

Northamptonshire Safeguarding Adults Board

Inter-Agency Safeguarding Adults Policy & Procedures

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1. Northamptonshire Safeguarding Adults Policy

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 care and support needs 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 co-ordinated 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; and
- 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 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 Northamptonshire 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.

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; or
- 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 local Clinical Commissioning Groups) with the power to include other relevant bodies;
- 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) where the adult has 'substantial difficulty' in being involved in the process and where there is no other appropriate adult to help them; and
- Cooperate with each of its relevant partners in order to protect adults who are experiencing, or at risk of, abuse or neglect.

1.3 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.

Northamptonshire supports this approach to putting the adult at the heart of all safeguarding processes. It is acknowledged that the voice of the individual should be prominent throughout and that all activities seek to ensure inclusion and personalisation.

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.

[Refer to further guidance](#) from the Local Government Association and the Association of Directors of Social Care.

1.4. 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.

| | Key Principle | Description | What this means to the people who live in Northamptonshire |
|----|------------------------|---|---|
| 1. | Empowerment | People being supported and encouraged to make their own decisions and informed consent. | "I am asked what I want as the outcomes from the safeguarding process and these directly inform what happens." |
| 2. | Prevention | It is better to take action before harm occurs | "I receive clear and simple information about what abuse is, how to recognise the signs and what I can do to seek help." |
| 3. | Proportionality | The least intrusive response appropriate to the risk presented. | "I am sure that the professionals will work in my best interests, as I see them and they will only get involved as much as needed." |
| 4. | Protection | Support and representation for those in greatest need | "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." |
| 5. | Partnership | Local solutions through services working with their communities. Communities have a part to play in preventing, detecting and reporting neglect and abuse | "I know that staff treat any personal and sensitive information in confidence, only sharing what is helpful and necessary. I am confident that professionals will work together and with me to get the best result for me." |
| 6. | Accountability | Accountability and transparency in delivering safeguarding. | "I understand the role of everyone involved in my life and so do they." |

2. Northamptonshire Safeguarding Adults Procedures

2.1. 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.

2.2 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, such as:

- 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; or
- 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 (whistleblowing) 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; and
- 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 that 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; and
- 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.

The Social Care Institute for Excellence (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.

Further information from SCIE includes [safeguarding and quality in commissioning care homes](#) and [common safeguarding challenges](#).

2.3 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. 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.

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.

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

Diagram 1: Wellbeing Principles



2.4 Recognising and Reporting Abuse and Neglect

2.4.1 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.

Adult safeguarding refers to work aimed at preventing or stopping abuse and neglect of adults who need care and support, and who are more at risk of harm because of those needs.

Safeguarding adults is everyone's business and we all have a responsibility to report, including those who are being abused (or suspect they are being abused).

Consistent threshold decisions play a crucial role in ensuring that safeguarding enquiries are undertaken for adults at risk who meet the safeguarding criteria as defined in the Care Act. In this regard, the [Decision Making Framework](#) provides guidance as to what might constitute a reportable safeguarding concern to support professional judgement.

No-one should have to live with abuse or neglect. It is always wrong, whatever the circumstances. ***Don't ever 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, and that they understand their role in safeguarding once abuse is suspected or identified.

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

2.4.2 Who May be at Risk of Abuse or Neglect?

As documented in section 1.2 - Statutory Safeguarding Principles - 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 an adult'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:

- An individual with a physical disability, a learning disability or a sensory impairment;
- Someone with mental health needs, including dementia or a personality disorder; or
- An individual with a long-term health condition.

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 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. See section 2.10.1 Northamptonshire Multi-Agency Procedures to Support Adults who Self-neglect.

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
- Disability
- Frailty
- Not having support networks
- Inappropriate accommodation
- Financial circumstances
- Being socially isolated

Abuse can happen anywhere, for example:

- At home
- In a care home, hospital or day service
- At work or college
- 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.

Young Carers

A young carer is aged between 5yrs-17yrs, and a young adult carer is between 18yrs-25yrs. They take on responsibility for helping to look after someone (usually a family member) who has a long-term illness or disability. This could include a physical disability, learning disability, a mental health problem, or substance misuse issue.

[Northamptonshire Young Carers Service](#) will assess a family on an individual basis taking into account that the impact of the young person's role may differ depending on age and other family circumstances. The Young Carers Service provides 1-1 support, social activities, groups, advocacy and family support (such as signposting to relevant agencies). You can find further information for professionals and [how to make a referral](#).

Family and friends as carers

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;
- Experience intentional or unintentional harm from the adult they are trying to support, or from professionals and organisations they are in contact with; or
- 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 individual they are caring for.

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, and [Northamptonshire Carers](#) can support with this.

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 Northamptonshire Safeguarding Adults Policy and Procedures, so they can recognise and prevent abuse, raise concerns and seek advice or support where needed.

Abuse Types

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

| Abuse type | Behaviour includes |
|----------------------------|---|
| Physical | 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 | 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 | 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 | 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 | 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 and pose a risk to others as well as to them, or there may be a fire risk due to hoarding). |
| Psychological or emotional | 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 | 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 | Modern Slavery is where 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. |

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| Domestic Abuse | Domestic Abuse or domestic violence, is defined across Government as any incident of controlling, coercive or threatening behaviour, violence or abuse between those aged 16 or over who are or have been intimate partners or family members, regardless of their gender or sexuality. 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. |
| Organisational | 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. |

[Click here](#) for the Social Care Institute for Excellence (SCIE) information on indicators and signs of abuse.

2.4.3 Scenarios in Which Abuse Might Take Place

[Controlling or coercive behaviour](#) is a range of acts designed to make an individual 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](#) 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](#) 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](#) 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](#) 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 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) 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 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: The Counter Terrorism and Security Act 2015 places a duty on all agencies (listed below) to have due regard to the need to prevent people from being drawn into terrorism. The agencies specified include:

- Local Authorities (County and District Councils)
- Schools, Early Years and registered childcare providers
- Further and Higher Education bodies
- Health Sector
- Criminal Justice organisations including HM Prison Service, Young Offender Institutions, Probation Service
- The Police and Police & Crime Commissioner

The Prevent Duty is about everyone playing their part to minimise risk, protect their community and keep their local area a safe place to live and work. By agencies, organisations and communities working together, focusing on prevention and early intervention it is possible to identify and support individuals who are vulnerable to being drawn into terrorism or extremist views and actions. To be successful in eliminating the threat from violent extremism trust needs to be built with communities to work in partnership with them.

The Northamptonshire County Partnership Preventing Radicalisation and Extremism Strategy 2019-2021 and Prevent Concern and Referral Pathway is currently being ratified. Please check the [NSAB website](#) for when the Strategy is published.

If you feel that there is an immediate risk of danger or threat to life, call 999.

Advice and guidance can also be sought from the Prevent Engagement Officers at Northamptonshire Police (email prevent@northants.pnn.police.uk or phone 101 extension 341166).

You can also report suspected illegal or harmful information, pictures or videos you've found on the internet - this can also be done anonymously referring concerns to the Home Office website - [Report online terrorist material](#).

[Let's Talk about It](#) is an initiative designed to provide practical help and guidance to the public to stop people becoming terrorists or supporting terrorism.

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

[MAPPA](#) 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.

Abuse by children on an adult

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.

Duty to refer homelessness

The [Homelessness Reduction Act 2017](#) places a duty on local housing authorities to intervene at earlier stages to prevent homelessness in their areas, and to provide homelessness services to all those who are eligible.

Additionally, the Act also introduced a [duty on public authorities to refer service users](#) who they think may be homeless or threatened with homelessness to local authority homelessness/housing options. This duty came into effect from 1 October 2018 and applies to public authorities who have [a duty to refer](#). The duty to refer applies to the specified public authorities in England and individuals can only be referred to a local housing authority in England, and helps to ensure that services are working together effectively to prevent homelessness by ensuring that peoples' housing needs are considered when they come into contact with public authorities.

2.4.4 Raising a Safeguarding Concern

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

However, adults have a general right to independence and choice, including control over information about themselves. In the context of adult safeguarding these rights can be overridden in certain circumstances, 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 people are, or may be, at risk, including children;
- 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; or
- A court order or other legal authority has requested the information.

What is a safeguarding concern?

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

- An adult has needs for care and support;
- May be experiencing, or is at risk of abuse or neglect; or
- 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.

Remember - 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 with a safeguarding concern should/must have 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.

Refer to the Decision Making Framework but 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.

Considerations regarding an individual's mental capacity

The [Mental Capacity Act 2005](#) was designed to protect and empower 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 individual thought to be the cause of risk), an advocate or Independent Mental Capacity Advocate, an interpreter or other communication assistance or aids.

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.

