquest. An inquest is a public court hearing held by the coroner in order to establish who died and how, when and where the death occurred. The coroner or jury also makes findings to allow the cause of death to be registered, such as 'accident or misadventure', 'natural causes', 'unlawful killing', 'suicide' or an 'open' verdict. The coroner or jury

may also make a brief narrative conclusion setting out the facts surrounding the death in more detail and explaining the reasons for the decision.

The following document provides more information about coroner investigations:

- Ministry of Justice 2014, Coroner investigations: A short guide (PDF, 137KB)

Multi Agency Public Protection Arrangements (MAPPA) Serious Case Reviews

If an offender subject to MAPPA commits a Serious Further Offence a MAPPA Serious Case Review is to be undertaken. The purpose of the MAPPA Serious Case Review is to examine whether the MAPPA arrangements were effectively applied and whether the agencies worked together to do all they reasonably could to effectively manage the risk of further offending in the community.

For more information about MAPPA, visit the Gov.uk website 2023, Multi-agency public protection arrangements (MAPPA): Guidance.

Mental Health Homicide Reviews

NHS England is responsible for commissioning independent investigations into homicides (sometimes referred to as mental health homicide reviews) that are committed by patients being treated for mental illness. Mental Health Homicide Reviews are undertaken under the NHS England Serious Incident Framework.

For further detail please see NHS England, Serious Incident Framework.

Learning Disabilities Mortality Review (LeDeR) Programme

The LeDeR programme has been established to support local areas to review deaths of people with learning disabilities, and to use the lessons learned to make improvements to service provision. All deaths of people with a learning disability, aged 4 years and over, may have an initial review, regardless of whether the death was expected or not.

For more information about the LeDeR programme, visit the LeDeR website, or contact the Integrated Care Board Safeguarding Team and/or Local Area Contact for LeDeR.

2.3.5. Assessing and managing risks

The assessment and management of risk is an integral part of adult safeguarding. It should be dynamic and ongoing throughout the safeguarding enquiry and reviewed so that adjustments can be made in response to changes in the level and nature of risk. Practitioners should adopt a flexible and solution-focussed approach to mitigating risk.

Risk is often thought of in terms of danger, loss, threat, damage or injury. However in addition to the potentially negative characteristics, risk taking can have positive benefits for individual and their communities. As well as considering the potential harms associated with risk, the potential benefits of risk should also be identified.

Some people will need more support than others to make choices in relation to managing risks. Making risks clear and understood is crucial to empowering and safeguarding adults and in recognising people as ‘experts in their own lives’. Where an adult lacks capacity to make decisions about managing risks themselves, then the range of options identified should be discussed with the adult’s representative or advocate to enable the adult to stay in control of their life, as far as possible.

Risk assessments should encourage and support people in positive risk taking, and consider the following points:

- What steps are necessary to address immediate risks to the adult and others.
- The outcomes desired by the adult, or if the adult lacks capacity outcomes that reflect the best interests of the adult.
- Working in partnership with adults and their support networks and recognising different perspectives and views on risk.
- Making decisions based on all the choices available and accurate information.
- Understanding a person’s strengths and finding creative ways for people to be able to do things rather than ruling them out.
- Learning from what has or has not worked in the past.
- Ensuring that services promote independence, not dependence.

Cases involving a high level of significant risk often require a multi-agency approach to sharing the responsibility for assessing and managing risk. Effective risk management is underpinned by clear and timely information sharing within and across organisations. Multi-agency risk management plans should be proportionate and focussed on preventing, reducing or eliminating the future risk of harm to the adult and/or others.

2.3.6. Safeguarding meetings

Safeguarding meetings may be the best way to ensure effective coordination of different aspects of an enquiry that relate directly to the adult or decisions that affect them.

There are circumstances when a meeting should be considered such as:

- Responding to self-neglect.
- Risk sharing and safety planning.
- Coordinating the response to safeguarding concerns and the quality-of-care provision.
- Coordinating criminal investigations and safeguarding enquiries.
- Reviewing outcomes and agreeing a safeguarding plan.
- Managing multiple safeguarding enquiries such as for organisational abuse.

Audio recordings of safeguarding meetings

It is not usual practice to record meetings using audio equipment. Notes of meetings are a reflection of key points, decisions and actions rather than a verbatim account. Notes of the meeting will be provided to all attendees with the opportunity to provide comments following the meeting.

Safeguarding meeting case studies: Making Safeguarding Personal

James has autistic spectrum disorder and lives with his mother. A keyworker from the day centre raised a safeguarding concern regarding possible neglect. James' appearance had become rather dishevelled and he reported that his mother was no longer helping him to wash and dress. James said that his mother had told him he must not ask for help as he may be "taken away" to live in a care home. After some initial meetings with James and his mother, the Lead Enquiry Officer arranged a safeguarding meeting to look at how James' desired outcomes would be met. James had said that he wanted to have the meeting at the day centre. The meeting was chaired by the Lead Enquiry Officer and included attendance from James, his advocate, his keyworker, his mother, and a worker from a carer's organisation. The Lead Enquiry Officer ensure that the pace of the meeting was guided by James' needs and he was given a prompt card to use if he needed to have a break during the meeting. James had been supported by his advocate to draw up his desired outcomes before the meeting, and his advocate read these out.

Safeguarding meeting case studies: high-risk/non-engagement

Rafig called out paramedics when he fell at home. The ambulance crew were concerned that he appeared malnourished, and there was little sign of food in the home. Rafig's house was filthy, cluttered, and infested with flies. Rafig refused to be taken into hospital. The ambulance service subsequently raised a safeguarding concern around self-neglect.

The Lead Enquiry Officer appointed to undertake the enquiry attempted to visit Rafig, but he refused to let him in, stating that he did not want anyone from "the council meddling in my affairs".

A multi-agency safeguarding meeting was convened which was attended by Rafig's GP, a representative from the Housing department and Environmental Health. The meeting explored the current risks facing Rafig, and what strategies may help to engage him with support services. From this meeting, a plan was agreed for the Lead Enquiry Officer to work jointly with Rafig's GP, who had known Rafig for many years. Gradually, through meetings at the GP surgery, Rafig became more trusting of the Lead Enquiry Officer, and he also agreed to have some help, including urgent repairs and improvements needed to maintain his tenancy.

2.3.7. The local authority causing others to make enquiries

The local authority has the lead co-ordinating role for all safeguarding enquiries but can cause enquiries to be made by another organisation or agency. Causing an enquiry to be made is distinct from requesting actions from another organisation as part of an enquiry being carried out by the local authority.

The specific circumstances will determine the right person to undertake the enquiry. This may be a professional who has already built up a relationship with the adult. In other situations the circumstances of the concern may require a professional with particular skills and knowledge.

The local authority retains accountability and oversight of the enquiry and outcomes and it cannot delegate its lead co-ordinating duty of enquiry to another organisation or agency.

At the point of safeguarding triage, consideration should always be made as to whether it is appropriate to delegate a safeguarding enquiry to another organisation to complete, such as a provider service, housing officer or health worker.

Service providers/employers should investigate any concern in relation to their service unless there is a compelling reason why it is unsafe or inappropriate to do so. The below should be considered on a case-by-case basis. Examples include:

- If the agency has an inadequate CQC rating and if this includes not being 'well led'.
- There are a number of adults who have been allegedly abused, or patterns or trends are emerging from information, intelligence or data that suggests the care and support regime presents a significant risk to people.
- The person has died/is nearing end of life, or the harm caused is of a serious/significant nature.
- The allegation involves the management/seniors of an agency and therefore presents a conflict of interest for them to be caused the enquiry.
- Concerns regarding the agency previously carrying out enquiries that were non-effective.
- It is not clear that the agency has the necessary skills and knowledge to undertake an effective enquiry.

When the local authority causes others to undertake an enquiry the Lead Enquiry Officer will lead on the planning of the enquiry and this should include other key agencies involved.

This should include:

- How the adult's outcomes will be identified, if not already known.
- How the adult will be advised of progress of the enquiry and who will be lead in communicating with the adult.
- Details of any advocate who may be supporting the adult and/or information on how advocacy can be arranged.
- The nature, scope and purpose of the enquiry that the agency or organisation is being asked to undertake.
- The timescale for the enquiry underpinned by the principle of no delay.
- Assessment of presenting risks and how harm will be minimised.
- Who is responsible for monitoring, evaluating and reviewing the safeguarding or support plan for the adult or others, and evaluating the outcomes it is achieving.
- Any further guidance that may be required during the enquiry process.

The local authority could request a number of different organisations to make enquiries depending on the nature of the safeguarding concerns and if there is more than one adult affected by these.

Organisations and agencies asked to make enquiries by the local authority have a responsibility to:

- Take actions forward in a timely way.
- Feedback updates regarding progress and any delays.
- Feedback the outcome of their actions and enquiries to the adult.
- Fulfil their responsibilities as an employer to consider DBS (Disclosure and Barring Service) referrals and to make these referrals in line with their legal duty to refer where the criteria are met.

The Lead Enquiry Officer should also consider staffing or operational capacity when asking another organisation to complete the enquiry and should consider the appropriateness of causing others to undertake an enquiry if there are subsequent delays or difficulties with information being returned.

Once the enquiry is completed, the agency must return the required enquiry documentation to the Lead Enquiry Officer.

The Lead Enquiry Officer should then:

- Consider whether a further planning meeting is required.
- Check whether the desired outcomes for the adult have been achieved.
- Confirm that the agreed plan for the enquiry has been completed.
- Decide and record if they are satisfied that the information provided by the agency who has undertaken the enquiry is sufficient to conclude the enquiry in line with the checklist for concluding enquiries and if not, what actions are required.
- Record the reasons for deciding that the enquiry can be concluded.

If the Lead Enquiry Officer considers that the process and/or outcome of the enquiry undertaken by another agency is unsatisfactory, they will ask for additional actions to be carried out.

The process: causing others to undertake safeguarding enquiries

Step 1: Local authority Lead Enquiry Officer identifies another organisation(s) to undertake all, or aspects of, Section 42 enquiry, where relevant.

Step 2: Identify the relevant person to be caused to undertake safeguarding enquiry.

Step 3: Parameters of the enquiry agreed, including enquiry strategy, timescales, desired outcomes, feedback mechanisms, and agreement on specific roles and responsibilities.

Step 4: Enquiry proceeds.

Step 5: Outcomes of enquiry notified to local authority Lead Enquiry Officer who must decide whether further enquiry of action is required. Repeat step 4 if needed.

Step 6: Local authority determines if any action required, including other Care Act duties.

Step 7: Local authority reviews actions and outcomes, and records reasons to conclude the enquiry.

2.3.8. Safeguarding where there is a health/clinical concern

Where safeguarding concerns of a clinical nature have been raised, the local authority will consider the need for a safeguarding response under Section 42 of the Care Act.

The provider of the service or employing organisation are expected to respond without delay to any identified risk and ensuring the person's safety. It is the responsibility of that provider to notify the Integrated Care Board (NHS Sussex) where they are the commissioner of that care, whether that be commissioner of the whole service, as in a hospital setting, hospice, or commissioner of individual placements under All Age Continuing Care (AACC).

All agencies should ensure that they are familiar with the Sussex Information Sharing Protocol and utilise this in the sharing of information regarding individuals and service providers in the safeguarding context.

All services commissioned by NHS Sussex are required to work within the NHS Safeguarding Assurance and Accountability Framework (SAAF) and are subject to the Sussex NHS Safeguarding Standards. Larger NHS providers such as hospital/community/Mental Health Trusts have their own internal safeguarding teams and governance processes and should be the first points of contact for the local authority, when a safeguarding concern relates to care provided by them.

The provider (care home, hospital or other health care setting) should take forward concerns as agreed through the local authority safeguarding process (and provide any additional support that the adult may need) and identify any actions required to mitigate risk, unless there is compelling reason why it is inappropriate or unsafe to do this. For example, this could be: a serious conflict of interest on the part of the provider; concerns related to inspection ratings from the regulator of the service; concerns having been raised about non-effective past enquiries; serious, multiple concerns; or a matter that requires investigation by the Police. In these circumstances NHS Sussex can provide support and guidance for the local authority.

The local authority can contact NHS Sussex Safeguarding Team for advice and guidance at any time following receipt of a concern or during an enquiry, where it is unclear about whether input from the ICB is required or to seek confirmation of commissioning arrangements. The NHS Sussex Safeguarding team will always work to provide a prompt response and if requests are urgent, this should be clearly identified in the contact.

Practical examples of the support and guidance from NHS Sussex include (not an exhaustive list):

- Advice and support for cases involving multiple providers and/or multiple health professionals (when there is a clinical element) – in this circumstance NHS Sussex MUST be involved/notified of the concerns.
- Offering advice to the lead enquiry officer at the local authority as to the appropriate questions to ask regarding the clinical aspects of an enquiry.
- Advice or scrutiny of a report received from a health provider, where significant concerns remain regarding the quality of a response and/or where an impartial view and oversight is required.

- Support for undertaking an enquiry where this is a clinical element in a service where the provider is a small independent service, and it is identified by the lead enquiry officer or the provider that there is no one else within the provider to support undertaking the enquiry.
- Advice and support for highly contentious clinical cases where there may be adverse publicity/high level challenge from family members.
- Where the Adult Death Protocol has been followed and leads to concerns about a provider's ability in regard to clinical care.
- Complex situations where applications to the Court of Protection may need to be considered.
- Poor engagement from a provider.
- Support for independently evaluating and triangulating information/evidence gained in an enquiry from a provider, regarding clinical care aspects, and presenting this within safeguarding meetings as deemed appropriate. This is to be determined on a case-by-case basis, and the NHS Sussex Safeguarding team will advise where external advice may be required, and where possible how this can be provided.

Where the NHS Sussex Safeguarding Team are to be involved in a safeguarding enquiry, agreement will be sought by the local authority regarding attendance at any safeguarding planning, review and conclusion meetings and what information will be required for such meetings.

NHS Sussex Safeguarding Pathway

- Concern raised with Local Authority Safeguarding Hub
- Meets 3 key stage test for a section 42 enquiry and contains a health concern(s)

NHS Provider Trusts (Acute, Community, Mental Health)

Concern(s) related to NHS Providers, must in the first instance be directed to the providers safeguarding team via generic email address:

East Sussex Healthcare NHS Trust: esh-tr.SAAR@nhs.net

Integrated care 24 (IC24): ic24.safeguarding@nhs.net

Queen Victoria hospital NHS Trust: qvh.adultsafeguarding@nhs.net

South East Coast Ambulance service: secamb.safeguarding@nhs.net

Surrey and Sussex Healthcare: sash.adultsafeguarding@nhs.net

Sussex Community Foundation Trust: SC-TR.SafeguardingAdults@nhs.net

Sussex Partnership NHS Foundation Trust: safeguardingteam@sussexpartnership.nhs.uk

University Hospitals Sussex (Newhaven, RSCH & PRH): uhsussex.safeguardingadults@nhs.net

University Hospitals Sussex (Southlands, Worthing & St Richards): wsht.safeguardingadults@nhs.net

Nursing Homes/Care Homes/Supported Living/Hospices

In the first instance, contact the Manager/Registered Manager of the provision.

NB: If there are concerns in regard to the provider (e.g. under enhanced scrutiny measures held locally, CQC enforcement notice, multiple complex safeguarding concerns) then, after a discussion with your Line Manager first, the ICB can be contacted (whom may be able to additionally signpost for clinical issues).

Primary Care (including GP Practices)

In the first instance, contact the practice directly via the practice manager.

NB: ICB team are available to support primary care where there may be a requirement to approach the CoP.

Community Pharmacy

In the first instance, contact the Pharmacy directly.

Role of NHS Sussex Safeguarding (ICB Team) in s42 enquiry signposting

Where there are Provider Level concerns about the ability of the provider (as above) or where there are concerns regarding multiple individuals, highly contentious/serious crimes/adverse publicity or a need for expert advice on clinical elements of approach to CoP/High Court.

ICB Safeguarding Team Mailbox: sxicb.safeguarding@nhs.net

2.3.9. Involving an adult in an enquiry

The adult should always be involved from the beginning of the enquiry, unless there are exceptional circumstances that would increase the risk of abuse or harm. The right to safety has to be balanced with other rights: such as rights to liberty and autonomy, and the right to family life.

The local authority must ensure that any restriction on the adult's freedom or rights under the Human Rights Act 1998 is kept to the minimum necessary and is proportionate to the risk of harm. Any restrictions should be carefully considered and frequently reviewed.

Consent in relation to safeguarding enquiries

The duty for the local authority to undertake a safeguarding enquiry is triggered by the three key tests being met and is not based on the consent of the adult. If the duty is met, then the adult is to be involved in the enquiry in order to give their views and wishes as to what actions they wish to be undertaken.

The adult may give the view that they do not wish for any actions to be taken within the enquiry.

There may be circumstances where actions are taken, such as information is shared with other appropriate agencies as part of a safeguarding enquiry, even though the adult has indicated that they do not wish for this to happen.

These circumstances could include:

- Others are, or will be, put at risk if nothing is done.
- Where it is in the public interest to take action because a criminal offence has occurred.
- The adult lacks capacity to understand the associated risks.
- The adult has capacity but cannot make a decision freely because of coercion or undue influence.

The adult should be informed of actions to be taken and reasons for this.

If it is suspected that a crime has occurred, this would need to be discussed with the police even if the adult has indicated that they do not wish to make a statement, or to have the police involved, or to have the person or service thought to be the cause of risk contacted. This should be approached sensitively and the adult should be advised of this.

Duty to arrange independent advocacy

Local authorities must involve people in decisions made about them and their care and support. No matter how complex a person's needs, local authorities are required to help them express their wishes and feelings, support them in weighing up their options and assist them in making their own decisions.

Section 68 of the Care Act 2014 requires that a local authority must arrange, where appropriate, for an independent advocate to represent and support an adult who is the subject of a safeguarding enquiry or Safeguarding Adult Review (SAR). This should take place where any adult has 'substantial difficulty' in being involved in the safeguarding enquiry and where there is no other appropriate individual to support them. This should be kept under review throughout the enquiry.

The Care Act defines four areas where people may experience substantial difficulty. These are:

- understanding relevant information,
- retaining information,
- using or weighing up information,
- communicating views, wishes and feelings.

A family member or friend can advocate on behalf of the adult, if appropriate, but they cannot be:

- Already providing care or treatment to the adult in a professional capacity or on a paid basis.
- Someone the adult does not want to support them.
- Unavailable to adequately support the adult.
- Someone implicated in an enquiry into abuse or neglect, or who has been found by a Safeguarding Adults Review (SAR) to have failed to prevent abuse or neglect.

The role of an 'appropriate individual' under the Care Act is different from that of an individual with whom it is 'appropriate to consult' under the Mental Capacity Act. Under the Care Act, the

appropriate individual's role is to facilitate the adult's involvement, not solely to consult them and make decisions on their behalf.

See local arrangements for referral pathways for advocacy.

Considerations regarding mental capacity

In line with the Mental Capacity Act 2005, there must be an underlying assumption that an adult has capacity to make relevant decisions themselves. Rather than making premature conclusions that an adult lacks capacity, the Mental Capacity Act emphasises that people may need support to reach decisions. Additionally the Mental Capacity Act sets out that when an adult lacks capacity, they must be encouraged and supported to continue to take part in decision making wherever possible, and their past and present wishes should be taken into account.

If there is doubt around the adult's capacity, a formal mental capacity assessment should be completed to consider the adult's understanding of the safeguarding concern and their ability to consent to a safeguarding enquiry. Where there is evidence that the adult lacks capacity the Mental Capacity Act Code of Practice should be followed and consideration given to involve an Independent Mental Capacity Act advocate if the adult has no one else suitable to support them.

2.3.10. Identifying outcomes

Conversations should happen with the adult at the earliest opportunity, enabling and supporting them to identify achievable outcomes so that their views, wishes, feelings and beliefs are central in decisions about how to proceed. A Making Safeguarding Personal approach is about talking through with people the options they have and what they want to do about their situation.

Asking questions such as "What do you want to happen?" "What is important to you?" "Is there anything that you do not want to happen?" is a helpful starting point and is likely to result in more in-depth engagement at an early stage.

People cannot make decisions about their lives unless they know what the options are and what the implications of those options might be. A Making Safeguarding Personal approach needs to be applied throughout every stage of an enquiry.

Practitioners need to ensure that:

- Advice about advocacy is provided at the very start of an enquiry and arrangements made for independent representation and support, if required, as soon as possible.
- The adult and/or their advocate are fully involved from the outset.
- The pace and location of meetings are guided by the person's needs and circumstances (see Section 2.3.6 Safeguarding meetings).
- Accessible information and advice is readily available.
- The adult and their advocate are made aware of a range of possible options/outcomes from an enquiry.
- Support is provided to help the adult make decisions where appropriate.

Engaging with adults in this way can give them a sense of control and raise their self-esteem so that they are able to rebuild their personal resilience and safeguard themselves in future.

Types of outcome which people may want

- To get new friends
- To recover
- To exercise control
- To know where to get help
- To receive an apology
- To have access to criminal justice
- To know that it won't happen to anyone else
- To feel safer

Whilst most people do want to be safer, other outcomes may be as, or more important, such as maintaining relationships. An adult's right to safety has to be balanced with other rights such as the right to liberty and autonomy, and rights to family life. Any intervention in family or personal relationships needs to be carefully considered, since the dynamics of these relationships can be complex, e.g., an adult may choose to be in a relationship that causes them harm and emotional distress, which outweighs for them the unhappiness of not maintaining the relationship.

An adult experiencing abuse or neglect may have difficult decisions to make and as such may need time to consider the risks involved and outcomes they want. Making risks and options clear and understandable is crucial to empowering and safeguarding adults and in recognising people as 'experts in their own lives'.

Some people may be unclear as to what they would like to happen, and timely and skilled intervention may be required to help them express their views and wishes. Other people may want outcomes which are not possible to achieve. Open and honest discussions about why certain actions may not be achievable can help the adult to re-evaluate their views and consider other options.

Safeguarding interventions should be creative and flexible to take account of these differences. What an adult identifies at the outset may change as the enquiry progresses – perhaps because they become more aware of their options and feel more empowered to take control of their situation.

It is better to capture the adult's outcomes in their own words or other means of communication, for example "I want to feel safe in my own home again". Personalised outcomes are not conclusions to processes or service responses such as "The adult is receiving increased monitoring or care".

The key focus is on developing a real understanding of what people wish to achieve, agreeing, negotiating and recording their desired outcomes, working out with them (and their representatives or advocates if they lack capacity) how best these outcomes may be realised.

The following document contains resources for practitioners:

- Local Government Association 2019, Making Safeguarding Personal Toolkit (PDF, 961KB)

Making Safeguarding Personal case study

Joyce had been experiencing some difficulties with her neighbour, who was frequently asking her to lend him money. Despite the fact that Joyce's neighbour said that he would pay the money back, Joyce had not been re-paid. Joyce said that she did not want "anything to be done" as he was "very kind" and visited her 2-3 times a week. Joyce did not want to stop seeing him as she enjoyed his company and she did not have many other visitors.

The Lead Enquiry Officer visited Joyce and discussed the options available to her. Joyce said that she would like to speak with her neighbour on her own, but she felt unsure of how to start the conversation. Joyce stated that she wanted to maintain control over her finances and she did not want to feel pressurised to give her neighbour the money. The Lead Enquiry Officer provided Joyce with some coaching about how she might start the conversation and what she wanted to get out of it. A contingency plan was arranged so that Joyce's home care worker would visit later on the same day that Joyce planned to speak with her neighbour, so that another person would be on hand to support Joyce, if needed.

After Joyce had spoken with her neighbour the Lead Enquiry Officer contacted her. Joyce reported that whilst her neighbour was initially defensive, after a day or so he reflected on what Joyce had said and visited her again to apologise for putting Joyce in the position in which she felt unable to say no to his request. Joyce said that the relationship with her neighbour was a "bit fragile", but he was continuing to visit her and had not asked for money again. Joyce fed back that she felt pleased that she had been able to deal with matters herself, and this had given her confidence that she was able to take control of her own affairs.

Reviewing outcomes

As with safeguarding planning, the review and evaluation of the adult's outcomes should be done with the full participation of the adult and/or their representative, as well as any other relevant professionals and agencies.

When evaluating the adult's needs for care and support, if a needs assessment under section 9 of the Care Act has not already taken place, it will be necessary to consider whether this should be offered.

In some cases, evaluating the outcomes of an enquiry and deciding on any further necessary action will be straightforward, and can be carried out through an informal discussion with the adult. However for other more complex cases that require careful consideration and negotiation with the adult and involved stakeholders, a formal multi-agency meeting may be necessary (see Section 2.3.6 Safeguarding meetings).

If it is identified during the outcomes review that the adult remains at risk of abuse and/or neglect, then the duty to enquire may continue and the outcomes review will need to consider any further enquiry actions.

In situations in which the adult remains at risk of abuse or neglect through their own choice, where possible, the local authority should agree with the adult how they are going to support them. Where

this is not possible, the local authority and other agencies must agree any ongoing actions, underpinned by a Making Safeguarding Personal approach.

2.3.11. Working with the person thought to be the cause of risk

In undertaking the enquiry there needs to be consideration of how best to involve a person thought to be the cause of risk taking into account any risks to the adult. If there is a criminal investigation the plan for this will be led by the police.

If the cause of risk is a person in a position of trust, this is covered by Section 2.5 Managing Allegations Against People in a Position of Trust. 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 by their employer.

Any enquiry needs to be undertaken in an accountable and impartial manner. It should be considered how the person thought to be the cause of risk has an opportunity to give their views and respond to the concern, and how these views could be included and evaluated within the enquiry findings.

If the person thought to be the cause of risk is an adult with care and support needs of their own, consideration should be given to how their involvement in the enquiry process can be approached in the most person-centred and empowering way, taking account of their individual needs and situation. Particular consideration should be given regarding any support they may need to participate in the enquiry process.

Where the person who is alleged to have carried out the abuse has care and support needs themselves and is unable to understand the significance of questions put to them or their replies, they should be informed 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) (see Section 2.4 Safeguarding and Criminal Investigations).