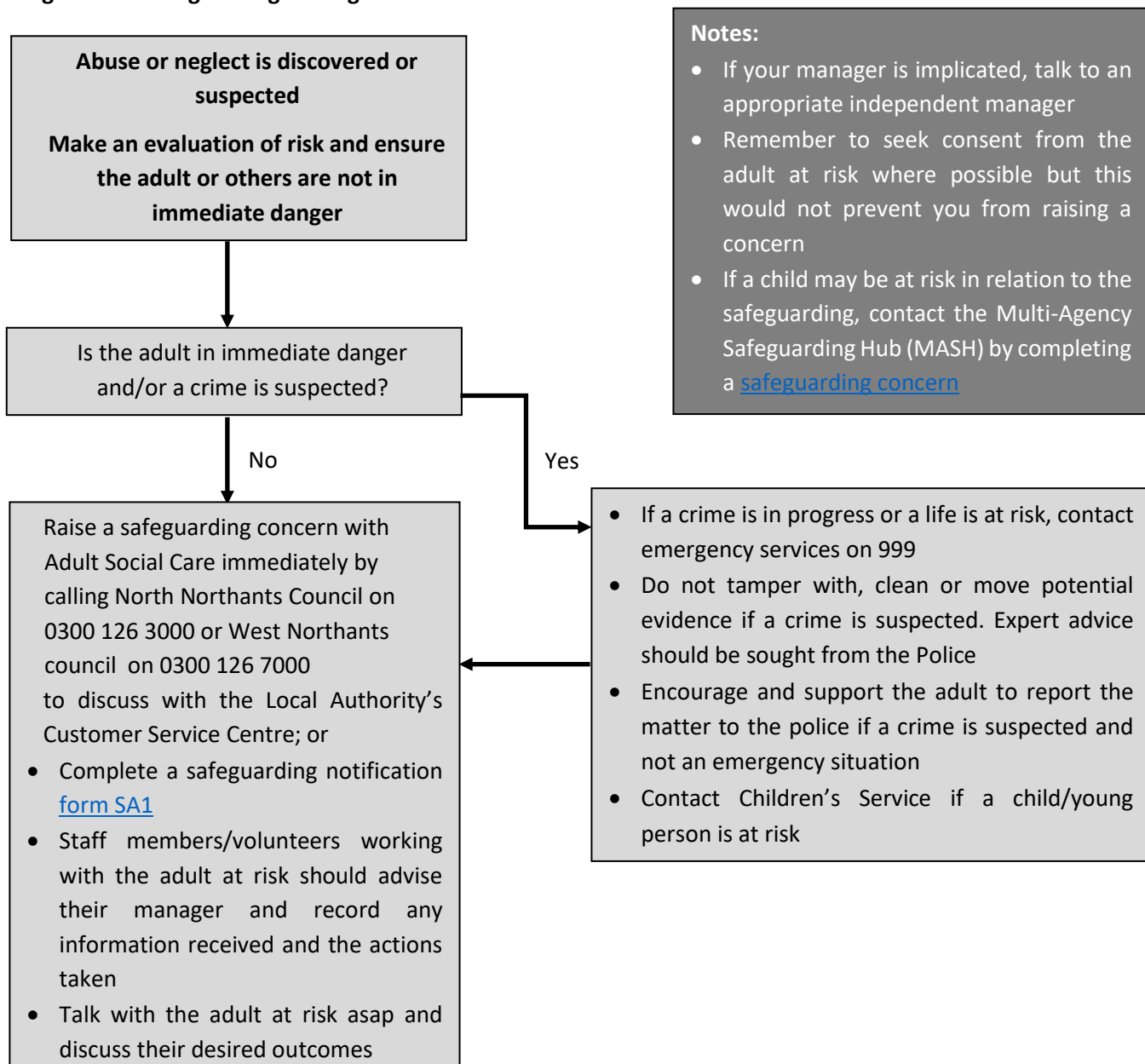
Raising a Safeguarding Concern – Evaluating Risk

Where you believe an adult may be, or is at risk of experiencing abuse/neglect or exploitation, you should make an evaluation of risk and ensure the adult or others are not in immediate danger.

See flowchart – Diagram 2 on page 21 when considering whether or not to submit a safeguarding concern.

For further guidance and best practice see 2.4.5 at page 23 - Consent and empowerment of the adult when raising a safeguarding concern.

Diagram 2: Raising a Safeguarding Concern



Reporting an adult safeguarding concern to the local authority

Contact Northamptonshire County Council's Customer Service Centre : North Northants Council on 0300 126 3000 or West Northants council on 0300 126 7000 - Monday to Friday, 8am to 6pm. Outside normal office hours, contact the Emergency Duty Team on 01604 626938.

For general enquiries, you can contact Northamptonshire Adult Social Services on: North Northants Council – 0300 126 3000 or West Northants Council – 0300 126 7000

[Click here to report a concern about an adult](#)

Reporting a safeguarding concern about a child to the local authority

Contact the Multi-Agency Safeguarding Hub (MASH) on North Northamptonshire: 0300 126 3000, option 1 or for West Northamptonshire: 0300 126 7000, option 1. Outside normal office hours contact the Emergency Duty Team on 01604 626938.

[Click here to report a concern about a child, click here](#)

If it is an emergency and you think that an adult or child may be in immediate danger, please contact the emergency services directly by calling 999.

Multi-Agency Safeguarding Hub (MASH)

The MASH team are able to identify risks to and needs of children at the earliest possible point and respond with the most effective, joined up actions. The aim of the MASH is to make the right decisions for the right families at the right time.

Children and young people may come to the attention of the MASH team because:

- A parent or carer may have requested support directly;
- A professional may feel that a family need help or support;
- A child or their family come into contact with the police; or
- A child tells someone about abuse, either physical, sexual or emotional or neglect.

When a child is referred, the case is assigned to a professional group within the MASH who will gather any information about the child/family as quickly as possible. A senior and experienced Social Work Practitioner will use the [Northamptonshire Safeguarding Children Partnership \(NSCP\) Thresholds Guidance 2018](#) to decide if the child's circumstances mean that the case should be dealt with by the MASH or if the Early Help Team should find a solution instead.

Child Protection and Safeguarding Procedures

If there are concerns about a child as well as an adult safeguarding concern or enquiry, the safeguarding officer should link with Children's Services to agree any co-ordinated actions in line with the [Northamptonshire Safeguarding Children Partnership \(NSCP\) Child Protection Enquiries Procedure](#) and the with the NSAB Inter-Agency Procedures.

Young people moving into adulthood and care leavers

Where a concern of abuse relates to an individual under 18 years, child protection procedures will apply. If the individual 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.

Every local authority must publish a [Local Offer](#). The Local Offer tells you what support is available for children and young people with special educational needs (SEN) and/or disabilities, and their families.

The [18 to 25 Disabilities Team](#) is part of the Northamptonshire Adult Social Services (NASS). The service is for young disabled people aged 18 to 25, including those with:

- Learning disabilities
- Physical disabilities
- Sensory impairments (people who have hearing or sight disabilities)
- Complex health needs

Moving into Adults Panel (MIAP)

The purpose of the Moving into Adulthood panel is to clarify and agree the planning process into adult services for young people who are already known to NCC Children's Services, and who may be eligible for support from adult social care when they reach the age of 18.

This will ensure that necessary actions required to prepare for adulthood are being progressed by the relevant children's service, and that the referral for an adult social care assessment and support planning can take place in a timely fashion to enable a seamless transition to adult services.

NO referrals into adult social care will be considered unless the young person's case has been presented at the MIAP first.

An adult needs assessment must be considered for all those young people at a point when their needs for support as an adult can be predicted reasonably confidently.

2.4.5 Consent and Empowerment of the Adult when Raising a Safeguarding Concern

A Making Safeguarding Personal approach is about ensuring adults have the 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. Where an adult lacks mental capacity to consent to a safeguarding concern being made then remember to follow the Best Interest Principles of [The Mental Capacity Act](#).

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 individual'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; and
- 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; and
- 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 and accept what the adult is saying without judgement;
- 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;
- Don't 'interview' the adult - just gather information to establish the basic facts. This will help when you raise the safeguarding concern or contact the police. Always ask the adult what they would like to happen and if they do not have capacity to consent to a safeguarding concern being made then follow the Best Interest Principles of [The Mental Capacity Act](#);
- 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;
- Consider any advocacy support needs;
- Support the adult to ask questions about issues of confidentiality;
- 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;
- Explain what will happen next, and how they will be kept informed and supported; and
- Keep an accurate record of your conversations, and actions or decisions taken by you and others.

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; and
- 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 even if this means that they remain in an abusive situation. The adult should always be given information about how to access services if they change their minds. However, there are circumstances in which an adult's consent may be overridden, and include:

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

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 2.6.4 – Safeguarding enquiries and criminal investigations).

2.4.6 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.

The Section 42 duty requires consideration of the following:

Section 42 (1)

Whether there is 'reasonable cause to suspect' that an adult:

- i. Has needs for care and support;
- ii. Is experiencing, or at risk of, abuse or neglect; or
- iii. As a result of those care and support needs is unable to protect themselves.

In Northamptonshire, this is referred to as the 'Three Step Test'. If the three tests are met, the local authority has a legal duty to make enquiries or cause others to do so. In the Local Government Association/ADASS Framework – [Making Decisions on the duty to carry out Safeguarding Adult enquiries](#) this is referred to as the 'statutory criteria for decision-making'.

Section 42 (2)

- iv. Making (or causing to be made) whatever enquiries are necessary; and
- v. Deciding whether action is necessary and if so, what and by whom.

It is important to note that concerns that do not meet the threshold for the Section 42 (1) duty to make enquiries may be resolved through other actions under Section 42 (2), for example a Section 9 - an assessment of the adult's needs for care and support, or a Section 10, an assessment of a carer's needs for support, or passed to another service or agency i.e. signposting.

Enquiries will always be undertaken using the six principles outlined in the Care Act and using a Making Safeguarding Personal approach. When 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. Consultation with the adult will always take place 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.

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.

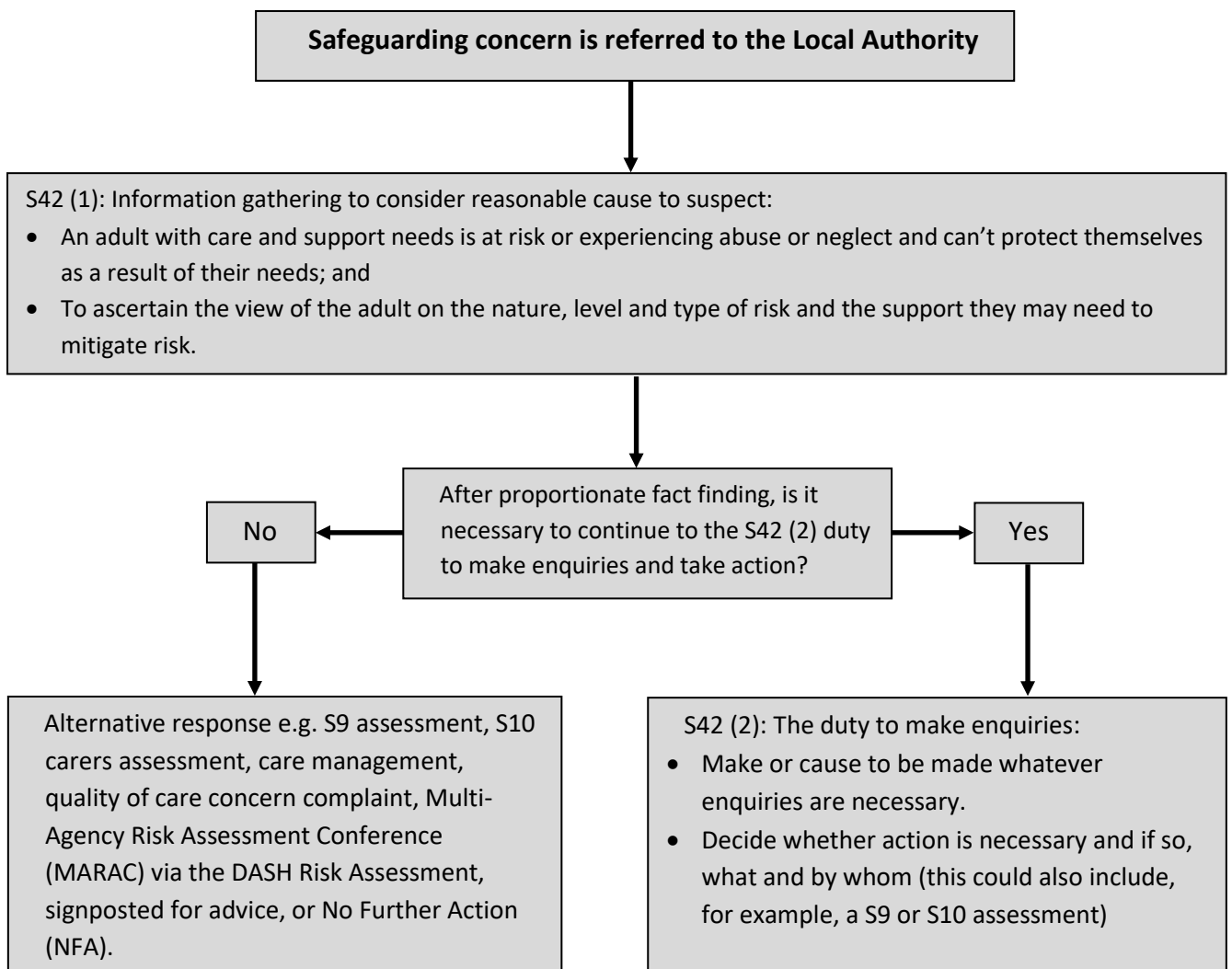
2.5 Receiving Concerns and Undertaking Enquiries

2.5.1 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.

See the Safeguarding Concern Pathway below:

Diagram 3 – Safeguarding Concern Referred to the Local Authority – S42 (1) and S42 (2)



LGA & ADASS – [Making decisions on the duty to carry out Safeguarding Adults enquiries](#)

2.5.2 Six Stages to a Safeguarding Enquiry

In Northamptonshire, there are six stages to an enquiry and each stage involves a number of actions and activities:

| | |
|--------------------|---|
| Stage one | Initial concern |
| Stage two | Notification |
| Stage three | Decision making |
| Stage four | S42 Enquiry |
| Stage five | Ongoing protection planning and review |
| Stage six | Ending a safeguarding enquiry |

During these stages, there are a number of key considerations:

- Supporting and enabling the adult where possible, to achieve outcomes that they see as the best for them;
- The need for the adult at risk to be represented and supported by an appropriate individual, including a family member, friend, advocate or Independent Mental Capacity Act (IMCA);
- Assessing and addressing risk;
- Taking action to protect and support the adult;
- Deciding whether a mental capacity assessment is needed to clarify issues of consent and/or decision-making;
- Taking appropriate action for the individual causing harm;
- Taking appropriate action with a service and/or its management if they have been culpable, ineffective or negligent; and
- Identifying any lessons to be learnt for the future, including recommendations for any changes to the organisation and service delivery.

At each stage, consideration should be given to whether the Safeguarding Adults Enquiry continues to be appropriate. This is a multi-agency decision (coordinated by a local authority Safeguarding Adults Manager). And is primarily based on whether it is felt that risks are being managed as far as they possibly can be and whether the adult's desired outcomes have been met as far as is possible.

The local authority Safeguarding Adults Manager/Officer referred to throughout this process can be any Adult Social Care Team Manager, Principal Social Worker or Care Manager, or Safeguarding Adults Manager from the Safeguarding Adults Team.

| Stage 1 Initial Concern | Activity | Responsibility | Suggested Timescale | Documentation |
|--|--|---|--|---|
| Initial concern – Consider if a safeguarding notification needs to be made to the local authority. | <ul style="list-style-type: none"> • Act to protect the adult. • Deal with immediate needs. • Consider reporting to police if a crime. • Notify line manager or your agency’s Safeguarding Adults lead. • Record concern/incident and action taken. | <ul style="list-style-type: none"> • Everyone | <ul style="list-style-type: none"> • Within one working day | <ul style="list-style-type: none"> • Written record made of concern. |
| <p>Where concerns are not shared on a multi-agency basis under safeguarding adult arrangements the initial enquiry suggests no harm or abuse occurred;</p> <p>OR</p> <p>There is no consent from the adult or grounds to override this. The concern/incident and any actions taken to reduce risk are recorded by the agency.</p> | <ul style="list-style-type: none"> • Take any further action to identify and address risk. • Speak to the adult or their representative about their desired outcomes. • Seek consent/override consent to share concerns on a multi-agency basis. • Consider the adults mental capacity in relation to making decisions about their safety. • Consider other reporting duties e.g. Serious Incident in NHS; CQC, Quality, Commissioners. • Decide if the concern needs to be shared with the local authority. • Complete online Safeguarding Notification Form (SA1). • Safeguarding concerns are reported to the local authority area in which the abuse occurred. For concerns that have happened in another local authority area please contact that local authority for advice. | <ul style="list-style-type: none"> • Line Manager. • Referring agency’s Safeguarding Adults lead. • Other professional/ member of staff if appropriate. • Member of the public including family member, friend etc. | <p>Within one working day</p> | <ul style="list-style-type: none"> • Individual agency recording form (if decision is made not to refer to local authority (LA)). • Local Safeguarding Adults Notification form (SA1) if decision is made to refer to local multi-agency safeguarding arrangements. • Other reporting forms such as CQC, Serious Incident (SI) etc. as required. |

| Stage 2 Notification | Activity | Responsibility | Suggested Timescale | Documentation |
|--|--|--|---|---|
| Safeguarding Notification is received by the local authority under Section 42 (1). | <ul style="list-style-type: none"> • Information is gathered from relevant agencies to formally identify risks and actions in place to manage these under Section 42 (1). • Assess the robustness of any risk management plan currently in place. • Consider if there is a need for a formal Section 42 (2) enquiry. • Consider if there is a need for a police referral. • Continued liaison with adult and/or their representative. | <ul style="list-style-type: none"> • NCC's Customer Service Centre. | <ul style="list-style-type: none"> • Decision is made to continue to safeguarding enquiry within same day. | <ul style="list-style-type: none"> • Safeguarding Notification commenced on local authority's (LA's) case recording system and reassigned to relevant team if decision is made that a notification is required. • A letter/email confirming the outcome will be sent to the referrer *. |
| <p>Section 42 (1) ends if the initial enquiry provides assurance that risks are being managed and the adult's desired outcomes have been met as far as possible. Safeguarding Adults Plan and outcomes completed. Go to Stage 5 of the process.</p> | | | | |

| Stage 3 Decision Making | Activity | Responsibility | Suggested Timescales | Documentation |
|--|--|--|---|--|
| Safeguarding Notification is sent to relevant team if Section 42 (2) is met. | <ul style="list-style-type: none"> • More detailed information gathering from relevant parties to formally identify risks and actions taken to reduce these. • Assess the robustness of the risk plan if one is in place. • Decide whether there is a formal investigative role/need. • Continued liaison with adult and/or their representative. • Is there a need for advocacy referral for any parties? • Are police involved? If so, agree parameters of safeguarding involvement with the police. | <ul style="list-style-type: none"> • Local authority assigned safeguarding officer. • Relevant agencies involved with the adult -this could include the police, advocacy services, providers of care and support, and health colleagues. | <ul style="list-style-type: none"> • Within 5 working days of receipt of notification. | <ul style="list-style-type: none"> • Safeguarding notification form (SA1) is completed on the LA's case recording system with decision. |
| <p>Safeguarding enquiry ends if after further enquiries the risk has been reduced and the adult's wishes have been met as far as possible or the adult withdraws their support (only when no other adult may be at risk of harm). Go to Stage 6 of the process.</p> | | | | |

| Stage 4 S42 Enquiry | Action | Responsibility | Suggested Timescales | Documentation |
|--|--|--|--|--|
| <p>Section 42 enquiry commences.</p> <p>If criteria are met then the enquiry and decision regarding what action to take (including taking no action) will follow under the Section 42 (2) duty to make enquiries described in the Care Act 2014.</p> <p>The objectives of an enquiry into abuse or neglect are to:</p> <ul style="list-style-type: none"> • Establish facts; • Ascertain the adult’s views and wishes; • Assess the needs of the adult for protection, support and redress, and how these might be met; • Protection from abuse and neglect; • In accordance with the adult’s wishes, make decisions as to what follow-up action should be taken with regards the adult/ organisation responsible for the abuse or neglect; • Enable the adult to achieve resolution and recovery. | <ul style="list-style-type: none"> • Strategy discussion or formal strategy meeting. • Capacity and Consent considered - carry out capacity assessment if required; identify the wishes of the adult and/or their representative • Best interest decision making if necessary. • Re-evaluate risk. • Safeguarding Plan agreed and implemented. Safeguarding planning should occur as an intrinsic part of the safeguarding enquiry and should be included in the enquiry report. If risks remain then consider holding a Case Conference. • Liaise with adult and/or their representative. • Collate evidence to enable decision making on the balance of probabilities. • Review safeguarding plan to ensure it manages all the risks. • Local authority safeguarding officer - discuss the outcome of the enquiry with the relevant parties including the provider organisation subject to the enquiry and the adult and/or their representative. • Enquiry report completed and sent to local authority (if provider led enquiry) for authorisation. • Enquiry report completed and sent to line manager (if local authority led enquiry) for authorisation. | <ul style="list-style-type: none"> • Allocated safeguarding officer within local authority. • Allocated safeguarding officer within Provider Organisation if they have been tasked with carrying out Section 42 enquiry. | <ul style="list-style-type: none"> • For Provider Organisations - Within 28 working days of Section 42 being requested. Extensions of this timeframe may be requested from the local authority’s Safeguarding Adults Team if additional time is required. • For LA led Safeguarding Enquiries - The timeframe is 60 days due to the fact that these are usually more complex and multi agency enquiries. | <ul style="list-style-type: none"> • Safeguarding meeting minutes where one has been held. • Safeguarding Adult Internal Report on LA’s case recording system. • Referral outcome form on LA’s case recording system. • Safeguarding forms: <ul style="list-style-type: none"> ○ SA4 ○ SA5 ○ SA6 to be completed by provider organisation tasked with carrying out Section 42 enquiry and sent to Safeguarding Adults Team. • Upon receipt of the Safeguarding Adult reports from Provider Led Enquiries, the following actions should be taken by the Safeguarding Adults Team: <ul style="list-style-type: none"> ○ Provider Enquiry Form - Referral Outcome Form completed on LA’s case recording system by authorising manager and original forms saved on client’s record. |