Suitable advocacy should be considered for people who lack capacity and who are alleged to be responsible for abuse, to support and represent them in the enquiries that are taking place.

Consideration should also be given to seeking advice from legal services regarding how appropriate it is to share information with the person or service thought to be the cause of risk, and/or other agencies that are responsible for safeguarding other adults who may be affected or at risk.

2.3.12. Concluding a safeguarding enquiry

The local authority can conclude the safeguarding enquiry whilst other related proceedings are ongoing, for example in relation to a police investigation or other disciplinary processes. In these situations the local authority should consider what monitoring arrangements are necessary and the required mechanisms for feeding back outcomes.

Were the adult's desired outcomes achieved?

At the conclusion of each enquiry, the local authority should obtain direct feedback from the adult regarding their experience of the enquiry, in order to evaluate the impact of the safeguarding intervention, and to ascertain the difference this has made to the person's life, in line with a Making Safeguarding Personal approach.

Feedback to relevant people

At the end of an enquiry the local authority is responsible for ensuring that feedback regarding the outcomes of the enquiry is passed to all those who should receive it including the adult, the person or service thought to be the cause of risk, and any other relevant agencies or organisations involved. This may include the referrer where relevant.

Checklist for completed enquiries

A Section 42 enquiry can be concluded when the local authority is satisfied that the following has taken place:

- The enquiry has included the views, wishes and best interests of the adult, and has been centred on their desired outcomes.
- The enquiry has aimed to meet the identified desired outcomes of the adult and has been reviewed with the adult before the enquiry is closed.
- Consideration has been given to reflecting the views of the person or organisation thought to be the cause of risk within the enquiry if appropriate.
- Relevant information has been gathered and evaluated so that the cause/s of risk can be identified to prevent future abuse where possible.
- The enquiry has been thoroughly completed and accurately recorded.
- Where the service provider is the focus of the concern information has been passed to the relevant commissioner, Quality Monitoring Teams and the Care Quality Commission.
- Information has been shared, where appropriate and as necessary, with any other relevant parties.
- Where there has been serious injury to or the death of an adult, a Safeguarding Adults Review (SAR) referral was considered.
- Any recommended further actions, including referrals to professional bodies and/or the Disclosure and Barring Service, have been addressed.
- Where the risk cannot be reduced or removed there is consideration as to the ongoing arrangements (such as through a Support Plan or Safeguarding Plan). The plan should include arrangements for monitoring and review, including ongoing risk management.

This checklist should also be used as a guide by any agency or organisation the local authority has asked to undertake an enquiry under Section 42, to consider if it has concluded its enquiry appropriately, and has covered all the areas required in order to discharge its duty (see Section 2.3.7 The local authority causing others to make enquiries).

2.4. Safeguarding and criminal investigations

2.4.1. Introduction

This section outlines the interface between safeguarding adults procedures and criminal investigations, clarifying the expectations regarding the roles and responsibilities of the local authority and police when working in partnership during enquiries concerning abuse or neglect.

Everyone is entitled to the protection of the law and access to justice. Some types of abuse and neglect often constitute criminal offences (for example physical or sexual assault or rape, psychological abuse or hate crime, anti-social behaviour, wilful neglect, or unlawful imprisonment). Other criminal offences could be theft and fraud and certain types of discrimination.

Although the local authority has the lead role in undertaking safeguarding enquiries or requesting others to do so, where criminal activity is suspected, early involvement of the police is essential. Police investigations should be coordinated with the local authority who may support other actions but should always be police led.

2.4.2. Suspected criminal offences

The primary focus must be to ensure the safety and well-being of the adult who is alleged to have been harmed. In an emergency situation call the police/ambulance immediately on 999.

Anyone can report a crime or suspected crime to police. This can be done by calling 101 or online.

In situations where there has been, or may have been, a crime committed it is important that any evidence is preserved/secured wherever possible.

The police response will depend upon which criminal offences are suspected, whether the crime is still taking place, and on other factors such as whether anyone is at immediate risk of harm. The police may need to attend the scene and agencies and individuals can play an important part in ensuring that evidence is not contaminated or lost. They will liaise with Trading Standards Service in relation to some crimes, particularly those relating to scams and doorstep crime. Please see section 2.4.12 Principles of preserving evidence.

2.4.3. Consent

Wherever practicable, the consent of the adult affected should be sought before reporting a suspected crime to the police. However, if an adult does not give consent but discloses a suspected crime to their professional, it is the professional's responsibility to consider reporting this to the police.

There may of course be circumstances where consent cannot be obtained because the adult lacks the capacity to give it, but it is in their best interests to contact the police.

Whether or not the adult has the capacity to give consent, the police will need to be informed if other people are already or would be at risk. The police should also be informed where it is in the public interest due to the seriousness of the alleged criminal offence.

In certain circumstances an adult's right to confidentiality is overruled. Information about a suspected crime should be shared with the police in the following circumstances:

- If others are, or may be, at risk of abuse or neglect.
- Where there are legal or professional responsibilities of staff who have become aware of the concern, for example, if this relates to a breach of regulation, professional code of conduct, or an offence appears to have been committed.
- Where the adult to whom the concern relates lacks capacity and, in this situation, the Mental Capacity Act should be followed.
- If the adult is believed to be subject to undue influence such that they are unable to exercise free will, for example Modern Slavery, controlling and coercive behaviour or domestic violence and abuse.

If an adult is disclosing potential criminal offences, any initial questioning should be intended only to elicit a brief account of what is alleged to have taken place. This brief account should include where and when the alleged incident took place and who was involved and should be recorded in writing at the time or as soon as possible afterwards. A more detailed account will be obtained by the police at later stage.

Where police are informed and a criminal investigation is started, the adult's views will be considered by the police investigating officers even when the adult had not consented to the report being made.

Any person can report a crime, incident, or suspicion to Sussex Police.

2.4.4. Safeguarding enquiries and criminal investigations

Where the local authority receives a safeguarding concern from a third-party agency or individual, consideration should be given if the information indicates that a criminal offence has or may have been committed. Where a criminal offence has, or may have, been committed and there is any doubt if it has previously been reported to police, a referral should be made to the police.

If the police decide not to undertake a criminal investigation where there has an allegation of a criminal offence, the rationale for this decision making should be shared by the police in writing with the Lead Enquiry Officer. If more information becomes available which indicates this decision needs reviewing, then the Lead Enquiry Officer must inform the police.

Where a safeguarding concern is received which does not, at the outset, appear to constitute a criminal offence, there is no requirement to notify police, but this decision should be kept under review. In the event that new information comes to light through the course of an enquiry, which then indicates that a criminal offence has been, or may have been, committed then it should be reported to the police.

Where it is identified that a police referral is required, whether at the outset of an enquiry, or as a result of new information received, the referral should be completed without delay.

Please refer to your organisations' internal policies and Pan Sussex guidance when considering criminal safeguarding allegations against staff: Safeguarding and managing allegations against people in positions of trust.

There may be occasions where a safeguarding referral is received from a local authority or police force outside of Sussex that relates to a local resident. Examples would include a domestic abuse incident while on holiday or a sexual assault while commuting to work. The police force in which the offence occurs will oversee the investigation, but the wider safeguarding concern could require local oversight for where the victim and/or suspect reside.

Sussex Police have a direct referral process for police officers to raise a safeguarding concern with the relevant local authority. The referral form should be completed by the police for every safeguarding concern. It is important that when the police are completing a referral that they add sufficient and accurate detail to allow specialist teams and the local authority to act on it. The expectation is that the submitting officer will also state on the form why they are making the referral and whether the adult at risk is aware of it.

Partnership working within safeguarding enquiries and criminal investigations

If, as a result of a safeguarding concern, both a safeguarding enquiry and a criminal investigation are required the following will apply:

- The criminal investigation will take primacy.
- Depending on the nature of the safeguarding concern, a joint visit to the adult may need to take place with the police and the Lead Enquiry Officer.
- A multi- agency planning meeting may need to be convened to agree:
- The main lines of enquiry for the criminal investigation.
- The safeguarding plan for the adult and any other vulnerable adults including the suspect.
- The lead individual for each action within the safeguarding plan.
- Ownership of any action's ancillary to the investigation (e.g. Disclosure and Barring Service referrals).
- The process and time scales for ongoing updates and reviews.

Ending safeguarding enquiries when a criminal investigation is ongoing

When there is a safeguarding enquiry involving a criminal investigation, the police will lead the criminal investigation and contribute towards the safeguarding enquiry.

The safeguarding enquiry may be closed whilst a criminal investigation is still ongoing, when the local authority is satisfied that it has discharged its Section 42 duty to undertake a safeguarding enquiry, and established a safeguarding plan, where necessary. The police will notify the local authority on the outcome of the criminal investigation, and at which point any further follow up or further safeguarding enquiry required will be led by the local authority.

The Sussex Adult Death Protocol provides a framework for establishing an agreed standard between partners to ensure a rapid, coordinated response to unexpected adult deaths involving abuse and neglect.

The adult death protocol applies to the following criteria:

- an adult dies in unexpected or unnatural circumstances, and
- there is a suspicion, or it is known, that abuse, or neglect was a contributory factor in their death, and
- the abuse or neglect was caused by a third party.

Any situation involving a suspected homicide will not be covered by the protocol, and the homicide investigation and Domestic Homicide Review process takes precedence. Please see section 2.3.4 Interface with other investigations and reviews section.

2.4.5. Safeguarding Investigation Units

Sussex Police has established specialist Safeguarding Investigation Units (SIUs) within each local authority area. These teams manage both the criminal and safeguarding aspects of investigations involving child and adult abuse, high risk domestic abuse, rape, and serious sexual offences.

Officers and staff working within these teams include specialist detectives, trained in conducting joint investigations with the local authority, Sexual Offences Investigation Teams (SOITs) who are trained to provide an initial response and support to reports of rapes and sexual abuse, and specialist caseworkers who will develop safety plans and offer referrals to partner agencies for ongoing support for those who have experienced domestic or sexual abuse.

Each SIU also has specialist interviewers who are trained to conduct video witness interviews called Achieving Best Evidence (ABE). Each local authority also has ABE-trained staff and, where necessary, video interviews can be conducted jointly between police and local authority staff.

2.4.6. Achieving Best Evidence interviews

Achieving Best Evidence (ABE) is the national approach to securing evidence or accounts from vulnerable witnesses/victim by means of video recorded interviews (often referred to as ABEs). Sussex Police will adhere to the Authorised Professional Practice (College of Policing) in relation to investigative interviewing to ensure the best possible outcome for victims and witnesses of crime.

The main principle of an Achieving Best Evidence is to maximise the chance of vulnerable or intimidated witnesses giving their best evidence at court by the use of ‘special measures’.

The purpose of an Achieving Best Evidence is to ensure that accurate and reliable accounts are obtained from victims and witnesses.

A vulnerable witness as defined within Section 16 of the Youth Justice and Criminal Evidence Act 1999 concerns witnesses eligible for assistance in criminal proceedings on grounds of age and incapacity:

- If under the age of 18 at the time of the hearing, or,
- Suffers from mental disorder within the meaning of the Mental Health Act 1983, or,
- Otherwise has a significant impairment of intelligence and social functioning, or,
- Has a physical disability or is suffering from a physical disorder.

An Intimidated Witness as defined within Section 17 of the Youth Justice and Criminal Evidence Act 1999 concerns witnesses eligible for assistance in criminal proceedings on grounds of fear or distress about testifying. This includes complainants in cases of sexual assault, victims of domestic abuse, some hate crime and adults with care and support needs.

2.4.7. Appropriate Adults

If a vulnerable adult is detained or questioned in relation to a suspected crime, the police are required to consider whether the services of an Appropriate Adult are necessary.

Need

Some adults when questioned or detained may have difficulty understanding:

- Rights and entitlements
- Implication of procedures
- The significance of questions and replies

They may also be prone to:

- Unintentionally providing information that is unreliable, misleading or self-incriminating
- Becoming confused or unclear about their position

Input

- A person independent of police safeguards rights, welfare entitlements and effective participation
- They observe police actions
- They are able to support, advise and assist when they are given or asked to provide information or participate in any procedure
- They can take action to ensure that the person's rights are respected and that the person understands their rights

Outcomes

- Individuals are treated fairly with respect for their rights
- Individuals are able to participate effectively in the process
- Reduced risk of unreliable evidence
- Individuals who are vulnerable have access to justice and their wellbeing is promoted

2.4.8. Sexual Assault Referral Centre

A Sexual Assault Referral Centre (SARC) provides services to victims/survivors of rape or sexual assault regardless of whether the survivor/victim chooses to report the offence to the police or not.

Sexual Assault Referral Centres, in Sussex this is the Saturn Centre, are designed to be comfortable and multi-functional, providing private space for interviews and examinations, and some may also offer counselling services. They provide confidential healthcare and compassionate

support to people ages 14 years and older in Sussex that have experienced sexual assault including rape in their lifetime.

Where a sexual offence is reported the police will make, or offer to make, a referral to the Sexual Assault Referral Centre. Individuals may also self-refer to the Sexual Assault Referral Centre without involving the police. Sexual Assault Referral Centres have specialist staff who are trained to help individuals make informed decisions about what they want to do next.

For further details please visit Saturn Centre.

2.4.9. Vulnerable victim fraud

It is recognised that some types of offending disproportionately affect some groups of people who are vulnerable but who do not lack capacity.

Fraud is a hidden and under-reported crime, with victims often in denial or unaware of the criminality behind it. Increasingly fraud is becoming more complex and sophisticated, much of which is targeted at vulnerable and elderly people.

The nature of fraud victimisation is not only financial. The emotional impact is significant and includes guilt, misplaced trust, and diminished confidence, resulting in detrimental effects on physical and mental health and increased social isolation. Operation Signature is the Sussex Police response to vulnerable victim fraud, whether it takes place by telephone, on the doorstep, by mail or online.

A number of victims of fraud remain in denial having been successfully groomed by fraudsters. This can result in extensive losses sometimes amounting to whole life savings. These victims can refuse to allow officers to inform their next of kin or family members. Whilst the gravity of overriding a victim's wishes should never be ignored, there will be circumstances when it may be in their best interests to do so. This will often be the most effective way to reduce the victim’s vulnerability from further financial loss.

Each Safeguarding Investigation Unit has a nominated officer to act as a single point of contact between police and Adult Social Care for safeguarding those who are assessed as being at the highest risk of repeat victimisation. Victim Support also have dedicated fraud case workers, providing on-going longer-term support to high-risk victims referred to them. Repeat victimisation is defined as two or more incidents in the previous twelve months.

Due to the risk levels of the victims being referred, the caseworkers will come into contact with clients who need safeguarding. The majority of these victims have wider vulnerabilities and needs, including possible mental capacity issues, outside the remit of the caseworkers, which need to be addressed with other agencies and partners.

The amount of contact with Adult Social Care and the number of safeguarding referrals made show the importance of there being a link between police, victim support services and Adult Social Care to ensure these vulnerable people do not fall through the gaps and to help prevent future victimisation and any further harm.

2.4.10. Multi-agency Public Protection Arrangements

Multi-Agency Public Protection Arrangements (MAPPA) are in place to ensure the successful management of violent and sexual offenders. The Multi-agency public protection arrangements (MAPPA): Guidance sets out the responsibilities of the police, probation trusts and prison service.

The Lead Enquiry Officer should be aware of this guidance which includes information on the following:

- identification and notification of MAPPA offenders
- ViSOR (a secure database that holds details of MAPPA offenders)
- information sharing
- disclosure and risk assessment
- risk management plans
- multi-agency public protection meetings
- MAPPA documents set
- custody, recall and transfer of MAPPA cases
- critical public protection cases
- mentally disordered offenders and MAPPA

Further information on MAPPA can be found on the MAPPA Arrangements website.

2.4.11. Information sharing within criminal investigations

If a safeguarding enquiry has a criminal element to it, information may need to be shared between agencies.

The police have a general power at common law to disclose information for the prevention, detection, and reduction of crime.

Section 115 of the Crime and Disorder Act 1998 established the power for agencies to disclose information to the police and other agencies. The purposes of the Act broadly cover the prevention and reduction of crime and the identification or apprehension of offenders.

This is a power and not a duty and the requirements of the Human Rights Act 1998, Common Law and the Data Protection Act 2018 must still be met.

The disclosure of confidential information held by an agency is allowed with that adult's consent, or if not, where there is a serious overriding public interest to do so if the information relates to serious crime, danger to life or the community, serious threat to others (including staff), serious infringement of the law or risk to the health of the person concerned. Please see Section 2.10 Adult Safeguarding and Sharing Information.

2.4.12. Principles of preserving evidence

The preservation of forensic evidence is time critical. Much can be lost from the victim within the first few hours through activities such as washing, using the toilet, eating, smoking or other forms of

contact. Therefore, to maximise the opportunities for forensic recovery and remove the need to unduly restrict certain basic needs of the victim, there are a number of simple considerations that can be considered which will benefit both the victim and any possible future investigation. These actions will be guided or directed by the police.

Where a crime or incident has occurred in a particular place, for example in an adult's home or a particular room within their home, the police may wish to examine the scene for evidence. Evidence recovered from scenes can help establish who was present when an incident occurred as well as indicating what, specifically, did occur.

Where a suspected crime has recently occurred, care should be taken to try to avoid moving things (for example clearing up) and try to prevent people going into the area who do not need to be there. When the report is made to the police, advice will be given about what may be needed to help preserve the scene.

If the victim or vulnerable adult is present at the scene, their immediate safety and welfare, including any requirement for medical attention, must always be prioritised over scene preservation.

If the victim discloses that they have an item which they took from the suspect, this should be brought to the attention of the police at the earliest opportunity as there may well be a chance to recover fingerprint or other forensic evidence from the item. Similarly, if the victim discloses that the suspect has taken an item of personal property from them, again, this should be disclosed to the police at the earliest opportunity.

2.5. Safeguarding and managing allegations against people in positions of trust

2.5.1. Introduction

This section sets out the safeguarding requirements for managing allegations against people in positions of trust and references the Care Act 2014 Statutory Guidance on Managing Allegations regarding a Person in a Position of Trust.

The Care Act 2014 requires the local authority, relevant partners and those providing care and support services to have clear policies in place for dealing with allegations against anyone working in a position of trust. These policies should clearly distinguish between an allegation, an issue that relates to conduct or behaviour, a practice concern, a complaint and a care quality issue.

A position of trust can be either a paid or unpaid role when working with adults with care and support needs. If anyone becomes aware of allegations about the conduct or behaviour of an individual in a position of trust, which might pose a risk to adults with care and support needs, they should raise a safeguarding concern with the local authority.

Whilst the focus of safeguarding adults work is to safeguard one or more identified adults with care and support needs, there are occasions when incidents are reported that do not involve any named adult at risk but indicate concerns and a potential risk posed by a person in a position of trust. These concerns include incidents, behaviours, and investigations where the issue may have

occurred outside of the person's workplace, and/or is a significant conduct issue for which further consideration needs to be made due to their professional or caring role for example.

References in this chapter to the Employer could also include Further Education establishments, religious organisations, charities and voluntary organisations.

2.5.2. Conduct or behaviours which may pose a risk to adults

Some allegations may indicate that a risk could be posed to an adult, or adults, with care and support needs by a person in a position of trust.

Examples of such concerns include allegations that a person in a position of trust has:

- behaved in a way that has abused or may have abused an adult or child.
- possibly 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.

The above is not an exhaustive list. It is expected that any concerns arising regarding a child would be reported to the appropriate children's service for the area and that communication is made with the Children's LADO (Local Authority Designated Officer) on all matters where a person may also be working or volunteering with children in any capacity, or potential risk is identified during the course of any other enquiries, which requires further consideration and risk assessment.

The Sussex Safeguarding Adults Boards advocate that local authorities and partner agencies establish a nominated lead to provide advice and guidance to their organisation regarding situations in which allegations are made regarding people in positions of trust. Across Sussex, local arrangements differ and in the case of query please approach your Safeguarding Lead/Head of Safeguarding Adults for clarity and signposting.

It is important to ensure in practice we consider allegations regarding people in a position of trust in the wider context where there may be public protection needs to consider, and risk assess, as partner agencies working together. Allegations regarding people who work with adults at risk must not be dealt with in isolation. Any corresponding action necessary to address the welfare of adults with care and support needs should be taken without delay and in a coordinated manner, to prevent the need for further safeguarding in future.

2.5.3. Responsibilities of all employers

Employers have both a duty to the adult with care and support needs and a responsibility to take action when allegations are made against an employee.

Individual organisations, including student bodies and voluntary 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 management process. Employers should ensure that they have robust employment practices in place, including reference checks and relevant Disclosure and Barring Service checks. For further information, refer to the Gov.uk website, Criminal record checks when you apply for a role.

Any disciplinary procedures must be compatible with their responsibility to protect adults at risk of abuse or neglect.

The specific responsibilities of employers include:

- Having a clear internal allegations management procedure in place which sets out the process, including timescales for investigation and support and advice which is available to individuals against whom allegations have been made.
- Codes of professional conduct and/or employment contracts should be followed and should inform management action.
- Ensuring senior leadership and those in management positions are appropriately familiar and confident with the responsibilities their organisation holds regarding both Disclosure and Barring Service (DBS) checks and referrals.
- Making prompt referrals to the Disclosure and Barring Service (DBS) and/or other professional registration bodies where appropriate. Further information can be found on the Gov.uk website, Making barring referrals to the DBS. It is an offence to fail to make a referral without good reason.
- Maintaining records of the number and nature of allegations made, outcomes of enquiries/investigations and employers should use these to inform service improvement.
- Promoting and maintaining workforce awareness of its Whistleblowing policy.

2.5.4. Interface with employers' responsibilities and safeguarding enquiries

The local authority has lead responsibility for the safeguarding enquiries undertaken, whilst the employer is responsible for investigating allegations involving its employees, informing the employee of the concerns if appropriate, and advising them what will happen in accordance with its management procedures. When an employer is taking action, the local authority still has a duty under Section 42 of the Care Act 2014 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 is not responsible for deciding what actions the employer should take with the employee, for example the local authority will not make recommendations to the employer regarding suspension of staff but rather advise the employer to make the necessary considerations. The local authority must be satisfied that the employer has followed its own appropriate procedures. The local authority should raise their concerns with the employer if appropriate actions have not been taken. If unresolved the local authority should escalate to the regulator and relevant commissioner if they are not assured that appropriate actions are being taken. The safeguarding enquiry should not delay the employer's responsibilities to manage staff and make decisions about its staff member.

Where a Police investigation is required, the Police will lead the criminal investigation, and the local authority and employer will communicate with them regularly regarding any actions to be taken to ensure any criminal investigation is not compromised. Where there is indication of a criminal matter an early strategy meeting is advisable, to enable information to be shared between partners and the approach actions and communication strategy agreed.

A partnership approach to the sharing of information is advisable and the pan-Sussex Information Sharing Guide and Protocol provides advice and guidance in relation to sharing information around adult safeguarding:

- Pan-Sussex Information Sharing Guide and Protocol (PDF, 614KB)

Decisions on sharing information must be justifiable and proportionate, based on the potential or actual harm to adults or children at risk and the rationale for decision-making should always be recorded. Any information which is shared should always be relevant to the allegation.

Where there is concern that there may be a public protection risk/pressing social care need, Common Law Police Disclosure exists to enable the Police to pass information to the employer or regulatory body to allow them to act swiftly to mitigate any danger.

For more information about Common Law Disclosures, visit the College of Policing website, Information sharing.

The employer remains responsible for employee investigations, and in most instances the local authority will request the employer to also undertake the safeguarding enquiry (see Section 2.3.7 The local authority causing others to make enquiries). However, there may be situations where it is not appropriate for the employer to undertake the safeguarding enquiry due to a conflict of interest, for example, where there is no one with sufficient authority and independence in the employer organisation to undertake an enquiry. In this instance the local authority will undertake the safeguarding enquiry, but the employer retains responsibility for all actions regarding their employees.

Where the employer is the adult with care and support needs, such as employing a Personal Assistant, the local authority will undertake the safeguarding enquiry. They will support the adult in undertaking their employer responsibilities and enable support for the adult in undertaking their employer responsibilities, including where necessary by supporting the person to make a DBS referral where this is indicated.

2.5.5. Referrals to the Disclosure and Barring Service

The Disclosure and Barring Service (DBS) helps employers make safer recruitment decisions and prevent unsuitable people from working with vulnerable groups, including adults or children. The Disclosure and Barring Service bars some people from working in a regulated service and maintains a register of individuals barred from working with adults and children due to the risk(s) they pose to them. If a person is barred it becomes an offence for an organisation to knowingly engage that person in regulated activity. Regulated activity is work (both paid and unpaid) with children at risk and adults with care and support needs. In relation to adults with care and support needs, regulated activity in broad terms includes activities involved in providing:

- health care,
- personal care,
- social work,
- assistance with managing finances/handling money such as paying bills and/or shopping,
- assistance in the conduct of personal affairs.

Employers and managers of volunteers working with people in regulated activity have a legal duty to make referrals to the Disclosure and Barring Service in circumstances where they have permanently removed a person from the regulated 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, arrested or convicted for a relevant offence, or,
- engaged in misconduct in relation to children or adults at risk – i.e. that an action or inaction (neglect) has harmed a child or adult or put them at risk of harm, or,
- satisfied the 'Harm Test' in relation to children or adults at risk – i.e. that there has been no relevant misconduct but a risk of harm to a child or adult still exists.

If a person providing regulated activity is removed from their role following a safeguarding incident the employer has a legal duty to refer to the Disclosure and Barring Service. This would include the person being either dismissed or redeployed to a non-regulated activity, or they leave their role (resignation or retirement), and the employer or volunteer organisation feels they would have dismissed the person based on the information they hold. If the person has been recruited through an agency or personnel supplier then the legal duty sits with that agency.

Where it is necessary to refer individual employees to the Disclosure and Barring Service and/or the relevant professional body, they will be made promptly and as soon as possible once the investigation has been concluded.

Where there is felt to be a public protection risk this should be considered as far as possible and necessary before the enquiry or police investigation is concluded.

Where the need for a referral to the Disclosure and Barring Service has been agreed as part of a safeguarding enquiry being led by the local authority, confirmation should be provided to the local authority that the action has been completed. It is usual practice for the Lead Enquiry Officer to check this with the employer. As the responsible authority for adult safeguarding, the local authority has the power to make a referral where the relevant criteria are met and should do so where it is necessary to ensure an appropriate referral has been made.

It is the Disclosure and Barring Service's decision regarding whether the person should be placed upon the list of those barred from working with adults and/or children. The Disclosure and Barring Service will contact the person directly to inform them that they have received a referral and will share all information provided to them with the person, along with any other information they may have received from other sources as part of their decision-making process.

The full guidance regarding referrals to the Disclosure and Barring Service can be found on the Gov.uk website, Disclosure and Barring Service.

The Disclosure and Barring Service has issued Guidance for Local Authorities and regulatory bodies about the duty and power to refer a person to the DBS and this guidance is available on the Gov.uk website, Referral duty and power for local authorities and regulatory bodies.

2.5.6. Referrals to professional bodies

Where the conduct of a person registered with a professional body has been the subject of an enquiry, a referral to that professional body should be considered. Professional bodies could include: the Health and Care Professions Council (HCPC), Nursing and Midwifery Council (NMC) and General Medical Council (GMC). In the case of clinical posts please ensure that the local CCG Designated Safeguarding team are aware, seeking advice where required regarding the appropriate professional body that will need to be notified.

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 as part of a safeguarding enquiry being led by the local authority, confirmation should be provided to the local authority that the action has been completed. As the responsible authority for adult safeguarding, the local authority may make a referral where the relevant criteria are met and should do so where it is necessary to ensure an appropriate referral has been made.

Professional bodies will follow their own investigation procedures and it is their decision regarding whether any action will be taken in relation to the person’s professional registration. Professional bodies have 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.

Professional bodies will contact the person directly to inform them that they have received a referral and will share all information provided to them with the person, along with any other information they may have received from other sources as part of their decision-making process.

2.6. Safeguarding and quality of care

2.6.1. Introduction

This section considers issues regarding the interface between quality of care and safeguarding in health and social care settings. It sets out how commissioners work with providers so that adults receive high quality safe services, and details how good communication and effective contract monitoring can support providers to take early action to reduce risk and safeguard adults.

The aim of every commissioner and service provider should be the delivery of effective, high-quality care and support for every individual. If the quality of a service falls short, adults may be put at risk of abuse or neglect. Many of the issues raised as safeguarding concerns – such as falls, pressure damage, wrongly administered medication or poor nutritional care – are rooted not in intentional or malicious harm but in poor practice and poor-quality care. Nonetheless, the impact to the adults can be just as great, regardless of whether harm is intended.

Effective partnerships between safeguarding and commissioning functions, together with an understanding of their interdependent roles and responsibilities, are essential to support a positive culture of cooperation and information sharing. Working in partnership, can assist with early identification when health and social care providers are at risk of not meeting required standards that might lead to wider concerns and the need for safeguarding interventions.

2.6.2. Responsibilities for quality in care and support services

The Care and Support Statutory Guidance outlines that safeguarding enquiries are 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.

Managers of care and support services and agencies responsible for the regulation and commissioning of those services have overall responsibility for ensuring the quality of the care and support services and ensuring that these meet required standards of care. Providers are accountable both to commissioners and to adults using their services and are expected to have a robust quality assurance framework in place that evidences commitment to prevention and early intervention. There is a clear responsibility on providers and commissioners to ensure safe, quality services that will reduce the need for safeguarding interventions.

The Role of the Regulatory Authority - Care Quality Commission

The Care Quality Commission monitors, inspects and regulates care and health services to make sure they meet fundamental standards of quality and safety and publish their findings, including performance ratings to help people choose care services.

The Care Quality Commission is responsible for setting fundamental standards of safety and quality by registration of services and by the ongoing monitoring of a provider's compliance and information relating to the quality of care and support services should always be shared with them.

The Care Quality Commission can deploy a range of enforcement powers where registration requirements are not being met in services with poor or inadequate standards of care. Where the Care Quality Commission identifies safeguarding concerns about an adult, they advise the local authority by raising a safeguarding concern.

When care providers and the local authority are aware of safeguarding concerns in regulated services, they will inform the Care Quality Commission.

The Care Quality Commission may attend safeguarding meetings or provide the lead with relevant information required to support safeguarding activity. They may also request the minutes of safeguarding meetings.

Further information:

- Care Quality Commission 2015, Statement on the Care Quality Commission's Role and responsibilities for Safeguarding Children and Adults (PDF, 152KB)

Quality monitoring in social care and health

Where care and health services are commissioned by either the local authority, or an Integrated Care Board, or commissioned jointly, they have a responsibility for monitoring the quality of those services. Through their Quality Monitoring Teams the local authority and Integrated Care Board gather relevant information and trends from complaints, safeguarding enquiries, assessment teams, safeguarding leads, and whistle blowers. Quality Monitoring teams work closely with other professionals and the Care Quality Commission, to share information in order to build a picture of care services. This information can be used to help support providers to maintain and improve quality of the care they provide. This information can also be shared with Lead Enquiry Officers to support risk management and decision-making.

Responses relating to the quality of care and support services which sit outside of the safeguarding enquiry process will be led and coordinated by the responsible commissioning organisation, in close partnership with the managers of those services, the Care Quality Commission and any other agencies or organisations that need to be involved or informed.

Where it is unclear which agency's commissioners would have responsibility for leading and coordinating a response relating to quality, this should not cause a delay in responding to issues about quality of care. In these situations, the local authority commissioners will take responsibility for convening a multi-agency planning meeting. This will determine which agency is most appropriate to coordinate any ongoing quality assurance response.

The information below gives a guide as to which organisation takes a lead for quality monitoring in relation to specific services:

Primary Care

Primary Care includes GPs, dentists and pharmacies. The local Integrated Care Board (ICB) is responsible for monitoring quality. NHS England is responsible for performance concerns relating to Primary Care, this includes General Practice, Community Pharmacies, Community Dentists and Opticians. If a safeguarding concern is raised in relation to Primary Care services the relevant Integrated Care Board should be informed. The safeguarding team within the Integrated Care Board will review the concern raised and decide whether it is appropriate to refer to NHS England. They will inform the local authority of any decisions made and outcomes.

NHS services (other than those listed above)

NHS services include Acute Hospital Trusts, Mental Health Trusts, Community Health Trusts (such as Community Nurses, Occupational Therapists, Physio Therapists), and Ambulance Trusts. The local Integrated Care Board covering the area where the service is situated, is responsible for monitoring quality.

Health services that are independently run

This includes, for example, hospices with charitable status. Independently run specialist health services that are likely to provide adults with specialist health or mental health care needs will need to be determined on a case-by-case basis as agencies that commission these services will vary.

Independently run care services

These services include all independent sector care and support services including care homes (with and without nursing), day services, domiciliary care services, supported living and other support services. The organisation responsible for monitoring quality is as follows:

- Services commissioned by the local authority, the local Integrated Care Board or those that are jointly commissioned: the commissioning authority in partnership with the Care Quality Commission.
- Where a service is jointly commissioned, it is the responsibility of health and social care to jointly monitor or agree who will monitor in partnership with the Care Quality Commission.

Care and support services operated by the local authority

The relevant local authority is responsible for monitoring quality.

Social work/assessment services

The relevant local authority is responsible for monitoring quality.

Prisons and detention centres

HM Prison and Probation Service is responsible for monitoring quality.

Where an adult employs personal assistants or other staff

Adults, or their representatives, can seek advice and support regarding this from the local authority. The local authority has a responsibility to provide an appropriate response to the adult and must ensure the adult, or their representative, is provided with adequate advice and support.

2.6.3. When do concerns about quality require a safeguarding concern to be raised with the local authority?

Care providers need to consider whether any incident or concern should be raised as a safeguarding concern and reported to the local authority, and to other organisations such as their regulator, the Care Quality Commission and commissioners. The care provider will also need to consider if it does not raise an incident/concern as a safeguarding concern how that will be recorded, and who this incident needs to be reported to.

Incident procedures cover a wide range of issues including minor incidents that may happen as a result of issues to do with practice or the quality of care provided. It is the provider manager’s responsibility to ensure that these are addressed proactively and effectively through internal processes and to ensure the service they provide meets the required standards of care.

Care providers are responsible for taking appropriate action in line with their own policy and procedures for incident reporting. This should reflect the Care Quality Commission's fundamental standards.

Consideration should also be given, depending on the nature of the incident, as to whether it may be necessary to notify relevant parties such as relatives, or any external agencies or organisations, due to contractual or regulatory requirements.

When an incident occurs and abuse or neglect is suspected a safeguarding concern should be raised.

Raising concerns and consent

The views and wishes of the adult should always be sought prior to passing information regarding a safeguarding concern to other organisations. However, this does not override professional responsibilities for passing information to relevant agencies, in order to protect an individual and others using the service (see Section 2.2 Recognising and Reporting Abuse and Neglect).

Example poor care/quality and safeguarding concerns

The following is not an exhaustive list. It is guidance giving examples of scenarios regarding concerns about the quality of care and support services and the type of response that may be required. In the case of poor care/quality issues, information should be made available to agencies responsible for commissioning and regulating the service. The service will respond to the issue using their own incident management processes. In the case of safeguarding concerns, information should be shared with agencies responsible for commissioning and regulating the services. Safeguarding concerns should be raised with the local authority. The service remains responsible for ensuring the safety of an individual adult and others using the service.

Poor care/quality issue 1

Assessed need not documented in care plan e.g. Management of behaviour or liquid diet due to swallowing difficulties. Provider identifies this and addresses it before any harm occurs.

Safeguarding concern 1

Failure to specify in care plan how an assessed need must be met and inappropriate action, or inaction, results in injury e.g. The adult experiences pain or choking.

Poor care/quality issue 2

An adult falls and injury occurs. Appropriate medical intervention sought and given, and existing falls risk assessment and care plan reviewed.

Safeguarding concern 2

An adult falls and injury occurs. No specific assessment of falls risk in place, no appropriate medical intervention sought or given, and no plan made to review the care plan.

Poor care/quality issue 3

The adult's care plan not followed. Provider identifies this and changes care practice and involves the adult in the process.

Safeguarding concern 3

Failure to follow care plan results in the adult experiencing abuse or neglect.

Poor care/quality issue 4

An adult does not receive necessary help to eat or drink on one occasion, or the food offered by the care provider is poor-quality and unappetising.

Safeguarding concern 4

Care provider continues to offer poor quality or unappetising food or culturally unacceptable food, or nutritionally inadequate or there are recurring events in which an adult(s) does not receive the necessary help to eat or drink. The adult experienced hunger, dehydration or constipation.

Poor care/quality issue 5

Incontinence needs not met on one occasion. No harm appeared to have occurred.

Safeguarding concern 5

Recurring event or is happening to more than one adult. The adult suffered abuse or neglect e.g. Loss of dignity and self-confidence, pressure ulcer development.

Poor care/quality issue 6

An adult does not receive their medication on one occasion, or an error occurs on one occasion. The adult's doctor or pharmacist was contacted for advice regarding the impact of the error.

Safeguarding concern 6

Medication error on one or more occasions that caused the adult(s) to suffer due to the nature of the medication e.g. Insulin for a diabetic. Recurring event or happening to more than one person. Adult(s) experienced abuse or neglect e.g. Pain, health deterioration, side effects.

Poor care/quality issue 7

An adult is discharged from hospital without adequate planning.

Safeguarding concern 7

Discharge planning procedures not followed and adult suffers as a result, or recurring event e.g. Increased risks, no care provision, information not communicated to care provider, medication not administered.

Poor care/quality issue 8

Domiciliary care call missed on one occasion for one adult, with minimal impact on the adult.

Safeguarding concern 8

The adult does not receive a care call, and no other contact is made to check their wellbeing and safety resulting in them experiencing or being at risk of abuse or neglect, and /or numerous calls missed, or more than one adult affected.

Poor care/quality issue 9

A staff member is reported to have talked to a colleague about an adult using the service in an unprofessional way. Or staff member has talked to an adult in an unprofessional or hurtful way. Apology made to the adult and the provider addresses conduct with the staff member.

Safeguarding concern 9

A staff member is reported to have shouted at or spoken rudely to or sworn at an adult.

Poor care/quality issue 10

Identified one-to-one support not provided to one adult on one occasion, with minimal impact on the adult.

Safeguarding concern 10

Recurring event, resulting in the adult experiencing or being at risk of abuse or neglect and putting other adults at risk, and/or unnecessary restraint used.

Poor care/quality issue 11

Staff not managing (aggressive) challenging behaviour of one adult, on one occasion. No ongoing risks evident to the adult or others care plan reviewed or amended.

Safeguarding concern 11

Recurring event, adult of harming self and others due to inaction. Inappropriate use of restraint.

Poor care/quality issue 12

One adult susceptible to pressure damage is not assessed on one occasion, but no skin damage is present.

Safeguarding concern 12

One adult not assessed, wounds visible and abuse or neglect evident e.g. adult(s) suffered pain. Advice is not sought and a referral is not made to the Tissue Viability Nurse and pressure damage occurs.

The role of the local authority on receipt of a concern

On receipt of a safeguarding concern the local authority will make a decision as to whether the duty to undertake a safeguarding concern is triggered (see Section 2.3 Receiving Concerns and Undertaking Enquiries).

On receipt of a safeguarding concern regarding a care and/or health provider the local authority will need to inform the relevant quality monitoring team within the local authority and the Integrated Care Board if the concern was regarding a concern about the delivery of health care. The local authority should also feedback the outcome of any safeguarding concerns or safeguarding enquiry to the relevant quality monitoring services and commissioners (Refer to local pathways in each local authority).

Causing others to undertake enquiries

The local authority may cause all, or part, of an enquiry to be carried out by another professional or organisation who may be best placed to do this. This is referred to as “causing others” to enquire (see Section 2.3.7 The local authority causing others to make enquiries). A Making Safeguarding Personal approach requires that the most appropriate professional is identified to carry out an enquiry e.g. health professionals may undertake enquiries relating to management of medication or pressure damage. Care home managers may be best placed to enquire about something that may have happened to one of their residents as a result of abuse or neglect by one of their staff.

Where it may not be appropriate for an employer to undertake an enquiry

In most cases, the local authority will cause the care provider to undertake the safeguarding enquiry (and provide the support that the adult may need) where it is regarding a person receiving care and support from that provider, unless there is a compelling reason why it is inappropriate or unsafe for the organisation to do this. For example, there could be a conflict of interest, concerns about ineffective previous enquiries, multiple concerns or a matter that requires investigation by the police.

Where there is a conflict, the provider may still be required to provide information and be involved in the enquiry, but not be formally caused to undertake it.

2.6.4. Responding to organisational abuse

Organisational abuse is a broad concept and is not just applicable to high profile cases, for example Winterbourne. It is an umbrella term defined as, "the mistreatment or abuse or neglect of an adult at risk by a regime or individual’s within settings and services that adults at risk live in or use, that violate the person’s dignity, resulting in lack of respect for their human rights" (Care and Support Statutory Guidance, 2014). Organisational abuse occurs when the routines, systems and regimes of an institution result in poor or inadequate standards of care and poor practice which affects the whole setting and denies, restricts or curtails the dignity, privacy, choice, independence or fulfilment of adults at risk. Organisational abuse can occur in any setting providing health and social care. A number of inquiries into care in residential settings have highlighted that Organisational abuse is most likely to occur when staff:

- receive little support from management,

- are inadequately trained,
- are poorly supervised and poorly supported in their work, and,
- receive inadequate guidance.

The circumstances in which an enquiry into organisational abuse may be required can include, but are not limited to:

- Safeguarding concerns with evidence of criminal neglect, ill treatment, network of abuse or death.
- Where it is suspected that a number of adults have been abused by the same person, or group of people in the same setting.
- Where there are indicators from safeguarding activities relating to an individual adult that other adults are at risk of significant harm.
- Where patterns or trends are emerging which suggests serious concerns about poor quality of care from a provider.
- Where a provider has failed to engage with other safeguarding activities resulting in continued harm or continued risk of harm to one or more adults.
- Where there is evidence that despite contract monitoring, quality improvement and/or Care Quality Commission action planning there remains insufficient improvements within the service, resulting in continued harm or continued risk of harm to one or more adults.

Responses to organisational abuse should involve key partner agencies and sufficiently senior managers from the earliest stage. This is essential in ensuring the appropriate personnel and resources are identified to carry out the enquiry. The level and nature of the concern will influence which organisations need to be involved and the required level of authority to make decisions on behalf of those organisations.

Many enquiries into organisational abuse will involve consideration about a number of adults who are at risk. It is vital that the enquiry includes the consideration of the views and outcomes of any individual adult involved and incorporates these into any wider strategic learning within the enquiry, whilst at the same time ensuring the confidentiality of specific individuals is maintained.

It is good practice in any enquiry for providers to be fully involved from an early stage to promote effective partnership working and bring about the best outcomes for adults with care and support needs.

Other funding authorities/Integrated Care Board will need to be informed regarding safeguarding concerns and enquiries involving a person placed by that organisation, and of any decisions for suspending placements due to safeguarding concerns.

Communication with adults, who use the service, and their representatives, needs to be considered and in the majority of cases this would be taken forward by the provider. In a residential setting, residents and their families may become anxious about increased activity, such as seeing more visiting professionals, and have the right to be informed of concerns, though care should be taken not to raise anxiety. Information sharing should always include adults who use services and their representatives so that they are able to make informed choices and retain their independence.

Duty of candour

The intention of the duty of candour under the Health and Social Care Act 2008 is to ensure that providers are open and transparent with people who use services and other 'relevant persons' (people acting lawfully on their behalf) in relation to care and treatment. It also sets out some specific requirements that providers must follow when things go wrong with care and treatment, including informing people about the incident, providing reasonable support, providing truthful information and an apology, as appropriate.

The duty of candour applies to all NHS trusts, foundation trusts, special health authorities and all other health and care service providers and registered managers.

2.7. Safeguarding and domestic violence/abuse

2.7.1. Introduction

This section contains information about the approaches and legal frameworks which can be used to support individuals who are experiencing domestic abuse.

No single agency can address all the needs of people experiencing, affected by, or perpetrating domestic abuse. For intervention to be effective, it is crucial that agencies work together in partnership to take timely action and adopt a shared responsibility for assessing and managing risk.

In situations in which domestic abuse is identified practitioners must always:

- Consider raising a safeguarding concern.
- Follow the Sussex Safeguarding Adults Policy and Procedures for undertaking enquiries as set out in Section 2.3 Receiving Concerns and Undertaking Enquiries.
- Consider the support specialist services can provide to the adult. Please see 2.7.8 Specialist services.

2.7.2. Understanding definitions of domestic abuse

The Domestic Abuse Act came into effect in April 2021 and gives police, local authorities and the courts wider powers and greater accountability concerning the protection of people experiencing domestic abuse.

The language in the Domestic Abuse Act has changed from domestic violence to domestic abuse and encourages people to consider that domestic abuse can present in many ways and is not just classified as physical abuse.

The Care Act 2014 specifies that freedom from abuse and neglect is a key aspect of a person's wellbeing. The broad meaning of wellbeing, and clear inclusion within that of prevention and protection from abuse, emphasises the overlap between domestic abuse and safeguarding adult's work.

There are specific adult safeguarding duties under section 42 that apply to any adult who is 18 years or over who:

- has care and support needs, and
- is experiencing, or is at risk of, abuse or neglect, and
- is unable to protect themselves because of their care and support needs.

Prevention is a key aspect of the Care Act, and it provides a discretionary power to raise a safeguarding concern for preventative work where other safeguarding concerns may be a factor, for example the impact of trauma from childhood or coercion and control.

The definition of domestic abuse is set out in section 1 of the Domestic Abuse Act 2021.

'Abusive behaviour' is defined in the Act as any of the following:

- physical or sexual abuse
- violent or threatening behaviour
- controlling or coercive behaviour
- economic abuse
- psychological, emotional, or other abuse.

For the definition to apply, both parties must be aged 16 or over and 'personally connected'.

'Personally connected' is defined in the Act as any of the following:

- are married to each other
- are civil partners of each other
- have agreed to marry one another (whether or not the agreement has been terminated)
- have entered into a civil partnership agreement (whether or not the agreement has been terminated)
- are or have been in an intimate personal relationship with each other
- have, or there has been a time when they each have had, a parental relationship in relation to the same child
- are relatives

The government has produced a statutory definition of domestic abuse factsheet which contains additional information.

'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.

Examples of coercive and controlling behaviour might be the destruction of property, isolation from friends, family or other potential sources of support, preventing or controlling access to money, personal items, food, transportation and the telephone, and stalking.

There is a criminal offence under Section 76 of the Serious Crime Act 2015 in relation to coercive and controlling behaviour within the context of domestic abuse. This sets out the importance of recognising the harm and cumulative impact on the victim caused by these patterns of behaviour.

Types of domestic abuse

Domestic abuse can include, but is not limited to:

- Sexual abuse – includes any sexual activity that the person lacks the capacity to consent to and also includes indecent exposure, intentional exposure to HIV or sexually transmitted infections and deception over the use of birth control or restricting access to birth control.
- Physical abuse, including violent or threatening behaviour – includes any assault, use of weapons or objects and non-fatal strangulation or suffocation. The new stand-alone offence of non-fatal strangulation was introduced through the Justice (Sexual Offences and Trafficking Victims) Act (Northern Ireland) 2022.
- Psychological or emotional abuse- can include withholding affection, turning children and friends against the victim, keeping the victim awake or preventing them from sleeping. Persuading the victim to doubt their own sanity or version of events – known as 'gaslighting'.
- Technological abuse - perpetrators can use technology and social media as a means of coercive control. It can include creating false social media and email accounts in the victim's name, 'trolling' or 'catfishing' the victim online with abusive, offensive, or deliberately provocative messages, or messages to try to obtain details of whereabouts and threats and / or distribution of non-consensual private sexual images and films with the intent to cause the person distress (known as 'revenge porn').
  Hacking internet-enabled devices such as games consoles, tablets, smart watches, and smart home devices to gain access to accounts or trace information including location, with the aim of controlling and frightening the victim. Use of spyware or GPS locators on items such as phones, computers, wearable technology, in vehicles and on pets.
- Economic abuse – limiting the victim's access to their own income and requiring them to ask for money and controlling the family income. Economic abuse also includes financial abuse The Care Act defines financial abuse as: having money or other property stolen, being defrauded, being put under pressure in relation to money or other property and having money or other property misused.
- Stalking and harassment - persistent and unwanted attention that makes someone feel harassed. It includes behaviour that happens two or more times, directed at or towards a victim by another person, which causes feelings of alarm, distress, and fear. The Stalking Protection Act 2019 introduced Stalking Protection Orders (SPO), a civil order which police can apply for through the magistrate's court.

2.7.3. Risk to others

Professionals or agencies working with adults have a key role in identifying others who may be at risk. Everyone must be aware that in situations in which there is a concern that an adult may be experiencing abuse and there are children in the same household, they too could be at risk.

The 'Think Family' agenda recognises and promotes the importance of a whole-family approach to safeguarding.

If a professional or agency working with adults becomes aware that a child is or may be experiencing abuse or neglect, they have a duty to safeguard and promote the welfare of the child/ren. In such situations Adult Social Care and Children's Services should work jointly.

Domestic abuse has a significant impact on children and young people of all ages (up to 18 years old). Section 3 of the Domestic Abuse Act 2021 ('the 2021 Act') recognises children as victims of domestic abuse for the purposes of the Act if the child sees, hears, or experiences the effects of the abuse, and is related to, or falls under "parental responsibility" of, the victim and/or perpetrator of the domestic abuse.

A child might therefore be considered a victim of domestic abuse under the 2021 Act where one parent is abusing another parent, or where a parent is abusing, or being abused by, a partner or relative.

Where there are concerns for a child in the context of a family experiencing domestic abuse and abuse, a referral under the child protection procedures should be considered.

Child protection procedures may apply locally for those under 18 years of age as set out in the Sussex Child Protection and Safeguarding Procedures which includes a guidance section on Safeguarding Children impacted by Domestic Abuse.

If a child is in immediate danger, contact the police on 999.

Reporting a concern about a child to the local authority

West Sussex County Council

Integrated Front Door (IFD)

Anyone who has concerns about the welfare of a child can contact a single countywide phone number, known as the Integrated Front door (IFD). Monday to Friday between 9am-5pm: 01403 229900

At all other times, including nights, weekends, and bank holidays, contact the 'out of hours' emergency team: 0330 222 6664.

Request support or raise a concern about a child.

East Sussex County Council

Monday to Thursday 8.30am – 5pm and Friday 8.30am – 4.30pm

Contact the SPOA on 01323 464 222

Email: 0-19.SPOA@eastsussex.gov.uk

Brighton and Hove City Council

Contact on 01273 290 400

Email FrontDoorForFamilies@brighton-hove.gov.uk

Online referral form - Refer a child or family to Front Door for Families (brighton-hove.gov.uk)

Please note that a contact with SPOA in East Sussex or Front Door For Families in Brighton can also cover early help and family help services.

For out of hours services for both East Sussex County Council and Brighton and Hove City Council contact the emergency duty service on 01273 335 90/01273 335 906.

2.7.4. Working with people experiencing domestic abuse

Both the local arrangements for responding to domestic abuse and the safeguarding adult's procedures will apply in situations where an adult who has care and support needs (they do not need to be receiving support for those needs) that prevent them from safeguarding themselves is experiencing domestic abuse.

As well as considering the legal measures under the Care Act, the adult experiencing abuse should have support to access a range of specialist services (see Section 2.7.8 Specialist Services). Good practice is using a Making Safeguarding Personal approach, ensuring that principles of a safe enquiry and a robust risk assessment are followed (see Section 2.7.7 Assessing and managing risks) and empowering them to address the risk(s) they face.