| | | | | |
|---|--|--|--|---|
| | | | | <ul style="list-style-type: none"> ○ Safeguarding Plan if required, completed on LA's case recording system if enquiry led by Local Authority. |
| Stage 4 Safeguarding Enquiry ends if all risks are being managed and the desired outcomes of the adult at risk are met as far as possible. A Safeguarding Adults Plan in place and all parties are notified. Go to Stage 6 of the process. | | | | |

| Stage 5 Ongoing Protection Planning and Review | Action | Responsibility | Timeframe | Documentation |
|---|---|---|---|--|
| <p>If, following completion of the Section 42 enquiry, there are risks that remain then consideration should be given to how these can be managed</p> | <ul style="list-style-type: none"> • Case conference held to discuss the safeguarding enquiry and ongoing risks and agrees how risks are to be managed and reviewed e.g. setting up of a core group of agencies and individuals responsible. • Safeguarding plan evaluated and reviewed. • Continued liaison with adult and/or their representative. | <ul style="list-style-type: none"> • Coordinated by Local Authority Allocated Safeguarding Officer and their manager. • Relevant partner agency including Care Quality Commission, Quality Team, CCG etc. | <ul style="list-style-type: none"> • Within 1 month of completion of safeguarding enquiry. | <ul style="list-style-type: none"> • Case conference meeting minutes. • Safeguarding Plan. |
| Safeguarding Enquiry ends here if there is assurance that risks are managed and the adult's desired outcomes are met as far as possible. Safeguarding Adults Plan and Outcomes are recorded. If there are on-going risks then a decision will need to be made as to how these will be managed and reviewed. If the safeguarding officer and others involved in the enquiry a core group are managing risk please note that they cannot end the safeguarding process but must convene a formal case conference and produce evidence that all risks are removed/reduced. | | | | |

| Stage 6 Ending a Safeguarding Enquiry | Action | Responsibility | Timescale | Documentation |
|--|---|---|---|---|
| Ending a safeguarding enquiry | <ul style="list-style-type: none"> • Ensure the agreed safeguarding plan is known to and agreed by all relevant agencies including the adult and/or their representative. • Discuss outcomes and closure of safeguarding involvement with the adult and/or their representative. • Consider any lessons learnt and disseminate the learning through discussion with line manager and subsequent actions. • Complete all safeguarding documentation and ensure sign off/authorisation. | <ul style="list-style-type: none"> • Local authority Safeguarding Adults Officer/manager. • Relevant partner organisations. | <ul style="list-style-type: none"> • At any point in the safeguarding adults process | <ul style="list-style-type: none"> • Each stage of the process must have the necessary documentation completed as previously described. • A letter/email confirming the outcome will be shared with the relevant parties. |

2.5.3 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 – See section 2.4.6 – What happens next?

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. (A referral for a Safeguarding Adults Review should also be considered. Please refer to the [Northamptonshire 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 statutory criteria for decision-making i.e. the duty to make enquiries is not 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 individual or organisation thought to be the cause of risk; and
- Enable the adult to achieve resolution and recovery.

It may transpire it was reasonably suspected the concern regarding the adult met the statutory criteria for decision-making, but after closer examination as part of the enquiry, they do not. In these instances, the enquiry can be concluded (See section 2.5.13 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.

The Safeguarding S42 enquiry seeks to work to the identified timescales above, however, in practice, the timescales may not be adhered to due to the personal circumstance of the adult. For example, they may have been admitted to hospital or further safeguarding concerns may have been identified, which may extend the timescale but offer a more comprehensive and person centred approach.

At the outset, the person coordinating the enquiry should determine what timescales are necessary to respond to the concern(s) taking into account the adult's personal circumstances and the findings which may result in a more protracted timescale.

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; and
- 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.

Refer to the 6 Stages to a Safeguarding Enquiry tables above for specific timescales.

Roles and responsibilities

The local authority has the lead co-ordinating role for safeguarding enquiries.

The local authority is responsible for:

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

At the point where a safeguarding enquiry is started, the local authority will appoint an appropriate safeguarding officer whose overall role is to have responsibility for coordinating 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 safeguarding 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 adults 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 2.6.4 – Safeguarding enquiries and criminal investigations). Health related concerns should involve organisations such as the relevant Clinical Commissioning Group 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/Clinical Commissioning Group 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. Refer to the [Association of Directors of Adult Social Services \(ADASS\) Guidance on Out-of-Area Safeguarding Adults Arrangements 2016](#).

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.

2.5.4 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 2.5.7 – 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.

2.5.5 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 co-ordinated with a safeguarding enquiry could include:

Criminal Investigations

There may also be criminal investigation running concurrently with the safeguarding enquiry (See section 2.6.4 – Safeguarding enquiries 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.

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 Safeguarding 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.

For further details please refer to the [NSAB Serious Incident/Safeguarding Process 2018-2020](#) and the [NHS England Serious Incident Framework 2015](#).

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.

Safeguarding Adults Reviews

Safeguarding Adult Boards have a duty to undertake Safeguarding Adults Reviews under the Care Act. A Safeguarding Adults Review (SAR) is considered 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; or
- 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 refer to the [Northamptonshire Safeguarding Adults Review Protocol](#).

Child Safeguarding Practice Reviews (previously Serious Case Reviews)

[Chapter 4 of Working Together 2018 outlines the purpose of Child Safeguarding Practice Reviews](#). *Child Safeguarding Practice Reviews (CSPR) have replaced Serious Case Reviews (SCRs) previously carried out by Local Safeguarding Children Boards.*

The purpose of reviews of serious child safeguarding cases, at both local and national level, is to identify improvements to be made to safeguard and promote the welfare of children. Learning is relevant locally, but it has a wider importance for all practitioners working with children and families and for the government and policy-makers. Understanding whether there are systemic issues, and whether and how policy and practice need to change, is critical to the system being dynamic and self-improving.

Reviews should seek to prevent or reduce the risk of recurrence of similar incidents. They are not conducted to hold individuals, organisations or agencies to account, as there are other processes for that purpose, including through employment law and disciplinary procedures, professional regulation and, in exceptional cases, criminal proceedings. These processes may be carried out alongside reviews or at a later stage. Employers should consider whether any disciplinary action should be taken against practitioners whose conduct and/or practice falls below acceptable standards and should refer to their regulatory body as appropriate.

Domestic Homicide Reviews

Section 9(3) of the Domestic Violence, Crime and Victims Act 2004 (the 2004 Act) 1 states:

- (1) In this section “domestic homicide review” means a review of the circumstances in which the death of a person aged 16 or over has, or appears to have, resulted from violence, abuse or neglect by -
 - (a) a person to whom he was related or with whom he was or had been in an intimate personal relationship, or
 - (b) a member of the same household as himself,held with a view to identifying the lessons to be learnt from the death.

For further information, see the [Multi-Agency Statutory Guidance for the Conduct of Domestic Homicide Reviews](#).

In Northamptonshire, the Community Safety Partnerships in each District and Borough are responsible for managing Domestic Homicide Reviews (DHRs).

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 individual 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. Refer to the [Coroner Investigations – A short guide](#).

Multi Agency Public Protection Arrangements (MAPPA) Serious Case Reviews

Under the Criminal Justice Act 2003, Multi-Agency Public Protection Arrangements (MAPPA) have been established in England and Wales. MAPPA is the process through which various agencies such as the Police, the Prison Service and Probation work together to protect the public by managing the risks posed by violent and sexual offenders living in the community.

If an offender subject to MAPPA commits a Serious Further Offence a MAPPA Serious Case Review should 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 manage effectively the risk of further offending in the community. Refer to the [MAPPA Guidance 2012](#) further information.

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](#).

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.

The [NHS England link on the LeDer Programme](#) provides further information, or contact your Clinical Commissioning Group Safeguarding Team and/or Local Area Contact for LeDeR.

2.5.6 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 from all agencies 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. It's important that the individual is made aware of the risks and that they are clearly understood. This 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 an adult'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; and
- 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.

2.5.7 Safeguarding and Other Meetings

Safeguarding meetings may be the best way to ensure effective co-ordination 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 and conducting the Adult Risk Management (ARM) process;
- Risk sharing and safety planning;
- Co-ordinating the response to safeguarding and other concerns and the quality of care provision;
- Co-ordinating criminal investigations and safeguarding enquiries;
- Reviewing outcomes and agreeing a safeguarding plan; or
- Managing multiple safeguarding enquiries such as for organisational abuse.

Audio recordings of safeguarding meetings

It is usual practice to record Safeguarding Adult 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. Once the minutes have been distributed and agreed by all parties the audio recording is destroyed.

2.5.8 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 most appropriate 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, for example a health professional may be best placed to carry out an enquiry which needs to consider health elements, such as treatment plans relating to medication management or pressure damage.

The Safeguarding Adults Team will instruct the provider undertaking the Section 42 enquiry usually in writing and may include:

- The nature, scope and purpose of the enquiry that the agency or organisation is being asked to undertake;
- The adult's outcomes should be identified, if not already known by the Provider instructed to carry out the enquiry;
- How the adult will be advised of progress of the enquiry and who will be lead in communicating with the adult; or
- The timescale for the enquiry.

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.

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

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

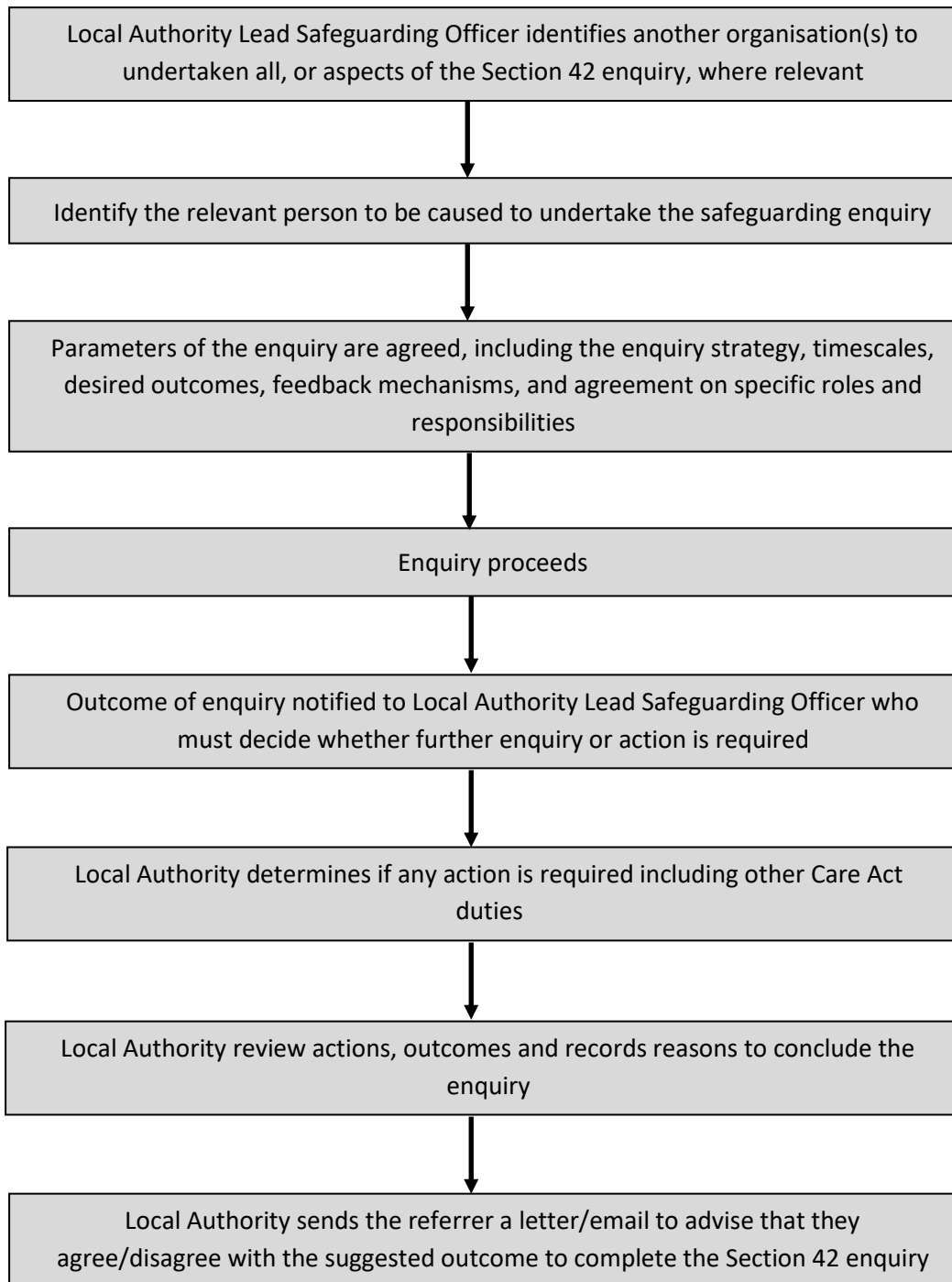
- Take actions forward in a timely way;
- Feedback updates regarding progress;
- Feedback the outcome of their actions and enquiries to the adult; and
- Notify the Principal Social Worker in Northamptonshire Adult Social Services who holds the function for managing allegations against people in a position of trust where this relates to a concern regarding an individual who works with adults (paid, unpaid or student).

Once the enquiry is completed, the agency or organisation must return the required enquiry documentation to the Safeguarding Adults Team, within the agreed timescales. The Safeguarding Adults Team should then:

- Confirm that the agreed plan for the enquiry has been completed ;
- Decide and record if they are satisfied that the information provided by the organisation who has undertaken the enquiry is sufficient to conclude the enquiry and all risks are addressed and if not what actions are required;
- Record the reasons for deciding that the enquiry can be concluded; and
- Send a letter to confirm the enquiry has been completed.

If the Safeguarding Adults Team considers that the process and/or outcome of the enquiry undertaken by another agency or organisation is unsatisfactory, they may ask for additional actions to be carried out or allocate the Section 42 enquiry to be completed by a safeguarding officer from the local authority.

Diagram 4: Causing Others to Undertake Section 42 Safeguarding Enquiries



2.5.9 Safeguarding where there is a Health/Clinical Concern

Where concerns about clinical/medical/nursing care have been raised, the local authority must discuss with the Clinical Commissioning Group Safeguarding team to decide who is best placed with the right clinical expertise and knowledge to make enquiries, and where advice can be sought.

When a safeguarding concern is raised to the local authority which involves a health care setting or a health care professional, the local authority co-ordinating the safeguarding enquiry **must** share the information about the concern, professional involved and enquiry to the relevant Clinical Commissioning Group. Clinical Commissioning Groups are the commissioners of NHS services including NHS Trusts.

Other circumstances in which the Clinical Commissioning Group should be informed by the local authority of the concern as soon as possible, include:

- Concerns raised regarding an NHS provider which involves more than one adult;
- Concerns regarding any provider of health care services where organisational abuse is suspected;
- Concerns involving a member of the Clinical Commissioning Group or Primary Care staff;
- Concerns regarding a healthcare provider or health care professional where there is police involvement.

In the case of concerns about care home, nursing homes and home care providers the Clinical Commissioning Group **must** be notified and advice sought on the clinical aspects of concerns. The Clinical Commissioning Group will offer clinical advice and scrutiny throughout the process, including at the initial stages of decision making.

See locally agreed pathways for accessing advice and expertise into safeguarding enquiries regarding healthcare settings or health care professionals.

2.5.10 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

As above, the duty for the local authority to undertake a safeguarding enquiry is triggered by the statutory criteria for decision-making, and is not based on the consent of the adult. If the duty is met, then the adult or their representative should 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; and
- 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 individual 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 the adult'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; and
- 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; and
- 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.

For further information on the local Advocacy Provider, visit the [Voiceability](#) website.

2.5.11 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.

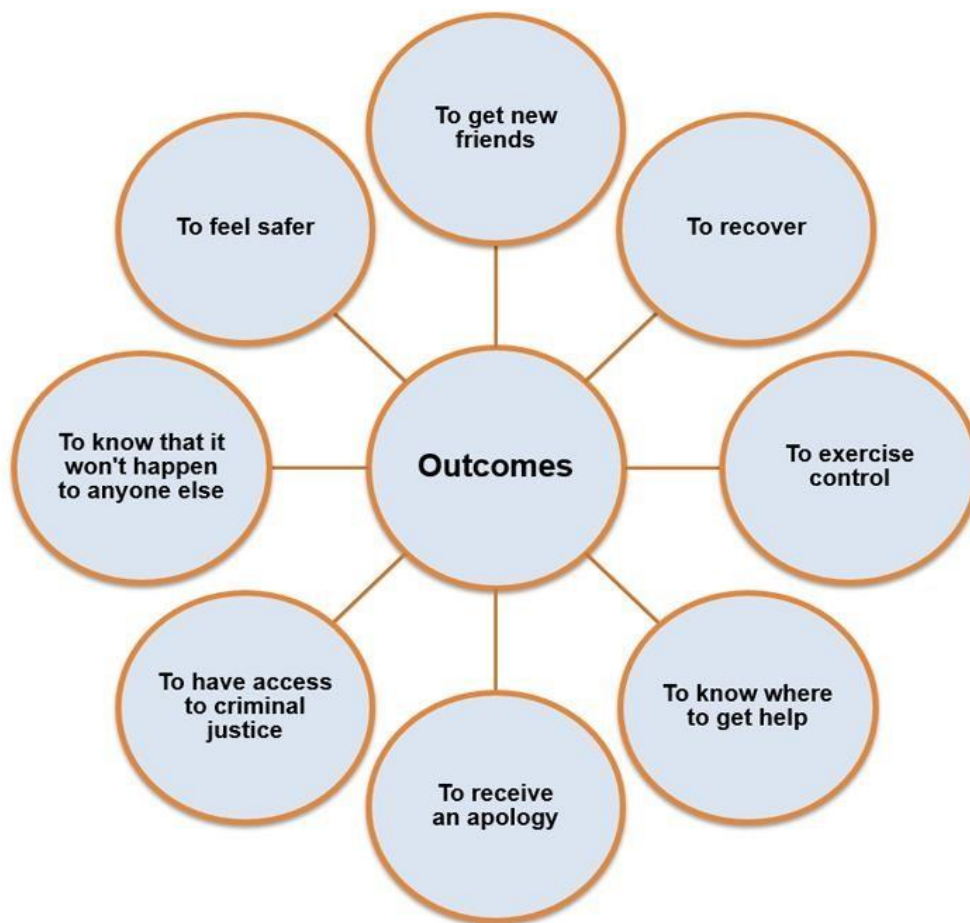
People cannot make decisions about their lives unless they know what the options are and what the implications of those options might be. A Making Safeguarding Personal approach needs to be applied throughout every stage of an enquiry.

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 adult's needs and circumstances (see 2.5.6 - 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; and
- 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.

Diagram 5: Types of Outcomes People May Want



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.

Refer to the [Making Safeguarding Personal Toolkit](#) (4th edition, LGA 2015) for further information for practitioners.

Reviewing outcomes

As with safeguarding planning, the review and evaluation of the adult's outcomes should be completed 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 2.5.7 - Safeguarding and other 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.

5.12 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 in section 2.7 – Managing Allegations against People in Positions of Trust and the [NSAB Protocol for responding to concerns about a Person in a Position of Trust \(PiPoT\)](#).

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 2.6.4 Safeguarding enquiries 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 – refer to page 41.

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.

Were the adult's desired outcomes achieved?

At the conclusion of each enquiry the local authority should obtain direct feedback from the adult or their representative 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.

2.5.13 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.

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. However where the local authority has requested that another organisation complete the enquiry it is the responsibility of that organisation to ensure that outcomes are shared with all relevant parties. 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 steps have taken place | | |
|---|--|--------------------------|
| 1. | The enquiry has included the views, wishes and best interests of the adult, and has been centred on their desired outcomes. Where this is not demonstrated in the enquiry, the local authority will make a decision not close the enquiry until that information is provided or to close the enquiry if it is deemed that there would be no value in delaying. | <input type="checkbox"/> |
| 2. | The enquiry has met the identified desired outcomes of the adult and has been reviewed with the adult before the enquiry is closed. | <input type="checkbox"/> |
| 3. | Consideration was given to reflecting the views of the person or organisation thought to be the cause of risk within the enquiry if appropriate. | <input type="checkbox"/> |
| 4. | Relevant information was gathered and evaluated so that the cause/s of risk can be identified to prevent future abuse where possible. | <input type="checkbox"/> |
| 5. | The enquiry was thoroughly completed and accurately recorded. | <input type="checkbox"/> |
| 6. | 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. | <input type="checkbox"/> |
| 7. | Information has been shared, where appropriate and as necessary, with any other relevant parties. | <input type="checkbox"/> |
| 8. | Where there has been serious injury to or the death of an adult, a Safeguarding Adults Review (SAR) referral was considered. Where appropriate, a referral for SAR was submitted to the SAR Sub Group for onward consideration. | <input type="checkbox"/> |
| 9. | Any recommended further actions, including referrals to professional bodies and/or the Disclosure and Barring Service have been addressed. | <input type="checkbox"/> |
| 10. | 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. | <input type="checkbox"/> |

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 2.5.8 - The Local Authority causing others to make enquiries).