Factors which may increase the risk for the person

Disability (physical, learning disability and mental health, including substance and alcohol misuse)

- Disabled adults and women in particular are more likely to experience domestic abuse than non-disabled people and are twice as likely to have previously planned or attempted suicide (Disability and domestic abuse risk, impacts and response, 2015).
- 'An Evaluation of the 'Us Too' Project: People with Learning Disabilities Speaking Up on Domestic Abuse' (Caton, Thackray, and Carr, 2021) highlighted women with learning disabilities are between four and eight times more likely to experience sexual abuse, mostly by people who provide their care.
- People with poor mental health are more likely to experience domestic abuse. Conversely, domestic abuse can have a detrimental effect on a victim's mental health, which may be compounded by their abuser or others minimising this. See Domestic violence: statistics | Mental Health Foundation.
- Individuals experiencing domestic abuse may use alcohol or drugs to try to cope with their situation or 'block out' what is happening to them. Access to treatment or prescribed medication may be withheld and adults may be forced into drug or alcohol misuse by the perpetrator to intensify control and dependency

LGBTQ+ communities

- SafeLives research highlights there are significant levels of domestic abuse within the LGBTQ+ community but it is underreported. Furthermore, adults from the LGBTQ+ community are disproportionally underrepresented in domestic abuse services, including the criminal justice system.

Older people

- Assumptions regarding age and gender can mean injuries are considered the result of falls or unintentional rough handling while personal care is taking place. An adult presenting as unhappy or depressed may be seen as having health or social care needs, but this can result in domestic abuse being overlooked.

Pregnancy

- Pregnancy increases the risk to the woman and her unborn baby. It is estimated 4 – 9 in every 100 pregnant women are abused during their pregnancy or soon after the birth (Angela Taft, 2002). There is also a link between abuse during pregnancy and a woman's chance of being killed by her perpetrator (J. McFarlane et al. 2002).

Other contexts

- **Carers:** can be informal or formal.

  Formal care: for adults usually refers to paid care services provided by a healthcare institution or individual for a person in need. A formal carer is likely to be a person in a position of trust (PiPot) see 2.5.2 conduct of behaviours which may pose a risk to adults.

  Informal care: refers to unpaid care provided by family, close relatives, friends, and neighbours. Family and friends as carers may be involved in situations which require a safeguarding response, for example:

  - A carer may witness, and report abuse is happening involving paid carers or family members.
  - A carer may experience intentional or unintentional harm from the adult they are trying to support, or from professionals and organisations they are in contact with.
  - A carer may be experiencing domestic abuse by the person they are caring for and should be offered an assessment if a need is identified.
- **Culture, ethnicity, and race:** Women's Aid highlights while there is no evidence to suggest women from some ethnic or cultural communities are at higher risk of domestic abuse, the form of abuse experienced may vary, including forced marriage or female genital mutilation (FGM).

- **Harmful Practices**: are persistent practices and behaviours impacting all genders but particularly women and girls. Harmful practices are rooted in gendered social structures rather than individual and random acts; it cuts across age, socio-economic, educational, and geographic boundaries. *Harmful 'traditional' practices* are forms of violence which have been committed in communities and societies for so long that they are considered, or presented by perpetrators, as part of accepted 'cultural' practice. These can include virginity testing and hymenoplasty.

  The most common are forced or early marriage, so called 'honour' based violence, female genital mutilation or cutting (FGM) and other lesser reported forms such as faith-based abuse, menstrual huts, acid attacks, corrective rape, and others. Harmful traditional

practices occur across all sexes, sexual identities, and genders. They are not unique to a culture or religion.

- **Forced marriage**: occurs when individuals, regardless of their age, have been forced to marry against their will. A forced marriage differs from an arranged marriage, in which both parties' consent to their parents or a third party choosing a spouse. Forced marriage is illegal, and can happen in secret, but can also be planned within the community by parents, extended family, or religious leaders. Individuals may be trafficked to marry against their will, and individuals are also trafficked to and from the UK for sham marriages.

- **Honour-based abuse:** (HBV) is defined as 'a violent incident or crime committed to protect or defend the perceived honour of the family or community'. It is designed to punish an individual for behaving in a way not in keeping with traditional or cultural beliefs, or refusal to agree to a marriage. It is often committed with some involvement or co-operation from the family and/or community.

- **Spiritual abuse involving religion or beliefs**: refers to the manipulation of religion or spirituality to perpetrate or justify abuse and mistreatment. Spiritual abuse can be perpetrated by a partner or family members, as well as community and religious leaders or figures.

- **The impact of cultural norms and expectations:** cultural norms and expectations often mean women are unaware they are experiencing abuse, and examples of coercion and control may include:
  - Preventing the victim from learning a language or making friends outside of their ethnic or cultural background.
  - Refusing to interpret, and / or hindering access to communication.
  - Threatening the immigration status of the victim by withholding documents or giving false information to a victim about their visa or visa application or using immigration law to threaten the victim with potential deportation.

- **Traveller communities:** ethnic groups include gypsies, travellers and nomadic ethnic groups who have a separate identity, culture, language, and history. The experience of domestic abuse within traveller communities is more hidden and may be compounded as the community is often marginalised within wider society.

- **Adults with multiple compound needs:** people experiencing domestic abuse can face additional barriers in seeking help or accessing support services. It is therefore crucial professionals understand their daily lived experience and how domestic abuse affects them and their children or other family members.

  Multiple compound needs is defined by the national Changing Futures Programme as people who experience three or more of: homelessness, current or historical offending, substance misuse, domestic abuse, and mental ill health.

- **Family and inter-generational abuse:** abuse by family members can involve abuse by any relative or multiple family members. There is no requirement for the victim and perpetrator to live together within the Domestic Abuse Act.

In cases of alleged Child-to-Parent abuse (CPA), if the child is over 16 years of age, CPA is considered domestic abuse in accordance with the statutory definition under the 2021 Domestic Abuse Act.

When there is CPA, and the child is under 18 then it should be recorded as 'young person engaged in harmful behaviour' rather than alleged perpetrator.

Children and young people should be offered support based on their individual needs, with a range of interventions so that each child and young person is able to access the specialised help they require, avoiding unnecessary criminalisation.

The parent victim should also receive appropriate domestic abuse response and support. It is important that a young person using abusive behaviour against a parent or family member receives a safeguarding response, which should include referral to a Multi-Agency Safeguarding Hub (MASH) (or local equivalent) in the first instance where a parent advocate can attend, followed by referral to MARAC (Multi-Agency Risk Assessment Conference) if necessary, regardless of whether there is any police action taken. Responders should use their discretion and professional judgement when addressing cases of CPA, and work with the parent to identify the appropriate response.

Adult Family Homicide is where a parent is murdered by adult child. Cases which have been reviewed following incidents indicate a higher proportion of these involve mental health challenges for male family members (see 'Key findings from analysis of domestic homicide reviews: October 2019 to September 2020', Home Office, 2023)

Careful consideration is needed to determine good practice in such circumstances, taking account of the different factors which may present in intergenerational abuse. Appropriate support services should be sought to meet the needs of the adult who is experiencing domestic violence or Honour based abuse.

- **Other vulnerable adults:** there may be need to consider the safety and wellbeing of other vulnerable adults for example – if the cause of the risk is perpetrating the abuse at the victim's place of work. Or if the victim is not able (for whatever reason) to take the appropriate action or see the risks and they themselves work in a position of trust.

2.7.5. Consent and capacity in relation to domestic abuse

The Mental Capacity Act 2005 contains a range of safeguards and legal approaches, which can be used to support people experiencing domestic abuse.

Assessing capacity can be particularly challenging in situations involving domestic abuse and abuse, where the adult is cared for, or lives with a family member or intimate partner and is seen to be making decisions which put or keep themselves in danger.

An Independent Mental Capacity Advocate (IMCA) should be considered in all circumstances where an adult lacks mental capacity to make decisions about their safety, where that adult does not have suitable representation within their network of family and friends. People who do have family and

friends are still entitled to have an IMCA to support them in safeguarding procedures, if the decision-maker is satisfied that having an IMCA will benefit the adult.

Some adults experiencing domestic abuse and abuse may lack capacity to take certain decisions for themselves. They will need additional help to support and empower them in line with the Mental Capacity Act 2005. When an adult is assessed as lacking capacity to make decisions about keeping themselves safe from domestic abuse and abuse then any decision made by professionals on behalf of that adult must be made in their best interests.

The Mental Capacity Act 2005 sets out that all practicable steps have to be taken in order to ensure that person has access to all information relevant to the decision, before any assessment can conclude that a person lacks mental capacity. It is important that people who may be experiencing domestic abuse and abuse are given accessible information about all the options available to them. This should include specialist domestic abuse services as well as information on legal options such as restraining orders, and actions the police can take such as Domestic Abuse Protection Orders.

Being at high risk of harm often limits someone's capacity to safeguard themselves. This is due to the psychological process (sometimes called 'Stockholm Syndrome') that focuses an individual on acting, within the context of the immediate threats that they face, to limit abuse and its impact. This can lead people to identify with the perpetrator and can prevent people acknowledging the level of risk they face. It commonly prevents people from taking steps to leave or end a relationship.

When a person stays in an abusive relationship skilled intervention is required to judge whether they are making that choice free from undue influence of the person who is causing them harm. A decision not to leave may be based on a realistic fear of the behaviour the perpetrator has threatened if the victim were to disclose abuse or try to leave the relationship. Consideration that impaired mental capacity may be a consequence of cumulative trauma and abuse is required, and a skilled assessment taken to establish whether a person is making unwise or unsafe decisions, or whether decisions are taken under duress, coercion, and control.

The impact of coercion on decision making

In circumstances where there are concerns that an adult may be experiencing coercion and control that may be impacting on the decisions they make about their safety, the adult must be offered an opportunity to meet with a practitioner in private and separately from family members/carers. For further information please see Research in Practice: mental capacity and coercion.

Adults experiencing domestic abuse and abuse may be reluctant to make disclosures or give consent for information about the concerns being shared with other agencies. This can be due to a number of reasons, including fear of the abuser and what they may do, fear of not being believed, and / or shame. Situations in which a person may not give consent to information being shared and safety measures being taken, may require practitioners to override their consent and share information given the significance of the risks to the adult.

Substance misuse and capacity

Adults may be temporarily unable to make decisions because of their drug or alcohol misuse and this may compound fluctuations in capacity and ability to make safe decisions. For further

information please see Sections 2.2.5 'Consent and empowerment of an adult when raising a safeguarding concern' and 2.3.9 'Involving an adult in an enquiry' for further guidance.

There is also scope for practitioners to consider using inherent jurisdiction to safeguard people who do not lack capacity but whose ability to make decisions is compromised because of constraints in their circumstances, coercion, or undue influence. Inherent jurisdiction describes the power that the High Court has to make orders and grant injunctions in particular situations where there is no other power to intervene in law, such as under the Mental Capacity Act.

As outlined above advocacy is an additional resource that can be used to support people experiencing domestic abuse and abuse. As well as support from IMCA's for people who are assessed as lacking mental capacity, consideration can be given to referring to specialist Independent Domestic Abuse Advisors (IDVAs) to support people at high risk from domestic abuse and abuse.

IDVAs help to keep adults who are experiencing domestic abuse and abuse and their children safe from harm and serve as a victim's primary point of contact. IDVAs provide support to discuss a range of options, sanctions and criminal or civil remedies with the adult. They help the adult to develop a safety plan (which looks at immediate safety and longer-term measures), as well as representing their clients at Multi-Agency Risk Assessment Conferences (MARAC). The role and function of the MARAC is covered further within this chapter.

2.7.6. Responding to disclosures and safe enquiries

Responding to disclosures

Where domestic abuse is disclosed, it is important to deal with any immediate needs the person may have such as seeking medical help, police assistance, and access to domestic abuse services that can provide immediate support.

If a person is in immediate danger, dial 999 and ask for the police.

How to make a silent 999 call (Sussex Police) from a mobile phone or a landline: if the victim is unable to talk, they may be asked to cough or tap the keys on their phone to answer questions.

The Sussex Safeguarding Adults Thresholds Guidance contains information on signs and indicators of abuse and neglect and what should be reported as a safeguarding concern.

Enabling the person to talk about their experience

Ask direct questions about the abuse but only ask when the victim is on their own and in a private place. Don't assume someone else will ask at another time as it may be the victim's only opportunity to tell someone about what's happening to them.

When a disclosure is made, care is needed not to ask leading questions and to give the person time to talk about what has happened. It is important to gather an account so appropriate support can be offered, and to avoid compromising any criminal investigations. Open questions in response to a disclosure or potential disclosure should follow the principle of 'tell me what happened' or 'what, when, why, where and how'.

Research indicates those who experience abuse, including coercion and control, and are finding it difficult to disclose their experiences, may want practitioners to ask direct questions as it can be easier to respond to a direct question than offer information independently. It is important to ensure questions are open, so the person is able to provide an account in their own words.

It is crucial that any enquiries with victims are made when the person is safe to disclose and in a situation which will not increase the risk to them. A 'safe enquiry' means ensuring the potential perpetrator is not and will not easily become aware of the enquiry, if it is assessed this would be a risk to the adult, or others.

The Association of Directors of Adult Social Services (ADASS) 'Adult safeguarding and domestic abuse guide to support practitioners and managers' contains good practice guidance on undertaking a safe enquiry including a range of direct questions practitioners can use to give opportunities for people to disclose abuse.

Communication and information sharing

Effective communication and information-sharing enables professionals to develop strong working relationships and networks, trust, and shared ownership of decisions and risk management.

When working together, professionals from across different organisations should seek to understand and respect each other's roles in supporting the person, as well as offering the flexibility which may be required to gain the best possible outcome for the adult. This will help to set expectations, clarify responsibilities; and avoid any misunderstanding when sharing work.

Confidentiality is an important principle that enables people enables people to feel safe but the right to confidentiality is not absolute. If an adult refuses consent to share information, their wishes should be respected but there are instances where the sharing of information can still legally take place when it is necessary to do so, and there are adequate safeguards in place to protect the security of the information.

Brighton and Hove, East Sussex and West Sussex SABs have developed a pan-Sussex Information Sharing Guide and Protocol, which provides further information in relation to information sharing Sussex Information Sharing Guide and Protocol - East Sussex SAB.

Multi-agency meetings

Multi-agency meetings help to ensure co-ordination of distinct aspects of an enquiry that relate directly to the adult or a decision that will affect them. Information and intelligence can be shared to determine what the appropriate actions should be to "sufficiently reduce or remove the risk to the adult".

The principles of person-centred working and empowerment are central to undertaking section 42 enquiries or other safeguarding enquiries. This includes assessment, intervention, and multi-agency meetings to help co-ordinate responses for individuals even if services are not able to engage with them. This may be particularly important for adults with multiple and compound needs experiencing domestic abuse who may find it difficult to engage with services and where a co-ordinated response is required to maximise opportunities to keep individuals safe.

Please see 1.1.3 Multi-agency working section.

Professional curiosity and critical thinking

Professional curiosity is the capacity and communication skills to explore and understand what is happening rather than making assumptions or accepting things at face value. Professionals also need to manage uncertainty, consider, and analyse all possible explanations, and be prepared to ‘think the unthinkable’.

It is important to ascertain whether information aligns with known details or is contradictory, and whether information can be verified by other professionals involved. Triangulating information will help to provide a coherent account of what is happening in a person’s life and will support the process of risk assessment and safety planning.

Trauma-informed practice

Trauma can be defined as “an event, series of events, or set of circumstances that is experienced by an individual as physically or emotionally harmful or life threatening and that has lasting adverse effects on the individual’s functioning and mental, physical, social, emotional or spiritual wellbeing.” (Substance Misuse and Mental Health Services Administration, 2014).

Adults who have been exposed to repeated traumatic events and may be unable to engage with professionals because their threat perception system is heightened, and they may be in a constant flight or fight mode.

The four Rs of trauma informed care. SAMHSA (2014).

1. **R**ealising how common the experience of trauma and adversity is.
2. **R**ecognising the different ways that trauma can affect people.
3. **R**esponding by taking account of the ways that people can be affected by trauma to support recovery.
4. Opportunities to **R**esist re-traumatisation and offer a greater sense of choice and control, empowerment, collaboration, and safety with everyone that you have contact with.

Making Safeguarding Personal (MSP)

Clear and transparent communication with the adult is key to building trust and confidence in the support that can be offered, and in maximising opportunities for participation. Important principles in MSP include:

- Showing a disclosure is believed.
- Clarifying which other agencies are involved and trusted professionals who know most about the person’s situation, so they do not have to repeat information.
- Asking the adult or their advocate about next steps and desired outcomes.
- Ensuring safe contact arrangements are established from the start.
- Providing information and advice about the range of services available, including work-based support.
- Keeping the adult or their advocate informed throughout a professional’s involvement.

2.7.7. Assessing and managing risks

An assessment of risk should take place in all situations where an adult with care and support needs is experiencing domestic abuse and abuse:

- Comprehensive, accurate and well-informed risk assessments are fundamental to good practice.
- A thorough risk assessment enables the adult concerned and practitioners to understand and be confident about the interventions and decisions to share information with other professionals as part of a multi-agency response.
- Numerous services may be working with an adult experiencing domestic abuse and abuse, and it is essential that professionals across agencies work together in a coordinated manner to ensure a consistent response to assessing a victim's risks and needs, as well as managing and reducing the risk posed by an alleged perpetrator.
- The presence of children (particularly stepchildren) or other vulnerable adults increases the wider risks of domestic abuse.
- Separation: although the risk of intimate partner homicide is highest in the first three months after a separation, separation still lowers the risk of intimate partner homicide overall (Spencer & Stith, 2020).

Involving the adult experiencing domestic abuse and abuse (and / or their advocate if necessary) in the risk assessment is often the most effective practice as assessments carried out in this way are more likely to:

- Produce an accurate, comprehensive, and better-evidenced risk assessment.
- Give the adult an opportunity and support to identify, describe and understand the risks for themselves, keeping their wishes central to the safeguarding process.

In research published in 2018 Dr Monckton-Smith (PDF, 546KB) reviewed domestic violence killings in the UK which showed an 8-stage timeline of events before a homicide takes place.

The eight steps that were identified to be present in almost all of the murders studied were:

1. A pre-relationship history of stalking or abuse by the perpetrator
2. The romance develops quickly into a serious relationship
3. The relationship becomes dominated by coercive control
4. A trigger threatens the perpetrator's control - for example, the relationship ends, or the perpetrator gets into financial difficulty
5. Escalation - an increase in the intensity or frequency of the partner's control tactics, such as stalking or threatening suicide
6. The perpetrator has a change in thinking - choosing to move on, either through revenge or by homicide
7. Planning - the perpetrator might buy weapons or seek opportunities to get the victim alone
8. Homicide - the perpetrator kills his or her partner and possibly hurts others such as the victim's children

The only instance where a stage in the model was not followed was when men did not meet stage one - but this was normally because they had not previously had a relationship.

The Domestic Abuse Stalking and Harassment Risk Identification Checklist (DASH RIC)

When a concern is raised about domestic abuse and abuse, or a disclosure is made, a Domestic Abuse Stalking and Harassment Risk Identification Checklist (DASH RIC) should be completed. This is commonly known as the 'DASH RIC'.

The DASH form is a tool used to assess risk, and to make referrals to appropriate agencies. The form has two sections: the referral form, and a Domestic Abuse Risk Indicator Checklist (RIC). This is a universal checklist used by agencies which identifies and assesses the risks posed to an individual. There are 24 questions, each question has a tick box for a 'Yes', 'No' or 'Don't know' response.

Risk themes included in the DASH RIC

- Coercion, threats, and intimidation
- Emotional abuse and isolation
- Sexual abuse
- Children and pregnancy
- Economic abuse
- Physical abuse

The DASH RIC is available at these sites:

- **East Sussex and Brighton & Hove:** East Sussex Safer Communities Partnership, Multi-Agency Risk Assessment Conferences (MARAC)
- **West Sussex:** West Sussex County Council, Domestic abuse information for professionals

The DASH RIC is designed to help professionals make an accurate and timely assessment of risk. The tool is also used for professionals from any agency to refer to the local Multi Agency Risk Assessment Conference (MARAC) if the assessment identifies the person is at high risk or there are significant concerns that a multi-agency response is warranted.

The DASH RIC is an evidence-based list covering six areas of risk, about what factors are present in a domestic abuse situation. This should be completed with the victim, although in situations where this may not be possible the tool can be completed by the practitioner using their professional judgement.

Safety of professionals working with domestic abuse victims

Risk assessments should be considered for the professional network as there may be times when threats are made to specific members of staff or there is a risk this could happen. The following should be considered to minimise the risk of harm occurring:

- General risk assessments and allocation of workers when referrals are accepted.
- Considering joint working, including the need for police attendance during visits.

- Risk markers or warning flags on recording systems identifying any risks to staff.
- Individual risk assessments and safety plans if threats have been made.
- Police warning markers on home addresses and office locations.
- Time for debriefs following visits and during supervision, including the impact of vicarious trauma and individual triggers affecting staff working with high-risk domestic abuse cases.

Multi Agency Risk Assessment Conference (MARAC)

The MARAC is a multi-agency meeting that brings together representatives from a number of statutory and voluntary sector agencies to discuss the safety, health, and wellbeing of people over the age of 16 who are experiencing domestic abuse. This includes their children and wider networks.

It is important to remember that MARACs are not substitutes for safeguarding enquiries and consideration should always be given to raising a safeguarding concern where it is identified that an adult is experiencing domestic abuse.

MARAC meetings

- A named professional may be asked to attend MARAC to provide updates, or information may be shared by a MARAC representative on behalf of their agency.
- It is important to remember that the adult is not invited to these meetings but is likely to be represented by an Independent Domestic Abuse Advocate (IDVA).
- Meetings will focus on a discussion of key concerns and risks followed by safety planning including individual agency actions to minimise or remove risk.
- Information sharing with other agencies, including consideration of other adults at risk will need to be agreed by MARAC.
- MARAC will identify which agency is the lead professional and will make a number of recommendations for referrals to additional support services where required.
- Where people who are moving across Local Authority areas it is crucial for there to a be a discussion between agencies regarding who is making the referral across to the new area and ensure that information sharing is completed.
- There is no formal review process unless a repeat referral is made.
- Consideration should be given to whether an application for a Domestic Abuse Disclosure Scheme (DVDS) is made to Sussex Police. The aim of the scheme is to enable potential victims to make an informed choice about whether to continue with a relationship if a new or current partner has a history of abuse or abuse. If a MARAC referral is made practitioners are prompted to consider this as part of the referral, but an application for a DVDS should be made separately to Sussex Police.
  Full details on this scheme is available: Clare's Law - Domestic Abuse Disclosure Scheme (DVDS) | Sussex Police.

Making a referral

Any agency can make a referral to MARAC if a DASH form highlights domestic abuse is high risk, that is with a DASH score of 14 and above, or where a worker involved makes a professional judgement that the risks are high enough for MARAC to consider the need for additional safety planning.

Where an adult is the subject of a safeguarding enquiry, the MARAC referral should include information on relevant history, progress of the enquiry, and clarify additional support being sought.

A MARAC referral does not eliminate the risks faced by the individual and does not replace the interventions carried out as part of a safeguarding enquiry. While referrals should not be made for resolving an immediate crisis, high risk cases should always be referred for consideration.

Consent is not always sought to make a referral, but action may be taken afterwards to ensure the victim is informed. This may include raising a new safeguarding concern.

Repeat referrals

SafeLives defines a ‘repeat’ as any instance of abuse between the same victim and perpetrator(s), within 12 months of the last referral to MARAC. The individual act of abuse does not need to be ‘criminal’, violent or threatening but should be viewed within the context of a pattern of coercive and controlling behaviour.

It should be noted that the requirements around MARAC repeat referrals apply regardless of any ongoing safeguarding S42 enquiry or plan that partner agencies may be supporting the person/their representative with.

Further information on MARAC can be found at:

- **East Sussex:** Safe in East Sussex
- **Brighton & Hove:** Safe in the City
- **West Sussex:** Safe in Sussex

2.7.8. Specialist services

The following specialist services may be of interest.

Victim Support - Brighton and Hove

Specialist domestic abuse support in Brighton and Hove is provided by Victim Support.
Website: www.victimsupport.org.uk/resources/sussex/
Telephone: 0300 323 9985
Email: sevcu.referrals@victimsupport.cjsm.net

Change, Grow, Live (CGL) - East Sussex

CGL deliver the specialist domestic abuse service in East Sussex.
Website: www.changegrowlive.org/domestic-abuse-service-east-sussex
Telephone: 0300 323 9985
Email: es.domesticabuse.referrals@cgl.cjsm.net

Worth Services - West Sussex

In West Sussex the specialist domestic abuse support and advice service is provided by Worth Services. Anyone can refer to Worth, which works with clients aged 16 or over regardless of gender, sexual orientation, race, religion or disability.
Website: Local support for people being abused - West Sussex County Council
Telephone: 07834 968539 or 033 022 28181
Email: DomesticAbuseServicesCentral@westsussex.gov.uk

Survivors Network - Specialist Rape and Sexual Violence and Abuse Service for Sussex

Across Sussex the specialist rape and sexual violence and abuse service is provided by Survivor's Network.
Website: www.survivorsnetwork.org.uk/
Telephone: 01273 203 380
Email: referrals.sn@survivorsnetwork.cjsm.net
Email for general enquiries: info@survivorsnetwork.org.uk

Veritas - Specialist Stalking Advocacy Service for Sussex

Website: www.veritas-justice.co.uk/
Telephone: 01273 234 773
Email: info@veritas-justice.co.uk

Hourglass specialist support for older victims/survivors of domestic abuse

Hourglass provide advice and support for older people at risk of, experiencing or recovering from any form of abuse, including domestic abuse including economic abuse.

Website: www.wearehourglass.org

Refuge from domestic abuse

East Sussex: Clarion Housing Association provides safe refuge accommodation for women and children fleeing domestic violence across East Sussex. If you are seeking refuge in East Sussex, email Clarion at referrals.eastsussex@clarionhg.com.