2.6 Safeguarding and Criminal Investigations

2.6.1 Introduction

This section outlines the interface between safeguarding adult's 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.

2.6.2 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 at [Northants Police](#).

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.

2.6.3 Consent where a Crime is Suspected

Wherever practicable, the consent of the adult affected should be sought before reporting a suspected crime 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.

For those victims who may not want to cooperate, or may not have the capacity to confirm a crime but clearly a crime has occurred, police can consider if it is necessary/appropriate to record. This can also be used for victims of domestic violence who perhaps do not want to recognise they are a victim.

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; or
- 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 be limited to 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 as part of their investigation. All other details relating to the account should be obtained by the Police.

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.

2.6.4 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.

Northants Police has a direct referral process for police officers to raise a safeguarding concern with the local authority. Via the police protection notice (PPN), this should be completed by the police for every safeguarding concern. It is important that when the police are completing a PPN that they add sufficient and accurate detail to allow specialist teams with the police and the local authority to act on it based on the agreed Decision-Making Framework. 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; and
- 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 Safeguarding Officer.

A multi-agency planning meeting may need to be convened (Chaired by the local authority) to agree:

- The main lines of enquiry for the criminal investigation;
- The safeguarding plan for the adult and any other adult at risk of harm and abuse, including the suspect;
- The lead individual for each action within the safeguarding plan;
- Ownership of any actions ancillary to the investigation (e.g. Disclosure and Barring Service referrals); and
- The process and time scales for ongoing updates and reviews.

You may want to suggest the individual contacts [Voice for Victims and Witnesses of Crime Northamptonshire](#) and to consider [making a referral](#). Voice offer a free and confidential service.

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.

2.6.5 Serenity - Sexual Assault Referrals Centre (SARC)

Serenity is the Sexual Assault Referral Centre (SARC) in Northamptonshire. Serenity is completely independent of the police and provides services to victims/survivors of rape or sexual assault regardless of whether they choose to report the offence to the police or not.

Serenity is designed to be comfortable and multi-functional, providing private space for interviews, examinations and counselling services.

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

Serenity are a key partner to Northamptonshire police and, with the agreement of survivor/victims, assist in securing key forensic evidence by working with medical professionals who are specially trained. Serenity also facilitate Video Recorded Interviews of victims and witnesses as part of the Achieving Best Evidence guidance. This is not exclusively for serious sexual assault but any vulnerable victim or witness to allow the best possible evidence to be given at court.

2.6.6 Vulnerable Victim Fraud

It is recognised that some types of offending disproportionately affects 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.

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.

Northamptonshire Police implemented its refreshed Fraud/Cyber Protection policy in October 2018. This Policy and crime type is owned by the forces financial crime team, under the serious and organised crime department. The key aims to protect the vulnerable are highlighted below:

This is managed by a triage system managed by the Detective Sergeant, responsible for Fraud. A matrix is used to assess and prioritise according to victim vulnerabilities and the nature of the fraud.

2.6.7 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 [MAPPA guidance](#) sets out the responsibilities of the police, the National Probation Service and HM Prison Service. Refer to [Multi-Agency Public Protection Arrangements](#) for further information.

2.6.8 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, Common Law and the Data Protection Act 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 individual concerned.

2.6.9 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.

2.7 Managing Allegations against People in Positions of Trust (PiPot)

2.7.1 Introduction

It is a requirement of the Care Act 2014 Statutory Guidance that Safeguarding Adults Boards should establish and agree a framework and process for any organisation to respond to allegations against anyone who works, (in either a paid or an unpaid capacity) with adults with care and support needs. In Northamptonshire the guidance for partners and contracted providers can be found in the Protocol for Responding to Concerns about a Person in a Position of Trust (PiPoT).

The Protocol must be followed in all cases by the organisation which first becomes aware of a concern, where information (whether current or historical) is identified in connection with:

The Person in a Position of Trust's (PiPoT) own work/voluntary activity with adults and/or children (for example where a worker or volunteer has been accused of the abuse or neglect of an adult with care and support needs or a child).

The PiPoT's life outside work i.e. concerning adults with care and support needs in the family or social circle (for example where a son is accused of abusing his older mother and he also works as a domiciliary care worker with adults with care and support needs. Or where a woman is convicted of grievous bodily harm and also works in a residential home for people with learning disabilities).

The PiPoT's life outside work i.e. concerning risks to children, whether the individual's own children or other children (for example where a woman is employed in a day centre for people with learning disabilities but her own children are subject to child protection procedures as a result of emotional abuse and neglect).

And the person has:

- Behaved in a way that has harmed or may have harmed an adult with care and support needs;
- Possibly committed a criminal offence against or related to an adult with care and support needs;
- Behaved towards an adult with care and support needs in a way that indicates s/he is unsuitable to work with adults with care and support needs;
- Behaved in a way that has harmed children or may have harmed children which means their ability to provide a service to adults with care and support needs must be reviewed;
- May be subject to abuse themselves and as a consequence means their ability to provide a service to adults with care and support needs must be reviewed; or
- Behaved in a way which questions their ability to provide a service to an adult with care and support needs which must be reviewed e.g. conviction for grievous bodily harm against someone who is not an adult with care and support needs.

Any allegation against people who work with adults with care and support needs should be reported immediately to a senior manager within that organisation and their PiPoT Lead. Refer to the [NSAB Protocol for Responding to Concerns about a Person in a Position of Trust \(PiPoT\)](#) for further information.

2.7.2 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 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 that includes but not limited to, reference checks and relevant Disclosure and Barring Service checks. 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 to individuals against whom allegations have been made;
- Codes of professional conduct and/or employment contracts should be followed and should inform management action;
- Making prompt referrals to the Disclosure and Barring Service (DBS) and/or other professional registration bodies where appropriate;
- Maintaining records of the number and nature of allegations made and using this to inform service improvement; and
- Promoting and maintaining workforce awareness of its Whistleblowing policy.

2.7.3 Interface with Employers' Responsibilities and Safeguarding Enquiries

The local authority has lead responsibility for the safeguarding enquiry, 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 regarding abuse, 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. 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 regarding any actions to be taken to ensure any criminal investigation is not compromised.

The employer remains responsible for employee investigations, and there may be instances the local authority will request the employer to also undertake the safeguarding enquiry (See section 2.5.8 – 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 these instances 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, and enable support for the adult in undertaking their employer responsibilities.

2.7.4 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 an individual is barred it becomes an offence for an organisation to knowingly engage that individual 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 an individual from the regulated activity through dismissal or permanent transfer (or would have if the individual had not left, resigned, retired or been made redundant) because the individual has:

- Been cautioned, arrested or convicted for a relevant offence;
- 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 an individual 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 individual 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 individual based on the information they hold. If the individual 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 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. 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 individual should be placed upon the list of those barred from working with adults and/or children. The Disclosure and Barring Service will contact the individual directly to inform them that they have received a referral, and will share all information provided to them with the individual, along with any other information they may have received from other sources as part of their decision making process.

Further information can be found in [Referral duty and power for local authorities and regulatory bodies](#).

2.7.5 Referrals to Professional Bodies

Where the conduct of an individual 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). 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 individual's professional registration. Professional bodies have a range of options where appropriate; these usually include suspending the individual from practice, deregistering them or imposing conditions of practice that the individual 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 individual, along with any other information they may have received from other sources as part of their decision making process.

2.8 Safeguarding and Quality of Care

2.8.1 Introduction

This section considers issues regarding the interface between the 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.

2.8.2 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; or
- 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.

Refer to the [Statement on the Care Quality Commission's Role and responsibilities for Safeguarding Children and Adults 2015](#)

Quality monitoring in social care and health

Where care and health services are commissioned by either the local authority, or a Clinical Commissioning Group, or commissioned jointly, they have a responsibility for monitoring the quality of those services. Through their Quality Monitoring Teams the local authority and Clinical Commissioning Group 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 Safeguarding 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 table below gives a guide as to which organisation takes a lead for quality monitoring in relation to specific services:

| Type of service | Organisation responsible for monitoring quality |
|--|---|
| Primary Care such as GP's, dentists and pharmacies | Local Clinical Commissioning Group(s) and NHS England covering the area where the service is situated* |
| NHS Services (other than those above) such as Acute Hospital Trusts, Mental, Health Trusts, Community Health Trusts (such as Community Nurses, Occupational Therapists, Physiotherapists), Ambulance Trusts | Local Clinical Commissioning Group(s) covering the area where the service is situated. |
| Health services that are independently run e.g. 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 | Services commissioned by the local authority, the local Clinical Commissioning Group 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 | Relevant local authority. |
| Social Work/Assessment Services | Relevant local authority. |
| Prisons and Detention Centres | Home Office – National Offender Management Service |
| 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. |

*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 Clinical Commissioning Group should be informed – this includes services at St. Andrews Healthcare. The safeguarding team within the Clinical Commissioning Group 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.

2.8.3 When do Concerns about Quality of Care 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.

The [Decision Making Framework Guidance](#) seeks to provide Local Authority practitioners regionally with support in consistent decision making about whether a referral regarding an adult who may be experiencing abuse or neglect may require a safeguarding adults enquiry. The guidance must be read in conjunction with the relevant Northamptonshire Safeguarding Adults Board policies and procedures. The guidance is publicly available to assist provider services, professionals and other agencies in making appropriate referrals into the Local Authority. The document has been developed by the East Midlands Safeguarding Adults Network and Northamptonshire Safeguarding Adults Board.

2.8.4 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 adult'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; or
- 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 individual, 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; or
- 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 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/Clinical Commissioning Groups will need to be informed regarding safeguarding concerns and enquiries involving an individual 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.