West Sussex: Safe in Sussex provides confidential refuge provision for women and children in West Sussex. Email: refuge@safeinsussex.org.uk.

Brighton and Hove: the Brighton Refuge is a safe space providing accommodation and support for women and their children who are fleeing domestic abuse and is run by Stonewater. Email brighton.refuge@stonewater.org.

Hersana

Providing Black femme survivors with support, access to justice and counselling on all forms of gender-based violence.

Website: www.hersana.org

Mankind

Mankind offers a confidential helpline for male victims of domestic abuse and sexual abuse across the UK with a local point of contact in Brighton and Hove.

Website: www.mankind.org.uk
Telephone: 01273 911680

National Centre for Domestic Violence (NCDV)

Service for survivors of domestic abuse who are seeking an injunction.

Telephone: 0800 9702070
Email: office@ncdv.org.uk
Website: www.ncdv.org.uk

Home Office Female Genital Mutilation (FGM) Unit

The FGM Unit provides outreach support to local areas to support them in developing their response to fighting FGM.

Email: fgmenquiries@homeoffice.gsi.gov.uk

Forced Marriage Unit

The Forced Marriage Unit offers information and support to those who fear they will be forced into marriage and can talk with them about their options.

Telephone: 0207 0080151
Email: fmu@fco.gov.uk

2.7.9. Domestic abuse information and guidance

Adult Safeguarding and Domestic Abuse

A Guide to Support Practitioners and Managers (Local Government Association and ADASS, 2015) sets out the overlap between safeguarding and domestic abuse and the approaches and legal frameworks for domestic abuse that can be used in the safeguarding context.

Coercive Control (Research in Practice for Adults)

The Coercive Control website is for social workers and other health and social care practitioners to develop their knowledge and skills in working in situations of coercive control.

SafeLives

SafeLives is a National Charity dedicated to ending domestic abuse and contains information about the UK's response to domestic abuse. The site includes information for professionals on resources including MARAC and the IDVA service.

Domestic Abuse Strategy Guidance

This statutory guidance is issued under section 84 of the Domestic Abuse Act 2021 ('the 2021 Act'). It is intended to increase awareness and inform the response to domestic abuse. It also conveys standards and promotes best practice.

2.8. Sussex multi-agency procedures to support adults who self-neglect

2.8.1. Introduction

Self-neglect covers a wide range of situations and behaviours. It can be linked to numerous factors including:

- physical health problems,
- mental health problems,
- substance misuse,
- psychological and social factors,
- diminished social networks,
- personality traits,
- traumatic histories and life-changing events.

A failure to engage with adults who are not looking after themselves (whether they have mental capacity or not) may have serious implications for, and a profoundly detrimental effect on, an adult's health and wellbeing. It can also impact on the adult's family and local community.

Analysis of Safeguarding Adults Reviews in relation to cases involving self-neglect has set out the following learning and recommendations:

- The importance of early information sharing in relation to previous or on-going concerns.
- The importance of thorough and robust risk assessment and planning.
- The importance of face-to-face reviews.
- The need for a clear interface with safeguarding adults procedures.
- The importance of effective collaboration between agencies.
- Increased understanding of the legislative options available to intervene to safeguard a person who is self-neglecting.
- The importance of an understanding of, and the application of, the Mental Capacity Act 2005.
- The need for practitioners and managers to challenge and reflect upon cases through the supervision process and training.
- The need for robust guidance to assist practitioners in working in this complex area.

- The need for assessment processes to identify carers and/or significant others, and the level of care and support they are providing.

Aim of these procedures

These procedures set out a framework for collaborative multi-agency working within Sussex to provide a clear pathway for all agencies to follow when working with adults who are self-neglecting.

The aim of these procedures is to prevent death and serious harm to self-neglecting adults by ensuring:

- Adults who are self-neglecting are empowered, as far as possible, to understand the implications of their self-neglecting behaviours.
- A shared, multi-agency understanding and recognition of the issues involved in working with adults who self-neglect.
- Effective multi-agency working and practice, whether this falls within a Section 42 safeguarding enquiry or outside of this. Decisions will be made on a case-by-case basis as to whether the lead agency will be the local authority or another agency. Please refer to the flowchart in section 2.8.2.
- Agencies and organisations uphold their duties of care.

Who the procedures apply to

These procedures are to assist professionals from any agency who are working with and supporting an adult who is displaying self-neglecting behaviours.

Any professional can request and convene a multi-agency meeting under these procedures. Where a safeguarding enquiry is being undertaken, the local authority will be the lead agency under these procedures. In other cases, discussions will be held by the agencies involved as to who is best placed to co-ordinate and convene a multi-agency meeting and response. See section 2.8.7 of this guidance for further information on multi-agency meetings.

2.8.2. Flowchart – overview of the self-neglect process in Sussex

See section 2.3 of the Sussex Safeguarding Adults Policy and Procedures for more information on Section 42 enquiries.

- Figure 2: Overview of self-neglect process in Sussex (PDF, 214KB)

2.8.3. Self-neglect and the Care Act 2014

The Care Act 2014 formally recognises self-neglect as a category of abuse and places a duty of co-operation on all agencies to work together to establish systems and processes for working with adults who are self-neglecting. The Care Act emphasises the importance of early intervention and preventative actions to minimise risk and harm. Central to the Care Act is the wellbeing principle,

and focusing on decisions which are person-led and outcomes focused. These principles are important considerations when responding to self-neglect cases.

Under Section 42 of the Care Act, a safeguarding enquiry is required when the person who is self-neglecting meets the three key tests – that is, the person:

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

The Care and Support Statutory Guidance states 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’.

Section 42 enquiries are primarily aimed at adults who are experiencing abuse, harm, neglect or exploitation caused by a third party.

In addition to the statutory duty to carry out a safeguarding enquiry under Section 42 of the Care Act, local authorities have a power to undertake a non-statutory safeguarding enquiry if it is proportionate to do so and will promote the adult’s well-being and support a preventative agenda.

Decisions are made on a case-by-case basis. Situations which present with a lower level of risk, which could include adults who are not in receipt of health and social care services, and have not been known to Adult Social Care previously, could potentially be addressed through mechanisms such as:

- engaging the adult in a Care Act assessment,
- signposting to alternative services or community resources,
- arranging for mental health services and support, or
- contact with GP etc.

Professional judgement and risk assessment is key in determining the level of intervention required. Any factor or issue may move a lower risk case into a higher threshold which would warrant consideration under safeguarding procedures and/or consideration of other legal remedies. Where there are indicators that the level of risk is likely to change, appropriate action should be taken or planned.

Indicators of significant risk could include:

- History of crisis incidents with life-threatening consequences.
- High risk to others (consider risks relating to substance misuse, or risk of fire associated with hoarding).
- High level of multi-agency referrals received.
- Risk of domestic violence.

- Fluctuating capacity.
- History of safeguarding concerns or the person being vulnerable to exploitation.
- Financial hardship, including risk to tenancy or home security risks.
- Likely fire risks.
- Public order issues, including antisocial behaviour, hate crime, offences linked to petty crime.
- Unpredictable or chronic health conditions due to non-compliance with the proposed treatment.
- History of chaotic lifestyle, including significant substance misuse or self-harm.
- Environment presents high risks, such as inadequate plumbing, washing or toileting facilities.
- History of non-engagement.
- Little or no informal support network, socially isolated.

In all cases, when a concern is raised regarding self-neglect, all agencies have a responsibility to consider these procedures for supporting adults who are self-neglecting. This is regardless of whether the concern falls within the scope of a Section 42 enquiry or not.

It should also be remembered that children can be affected by adults who self-neglect. Where there are concerns for a child in the context of an adult experiencing self-neglect, Children's Services should be contacted – whether or not the concerns relate to child protection or a child being 'in need'. If child protection procedures apply refer to the Sussex Child Protection and Safeguarding Procedures.

2.8.4. Self-neglect: signs and causes

Self-neglect is "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 adult and potentially to their community" (Gibbons, 2006).

Self-neglect can describe a wide range of different situations or behaviours. It might mean that someone is not looking after their own health or personal care. In other situations, it might refer to someone not maintaining their home environment for so long that it becomes cluttered or dirty enough to pose risks for their health or safety.

Indicators of self-neglect

- Living in very unclean, sometimes verminous circumstances.
- Neglecting household maintenance creating fire risks or hazards, e.g. rotten floorboards, lack of boiler, dangerous electrics.
- Displaying eccentric behaviours or lifestyles, such as obsessive hoarding.
- Poor personal hygiene and poor health, e.g. unkempt appearance, long finger nails and toe nails, pressure sores, malnutrition and dehydration.
- Poor diet and nutrition, e.g. little or no fresh food, or mouldy out-of-date food, and there is evidence of significant weight loss.
- Declining prescribed medication or necessary help from health and/or social care services.

- Collecting a large number of animals who are kept in inappropriate conditions.
- Financial debt issues which may lead to rent arrears and the possibility of eviction.
- Excessively cluttered environment which poses a fire risk and access difficulties.

This list is not definitive or exhaustive.

Reasons for self-neglecting behaviour

Self-neglect may happen because the person is unable to care for themselves or for their home, or because they are unwilling to do so, or sometimes both. They may have mental capacity to take decisions about their care or may not.

There are a range of explanations and contributing factors which may lead to self-neglect, including:

- Changes in physical or mental health, including age-related changes.
- Influence of the past, such as bereavement and loss, a traumatic event or childhood trauma.
- Chronic mental health difficulties which may include: personality disorder, depression, obsessive compulsive disorder.
- Alcohol or drug dependency or misuse.
- Diminishing social networks and/or economic resources leading to social isolation.
- Fear, anxiety, pride in self-sufficiency.

Often the reasons for self-neglect are complex and varied, and it is important that health and social care practitioners pay attention to mental, physical, social and environment factors that may be affecting the situation (Braye, Orr, Preston-Shoot, 2015).

Unpaid carers may self-neglect as a result of their caring responsibilities. Workers should be aware of the impact that caring for a vulnerable person might have on the carer and ensure that a carer's assessment is carried out and appropriate support offered.

Self-neglect and hoarding

Hoarding can be described as the excessive collection and retention of goods or objects. Hoarding disorder is a persistent difficulty in discarding or parting with possessions because of a perceived need to save them. Hoarding can often become a concern for others when health and safety is threatened by the nature or number of items accumulating within, and sometimes overflowing from, the property of the person who is hoarding.

The reasons why someone begins hoarding are not fully understood. It can be a symptom of another condition. For example, someone with mobility problems may be physically unable to clear the huge amounts of items accrued. Compulsive hoarding can cause significant distress or impairment of work, family or social life.

Until recently, hoarding was considered to be a symptom of conditions such as obsessive compulsive disorder (OCD), anxiety disorder or autism. However, as a result of significant research, it is now recognised as a distinct mental health disorder and is included in the 5th edition of the Diagnostic and Statistical Manual of Mental Disorders (DSM), 2013. It is therefore crucial that the

correct support and guidance is sought when working with adult's who are hoarding, such as arranging a medical review or referral to mental health services.

Home safety visits

Where a person's home environment becomes cluttered through the excessive hoarding of items, the risk of a fire occurring increases, and it is more difficult for adult's living within the property to evacuate safely.

With the consent of the adult, the Fire and Rescue Service will undertake a home safety visit and provide the necessary guidance and advice regarding fire safety, and also where necessary will install smoke alarms and/or other specialist equipment. Any partner agency can make a referral for a home safety visit by contacting the Fire and Rescue Service in their area. The adult, or a friend or family member, may also make a self-referral.

2.8.5. Working with adults who self-neglect

The starting point should be the adoption of a person-centred approach and engaging with the adult who is self-neglecting. This will support their right to be treated with respect and dignity, and to be in control of and, as far as possible, to lead an independent life.

Key principles of engagement

When engaging with an adult who is self-neglecting, and who may have difficulty with their executive functioning (the ability to plan, organise and complete tasks), consider whether:

- They have information in a format they can understand.
- Circumstances allow conversations to take place over a period of time and the building-up of a relationship.
- Consider who (e.g. family, advocate, other professional) can support you to engage with the adult.
- Always involve attorneys, receivers, or representatives if the adult has one.
- Check whether the person understands their options and the consequences of their choices (consider the person's mental capacity).
- For adults who present with fluctuating capacity, aim to develop a plan of agreed actions or outcomes for the adult during a time when they have capacity for that decision.
- Ensure the adult is invited to attend meetings, where possible.

The challenge of non-engagement

A frequent challenge encountered by professionals when working with adults who are experiencing self-neglect is when adults refuse, or are unable, to engage with or accept services to support them and to minimise risk. There will often be competing demands between demonstrating respect for the adult's autonomy and self-determination, and the need to protect the adult from harm.

Non-engagement can present in a variety of ways, including:

- Not attending appointments.
- Not opening the door to professionals.
- Being unable to agree to a plan of support to effect change and minimise risk.
- Being unable to implement recommendations to reduce risk.
- Being too substance affected to engage in any support.

Self-neglect needs to be understood in the context of each adult's life experience; there is not one overarching explanatory model for why adults self-neglect or hoard. It is a complex interplay between physical, mental, social, personal and environmental factors. It is likely that self-neglect is the result of some incident or trauma experienced by the adult, for example childhood trauma, bereavement or abuse. This may also lead to a person becoming demotivated and developing a poor self-image and self-esteem, which will impact on their ability to engage with professional support. Positive outcomes can be achieved through approaches informed by an understanding of the unique experience of each person. It is imperative that all multi-agency practitioners remain non-judgemental and have a shared and compassionate approach to understanding the complexity of the adult's history and background and how this has led to their current circumstances.

Where an adult refuses support to address their self-neglect, it is important to consider mental capacity and ensure the adult understands the implications, and that this is documented. A case will not be closed solely on the grounds of an adult refusing to accept a support plan.

Organisations involved in supporting an adult who is self-neglecting may have a non-engagement policy. All professionals must refer to their own policies in addition to these procedures.

Effective interventions

In multi-agency partnership settings, it is important to consider who may be best placed to work creatively and proactively with an adult who does not wish to engage, and who can build a relationship of trust that may enable the person to accept support. For example, the adult may have already established a positive working relationship with another professional, such as a worker from a voluntary agency, or care agency or health service. In these situations, these workers have a crucial role in leading interventions which may help the adult to accept support, and in co-ordinating input from other agencies with specialist expertise. It is important that organisations have mechanisms in place for supporting these workers to undertake this role, and to escalate any concerns where necessary.

Staff who are supporting those presenting with self-neglect need to receive supervision of their work according to local policies. Group or team reflection of self-neglect cases and consideration of relevant research is also encouraged. In order to deliver high quality supervision, all supervisors and their managers should have an up-to-date working knowledge of these self-neglect procedures. This will ensure that managers and leaders are well equipped to deliver appropriate supervision, guidance and support to frontline staff. All staff should attend specialist self-neglect training where this is relevant to their role.

Finding the right approach to working with an adult who is experiencing self-neglect and seeking to understand the meaning and significance of the self-neglect for that adult is also critical in achieving

the best outcomes. For example, adults who have lived during the war may see that everything has a value, or some who have inherited possessions from deceased relatives may find they cannot ‘sort’ these out due to a sense of loss. An over-directive approach is unlikely to support the development of a positive working relationship, since self-neglecting adults may have been living with shame and fear about their circumstances and as such may be sensitive to what presents as a criticising manner. Similarly, it is important to use appropriate language. Adults may prefer the term ‘collecting’ rather than ‘hoarding’, and the word ‘rubbish’ has a tendency to demean the items which may be important to the person.

“At the heart of self-neglect practice is a complex balance of knowing, being and doing” (Braye, Orr and Preston-Shoot, 2014):

- **Knowing**, in the sense of understanding the person, their history and the significance of their self-neglect, along with all the knowledge resources that underpin professional practice.
- **Being**, in the sense of showing personal and professional qualities of respect, empathy, honesty, reliability, care, being present, staying alongside and keeping company.
- **Doing**, in the sense of balancing hands-on and hands-off approaches, seeking the tiny opportunity for agreement, doing things that will make a small difference while negotiating for bigger things, and deciding with others when the risks are so great that some intervention must take place.

Effective practice examples

The information below is based on work by Braye, Orr and Preston-Shoot (SCIE, 2014), and illustrates various methods and interventions (through themes and examples) to support effective practice in working with adult’s who are self-neglecting.

Building rapport and being there

Taking the time to get to know the person, treating the person with respect, refusing to be shocked, maintaining contact and reliability, monitoring risk or capacity, spotting motivation for change.

Moving from rapport to relationship

Avoiding kneejerk responses to self-neglect. Talking through the person’s interests, history and stories.

Finding the right tone and straight talking

Being honest about potential consequences while also being non-judgemental and separating the person from the behaviour.

Going at the adult’s pace

Moving slowly and not forcing things; continued involvement over time; showing flexibility and responsiveness. Small beginnings to build trust.

Agreeing a plan

Making clear what is going to happen, for example, a weekly visit might be the initial plan. Offering choices and having respect for the person's judgement.

Cleaning or clearing

Being proportionate to risk and seeking agreement to actions at each stage.

Finding something that motivates the adult

Linking to interests, for example, hoarding for environmental reasons or linking to recycling initiatives.

Starting with practicalities

Providing small practical help at the outset may help build trust, for example, household equipment, repairs, benefits, 'life management'.

Bartering

Linking practical help to another element of agreement – bargaining.

Focusing on what can be agreed

Finding something to be the basis of the initial agreement that can be built on later.

Risk limitation

Communicating about risks and options with honesty and openness. Encouraging safe drinking strategies or agreement to fire safety measures or repairs.

Health concerns

Facilitating or co-ordinating doctors' appointments or hospital admissions. Providing practical support to attend appointments.

External levellers/enforced action

Ensuring that options for intervention are rooted in sound understanding of legal powers and duties. Setting boundaries on risk to self and others. Recognising and working with the possibility of enforced action.

Networks

Engaging with the person's family, community or social connections.

Change of environment

Considering options for short-term respite if required, for example, to have a 'new start'.

Therapeutic input

Replacing what is relinquished, for example, through psychotherapy or mental health services.

Balancing adults' rights and agencies' duties and responsibilities

All adults have the right to take risks and to live their life as they choose. These rights will be respected and weighed when considering duties and responsibilities towards them. They will not be overridden other than when it is clear that the consequences would be seriously detrimental to their or another person's health and well-being, and where it is lawful to do so. Adults should be informed of their rights and the agency's duty of care. Staff will also consider the person's right to privacy and information sharing under the General Data Protection Regulations weighed against the level of risk to the person and others who may be affected. Agencies should consult their Caldicott Guardian if concerned about information sharing.

In situations where an adult refuses to engage and their self-neglect places them at significant risk, professionals may need to meet and make plans without the adult present. This is only done as a last resort when risks are significantly high and cannot be mitigated through partnership working with the adult and multi-agency colleagues.

2.8.6. Self-neglect and mental capacity

The Mental Capacity Act 2005 (MCA) is crucial in determining what action may or may not be taken in self-neglect cases.

The MCA is designed to protect those who cannot make decisions for themselves and is underpinned by human rights principles which aim to ensure its provisions are applied in a way that respects our human rights.

When assessing the mental capacity of an adult who is self-neglecting, it is good practice to consider carrying out joint capacity assessments, for example, involving an occupational therapist who can assist with assessing the adult's functional ability and executive capacity (see section on decisional and executive capacity).

Assessing mental capacity

An adult should be presumed to have capacity. However, there may be cases where an adult may lack understanding and insight into the impact of their self-neglecting behaviour on their or others' wellbeing. When an adult's behaviour or circumstances cast doubt as to whether they have capacity to make a decision, then a mental capacity assessment should be carried out.

Robust mental capacity assessments are critical in determining the approach to be taken by professionals, either to support the decision-making of an adult with capacity or to intervene to protect the best interests of an adult who lacks capacity. Any mental capacity assessment in relation to self-neglect must be time-specific and relate to a specific intervention or action. The assessment should be appropriately recorded.

It is important to clearly document how a worker has maximised an adult's autonomy and involvement within the capacity assessment, ensuring they have been given all practical support to help them reach a decision for themselves. In relation to self-neglect, this will include exploration of the adult's understanding of their behaviours and associated risks, including:

- Can they report back to you what the risks are?
- Can they report back to you that they know their behaviour places them at risk?
- Can they report back to you the consequences of taking these risks?
- If the risk is death, explore what the adult's understanding and beliefs are regarding their death.

Good practice is to record the actual questions as they were asked, and the responses provided by the adult.

Adults who self-neglect may be reluctant, or find it difficult, to engage in the assessment of capacity. Please refer to section 2.8.5 'Working with adults who self-neglect' for further guidance on engagement.

Fluctuating capacity

Some adults may have fluctuating capacity. This is particularly common in situations of self-neglect. It may occur as a result of their lifestyle or behaviour, and lead to making an unwise decision, for example:

- An adult may decline treatment for an overdose when under the influence of alcohol.
- An adult may prioritise a substance over a serious health need.
- An adult experiencing very high levels of distress and making unwise decisions such as those with emotionally unstable personality disorder.

This fluctuation can take place over days or weeks, or over the course of a day. Consideration should be given to undertaking the mental capacity assessment at a time when the adult is at their highest level of functioning.

Other adults may have a temporary impairment of their ability to make decisions due to an acute infection. The key question in these situations is whether the decision can wait until the adult has received treatment for the infection. In emergency situations, it is necessary to proceed with the best interests decision making process.

For adults who have ongoing fluctuating capacity, the approach taken will depend on the 'cycle' of the fluctuation in terms of its length and severity. It may be necessary to review the capacity assessments over a period of time.

In complex cases, legal advice should be sought.

Decisional and executive capacity

SCIE report 46 'Self-neglect and adult safeguarding: findings from research' highlights the difference between capacity to make a decision (decisional capacity) and capacity to actually carry out the decision (executive capacity).

Good practice includes considering whether the adult has the capacity to act on a decision they have made (executive capacity).

Where decisional capacity is not accompanied by the ability to carry out the decision, overall capacity is impaired and interventions by professionals to reduce risk and safeguard wellbeing may be legitimate.

Frontal lobe damage is an example of a condition which may cause loss of executive brain function, resulting in difficulties with understanding, retaining, using and weighing information, and therefore affects problem solving and the ability to act on a decision at the appropriate point.

Unwise decisions

Principle 3 of the MCA enshrines a person's right to their own values, beliefs, preferences and attitudes. However, this right does not absolve an agency from their duty of care, and anyone supporting an adult who is self-neglecting must ensure they have met their professional responsibility.

Where an adult has capacity and may be making what others consider to be an 'unwise decision' does not mean that no further action regarding the self-neglect is required, particularly where the risk of harm is deemed to be serious or critical.

The duty of care extends to gathering all the necessary information to inform a comprehensive risk assessment. It may be determined that there are no legal powers to intervene. However, it will be demonstrated that the risks and possible actions have been fully considered on a multi-agency basis.

It is also important for those supporting an adult with self-neglecting behaviours to have insight into their own values and beliefs in order to avoid any bias against what could be perceived as unwise decisions and behaviours.

Inherent jurisdiction

Taking a case to the High Court for a decision regarding interventions can be considered in extreme cases of self-neglect, i.e. where a person with capacity is:

- at risk of serious harm or death, and
- refuses all offers of support or interventions, or
- is unduly influenced by someone else.

The High Court has powers to intervene in such cases, although the presumption is always to protect the adult's human rights.

Legal advice should be sought before taking this option.

Best interests decision-making

If an adult is assessed as not having capacity to make decisions in relation to their self-neglect, any subsequent decisions or acts should be made in the adult's best interests.

Any best interests decisions should be taken formally and involve relevant professionals and anyone with an interest in the adult's welfare, such as family. Additionally, consideration should be given as to whether an Independent Mental Capacity Advocate (IMCA) should be instructed.

Best interests must be determined by what the person would want were they to have capacity. "Lacking capacity is not an off switch for freedoms" (Wye Valley NHS Trust v Mr B, 2015, EWOCP 60). Therefore, in situations where an adult has experienced self-neglect over a long time and then loses capacity, previous behaviours must be considered when looking at the less restrictive options to keep the person as safe as possible.

If there are difficulties in making a best interests decision, it may be necessary to seek legal advice. In particularly challenging and complex cases, it may be necessary to make a referral to the Court of Protection for a best interests decision. Any referral to the Court of Protection should be discussed with Legal Services, including where there may be a 'reasonable belief' of lack of decision-specific capacity in situations where an adult is not engaging or refuses an assessment.

2.8.7. Collaborative multi-agency working

Multi-agency meetings

These procedures apply to all multi-agency meetings arranged in response to self-neglect whether they are taken into a safeguarding enquiry under Section 42 of the Care Act or managed outside of this.

Given the complex nature of self-neglect, responses by a range of organisations are likely to be more effective than a single agency response, and a co-ordinated approach is therefore essential. Multi-agency meetings are often the best way to ensure effective information sharing and communication, and a shared responsibility for assessing risks and agreeing an action plan.

A multi-agency planning meeting may be the best approach where:

- an adult has been identified as potentially self-neglecting,
- is refusing support, and
- by refusing support is placing themselves or others at risk of significant harm.

A multi-agency planning meeting, with a clear agenda for discussion, will be convened promptly when the initial concerns are raised. The purpose of this meeting is to offer an effective response, driven by the adult circumstances of the case.

Principles of a multi-agency planning meeting

- A lead agency will need to be identified (this will be the local authority where a safeguarding enquiry is being undertaken).
- The lead agency will be responsible for convening this meeting and making arrangements such as venue and minute taking.
- At the meeting, a decision will be made as how best to involve the adult. Best practice is to involve the adult as early on in the process as is practicable. The lead agency should provide support in making arrangements to enable the adult's involvement.

- If the adult does not wish to or is unable to attend, it will be agreed how information will be fed back to them. Consideration should be given to ensuring the adult is provided with accessible information, and advocacy support should be offered if required.
- The meeting will be formally chaired, and responsibilities recorded on a shared action plan with named adults identified for each action.
- A fully co-ordinated response will be essential to achieving a satisfactory outcome, therefore there must be a clear understanding of the agreed way forward.
- Where there is disagreement, this should be discussed until agreement is reached and if necessary, line management consulted in order to resolve the situation.
- Participants need to come prepared with required information and ensure any actions have been carried out.
- Each agency approached will take responsibility for making any contacts or taking any actions considered necessary before the planning meeting.