2.8.5 Safeguarding Investigations

- As the lead agent for safeguarding, Northamptonshire County Council (NCC), Commissioning and Contracting teams will investigate safeguarding matters where concerns are raised in respect of social care provision. Northamptonshire Clinical Commissioning Groups (CCGs) Quality Improvement Nurse Manager will undertake a safeguarding investigation when an institutional safeguarding has been raised by the CCG's Quality Improvement Nurse in relation to clinical care provision in nursing homes and domiciliary care.
- Where the concerns are raised in a nursing care or domiciliary care facility the Quality Improvement Nurse Manager will support Northamptonshire County Council's Safeguarding Team as requested. Northamptonshire County Council's Safeguarding Team will lead the investigation with clinical guidance provided from the CCGs' Quality Improvement Nurse Manager.

- The Quality Improvement Nurse Manager will assist and advise within reason where a duty visit is required due to a clinical concern.
- Northamptonshire County Council will ensure that Northamptonshire Clinical Commissioning Groups are invited to attend strategy meetings as informed throughout the investigation process and to supply outcomes and protection plans to the Quality Improvement Nurse Manager.
- The Quality Improvement Nurse Manager will hold a current Level 3 Safeguarding Training.
- The Quality Improvement Nurse Manager will complete all safeguarding investigations using NCC safeguarding documentation.

Duty of candour

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.

The Duty of candour requirement came into force in April 2015 as a direct response of the Francis Inquiry and is covered by regulation 20 of the Health and Social Care Act 2008. 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.

2.9 Safeguarding and Domestic Violence and Abuse

2.9.1 Introduction

This section contains information about the approaches and legal frameworks which can be used to support individuals who are experiencing domestic violence or domestic abuse (both terms are used interchangeably – but where domestic violence is used, coercive control may be missed). Domestic violence and abuse is included in the Care Act 2014 as a specific category of harm/abuse. The Care Act specifies that freedom from abuse and neglect is a key aspect of a person's wellbeing, and the statutory guidance outlines that abuse takes many forms, and Local Authorities should not be constrained in their view of what constitutes abuse or neglect.

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

- Consider raising a safeguarding concern; and
- Follow the Northamptonshire Safeguarding Adults Policy and Procedures for undertaking enquiries as set out in section 2.5 - Receiving Concerns and Undertaking Enquiries and refer to Diagram 3 – Safeguarding Concern Referred to the Local Authority.

2.9.2 Understanding Definitions of Domestic Violence and Abuse

The Home Office defines domestic violence and abuse as: “Any incident or pattern of incidents of controlling, coercive or threatening behaviour, violence or abuse between those aged 16 or over who are or have been intimate partners or family members regardless of gender or sexuality. This can encompass but is not limited to the following types of abuse: psychological; physical, sexual, financial and emotional.”

‘Controlling behaviour’ is a range of acts designed to make a person subordinate and/or dependent by isolating them from sources of support, exploiting their resources and capacities for personal gain, depriving them of the means needed for independence, resistance and escape and regulating their everyday behaviour.

‘Coercive behaviour’ is an act or a pattern of acts of assault, threats, humiliation and intimidation or other abuse that is used to harm, punish, or frighten their victim. 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.

This definition recognises that past legal and cultural understanding of domestic abuse has been too narrowly focused on single physically violent incidents rather than complex and controlling patterns of behaviour.

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.

It is recognised that the desire to exert power and control underpins the majority of domestic violence and abuse which takes place, and that abuse is usually inflicted to achieve this end.

While the majority of victims are female, men are affected as well. Children are also affected both directly and indirectly and there is also a strong correlation between domestic violence and abuse and child abuse.

In many cases, stalking or harassment may also be a feature of domestic violence abuse. Staff should explicitly consider any issues or concerns around stalking-where there is a pattern of obsessive, fixated and unwanted behaviour that is intrusive and engenders fear, alarm or distress. In these cases, threats may not be made but victims may still be fearful. 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 or harassment behaviours may include nuisance telephone calls, sending excessive emails, regularly sending gifts, following the person or spying on them and death threats. Stalking Legislation under [The Protection from Harassment Act 1997](#) makes stalking a specific offence. Domestic violence and abuse can be challenging to identify:

- It can include multiple forms of harm or abuse by people who are, or have been, intimate partners;
- It can be hidden due to the complexity of family dynamics or be disguised as another issue such as carer stress; and
- Assumptions about age and disability can lead to a lack of recognition of older and disabled people as victims and/or perpetrators of domestic violence and abuse.

Factors which may increase the risk for the individual

- Women who have disabilities are at significant and higher risk of domestic abuse and more than 50% of disabled women in the UK may have experienced domestic abuse;
- People who experience poor mental health are more likely to experience domestic abuse, and domestic abuse can cause mental health problems; or
- Older women who have experienced abuse over a life time may face particular barriers to seeking support. This presents a challenge for practice in recognising domestic abuse when working with older people.

2.9.3 Links with Safeguarding Children

Where there are concerns for a child in the context of a family experiencing domestic violence 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 this would be the [Northamptonshire Safeguarding Children Partnership Child Protection Enquiries – Section 47 Children Act 2004](#) or contact the Multi-Agency Safeguarding Hub (MASH) for children and families.

Reporting a concern about a child to the local authority

Contact the Multi-Agency Safeguarding Hub (MASH) in your area: North Northamptonshire Council - 0300 126 3000 or West Northamptonshire Council – 0300 126 7000.

Outside normal office hours contact the Emergency Duty Team on 01604 626938.

[To report a concern about a child online, click here.](#)

If it is an emergency and you think that an adult or child may be in immediate danger, please contact the emergency services directly by calling 999.

2.9.4 Working with People Experiencing Domestic Violence and Abuse

Both the local arrangements for responding to domestic abuse and the Inter-Agency Policy & Procedures will apply in situations where an adult who has care and support needs that prevent them from safeguarding themselves is experiencing domestic violence and 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 2.9.8 – 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 2.9.7 – Assessing and managing risk) and empowering them to address the risk(s) they face.

Family and inter-generational abuse

Whilst victims of domestic abuse are most likely to be an adult who is a former or current partner, professionals need to be able to recognise abuse in other contexts. This can include:

- ‘Honour’-based Violence (HBV), which is defined as: ‘a violent incident or crime committed to protect or defend the perceived honour of the family or community.’ It is often committed with some involvement or co-operation from the family and/or community and is designed to punish an individual for behaving in a way that is not in keeping with traditional, cultural beliefs.
- Violence and abuse between intergenerational family members, for example an adult child to a parent. Adult Family Homicide is where a parent is murdered by adult child.

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 and abuse.

Family as carers who are at risk of domestic violence and abuse

It is also important to consider the carers in the context of domestic violence and abuse, both as a potential victim or perpetrator:

- A carer may experience intentional or unintentional harm from the adult they are trying to support;
- A carer may unintentionally or intentionally harm or neglect the adult they are providing care and support for. For example, this may include preventing services from engaging with the adult; or
- A carer may witness or disclose abuse or neglect but not recognise this as domestic violence and abuse.

Support to address domestic violence and abuse should be offered. It may be appropriate to consider a referral to local carer support services, to reduce carer isolation and stress, and address some of the challenges arising from caring responsibilities.

2.9.5 Consent and Capacity in Relation to Domestic Abuse

Assessing capacity can be particularly challenging in situations involving domestic violence 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.

Some adults experiencing domestic abuse may lack capacity to make 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 violence and abuse then any decision made by professionals on behalf of that adult must be made in their best interests.

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.

The Mental Capacity Act 2005 sets out that all practicable steps have to be taken in order to ensure that the individual has access to all information relevant to the decision, before any assessment can conclude that an individual lacks mental capacity. It is important that people who may be experiencing domestic violence 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 Violence Protection Orders.

Refer to sections 2.4.5 – Consent and empowerment of the adult when raising a safeguarding concern and 2.5.10 – Involving an adult in an enquiry. For further guidance on applying the [Mental Capacity Act in practice](#).

When an individual who appears to have mental capacity chooses to stay in an abusive relationship then skilled assessment and intervention is required to judge whether they are making that choice free from undue influence from the individual 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.

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.

As outlined above advocacy is an additional resource that can be used to support people experiencing domestic violence 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 Violence Advisors (IDVAs) to support people at high risk from domestic violence and abuse.

IDVAs help to keep adults who are experiencing domestic violence 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 then 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.

2.9.6 Responding to Disclosures and Safe Enquiries

When working with adults experiencing domestic violence and abuse, **it is important to make enquiries that do not put the adult at further risk**. Whilst some people will have good and trusting relationships with professionals who can support them to report and deal with domestic violence and abuse, others will not trust agencies to respond effectively or will fear potential repercussions of making a disclosure, and feel powerless to make any changes to their situation.

There is a responsibility of professionals to provide opportunities for disclosure, and this is not a responsibility that should rest with victims. Research shows that women experiencing domestic abuse will not usually voluntarily disclose domestic abuse to a professional unless they are directly asked. However, whilst victims may be reluctant to disclose, many report that they hope someone will ask them.

It is crucial that any enquiries with victims are made when the individual 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.

2.9.7 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 violence 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 violence 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.

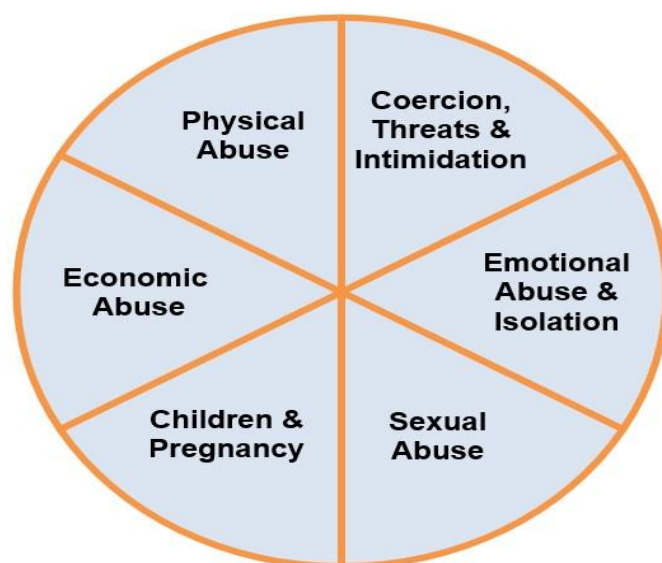
Involving the adult experiencing domestic violence and abuse (and/or their advocate if necessary) in the risk assessment is often the most effective practice as assessments carried out in this way are more likely to:

- 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.

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

When a concern is raised about domestic violence and abuse, or a disclosure is made, a Domestic Abuse Stalking and Harassment Risk Identification Checklist (DASH RIC) should be completed - please see link to [Northamptonshire Domestic Abuse & Sexual Abuse \(NADASA\) Toolkit](#) or contact one of the specialist services detailed in section 2.9.8.