Purpose of the multi-agency planning meeting

To review:

- The adult's views and wishes as far as they are known.
- Information, actions and current risks.
- The ongoing lead professional or agency that will co-ordinate this work.
- The shared action plan and evaluate considered approaches.
- Assessments or discussions regarding the adult's mental capacity up to that point.

Reason for convening a meeting

- Interventions have not reduced the level of risk, and a significant risk remains.
- It has not been possible to co-ordinate a multi-agency approach through work undertaken until this point.
- The level of risk requires formal information sharing and recording of the agreed multi-agency plan.

Timescales

Each adult's situation is unique. Timescales for achieving actions should be set at the meeting and will be specified within the shared action plan. This will include timescales for completing any outstanding or more specialist assessments.

A date will also need to be set for a review meeting so that any further specialist assessments can be considered and any revised actions agreed.

Seeking legal advice

These procedures are not a substitute for agencies seeking legal advice where this is required.

Legal advice should be obtained and a legal representative could also be invited to the multi-agency planning meeting to hear the circumstances of the case and discuss relevant legal options that will:

- protect the person's rights,
- meet the professional duty of care, and
- may lead to resolving the situation.

Outcome of the multi-agency meeting

- Update safeguarding or support plan and risk assessment.
- Identify actions – including contingency plans and escalation process.
- Agree monitoring and review arrangements.
- Identify other key adults information may need to be shared with.
- Agreement regarding the ongoing lead agency.
- Plans put in place regarding mental capacity assessments that may be required.

Minutes of multi-agency meetings

Minutes of multi-agency meetings will be sent to all attendees, as well as the adult concerned. The minutes will include:

- A written record setting out what support has been offered and/or is available, and why.
- The written record will include reasons if the adult refuses to accept any intervention.
- The written record will make it clear that, should the adult change their mind about their need for support, then contacting the relevant agency at any time in the future will trigger a re-assessment.
- Careful consideration will be given as to how this written record will be given, and where possible explained, to the adult.

Where the adult has previously not engaged in the process but then expresses a wish to be involved, a multi-agency meeting should be convened at the earliest opportunity and the shared action plan reviewed.

2.8.8. Comprehensive assessment of neglect (including risk assessment)

Following the multi-agency planning meeting, assessments should be brought together in one place so each professional involved will have an understanding of the links between their own involvement, and that of others. The impact the adult's various care needs have on their functioning also needs to be understood and shared. The lead agency is responsible for collating this information into their agency assessment document and sharing this with partner agencies.

Specialist input may be required to clarify certain aspects of the adult's functioning and risk. This will be arranged, and the findings considered.

Key components of the comprehensive assessment of self-neglect neglect may include:

- A detailed social and medical history.
- Activities of daily living (e.g. ability to use the phone, shopping, food preparation, housekeeping, laundry, mode of transport, responsibility for own medication, ability to handle finances).
- Environmental assessment.
- Cognitive assessment.
- A description of the self-neglect.
- A historical perspective of the situation.
- A physical examination – undertaken by a nurse or a medical practitioner.
- The adult's own narrative on their situation and needs.
- The willingness of the adult to accept support.
- The views of family members, healthcare professionals and other people in the adult's network.
- The adult's understanding of the consequences of risks and neglect.

Note: Record fully when and where the adult was assessed as having mental capacity to understand the consequences of their actions.

The risks of not intervening must be explored and documented.

Outcomes determined following a multi-agency meeting and assessment of risk

Following the multi-agency meeting and comprehensive assessment, the risk to the adult should be evaluated. This should include:

- Risks identified and level of risk (low/medium/high). Likelihood and severity of risk to be considered.
- The adult's wishes.
- How risks will be managed, including the adult's protective factors.
- Ongoing monitoring arrangements and who is responsible for doing this.
- Contingency plan if risk increases, including if legal advisors should be involved or an escalation process.

The evaluation of risk should also include review arrangements and, where appropriate, making proactive contact with the adult to ensure that their needs, risks and rights are being considered.

If risk remains due to refusal by professionals or third parties to engage and this results in the neglect of the adult, consideration will be given to raising a safeguarding concern on the grounds of neglect. Raising a concern should be considered where professionals and third parties (with established responsibility for an adult's care) either:

- do not engage with multi-agency planning, or
- seek to terminate their involvement prematurely (and this will pose a risk or harm to the adult).

2.8.9. Multi-agency review meeting

If significant and ongoing risk remains, it may be necessary to convene a multi-agency review meeting. This review is an opportunity to revisit the original assessment and safeguarding or support plan, particularly in relation to:

- current functioning,
- risk assessment, and
- known or potential rates of improvement or deterioration in the adult, their environment, or in the capabilities of their support system.

Decision-specific mental capacity assessments will have been reviewed and should be shared at the meeting. Discussion will need to focus upon contingency planning based upon risk.

It may be decided to continue providing opportunities for the adult to accept support and to monitor the situation. Clear timescales will be set for providing opportunities and for monitoring.

Where possible, indicators that risks may be increasing will be identified, and these indicators will trigger agreed responses from agencies, organisations or adult's involved in a proactive and timely way.

There will be multi-agency agreement to the timescales set according to the circumstances of the case.

The chair of the multi-agency review will ensure clarity is brought to timescales for implementing contingency plans, to ensure that any legal and professional remedies are applied so risk is responded to and harm is prevented.

All relevant professionals will attend the multi-agency review so that:

- information is shared,
- contingency planning is fully discussed, and
- multi-agency ownership of the plans is achieved.

It is important to ensure an objective and fresh perspective is maintained as far as possible throughout this process. Consider the following approaches:

- Including people with relevant skills and experience who have not previously been involved.
- Ensure chronologies are up-to-date with multi-agency information and analysed as part of the review of risk assessments and support plans.
- Whether escalation of some or all issues to more senior management may assist or provide any benefit (for example, consideration of an organisation's internal risk panel).

A further meeting date will be set at each multi-agency review until there is agreement that the situation has become stable and the risk of harm has reduced to an agreed acceptable level.

Where agencies are unable to implement support or reduce risk significantly, the reasons for this will be fully recorded and maintained on the adult's file, with a full record of the efforts and actions taken. There may come a point where all options have been exhausted and no further interventions

can be planned. In these cases, mechanisms must be in place to monitor the ongoing risks with robust contingency plans to manage any escalation of risk.

The adult, carer or advocate will be fully informed of the support offered and the reasons why the support has not been implemented. The risks must be shared with the person to ensure they are fully aware of the consequences of their decisions, including the risk of death.

Respect for the wishes of the adult does not mean passive compliance; the consequences of continuing risk should always be explained and explored with the person.

The adult should be informed that they can contact the relevant agency at any time in the future for support.

A case will not be closed solely on the grounds of an adult refusing to accept the support plan and the above options should be thoroughly explored.

2.8.10. Legal remedies and other options

Refer to Appendix 1: Legal Remedies.

2.8.11. Self-neglect: checklist for practitioners

This checklist is not exhaustive; it is intended to be used as a guide throughout the process for the manager and/or practitioner to be able to reflect on the self-neglecting situation. The checklist can be used as a tool at the planning or closing stage or during supervision as an aide or prompt to help to consider some of the key stages of the intervention.

- Has a person-centred approach been adopted? (2.8.5.)
- Has a decision-specific mental capacity assessment been indicated/completed? (2.8.6.)
- Have all the appropriate agencies/organisations been engaged in the process? (2.8.7.)
- Has the lead agency co-ordinated information gathering, and identified and implemented actions and outcomes? (2.8.7.)
- Has a Care Act 2014 assessment been considered? (2.8.3.)
- Has a safeguarding enquiry been considered?
- Has a multi-agency meeting been considered? (2.8.7)
- Has a multi-agency risk assessment been completed? (2.8.8.)
- Has the adult, carer or advocate been kept informed throughout the process, and are those involved fully aware of the consequences of their decisions? (2.8.5.)
- Is legal advice required? e.g. if the adult is refusing to accept the support plan. (2.8.6.)
- Have accurate records been maintained that demonstrate adherence to the self-neglect procedures and locally agreed recording policies? (2.8.8.)
- Have ongoing multi-agency monitoring and reviewing arrangements been agreed? (2.8.9.)

2.9. Safeguarding and multiple compound needs

2.9.1. Introduction

Multiple compound needs, or multiple disadvantage/complex needs, is defined locally as people who experience three or more of the following:

- Homelessness
- Current or historical offending
- Substance misuse
- Domestic abuse
- Mental Health difficulties

These various needs interact or exacerbate each other, so that a combination of increasing health and social care needs are experienced simultaneously.

This definition of multiple compound needs is not exhaustive. Professional curiosity should be used in taking a broad approach to the identification of care and support needs, and those who have a combination of needs. People with multiple compound needs may require enhanced support and/or safeguarding interventions in responding to risk.

The Department of Levelling Up, Housing and Communities (DLUHC) highlight that a significant proportion of people with multiple compound needs are neurodivergent; including those with learning disabilities, acquired brain injuries (ABI), alcohol related brain damage, Autism Spectrum Disorder (ASD), and Attention Deficit Hyper Disorder (ADHD). Other factors can include trauma, poverty, poor physical health, and undiagnosed brain injuries.

The inability to manage health and care needs, or to maintain their home environment, is a further frequent occurrence and can lead to self-neglect taking place. In situations where self-neglect is identified it is key the guidance on self-neglect in these procedures are followed (see Section 2.8. Sussex multi-agency procedures to support adults who self-neglect).

This may apply to an estimated 363,000 people in this situation across England. They are among the most vulnerable in our communities, and often experience entrenched disadvantage, trauma, and health inequalities including early mortality while experiencing barriers in accessing the support they require. A number of programmes, such as Changing Futures Sussex, and Safeguarding Adult Reviews (SARs) have highlighted the importance of coordinated and proactive person centred, trauma informed support to improve the lives of those experiencing multiple and compound needs and there is a growing body of evidence to support this.

2.9.2. Language

A number of terms can be used to describe adults experiencing multiple and compound needs; these include multiple and complex needs, multiple needs, severe and multiple disadvantage, deep or chronic social exclusion, and multiple exclusion homelessness.

These terms can be used interchangeably but in Sussex we are moving towards a more consistent approach to language in this area with the term multiple compound needs being used.

2.9.3. Making Safeguarding Personal

The importance of a person-centred approach in supporting and safeguarding is embedded in the Care Act 2014 and the accompanying statutory guidance. This means putting the person at the heart of the process to understand their needs, views, desired outcomes, and wellbeing.

As detailed in section 1.1.3., a person-centred approach means actively involving the person in discussions, and ensuring their views and desired outcomes are recorded and shared with relevant agencies.

If this is not possible, or has not taken place, it is vital that this is recorded in their care plan and/or other records. The views of family, carers, friends, or advocates should be sought and recorded to evidence that a person-centred approach has been adopted.

A person-centred approach in supporting and safeguarding those with multiple compound needs will include consideration of their life experiences, the impact of significant events, and their longer-lasting effects. If the person's story is not considered this could result in tackling symptoms rather than addressing underlying causes. Their experiences, significant events and effects may include:

Trauma

A high proportion of people experiencing multiple compound needs are also likely to have experienced trauma. This may be adverse childhood experiences (ACE), such as childhood abuse or neglect, living with someone with severe mental illness, or parental loss. Trauma can arise from historic abuse or neglect, bereavement, imprisonment, having been a child in care, loss of family/children, or multiple traumas leading to post-traumatic stress disorder (PTSD).

For further information on trauma-informed and psychologically informed approaches and safeguarding please see Section 4.6. on trauma-informed approaches.

For further information on adverse childhood experiences please see Overview of ACEs - Adverse Childhood Experiences (ACEs) - Children - Population groups - Public Health Scotland.

Professional curiosity

Professional curiosity means a willingness to engage with the person to explore situations or circumstances holistically rather than making assumptions or accepting things at face value. It includes recognising that care and support needs can evolve and a broad interpretation is required in the identification of these. Being open to new and unexpected information and incorporating this assists in recognising, reporting and responding to potential vulnerabilities such as abuse or neglect.

Professionals need to manage uncertainty, consider, and analyse all possible explanations, and be prepared to 'think the unthinkable'.

Professional curiosity helps to understand the ongoing impact of trauma and adverse experiences for those with multiple compound needs.

Engagement

Previous trauma, undiagnosed physical/mental/neurodevelopmental conditions, social injustice, or oppression may result in challenges for services in engaging and supporting people with multiple compound needs. These challenges may include appointments not being kept, thresholds not being met, behavioural issues, or ongoing substance use.

To promote engagement and involvement consideration should be given to any factors that may be influencing the organisation's ability to engage with the person. This should include any preferences the person may have regarding the location, timing, and format of meetings as well as which professional(s) are best placed to engage and build relationships with them. Organisational engagement policies should be followed in the event of ongoing non-engagement.

Where the professional or organisation has difficulty in maintaining their involvement, there may be a requirement for advocacy to be considered. This could take the form of formal advocacy but could also be through a support worker or navigator role.

2.9.4. Legislation

There is a range of legislation that needs to be considered by professionals and organisations supporting and safeguarding those with multiple compound needs. Learning from local Safeguarding Adult Reviews has shown missed opportunities to identify and respond abuse and neglect experienced by this group of people.

Care Act

The Care Act includes a clear legal framework for how local authorities and other parts of the system should protect adults with care and support needs that are experiencing, or at risk of, abuse or neglect. It defines adult safeguarding as protecting adults rights to live in safety, free from abuse or neglect. There are specific adult safeguarding duties under section 42 that apply to any adult who is 18 years or over who:

- has care and support needs and
- is experiencing, or at risk of, abuse and neglect
- is unable to protect themselves from the abuse or neglect

There are ten categories of abuse and neglect identified within the Care Act, which includes self-neglect and domestic abuse. In situations where an adult with multiple compound needs is experiencing, or at risk of, abuse or neglect a formal safeguarding concern needs to be raised with the relevant local authority.

The Brighton and Hove, East Sussex and West Sussex SABs have developed pan-Sussex Safeguarding Adults Threshold Guidance (PDF, 766KB), which provides advice and support on the identification of safeguarding, including domestic abuse.

Mental Capacity

In supporting and safeguarding people with multiple compound needs there may be a range of factors that potentially influence decision-making, meaning accurate interpretation and application of the Mental Capacity Act (MCA) 2005 is vital.

Capacity is assumed but this presumption does not exclude the need to potentially explore capacity further. The Mental Capacity Act Code of Practice outlines situations where there may be cause for concern if someone makes unwise decisions that put them at significant risk of harm or makes a particular decision that is out of character. Any impairment of the mind or brain, whether temporary or permanent, that impacts on the person's ability to make the decision also requires exploration of capacity.

Robust mental capacity assessments are critical in determining the approach to be taken by professionals, either to support the decision-making of an adult with capacity or to intervene to protect the best interests of an adult who lacks capacity. Any mental capacity assessment must be time-specific and relate to a specific intervention or action. The assessment should be appropriately recorded.

When undertaking a mental capacity act assessment reliance must not be placed solely on what a person says where adverse experiences, possible exploitation, trauma, and prolonged substance misuse could be affecting behaviour. An example is the compulsion associated with an addictive behaviour that can be seen as overriding someone's understanding of information about the impact of their alcohol use, which can imply a lack of capacity.

In these instances it is good practice to consider carrying out joint mental capacity assessments, for example, involving others such as an occupational therapist or psychologist. They can assist with assessing the person's functional ability to undertake related activities and executive functioning (see section on decisional and executive functioning).

It is important to clearly document how a professional has maximised the person's autonomy and involvement within the mental capacity assessment, ensuring they have been given all practical support and information to help them reach a decision for themselves. In relation to multiple compound needs this will include exploration of the person's understanding of their behaviours, associated risks and consequences of decisions they are making.

If a person is subject to coercion and control or undue influence by another person this may impair their judgement and could impact on their ability to make decisions about their safety.

Fluctuating capacity

Fluctuations in mental capacity can take place over days or weeks, or over the course of a day. Consideration should be given to undertaking a mental capacity assessment at a time when the adult is at their highest level of functioning.

Fluctuating capacity can be a feature of chronic dependence on alcohol. At some points, e.g. early in the morning, the adult may be less intoxicated and able to have a more coherent conversation. Later in the day they may be intoxicated again and unable to follow any actions they agreed during the earlier conversation.

Other adults may have a temporary impairment of their ability to make decisions due to an acute infection. The key question in these situations is whether the decision can wait until the adult has received treatment for the infection. In emergency situations, it is necessary to proceed with the best interests decision making process.

For adults who have ongoing fluctuating capacity, the approach taken will depend on the ‘cycle’ of the fluctuation in terms of its length and severity. It may be necessary to review the capacity assessments over a period of time.

In complex cases, legal advice should be sought.

Decisional capacity and executive functioning

SCIE report 46 ‘Self-neglect and adult safeguarding: findings from research’ highlights the difference between capacity to make a decision (decisional capacity) and capacity to actually carry out the decision (executive functioning or capacity).

Good practice includes considering whether the adult has the capacity to act on a decision they have made (executive functioning).

Where decisional capacity is not accompanied by the ability to carry out the decision, overall capacity is impaired and interventions by professionals to reduce risk and safeguard wellbeing may be legitimate.

Frontal lobe damage is an example of a condition which may cause loss of executive brain function, resulting in difficulties with understanding, retaining, using and weighing information, and therefore affects problem solving and the ability to act on a decision at the appropriate point.

It is also important for those supporting an adult with multiple compound needs to have insight into their own values and beliefs in order to avoid any bias against what could be perceived as unwise decisions and behaviours.

Unwise decisions

Principle 3 of the MCA enshrines a person’s right to their own values, beliefs, preferences and attitudes. However, this right does not absolve an agency from their duty of care, and anyone supporting an adult who is self-neglecting must ensure they have met their professional responsibility.

Where an adult has capacity and may be making what others consider to be an ‘unwise decision’ does not mean that no further action regarding the self-neglect is required, particularly where the risk of harm is deemed to be serious or critical.

The duty of care extends to gathering all the necessary information to inform a comprehensive risk assessment. It may be determined that there are no legal powers to intervene. However, it will be demonstrated that the risks and possible actions have been fully considered on a multi-agency basis.

It is also important for those supporting an adult with self-neglecting behaviours to have insight into their own values and beliefs in order to avoid any bias against what could be perceived as unwise decisions and behaviours.

Inherent Jurisdiction

Taking a case to the High Court for a decision regarding interventions can be considered in extreme cases of self-neglect, i.e. where a person with capacity is:

- at risk of serious harm or death, and
- refuses all offers of support or interventions, or
- is unduly influenced by someone else

The High Court has powers to intervene in such cases, although the presumption is always to protect the adult's human rights.

Legal advice should be sought before taking this option and for further information on inherent jurisdiction please see inherent_jurisdition_pg_web.pdf (researchinpractice.org.uk).

Best Interest decision-making

If a person is assessed as not having capacity to make a specific decision any subsequent decisions or acts should be made in their best interests.

Any best interests decisions should be taken formally and involve relevant professionals and anyone with an interest in the adult's welfare, such as family. Additionally, consideration should be given as to whether an Independent Mental Capacity Advocate (IMCA) should be instructed.

Best interests must be determined by what the person would want were they to have capacity. "Lacking capacity is not an off switch for freedoms" (Wye Valley NHS Trust v Mr B, 2015, EWOCP 60). Therefore, any previous relevant views or behaviours must be considered when looking at the less restrictive options to keep the person as safe as possible.

If there are difficulties in making a best interests decision, it may be necessary to seek legal advice. In particularly challenging and complex cases, it may be necessary to make a referral to the Court of Protection for a best interests decision. Any referral to the Court of Protection should be discussed with Legal Services, including where there may be a 'reasonable belief' of lack of decision-specific capacity in situations where an adult is not engaging or refuses an assessment.

Domestic Abuse Act

Domestic abuse is one of the five specific needs classified as multiple compound needs. The definition of domestic abuse is set out in the Domestic Abuse Act 2021.It gives police, local authorities, and the courts wider powers and greater accountability to protect those experiencing domestic abuse. It uses the term domestic abuse rather than domestic violence in encouraging people to consider that domestic abuse can present in many ways and is not just classified as physical violence.

For more information on domestic abuse please refer to chapter 2.7.

2.9.5. Multi-agency working

It is likely that in supporting and safeguarding people with multiple compound needs more than one organisation will come into contact with the person, with different organisations holding a range of knowledge, information, and expertise.

Involving all those in contact with the person enables shared responsibility and a co-ordinated approach to be developed leading to improved planning, in creating a flexible and creative approach that assists the person to achieve positive outcomes.

It requires whole system partnership working across mental health and substance misuse providers, councils, adult social care, police, housing and homelessness services, primary care and secondary health care.

In situations where there is significant risk consideration should be given to a Lead Professional role. This can be undertaken by any professional involved and specific tasks may include; ensuring the views of the person are captured, making onward referrals, ensuring review meetings and planning takes place, and sharing information to keep all those involved updated.

There are a number of key considerations and steps in taking a multi-agency approach to supporting and safeguarding people with multiple compound needs.

Communication and information-sharing

Effective communication and information-sharing is vital to enable professionals to develop strong working relationships and networks, trust, and shared ownership of decisions and risk management when supporting an adult with multiple compound needs.

When working together, professionals from across different organisations should seek to understand and respect each other’s roles in supporting the adult, as well as offering the flexibility which may be required to gain the best possible outcome for the adult. This will help to set expectations, clarify responsibilities; and avoid any misunderstanding when sharing work.

Confidentiality is an important principle that enables people enables people to feel safe but the right to confidentiality is not absolute. If an adult refuses consent to share information, their wishes should be respected but there are instances where the sharing of information can still legally take place when it is necessary to do so, and there are adequate safeguards in place to protect the security of the information.

The Brighton and Hove, East Sussex and West Sussex SABs have developed a pan-Sussex Information Sharing Guide and Protocol (PDF, 321KB), which provides further information in relation to information sharing.

Multi-agency meetings

Multi-agency, or disciplinary, team meetings (MDT or MDM) are the best way to ensure there is effective information sharing and communication, as well as a shared responsibility for assessing risks to the adult and agreeing an action plan to aim to mitigate these risks.

It is often assumed that the Local Authority are responsible for leading on the multi-agency response. However, it is important to note that any agency can convene an MDM/MDT meeting; this could be the agency who identifies risk and has primary involvement or the best relationship in supporting the person. If there is an open section 42 safeguarding enquiry the local authority need to be informed.

A meeting should be convened when:

- Interventions to date have not reduced the level of risk and significant risk remains, and
- The level of risk requires formal information sharing and for a multi-agency plan to be agreed.

Multi-disciplinary meetings should have a clear agenda addressing the areas which need to be covered, a comprehensive record of actions agreed and who is responsible for each of these, with clear timescales.

When actions and responsibilities are agreed within an MDM/MDT meeting, these must be clearly documented within the adult's care records; this could include within their case notes, care plans, or risk assessments. This evidences what is being done to mitigate risk to the adult.

If an MDM/MDT meeting is not possible to convene, the work needed between professionals should still take place and this could be achieved virtually or via calls/emails to all agencies involved to gain the information needed, advice and to agree actions. The lead agency working with the adult would take this forward.

If there is a disagreement between professionals across agencies in the approach to an adult's care, you should refer to our Sussex Safeguarding Escalation and Resolution Protocol (PDF, 214KB), which supports consistent and timely decision-making in relation to adult safeguarding. The protocol includes guidance in relation to mental capacity issues and safeguarding and has a streamlined escalation process that explicitly ensures relevant safeguarding leads are consulted at an appropriate point.

Multi-agency risk assessment

Risk assessment is the process of working with an adult to maximise safety and to reduce future risk. It is an integral part of safeguarding, and professionals should adopt a flexible solution-focussed approach to mitigating risk.

Situations involving significant risk often require a multi-agency approach, underpinned by clear and timely information sharing and shared risk-assessing resulting in multi-agency risk management plans. These should be proportionate and focussed on preventing, reducing, or eliminating the future risk of harm. Risks can be evaluated through MDM/MDT meetings and should be reviewed regularly to reassess the level and nature of the risk.

Risk assessments and risk plans should clearly record:

- all known and anticipated risks
- the adult's views and wishes
- what action is being taken and by whom

- any issues with mental capacity and how this is to be addressed including the need, where appropriate, for best interest decisions
- how the understanding of risk and the actions available to support is shared with the adult.

In West Sussex and East Sussex there are Multi-agency Risk Management (MARM) protocols that should be considered when working with adults with multiple compound needs who remain at high risk of harm despite previous interventions. For further information on MARMs please go to either the West Sussex SAB or East Sussex SAB website:

- Home | East Sussex SAB
- Home | West Sussex SAB

For further information on multi-agency working please refer to section 1.1.3.

2.10.Safeguarding and Prevent

2.10.1. Prevent

Prevent duty guidance: England and Wales (2023) published on 7 September 2023 under Section 29 of the Counter-Terrorism and Security Act (CTSA) 2015 came into force on 31 December 2023, replacing the 2015 guidance which came into force in July 2015.

The statutory guidance is intended for use by:

- Senior leadership teams in any of the specified authorities listed in Part 1 of Schedule 6 of the CTSA 2015.
- Those with dedicated Prevent and/or safeguarding responsibilities.
- People in specified authorities with responsibility for how resources and funding are used, and for external partnerships.
- Those in a frontline role and likely to engage with people who may be susceptible to radicalisation.

Prevent is one of the four strands of CONTEST, the Government's Counter Terrorism Strategy. The Prevent Strategy aims to safeguard and support those susceptible to radicalisation 'to stop people becoming terrorists or supporting terrorism'.

The purpose of Prevent is to safeguard susceptible people from becoming terrorists, or supporting terrorism, by engaging with those who are considered to be susceptible to radicalisation. The support includes a multi-agency approach to safeguard individuals from being exploited by extremist’s and terrorists: by supporting susceptible people and, enabling those who have already engaged in extremism and terrorism to disengage and rehabilitate. 'Prevent' work is delivered in strong partnership with our communities. Through a broad range of initiatives Prevent work tackles both the causes and risk factors that can lead an individual to become radicalised and building resilience in communities.

The 'Prevent Strategy' addresses all forms of terrorism, including extreme right-wing terrorism and Daesh or the Al-Qaida inspired and associated terrorism, and single issue terrorism. Data collated by the Home Office nationally indicates that the number of referrals regarding individuals with a

mixed, unstable or unclear ideology increased by 48% in the year ending March 2020. The internet/online space has emerged as a key resource in facilitating the radicalisation process with some direct personal contact.

Please find:

- Prevent Strategy
- New sector specific statutory Prevent duty guidance
- The Prevent duty toolkit for Local Authorities and Partners
- Data published annually by the Home Office individuals referred to and supported through the Prevent Programme

Knowing the indicators that either an adult or younger person is at risk of, or is being, radicalised could give them a voice and prevent acts of extremist violence taking place.

Anybody can be radicalised and the risk of being drawn into terrorism may be combined with other vulnerabilities, but below are some of the potential vulnerability and risk indicators:

- Have low self-esteem.
- Be confused about their faith, sense of belonging, or identity.
- Be victims of bullying or discrimination and/or feel isolated or lonely.
- Be experiencing stress or depression.
- Be going through a transitional period in their life.
- Be angry at other people, the government or about how they are treated or seen by society or have grievances.

It is very difficult to know at what stage certain views can become dangerous, or whether someone is being exploited, coerced, or manipulated into becoming a part of an extremist group. Signs aren't always obvious but below are some potential indicators:

- Withdrawal from family and/or friends, or a changing circle of friends.
- Hostility towards others.
- Talking as if from a script.
- Being unwilling to discuss their views or have increased levels of anger.
- Being secretive, particularly around what they are doing on the internet.
- Using extremist terms or values to exclude people or incite violence.
- Supporting violence and terrorism towards other cultures, nationalities, or religions.
- Writing or creating artwork that promotes extremist values.
- Talking about being a 'martyr'.
- Possession of extremist literature or other material or trying to access extremist websites.
- Possession of any material about weapons, explosives or military training.

2.10.2. Channel

The Counter Terrorism and Security Act 2015 placed 'Channel' i.e. arrangements to safeguard and support people from being drawn into terrorism as a statutory duty. Having a Channel Panel is a statutory duty placed on local authorities and all partners have a 'Duty to Co-operate' as far as

compatible with their legal responsibilities in respect of their functions. Updated statutory Channel Guidance was published in November 2023.

Channel provides early support for anyone who is susceptible to being drawn into any form of terrorism or supporting terrorist organisations, regardless of age, faith, ethnicity, or background. Individuals can receive support before their vulnerabilities are exploited by those who want them to embrace terrorism, and before they can become involved in criminal terrorist-related activity.

Cases adopted onto Channel have a susceptibility to being drawn into terrorism. Support from Channel is voluntary and confidential i.e., support is provided with the consent of the individual or legal guardian. This support is bespoke based on the needs identified for an individual and varied. Progress is monitored monthly, and the panel may make a decision to end the support when the risks have reduced. Each individual is reviewed at six-and twelve-months following closure to consider progress.

Channel is a multi-agency panel consisting of professionals from partner agencies and those who are in contact with the particular individual.

2.10.3. Making a referral

Anyone can make a Prevent referral if they have concerns about someone. When a referral is made, information is gathered to look at the context surrounding concerning behaviour changes and to conduct a Prevent Assessment Framework. In most cases referrals are signposted to other services, but if there are indicators that the individual may be susceptible to being exploited or drawn into terrorism.

The referral will be considered, the Prevent team will get in touch with the referring professional, and then they may be put forward to the Channel Panel.

As a professional, if you think that someone may be vulnerable to radicalisation you can make a referral using the Prevent National Referral Form.

Once you have completed this form, please email it to the relevant address from the list below:

- For Brighton and Hove referrals: PreventReferralsbrightonandhove@sussex.police.uk
- For East Sussex referrals: PreventReferralseastsussex@sussex.police.uk
- For West Sussex referrals: PreventReferralswestsussex@sussex.police.uk

For initial advice and support please consult with your local area Prevent Lead. Remember the partnership message that acting early counters terrorism. For more information, visit the Action Counters Terrorism website.

If you believe a crime is being committed, or planned, or become aware of any terrorist activity that may indicate immediate threat to life or property you should contact 999 or the Police anti-terrorist hotline on 0800 789 321. Members of the public who raise concerns should be advised to use these contacts.

2.10.4. Resources

You may find the following resources useful.

- Sussex Police, Terrorism in the UK
- Action Counters Terrorism
- Gov.uk, Prevent duty training: Learn how to support people vulnerable to radicalisation
- Action Counters Terrorism, Report Suspicious Activity
- Educate Against Hate
- Home Office, Prevent: An Introduction (YouTube)
- Channel 4 News: The young man who was radicalised until Prevent prised him away from the far-right extremists (YouTube)

2.11.Adult safeguarding and sharing information

2.11.1. Introduction

This section focuses on the sharing of sensitive or personal information between the local authority and its safeguarding partners (including General Practitioners and health, the police, service providers, housing, regulators and the Office of the Public Guardian) for safeguarding purposes. This may include information about adults who are at risk, service providers or those who may pose a risk to others. It aims to enable partners to share information appropriately and lawfully in order to improve the speed and quality of safeguarding responses.

The Care Act emphasises the need to empower people, to balance choice and control for adults against preventing harm and reducing risk, and to respond proportionately to safeguarding concerns.

Sharing information between organizations as part of day-to-day safeguarding practice is already covered in the common law duty of confidentiality, the General Data protection Regulation, the Human Rights Act and the Crime and Disorder Act. The Mental Capacity Act is also relevant as all those coming into contact with adults with care and support needs should be able to assess whether someone has the mental capacity to make a decision concerning risk, safety or sharing information. This section, which is based on the Social Care Institute for Excellence 2019, Safeguarding adults: sharing information guide, summarises key parts of these laws to help increase understanding of the basic principles in relation to safeguarding practice and, in particular, the sharing of safeguarding information.

2.11.2. Why do we need to share adult safeguarding information?

Organisations need to share safeguarding information with the right people at the right time to:

- Prevent death or serious harm.
- Coordinate effective and efficient responses.

- Enable early interventions to prevent the escalation of risk.
- Prevent abuse and harm that may increase the need for care and support.
- Maintain and improve good practice in safeguarding adults.
- Reveal patterns of abuse that were previously undetected and that could identify others at risk of abuse.
- Identify low-level concerns that may reveal people at risk of abuse.
- Help people to access the right kind of support to reduce risk and promote wellbeing.
- Help identify people who may pose a risk to others and, where possible, work to reduce offending behaviour.
- Reduce organisational risk and protect reputation.

Principles of information-sharing

- 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 General Data Protection Regulation enables the lawful sharing of information.
- There should be a local agreement or protocol in place setting out the processes and principles for sharing information between organisations.
- 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 organisations 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 the local authority adult social services.
- The six safeguarding principles should underpin all safeguarding practice, including information-sharing.

2.11.3. What if an adult does not want their information shared?

Frontline workers and volunteers should always share safeguarding concerns in line with their organisation's policy, usually with their line manager or safeguarding lead in the first instance, except in emergency situations. As long as it does not increase the risk to the adult, the member of staff should explain to them that it is their duty to share their concern with their manager. The safeguarding principle of proportionality should underpin decisions about sharing information without consent, and decisions should be on a case-by-case basis.

Adults may not give their consent to the sharing of safeguarding information for a number of reasons e.g., they may be frightened of reprisals, they may fear losing control, they may not trust social services or other partners or they may fear that their relationship with the abuser will be damaged. Reassurance and appropriate support along with gentle persuasion may help to change their view on whether it is best to share information.

If an adult refuses intervention to support them with a safeguarding concern, or requests that information about them is not shared with other safeguarding partners, their wishes should be respected. However, there are a number of circumstances where the practitioner can reasonably override such a decision, including:

- The adult lacks the mental capacity to make that decision – this must be properly explored and recorded in line with the Mental Capacity Act.
- Other adults or children are, or may be, at risk.
- Sharing the information could prevent a crime.
- The alleged abuser has care and support needs and may also be at risk.
- A serious crime has been committed.
- Staff are implicated.
- The adult has the mental capacity to make that decision but they may be under duress or being coerced.
- The risk is unreasonably high and meets the criteria for a multi-agency risk assessment conference referral.
- A court order or other legal authority has requested the information.

If none of the above apply and the decision is not to share safeguarding information with other safeguarding partners, or not to intervene to safeguard the adult:

- Support the adult to weigh up the risks and benefits of different options.
- Ensure they are aware of the level of risk and possible outcomes.
- Offer to arrange for them to have an advocate or peer supporter.
- Offer support for them to build confidence and self-esteem if necessary.
- Agree on and record the level of risk the adult is taking.
- Record the reasons for not intervening or sharing information.
- Regularly review the situation.
- Try to build trust and use gentle persuasion to enable the adult to better protect themselves.

If it is necessary to share information outside the organisation:

- Explore the reasons for the adult's objections – what are they worried about?
- Explain the concern and why you think it is important to share the information.
- Tell the adult who you would like to share the information with and why.
- Explain the benefits, to them or others, of sharing information – could they access better help and support?
- Discuss the consequences of not sharing the information – could someone come to harm?
- Reassure them that the information will not be shared with anyone who does not need to know.
- Reassure them that they are not alone and that support is available to them.

If the adult cannot be persuaded to give their consent, then, unless it is considered dangerous to do so, it should be explained to them that the information will be shared without consent. The reasons should be given and recorded.

If it is not clear that information should be shared outside the organisation, a conversation can be had with safeguarding partners in the police or local authority without disclosing the identity of the adult in the first instance. They can then advise on whether full disclosure is necessary without the consent of the person concerned.

It is very important that the risk of sharing information is also considered. In some cases, such as domestic violence or hate crime, it is possible that sharing information could increase the risk to the adult. Safeguarding partners need to work jointly to provide advice, support and protection to the individual in order to minimise the possibility of worsening the relationship or triggering retribution from the abuser.

Domestic abuse cases should be assessed following the Domestic Abuse Stalking and Harassment Risk Identification (DASH RIC) risk assessment and referred to a multi-agency risk assessment conference where appropriate. Cases of domestic abuse should also be referred to local specialist domestic abuse services.

2.11.4. How to improve communication and joint working

Safeguarding Adults Reviews frequently highlight failures between safeguarding partners (local authorities, General Practitioners and health, the police, housing, care providers) to communicate and work jointly. Such failures can lead to serious abuse and harm and in some cases, even death.

- Improve links between public protection forums: Safeguarding Adults Boards, (children and adults), multi-agency risk assessment conferences (MARACs), multi-agency public protection arrangements (MAPPAs), health and wellbeing boards and community safety partnerships.
- Develop joint approaches to resolve concerns where the individual may not be eligible for social care support, for people who refuse support and those who self-neglect.
- Where appropriate, include partner agencies in enquiries, safeguarding meetings and investigations.
- Keep referring agencies informed of progress and outcomes.
- Monitor information-sharing practice.

Information on the General Data Protection Regulation

The Guide to the General Data Protection Regulation (GDPR) explains the provisions of the GDPR to help organisations comply with its requirements. It is for those who have day-to-day responsibility for data protection.

The website for the Information Commissioner's Office provides further information on relevant sections of the GDPR itself, along with other ICO resources and guidance as produced by the EU's Article 29 Working Party.

3. Section 3: Legislation, national guidance, and toolkits

3.1. Legislation, national guidance, and toolkits

3.1.1. Introduction

This section of the policy and procedures sets out key areas of national policies and guidance in relation to relevant legislation and good practice in adult safeguarding. A summary is provided for each document together with a link to the relevant webpage.

3.1.2. The Care Act 2014

The Care Act Sections 42-47

Sections 42 to 47 of the Care Act set out the legal duties and responsibilities in relation to adult safeguarding.

Care and Support Statutory Guidance (Department of Health and Social Care, 2018)

The legal framework for the Care Act 2014 is supported by the Care and Support Statutory Guidance, which provides information 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 for care and support, and carers.

3.1.3. Corporate manslaughter

Corporate Manslaughter (Crown Prosecution Service)

Companies and organisations can be found guilty of corporate manslaughter as a result of serious management failures resulting in a gross breach of a duty of care under the Corporate Manslaughter and Corporate Homicide Act 2007. The Crown Prosecution Service has produced this guidance which sets out the general principles which apply in respect of this legislation.

3.1.4. Coroner's services and investigations

Coroner's Services and Investigations (Ministry of Justice, 2014)

This guide provides a summary of the role of the coroner and offers guidance to anyone who may be involved in a coroner's investigation or attends a coroner's inquest.

Any cases currently being progressed under safeguarding adults or where it is suspected that abuse or neglect of an adult at risk has caused or contributed to their death must be raised with the Police and the Coroner.

Local Coroner contact/information across Sussex:

- Coroner | East Sussex County Council
- Coroner's Service | West Sussex County Council
- HM Coroner for Brighton & Hove | Brighton & Hove City Council

3.1.5. Criminal Justice and Courts Act 2015

Under the Criminal Justice and Courts Act 2015 it is an offence for an individual or a care provider who has the care of another individual to ill-treat or wilfully to neglect that individual.

The offence focuses on the conduct of the individual, not the outcome. It is to do with what the worker actually did (or failed to do) to the individual, rather than any harm that resulted.

For organisations the offence focuses on the way their activities are managed and organised, and whether an incident amounts to a gross breach of a relevant duty of care owed to the patient.

3.1.6. Disclosure and Barring Service (Home Office, 2018)

The Disclosure and Barring Service (DBS) helps employers make safer recruitment decisions and prevent unsuitable people from working with vulnerable groups, including children. It replaces the Criminal Records Bureau (CRB) and Independent Safeguarding Authority (ISA).

For more information, including guidance on how to make referrals, visit the Gov.uk, Disclosure and Barring Service webpages.

The DBS has issued Guidance for Local Authorities and regulatory bodies about the duty and power to refer a person to DBS.

3.1.7. Domestic violence and abuse

Domestic Abuse Statutory Guidance 2022

This statutory guidance is issued under Section 84 of the Domestic Abuse Act 2021 (‘the 2021 Act’). It is intended to increase awareness and inform the response to domestic abuse. It also conveys standards and promotes best practice: Domestic Abuse Statutory Guidance (publishing.service.gov.uk)

Coercive Control (Research in Practice for Adults)

The Coercive Control website is for social workers and other health and social care practitioners to develop their knowledge and skills in working in situations of coercive control.

SafeLives

SafeLives is a National Charity dedicated to ending domestic abuse and contains information about the UK’s response to domestic abuse. The site includes information for professionals on resources including MARAC and the IDVA service.

3.1.8. Female genital mutilation and traditional harmful practices

Multi-Agency Statutory Guidance on Female Genital Mutilation (HM Government, 2016)

This document contains multi-agency guidelines on Female Genital Mutilation (FGM) for those with statutory duties to safeguard children and vulnerable adults: Statutory Guidance on FGM.

Harmful practices are persistent practices and behaviours that are grounded on discrimination on the basis of sex, gender, age and other grounds as well as multiple and/or intersecting forms of discrimination that often involve violence and cause physical and/or psychological harm or suffering: Harmful Practices – National FGM Centre.

3.1.9. Forced marriage

Multi-Agency Practice Guidelines: Handling Cases of Forced Marriage (HM Government, 2014)

This guidance sets out the responsibilities of agencies involved in handling cases of forced marriage. It provides advice and support to front line practitioners who have responsibilities to safeguard children and protect adults from the abuses associated with forced marriage: HM Government Multi-agency practice guidelines: Handling cases of Forced Marriage (publishing.service.gov.uk).

3.1.10. Gaining access to an Adult at risk

Gaining Access to an Adult Suspected to be at Risk of Neglect or Abuse: a Guide for Social Workers and their Managers in England (Social Care Institute of Excellence, 2014)

This guide has been created to provide information on legal options for gaining access to people who are suspected to be experiencing or at risk of abuse or neglect, but access to them is restricted or denied: Gaining access to an adult suspected to be at risk of neglect or abuse - SCIE.

3.1.11. Health and Social Care Act 2008

The Health and Social Care Act 2008 seeks to enhance professional regulation by creating an integrated regulator for health and social care, the Care Quality Commission, with a focus on providing assurance about the safety and quality of care for patients and service users.

3.1.12. Human Rights Act 1998

The Human Rights Act 1998 incorporates most of the European Convention of Human Rights into UK law enabling claims by individual victims to be brought in UK courts against any public bodies for breach of those convention rights. The Act makes it unlawful for a public body to act (by commission or omission) in a way that is incompatible with their Convention Rights. Examples of

convention rights are, right to a private and family life, right to marry, right to a fair trial, right to liberty and security etc.

3.1.13. Inter-authority safeguarding arrangements

The ADASS Inter-Authority Safeguarding Arrangements guidance sets out the policy for responding to safeguarding concerns which involve cross-boundary considerations. The guidance clarifies actions to be taken when the funding/commissioning responsibility for an adult lies with an authority in one area and where concerns about potential abuse or neglect arise in another area:

- ADASS Safeguarding Adults Policy Network: Guidance for Inter-Authority Safeguarding Adults Enquiry and Protection Arrangements (PDF, 720KB)

3.1.14. LeDeR programme

Learning from the lives and death of people with a learning disability or who are autistic (LeDeR)

The LeDeR programme sets out a structured way to review the lives and deaths of people with a learning disability and/or autistic people. LeDeR collects information from families, carers, providers, professionals, medical records and other relevant agencies and organisations in order to see where they can find areas of learning, opportunities to improve, and examples of good practice for sharing. It is a strengths focused approach placing the person and their experience as central to the review.

LeDeR is a review, not an investigation, and is a service improvement program to reduce known health inequalities. LeDeR is a non-statutory program and as such, is not concluded until other statutory processes such as S42 enquiry have been completed. Please see the national LeDeR policy.

LeDeR governance is shared across the integrated care system and partners include local authorities, NHS Trusts as well as representation by those who have lived experience.

For further information on the LeDeR programme:

- LeDeR: Learning from Lives and Deaths

For details of current service improvement programs made as a result of LeDeR:

- Support for people with a learning disability - Sussex Health & Care (ics.nhs.uk)

For more information, please contact LeDeR in Sussex by email: sxicb.leder@nhs.net

3.1.15. Making Safeguarding Personal

Making Safeguarding Personal Guide (Local Government Association, 2014)

The Making Safeguarding Personal Guide is intended to support councils and their partners to develop outcomes-focused, person-centred safeguarding practice. It provides guidance about how to embark upon and take forward a Making Safeguarding Personal approach.

Making Safeguarding Personal: Practice toolkit handbook (Local Government Association, 2019)

The Toolkit sets out a range of models, theories and approaches which can be used as a practitioner guide for good practice in adopting a Making Safeguarding Personal approach.

3.1.16. Multi-Agency Public Protection Arrangements (MAPPA)

MAPPA Guidance (Ministry of Justice, National Offenders Management Service, HM Prison Service, 2012)

Multi-agency protection arrangements are in place to ensure the successful management of violent and sexual offenders. The MAPPA Guidance (Ministry of Justice, National Offenders Management Service, HM Prison Service, 2012) sets out the responsibilities of the police, probation trusts and prison service. It also covers how other agencies may become involved, for example in the care of young offenders.

3.1.17. Mental Capacity Act 2005 and the Deprivation of Liberty Safeguards 2009

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, which provides guidance and information about how the Act works in practice. The Code of Practice has a 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.

- Mental Capacity Act Code of Practice

Mental Capacity Act 2005 Section 44

Section 44 of the Mental Capacity Act 2005 created the criminal offences of ill-treatment and wilful neglect, and these offences can be committed by anyone responsible for that adult’s care and support. This includes:

- Paid staff
- Family carers

- People who have the legal authority to act on that adult's behalf (i.e. persons with power of attorney or court-appointed deputies)

Deprivation of Liberty Safeguards Code of Practice (Ministry of Justice, 2008)

The Deprivation of Liberty Safeguards Code of Practice helps explain how to identify when a person is, or is at risk of, being deprived of their liberty and how a deprivation of liberty may be avoided. It also explains the safeguards that have been put in place to ensure that deprivation of liberty, where it does occur, has a lawful basis:

- Deprivation of liberty safeguards: resources - GOV.UK (www.gov.uk)

Department of Health Guidance: Response to Supreme Court Judgement/Deprivation of Liberty Safeguards (Department of Health, 2015)

This advice note offers guidance in response to the Supreme Court judgement in relation to the case of Cheshire West and clarifies the acid test in determining what constitutes a deprivation of liberty: Department of Health advice note regarding the Cheshire West judgement.

Coroner's Services and Investigations (Ministry of Justice, 2014)

There is a legal duty to inform the Coroner of any death that has occurred whilst a person is subject to the Deprivation of Liberty Safeguards. The responsibility to notify is shared between the supervisory body and the managing authority.

Coroners no longer have a duty to undertake an inquest into the death of every person who was subject to an authorisation under the Deprivation of Liberty Safeguards (known as DoLS) under the Mental Capacity Act 2005.

Any person with any concerns about how or why someone has come to their death can contact the coroner directly. This will not change where a person subject to a DoLS authorisation.

Download the short guide to Coroner Services and Coroner Investigations.

Note that a person may also be subject to a deprivation of liberty whilst in a domestic setting, such as supported living arrangements, where the State is responsible for imposing such arrangements. Whilst such situations do not come within the remit of the Deprivation of Liberty Safeguards (they must instead be authorised by the Court of Protection; the same procedure should be followed for informing the Coroner.

3.1.18. NHS Accountability and Assurance Framework

NHS Accountability and Assurance Framework (Department of Health, 2022)

The NHS Accountability and Assurance Framework sets out the safeguarding roles, duties and responsibilities of all organisations in the NHS.

3.1.19. Modern Slavery Act 2015

The Modern Slavery Act 2015

The Modern Slavery Act 2015 categorises offences of ‘slavery, servitude and forced or compulsory labour’, and ‘human trafficking’ which includes knowingly holding a person in a position of slavery, servitude, forced or compulsory labour, or facilitating their travel with the intention of exploiting them during or soon after.

In 2023, the Home Office received 17,004 referrals of potential victims of modern slavery, which was similar to the preceding year (16,921). This is the highest number of annual referrals since the National Referral Mechanism (NRM) began.

You can access the Home Office documents and materials related to modern slavery here: Modern slavery - GOV.UK (www.gov.uk)

Duty to notify the Home Office of suspected victims of modern slavery

Specified public authorities, which includes the police and local authorities, are required to notify the Home Office about any potential victims of modern slavery they encounter in England and Wales.

There are two routes of referral to the Home Office under the Modern Slavery Act duty to notify. They are the National Referral Mechanism (NRM) where consent is obtained and the Duty to Notify (DtN) for situations in which the adult does not consent.

For further information and to start the online form, see Report modern slavery.

Unseen provide an overview of the most common signs of modern slavery and exploitation – starting with general signs and then detailing signs of:

- labour exploitation
- sexual exploitation
- domestic servitude
- criminal exploitation
- child exploitation

3.1.20. Office of the Public Guardian Safeguarding Policy

The Office of the Public Guardian (OPG) can investigate concerns about 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. This policy outlines the role and powers of the OPG in relation to safeguarding adults.

3.1.21. Pressure Ulcer Safeguarding Adults Protocol

Safeguarding Adults Protocol – Pressure Ulcers and the interface with Safeguarding Enquiries (Department of Health and Social Care, 2018)

This guidance aims to assist practitioners and managers across health and social care services to provide appropriate responses to individuals who are at risk of developing pressure ulcers. Where pressure ulcers do occur, the guidance offers a clear process for the clinical management of reducing the risk of harm whilst considering if a safeguarding response under Section 42 of the Care Act is necessary:

- Safeguarding adults protocol: pressure ulcers and raising a safeguarding concern - GOV.UK (www.gov.uk)

3.1.22. Prevent

Revised Prevent Duty Guidance for England and Wales (HM Government, 2016)

The Prevent Strategy is part of the government's response to counter terrorism. Its aim is to reduce the threat to the UK from terrorism by stopping people becoming terrorists or supporting terrorism. Prevent offers guidance to authorities on the duty in the Counter Terrorism and Security Act 2015 to have due regard to the need to prevent people from being drawn into terrorism.

3.1.23. Prevention in adult safeguarding

Prevention in Adult Safeguarding (Social Care Institute of Excellence(SCIE))

The Prevention in Adult Safeguarding (Social Care Institute of Excellence, 2011) report shares findings from research, policy and practice on prevention in adult safeguarding and presents a wide range of approaches that can help prevent abuse and neglect.

3.1.24. Roles and responsibilities in health and care services

Safeguarding: Roles and Responsibilities in Health and Care Services (Department of Health, Local Government Association, ADASS, Association of Chief Police Officers, 2013)

This guidance provides clarity around 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 the own agency and with partners:

- Safeguarding adults: roles and responsibilities in health and care services | Local Government Association

3.1.25. Discriminatory abuse self-assessment tool

The discriminatory abuse self-assessment tool (Local Government Association) is intended to support councils, Safeguarding Adult Boards (SABs), practitioners from all sectors, staff responsible for reporting adult social care (ASC) performance, safeguarding leads and commissioners.

This tool aims to better identify, report, and analyse activity; be aware of any bias and challenge discriminatory abuse in their practice; develop processes and policies on tackling discriminatory abuse; and embed good practice to deliver good equality outcomes for people who have care and support needs. In attempting to understand discriminatory abuse, all partners and professionals also need to understand the underlying principles and practice of equity, equality, diversity and inclusion.

4. Section 4: Local policy, guidance, and toolkits (Pan Sussex)

4.1. Sussex policy, guidance, and toolkits

4.1.1. Safeguarding Adults Boards

Safeguarding Adults Boards (SABs) are multi-agency partnerships that are committed to the effective safeguarding of adults in their respective local areas.

A vital aspect of the work of a SAB is to ensure information is available to the public, staff working in partner agencies, adults with care and support needs and informal carers. A SAB does not undertake operational safeguarding work.

There are three SABs in Sussex: East Sussex, Brighton & Hove, and West Sussex. Each SAB is chaired by an Independent Chair and has subgroups to progress particular work-streams and activity relating to the priorities agreed by the respective Board.

To ensure consistency of approach and to reflect the shared Safeguarding Adult Policy and Procedures, the Independent Chairs and Board Managers of the three SABs meet regularly to adopt shared practices where appropriate.

Purpose:

The Care Act 2014 sets out the core purpose of a SAB as ensuring that local safeguarding arrangements are effective and take account of the views of the local community.

In setting out to achieve this, it must:

- Publish an annual report outlining its work and findings of any Safeguarding Adults Reviews to member organisations and the public.
- Publish a strategic plan each financial year with key objectives, consulting with Healthwatch and developed with local community involvement. The SAB must also take account of the views of people who use care and support, families, and carer representatives.
- Undertake any Safeguarding Adults Reviews (SARs).

4.1.2. Safeguarding Adults Reviews

The Care Act 2014 sets out that SABs have a statutory duty to undertake a Safeguarding Adults Review (SAR) when:

- an adult has died, and the SAB knows or suspects that the death resulted from abuse or neglect (whether or not it knew about or suspected the abuse or neglect before the adult died); or
- an adult has experienced serious abuse or neglect which has resulted in permanent harm, reduced capacity, or quality of life (whether or not it knew because of physical or psychological effects), or the individual would have been likely to have died but for an intervention; and

- there is concern that partner agencies could have worked more effectively to protect the adult

The Sussex SAR Protocol adopted by Brighton & Hove, East Sussex and West Sussex SABS aims to ensure there is a consistent approach to the process and practice of SARs across Sussex that follows both statutory guidance and local policies.

Making a SAR referral

Any agency or professional can make a referral for a SAR where the criteria are met, using the SAR Referral Form.

- Professionals and agencies should discuss making a referral with their senior manager or organisation's safeguarding lead prior to submitting the referral and consider contacting the SAB's Support Team to discuss
- Members of the public should discuss with a professional or agency involved who will support to consider if the SAR process could be appropriate.

The purpose of conducting a SAR is to:

- Establish whether there are lessons to be learnt from the circumstances of the case about, for example, the way in which local professionals and agencies work together to safeguard adults at risk.
- Review the effectiveness of procedures and their application (both multi-agency and those of organisations).
- Inform and improve local inter-agency practice by acting on learning (developing best practice) in order to reduce the likelihood of similar harm occurring again. Bring together and analyse the findings of the various reports from agencies in order to make recommendations for future action
- Highlight good practice.

Please visit the following websites for more detailed information on the role of the SABs in Sussex, published SARs, annual reports, strategic plans, and current priorities.

- East Sussex: www.eastsussexsab.org.uk
- West Sussex: www.westsussexsab.org.uk
- Brighton & Hove: www.brightonandhovelscb.org.uk/safeguarding-adults-board/

4.1.3. Safeguarding Adults: what to do if you think someone is being abused, neglected, or exploited

The Sussex Safeguarding Adults Thresholds Guidance for Professionals contains information on signs and indicators of abuse and neglect and what should be reported as a safeguarding concern.

Any concerns about modern slavery should always be reported.

This thresholds document is to be used across Sussex to support professionals, partners, and providers to decide on whether to report a safeguarding concern for an adult with care and support

needs It also helps differentiate between quality issues and safeguarding and provides alternative actions that can be considered.

This guidance is for support when assessing and managing risks, and only contains some examples. You should always consider the individual circumstances of each situation and use your professional judgement when deciding on the best course of action.

Our safeguarding leaflet provides information on what to do if you think someone is being abused, neglected or exploited:

- Pan Sussex Adult Safeguarding Leaflet (PDF, 162KB)

5. Section 5: Appendices

5.1. Appendix 1: Legal remedies

5.1.1. Introduction

The following information outlines the Legal Remedies which may be considered for different types of adult safeguarding scenarios.

5.1.2. Physical abuse

Offences Against the Person Act 1861- a criminal prosecution, this Act contains core criminal offences relating to assaults including, actual and grievous bodily harm, wounding with intent and unlawful wounding, including assaults causing cuts, serious damage to internal organs and broken bones, the administration of drugs or noxious substances so as to cause harm (a prosecution would have to be brought by the police).

Civil action could be taken for assault, battery or false imprisonment (restraint). The client or their representative should take legal advice from either the Citizen's Advice Bureau or an independent solicitor.

A Criminal Injuries Compensation claim can be made via Gov.uk, Claim compensation if you were the victim of a violent crime.

The Police and Criminal Evidence Act 1984 Section 17 is a police power to enter and save life.

The Family Law Act 1996 can be used to obtain injunctions against perpetrators; non-molestation and occupation orders.

The Domestic Violence Crimes and Victims Act 2004 creates an offence of causing or allowing the death of a child or Vulnerable Adult, where they have died of an unlawful act. The household member must have failed to take reasonable steps to protect the victim and the victim must have been at serious risk of physical harm, demonstrated by a history of violence towards the vulnerable person. 'Vulnerable Adult' in this Act means a person aged 16 or over whose ability to protect himself or herself from violence, abuse or neglect is significantly impaired through physical or mental disability or illness, through old age or otherwise.

Young people under 18 years of age are also covered by Sussex Child Protection Procedures.

5.1.3. Sexual abuse

Criminal prosecution - Sexual Offences Act 2003. There are specific offences that deal with adults who lack the ability to consent to sexual relations and/or have a mental disorder. Section 4 makes it an offence to cause a person to engage in sexual activity without consent. Sections 30-44 provide various offences against people who lack capacity and/or have a mental disorder, including specific offences for care workers. There is a defence to these offences if the individual did not know and had no reason to suspect that the person had a mental disorder.

Civil action could be taken by the individual, but they should take legal advice from either the Citizen's Advice Bureau or an independent solicitor.

5.1.4. Psychological abuse

Protection from Harassment 1997 can be used by Police or individual to obtain an injunction. Refer also to the Crime and Disorder Act 1998.

The Equality Act 2010 can be referred to if someone is being treated unfavourably on the grounds of their age, disability, gender reassignment, marriage, civil partnership, pregnancy, maternity, race, religion or belief, sex or sexual orientation.

5.1.5. Neglect

Note: the Legal Remedies below could also apply to self-neglect and organisational abuse.

s5 MCA 2005 if we reasonably believe that it is in the best interests of an adult that lacks capacity, we can take steps to provide that care and treatment, including removing them to a place of safety.

Criminal law - statute and common law can be considered, including:

- s44 MCA 2005 makes it an offence for a person with care of an adult who lacks capacity, or who holds and LPA/EPA, or a deputy appointed by the Court, to wilfully neglect or ill-treat the adult.
- ss20-25 Criminal Justice and Courts Act 2015 makes it an offence for a care worker, or care provider, to ill-treat or wilfully neglect an individual in their care.

Police and Criminal Evidence Act 1984, section 17 is a Police power to enter and save life.

Referral to the Care Quality Commission in circumstances in which a provider is failing to meet the national standards of quality and safety. See: Contact us or report a concern | OLS (cqc.org.uk)

5.1.6. Self-neglect

Sections 9-13 Care Act 2014 and associated Regulations - duty to assess. The local authority may be able to help manage self-neglect concerns by completing a formal assessment and putting in a care package or higher support to the individual, carer and/or family. We should also consider our duty to promote well-being as set out in section 1 Care Act 2014.

If, through a person’s, self-neglect, their right, or ability to continue to reside in their accommodation is at risk, then a referral to the relevant housing authority for assistance under any relevant housing legislation should also be considered.

Also see section above on Neglect.

5.1.7. Financial abuse

Lasting Powers of Attorney (LPA) were introduced by the Mental Capacity Act 2005.

These replace the former Enduring Powers of Attorney that, after 1 October 2007, can no longer be created. An LPA is a legal document that lets a person (‘the Donor') appoint someone they trust (‘the Attorney') to make decisions on their behalf.

There are two types of Lasting Power of Attorney (LPA):

- Finance and Property - allows the Donor to choose someone to make decisions about how to spend his/her money, including the management of his/her property and affairs.
- Health and Welfare - allows the Donor to choose someone to make decisions about their healthcare and welfare. This includes decisions to refuse or consent to treatment on his/her behalf and deciding where to live.

The LPA must be registered with the Office of the Public Guardian in order to have legal standing. A registered LPA can be used at any time, whether the person making the LPA has the mental capacity to act for himself or not. Once the LPA is registered it continues indefinitely. The LPA can be registered by the Attorney after the Donor has lost capacity. An LPA can also be cancelled by the Donor, provided he has the mental capacity to do so.

The relevant agency can make representations to the Office of the Public Guardian if there is reasonable belief that someone may not be acting in an individual's best interests.

A person given a power under an Enduring Power of Attorney (EPA) before 1 October 2007 can still use it and apply to have it registered.

Further information about LPAs can be found on the website for the Office of the Public Guardian.

An adult in receipt of benefits, who is unable to manage their affairs can appoint a person to do so on their behalf. These are known as “Appointees”. An Appointee may be an individual, or an organisation, such as a firm of Solicitors. As an Appointee they are responsible for making and maintaining any benefits claims on behalf of the adult.

The Department of Works and Pensions (DWP) should be contacted if an agency has reason to suspect that an Appointee is not acting properly under the terms of their appointment, the adult is clearly able to manage their own benefits, or the Appointee becomes incapable. The DWP should then take steps to investigate whether the Appointeeship should continue.

Further information about Appointeeships can be found on the Government website.

The Mental Capacity Act 2005 provides for the Court of Protection to make decisions in relation to the property and affairs, healthcare and personal welfare of adults (and in certain cases, children) who lack capacity.

The Court has the same rights, privileges and authority in relation to mental capacity matters as the High Court. The Court has the powers to:

- decide whether a person has capacity to make a particular decision for themselves,
- make declarations, decisions or orders on financial or welfare matter affecting people who lack capacity to make such decisions,
- appoint deputies to make decisions for people lacking capacity to make those decisions,

- decide whether an LPA or EPA is valid,
- remove deputies or attorneys who fail to carry out their duties; and
- hear cases concerning objections to register an LPA or EPA.

In reaching any decision, the Court must apply the statutory principles set out in the Mental Capacity Act. It must also make sure its decision is in the best interests of the person who lacks capacity.

Criminal Prosecution - the Police can consider whether a perpetrator of financial abuse may be prosecuted for theft under the Theft Act 1968. For fraud, both the police and local authority Trading Standards Service can consider various offences under the Fraud Act 2006.

5.1.8. Organisational abuse

Consider the Legal Remedies identified in the sections relating to: physical, sexual, psychological, financial abuse and neglect.

Corporate Homicide Act 2007 – an organisation is guilty of an offence under this Act if the way in which its activities are managed or organised:

- causes a person's death; and
- amounts to a gross breach of a relevant duty of care owed by the organisation to the deceased.

An organisation is only guilty of an offence under this Act if the way in which its activities are managed or organised by senior management are a substantial cause of the breach of duty.

5.1.9. Domestic violence

Consider the Legal Remedies identified in the sections relating to: physical, sexual, psychological, financial abuse and neglect.

5.1.10. Modern slavery

The Human Rights Act 1998 incorporates Article 4 of the European Convention on Human Rights – Prohibition of slavery and torture.

Criminal law, such as Offences Against the Person Act 1861, kidnapping and false imprisonment.

Civil law, such as the tort of false imprisonment.

5.1.11. Support to individual and family

Sections 9-13 Care Act 2014 and associated Regulations - duty to assess. The local authority may be able to help manage some adult safeguarding concerns by completing a formal assessment and putting in a care package or higher support to the individual, carer and/or family. We should also consider our duty to promote well-being as set out in section 1 Care Act 2014.

If an adult's right, or ability to continue to reside in their accommodation is at risk, then a referral to the relevant Housing Authority for assistance under any relevant housing legislation should also be considered.

5.1.12. Removal of the person thought to be the cause of risk

Consider whether to involve the police.

Family Law Act 1996 - injunctions; non-molestation and occupation orders.

Civil injunction - would need the individual to take legal advice from an independent solicitor or Citizen's Advice Bureau.

Mental Health Act 1983 - removal for assessment and/or treatment.

5.1.13. Removal of subject

Mental Health Act 1983 - removal for assessment and/or treatment.

5.1.14. Deprivation of Liberty Safeguards

The Mental Capacity Act Deprivation of Liberty Safeguards were introduced into the Mental Capacity Act 2005 through the Mental Health Act 1983.

The MCA DOL safeguards apply to anyone:

- aged 18 and over,
- who suffers from a mental disorder or disability of the mind, such as dementia or a profound learning disability, but may include some people who have, for example, suffered a brain injury,
- who lacks the capacity to give informed consent to the arrangements made for their care and/or treatment, and
- for whom deprivation of liberty (within the meaning of Article 5 of the EHCR) is considered after an independent assessment to be necessary in their best interest to protect them from harm.

The safeguards do not apply to people detained under the Mental Health Act 1983.

The safeguards cover:

- patients in hospitals, and
- people in care homes registered under the Care Standards Act 2000 or the Health and Social Care Act 2008 (regulated Activities) Regulations 2014,
- whether placed under public or private arrangements.

The safeguards are designed to protect the interest of an extremely vulnerable group of service users and to:

- ensure people can be given the care they need in the least restrictive regimes,

- prevent arbitrary decisions that deprive vulnerable people of their liberty,
- provide safeguards for vulnerable people,
- provide them with rights of challenge against unlawful detention.

What do the safeguards cover?

- They provide legal protection for those individuals who are, or may become, deprived of their liberty within the meaning of Article 5 of the ECHR.
- Every effort should be made, in both commissioning and providing care or treatment, to prevent deprivation of liberty. If deprivation of liberty cannot be avoided, it should be for no longer than is necessary.
- The safeguards provide for deprivation of liberty to be made lawful through `standard' or `urgent' authorisation processes. These processes are designed to prevent arbitrary decisions to deprive a person of liberty and give a right to challenge deprivation of liberty authorisations.
- The deprivation of liberty safeguards mean that the relevant hospital or care home must seek authorisation from a `supervisory body', which includes a primary care trust, a local authority or a local health board, in order to be able lawfully to deprive someone of their liberty. Before giving such authorisation, the supervisory body must be satisfied that the person has a mental disorder as defined in section 1 of the Mental Health Act 1983 (as amended by the Mental Capacity Act 2005) and lacks capacity to decide about their residence or treatment.
- A decision as to whether or not deprivation of liberty arises will depend on all the circumstances of the case. It is neither necessary nor appropriate to apply for a deprivation of liberty authorisation for everyone who is in hospital or a care home simply because the person concerned lacks capacity to decide whether or not they should be there. In deciding whether or not an application is necessary, a managing authority should consider carefully whether any restrictions that are, or will be, needed to provide on-going care or treatment amount to a deprivation of liberty when looked at together.

The MCA DOLS cover:

- How an application for authorisation should be applied for.
- How an application for authorisation should be assessed.
- The requirements that must be fulfilled for an authorisation to be given.
- How an authorisation should be reviewed.
- What support and representation must be provided for people who are subject to an authorisation.
- How people can challenge authorisations.

While the MCA DOL might be for the purpose of giving treatment, the DOL authorisation does not itself authorise treatment. Treatment in these circumstances may only be given with the person's consent (if they have capacity) or in accordance with the wider provisions of the Mental Capacity Act.

MCA DOLS must never be used as a form of punishment or for the convenience of carers or professionals.

5.2. Appendix 2: Self-neglect: Legal remedies and other options

5.2.1. Introduction

The following information contains legal remedies and other options to consider in cases involving adults who are self-neglecting.

5.2.2. Environmental Health

Power of entry/Warrant (Section 287 Public Health Act): Gain entry for examination/execution of necessary work required under Public Health Act. Police attendance required for forced entry. Non-engagement of person. To gain entry for examination/execution of necessary work (all tenures including leaseholders/freeholders).

Public Health (Control of Disease) Act 1984 Section 46 sets out restrictions in order to control the spread of disease, including use of infected premises, articles and actions that can be taken regarding infectious persons.

Prevention of Damage by Pests Act 1949: Local authorities have a duty to take action against occupiers of premises where there is evidence of rats or mice.

Enforcement Notice (Section 83 Public Health Act 1936): Filthy or unwholesome condition of premises (articles requiring cleansing or destruction). Prevention of injury or danger to person served (all tenures including leaseholders/freeholders/empty properties).

Litter Clearing Notice (Section 92a Environmental Protection Act 1990): Environmental Health to make an assessment to see if this option is the most suitable. Where land open to air is defaced by refuse which is detrimental to the amenity of the locality. An example would be where hoarding has spilled over into a garden area.

Environmental Protection Act 1990 Abatement: Abatement notice where any premise is in such a state as to be prejudicial to health or a nuisance (Sections 79/80).

5.2.3. Fire and Rescue

Regulatory Reform (Fire Safety) Order 2005**:** The fire brigade can serve a prohibition or restriction notice to an occupier or owner which will take immediate effect. This can apply to single private dwellings where the criteria of risk to relevant persons apply.

5.2.4. Police

Power of Entry (Section 17 Police and Criminal Evidence Act): Person inside the property is not responding to outside contact and there is evidence of danger. Information that someone inside the premises was ill or injured and the police would need to gain entry.

5.2.5. Housing

Anti-Social Behaviour, Crime and Policing Act 2014: A civil injunction can be obtained from the County Court if the court is satisfied that the person against whom the injunction is sought has engaged or threatens to engage in anti-social behaviour, or if the court considers it just and convenient to grant the injunction for the purpose of preventing the person from engaging in anti-social behaviour.

Conduct by the tenant which is capable of causing housing-related nuisance or annoyance to any person. 'Housing-related' means directly or indirectly relating to the housing management functions of a housing provider or a local authority.

Housing Act 2004: This allows enforcement action where either a category 1 or category 2 hazard exists in any building or land posing a risk of harm to the health or safety of any actual or potential occupier or any dwelling or house in multiple occupation (HMO). These powers range from serving an improvement notice, taking emergency remedial action, to the making of a demolition order.

The courses of action available to authorities as regards either category of hazard are:

- Serve an Improvement Notice requiring remedial works.
- Make a Prohibition Order to close the whole or part of a dwelling or to restrict the number of permitted occupants.
- Take emergency action.
- Serve a Hazard Awareness Notice.
- Make a Demolition Order.
- Declare a Clearance Area.

Housing Act 1985 and Housing Act 1988: In extreme cases, a landlord can take action for possession of the property for breach of a person's tenancy agreement, where a tenant fails to comply with the obligation to maintain the property and its environment to a reasonable standard. This would either be under Ground 1, Schedule 2 of the Housing Act 1985 (secure tenancies) or Ground 12, Schedule 2 of the Housing Act 1988 (assured tenancies).

The tenant is responsible for the behaviour of everyone who is authorised to enter the property.

5.2.6. Town and country planning

Town and Country Planning Acts provide the power to seek orders for repairs to privately owned dwellings and where necessary compulsory purchase orders.

5.2.7. Animal welfare agencies

This includes agencies such as RSPCA or local authority agencies such as Environmental Health/DEFRA.

Animal Welfare Act 2006: Offences (improvement notice): Education for owner a preferred initial step. Improvement notice issued and monitored. If not complied with, can lead to a fine or imprisonment.

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.

5.2.8. Mental Health Service

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 thought fit, remove a person to a place of safety if certain criteria are met. The police officer must be accompanied by an Approved Mental Health Professional (AMHP) and a doctor.

Note: a 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.

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,
- neglected,
- 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.

Note: Section 135 lasts 72 hours and is for the purpose of removing a person to a place of safety with a view to the making of an assessment regarding whether or not Section 2 or 3, or 7 of the Mental Health Act should be applied.

Mental Health Act 1983, Section 2 and 3: Where a person has a mental disorder (as defined under the Act) of such a degree, and it is considered necessary for the patient's health and safety or for the protection of others, they may be compulsorily admitted to hospital and detained there under Section 2 for assessment for 28 days. Section 3 enables such a patient to be compulsorily admitted for treatment for up to 6 months, this can then be renewed for a further 6 months and then yearly if necessary.

There must be two recommendations from s12 approved registered medical practitioners. The AMHP makes the application if it is considered appropriate and the less restrictive option.

Mental Health Act 1983, Section 7: A Guardianship Order may be applied for where a person suffers from a mental disorder, the nature or degree of which warrants their reception into Guardianship (and it is necessary in the interests of the welfare of the patient or for the protection of other persons). The person named as the Guardian may be either a local social services authority or any applicant.

A Guardianship Order confers upon the named Guardian the power to require the patient to reside at a place specified by them; the power to require the patient to attend at places and times so specified for the purpose of medical treatment, occupation, education or training; and the power to require access to the patient to be given, at any place where the patient is residing, to any registered medical practitioner, approved mental health professional or other person so specified.

There is a requirement that any application is made upon the recommendations of two registered medical practitioners.

Mental Health Act 1983, Section 136**:** Section 136 allows police officers to remove adults who appear to be "*suffering from mental disorder and in immediate need of care and control*" from a public place to a place of safety for up to 24 hours and extended for no longer than a further 12 hours for specified purposes. The place of safety could be a police station or hospital.

Mental Capacity Act 2005**:** A decision can be made as to whether a person lacks the mental capacity to make specific decisions. If a person lacks capacity regarding a specific decision, any decision made must be in the person's best interests. It is important to follow the empowering principles of the Act and ensure that any actions taken are the less restrictive option available.

A person who lacks capacity to make decisions about their care needs, and they are refusing support and at high risk of serious harm to self as a result.

Community Treatment Orders (CTOs): If a person has been in hospital under Section 3 or other treatment order of the Mental Health Act, a responsible clinician (usually a psychiatrist) can arrange for a person to have a Community Treatment Order (CTO). This means the person will have supervised treatment when they leave hospital. The person will need to follow the conditions of a CTO. The conditions aim to make sure the person gets the appropriate treatment and can also be used to try to protect the person from harming themselves or other people. Conditions can include where the person will live or where they will go to get treatment. A person can be brought back to hospital if they breach the conditions of their CTO.

5.2.9. Local authority

Building Act 1984 Section 76 is available to deal with any premises which are in such a state as to be prejudicial to health. It provides an expedited procedure i.e. the local authority may undertake works after 9 days unless the owner or occupier states an intention to undertake the works within 7 days. There is no right of appeal and no penalty for non-compliance.

5.2.10. Other legal considerations

Public bodies have a positive obligation under the European Convention on Human Rights (ECHR, incorporated into the Human Rights Act 1998 in the UK) to protect the rights of the individual. In cases of self-neglect, articles 5 (right to liberty and security) and 8 (right to private and family life) of the ECHR are of particular importance.

These are not absolute rights, i.e. they can be overridden in certain circumstances. However, any infringement of these rights must be lawful and proportionate, which means that all interventions undertaken must take these rights into consideration. For example, any removal of a person from their home which does not follow a legal process (e.g. under the Mental Capacity or Mental Health Acts) is unlawful and would be challengeable in the Courts.

5.2.11. Inherent jurisdiction of the High Court

The inherent jurisdiction of the High Court can be used to protect people who have the mental capacity to make decisions, but cannot exercise that capacity freely because they are:

- under constraint, or
- subject to coercion or undue influence.

5.2.12. Court of Protection

The Court must first determine whether the person has the mental capacity to make a decision on a specific matter, and then, decide what is in the individual’s best interests.

The Court of Protection makes decisions on matters relating to property and finance or health and welfare for people who lack the mental capacity to make a specific decision at a specific time (the Court can also be asked to make decisions on capacity outside of these areas such as forced marriage, contraception, entering into sexual relations).

If the individual has mental capacity, the Court has no jurisdiction over that matter.

5.3. Appendix 3: Terminology

5.3.1. Safeguarding concern

A ‘safeguarding concern’ is when any person has reasonable cause to suspect 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.

5.3.2. Three key tests in the Care Act

Three key tests relate to adults covered by these safeguarding procedures.

The safeguarding duties apply to an adult who:

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

Once the local authority has reasonable cause to believe an adult meets these tests the Section 42 duty is triggered. The local authority may still decide to undertake an enquiry where the three tests in the Care Act are not met.

Note: Carers are also covered by the procedures where they meet the three tests set out above.

5.3.3. 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 can range from a conversation with the adult to a more formal multi-agency plan or course of action.

A safeguarding enquiry starts when the initial information gathering has established that all 3 of the Section 42 criteria are met, or where the criteria are not met the decision has been made that it is necessary and proportionate to respond as a safeguarding enquiry (Other safeguarding enquiry).

5.3.4. Section 42 enquiry

Those enquiries where the adult meets all of the Section 42 criteria i.e. the 3 key tests.

The local authority must make or cause other agencies or organisations to make enquiries when the Section 42 duty is triggered.

5.3.5. Other safeguarding enquiry

Enquiries where an adult does not meet all of the Section 42 criteria but the local authority has the power under the Care Act to undertake an enquiry where it considers it necessary and proportionate to do so.

5.3.6. Lead Enquiry Officer (LEO)

A suitably trained and experienced practitioner employed by the local authority who has responsibility for coordinating responses and decision making in respect of a safeguarding enquiry.

5.3.7. Safeguarding Adults Review (SAR)

Safeguarding Adults Boards must arrange a SAR when an adult in its area dies as a result of, or has experienced, serious abuse or neglect (known or suspected) and there is concern that partner agencies could have worked more effectively together. The aim of the SAR is to identify and implement learning from this.

5.3.8. Making Safeguarding Personal (MSP)

A ‘Making Safeguarding Personal’ approach means safeguarding responses should be person led and outcome focused. The person should be engaged 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, well-being and safety (see MSP Practice Guidance and Toolkit).