Diagram 6: Domestic abuse risk themes



Multi Agency Risk Assessment Conference (MARAC)

MARAC's are regular meetings which take place in each local area and bring together representatives from a number of relevant agencies to share information and discuss the safety, health and well-being of people experiencing domestic abuse. MARAC considers cases which are identified as 'high risk' by use of the DASH RIC, and develops a coordinated safety plan to protect each victim and their children. Actions can also be agreed in respect of the perpetrators.

Several cases can be considered at each MARAC and as such discussion of cases is time-limited with case referral information being shared with attendees prior to the meeting, and an expectation for each agency to bring information they have about the adult at risk, their children, the perpetrator and any other relevant information.

Victims of domestic violence and abuse are not invited to these meetings but are represented by an Independent Domestic Violence Advocate (IDVA). There is no formal review process unless a repeat referral is made following a further incident of domestic violence and abuse being reported and referred to the MARAC.

The referral to MARAC is usually carried out with the consent of the victim. However, if that is not forthcoming or impossible to obtain, then the MARAC will still consider cases of high risk without consent, with the justification of preventing serious harm.

The interface between MARAC and safeguarding enquiries

- MARAC's are not a substitute for safeguarding enquiries; and
- High risk cases must always be referred to MARAC - where an adult is the subject of a safeguarding enquiry, the MARAC referral should include information on the progress of the enquiry, and what information or support is being sought from agencies at the MARAC.

In each area of Northamptonshire, the local MARAC also has arrangements for discussing cases with Multiple and Complex Needs, or where there are frequent repeat referrals to MARAC. These are known as 'MARAC Plus'.

Domestic Violence Disclosure Scheme (DVDS)

Under the Domestic Violence Disclosure Scheme (DVDS), which is sometimes referred to as ‘Clare’s Law’, a person who is experiencing domestic violence and abuse or has concerns about a new relationship, has a ‘right to ask’ the police about a partner’s previous history of domestic abuse or violent acts. 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 violence or abuse. If a MARAC referral is made practitioners are prompted to consider this as part of the referral.

Professionals, family members, friends or colleagues can also make the request on behalf of the potential victim known as a Right to Know request. The details of the applicant making the Right to Know request will not be disclosed to the individual at risk and the disclosure will only be made to the individual at risk.

2.9.8 Specialist Services in Northamptonshire

Eve

Providing support, advice and refuge to victims of domestic abuse in Northamptonshire.

Telephone – 01604 230311 – Website – www.eveda.org.uk

Northamptonshire Domestic Abuse Service (NDAS)

Providing 24 hour support, advice and refuge to victims of domestic abuse in Northamptonshire.

Telephone – 0300 0120 154 – Website – www.ndas.co

Northamptonshire Sunflower Centre – IDVA Service

Qualified IDVAs offer support and advice to high risk victims of domestic abuse in Northamptonshire.

Telephone – 01604 888211 – Email – sunflower@northants.pnn.police.uk

Voice for Victims & Witnesses

Providing support and advice to standard and medium risk victims of domestic crimes in Northamptonshire.

Telephone – 03000 111 222 – Website – www.voicenorthants.org.uk

2.10 Multi-agency Procedures to Support Adults who Self-neglect

2.10.1 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.

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 risk management process if it is proportionate to do so and will promote the adult’s wellbeing and support a preventative agenda. Locally, this is called the Adult Risk Management (ARM) process.

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.

Self-neglect may need to be considered for people who sleep rough and consideration should be given to the government guidance on [Homelessness: duty to refer](#) which places a responsibility on specified public authorities to refer individuals who they think may be homeless or threatened with homelessness to local authority homelessness/housing options teams.

Please refer to the [Northamptonshire Self-Neglect Guidance here](#).

2.10.2 Adult Risk Management (ARM)

[The Adult Risk Management \(ARM\)](#) process provides professionals with a framework to facilitate effective multi-agency working with individuals aged 16 and above who are deemed to have capacity for the specific decision that may result in serious harm, or death, through severe self-neglect, risk taking behaviour or not being accepting of services offered. The [ARM toolkit](#) is an opportunity to ensure that all agencies have offered support and options to an individual whose life is at serious risk of harm whilst working with the individual's strengths.

An ARM is **not** a substitute to legislation, assessment and all other existing processes (such as Mental Health Act (1983; 1999); Mental Capacity Act (2005), Safeguarding Adults (Care Act, 2014), MAPPA, MARAC and Channel (framework around anti-Terrorism). These processes will take precedence but an ARM could be called alongside if it is felt that it may support the individual.

In order to consider an individual for an ARM **ALL four** the criteria listed below should apply:

- An individual must have the capacity to make decisions regarding the specific decision(s) that is causing concern;
- The practitioner has no reason to doubt the person has capacity and should state the reasons and provide information that supports this where applicable.
- There is a risk of serious harm or death through severe self-neglect; fire; deteriorating health condition; declining to work with services; targeting by the local community; Hate Crime or Anti-Social Behaviour; sexual violence; or decline to engage with a single agency or other investigations for safeguarding;
- There is a public safety interest or there are high level of concerns from partner agencies; and
- The Adult Risk Management (ARM) process is an action taken outside safeguarding processes where the adult is deemed to have capacity but is at significant risk or harm or death and a risk to others.

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. ARM 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.

An ARM meeting may be the best approach where:

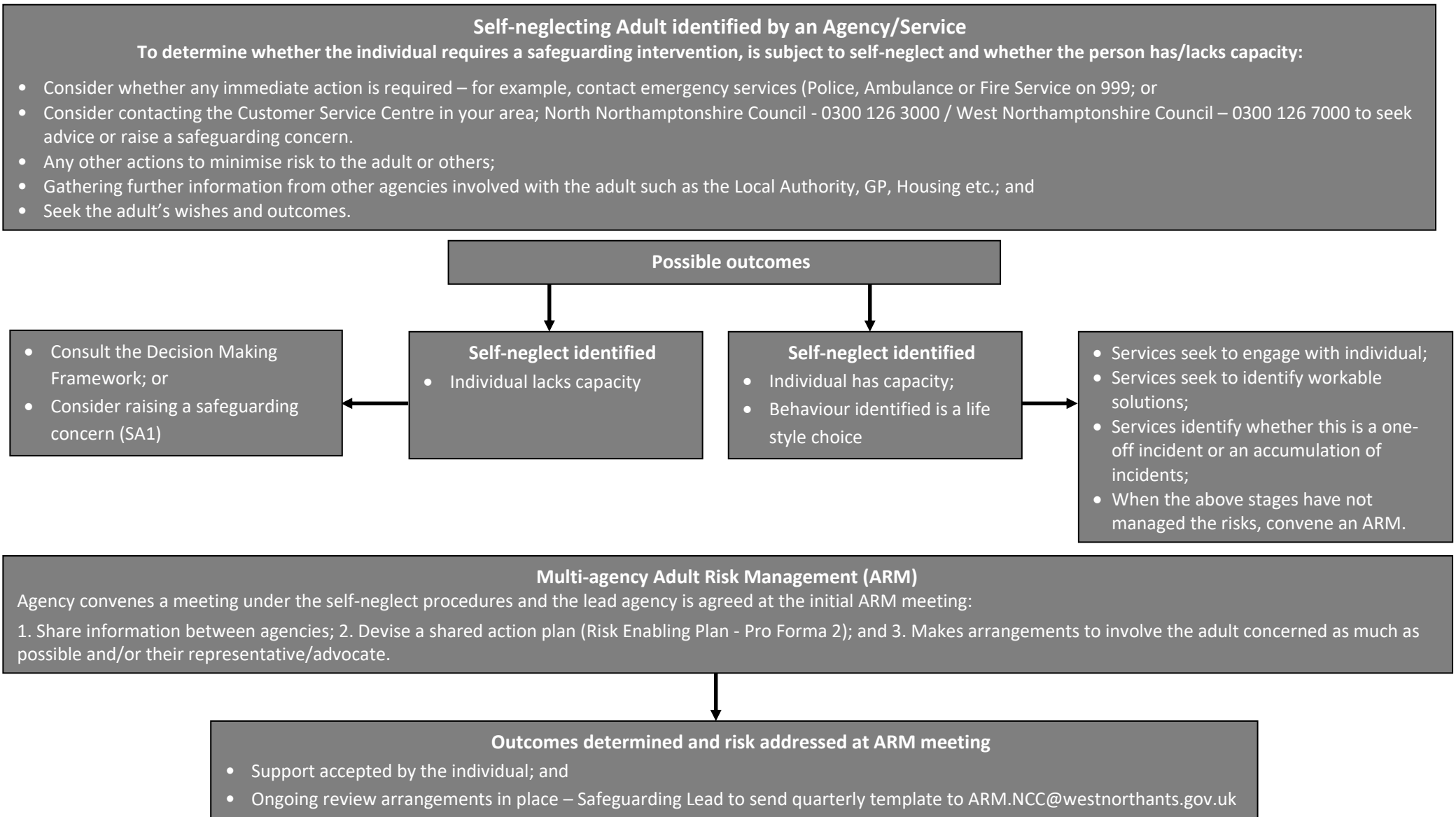
- An adult has been identified as potentially self-neglecting;
- Is refusing support; or
- By refusing support is placing themselves or others at risk of significant harm.

An ARM 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.

Remember: Safeguarding is everyone's responsibility and any agency in Northamptonshire can convene an ARM

2.10.3 Self-neglect in Northamptonshire

Diagram 7 – Overview of the Self-neglect Process in Northamptonshire



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 organisations as part of day-to-day safeguarding practice is already covered in the common law duty of confidentiality, the General Data Protection Regulation (GDPR), 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 [SCIE 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; and
- 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 adult’s consent to share information;
- As long as it does not increase risk, practitioners should inform the adult 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; and
- 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 assessed 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; and
- 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:

- 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; and
- 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; and
- Reassure them that they are not alone and that support is available to them.

Where the adult refuses to give their consent, 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 should be undertaken with the agency's safeguarding lead 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 adult 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 (See section 2.9 Safeguarding and Domestic Violence/Abuse).

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, Safeguarding Children Partnerships), multi-agency risk assessment conferences (MARAC), multi-agency public protection arrangements (MAPPA), 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; and
- 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.

2.11.5 Northamptonshire Protocol for Raising Concerns about Vulnerable Children & Adults

There are many situations where practitioners working with vulnerable adults may also have concerns about children living the household, extended family or neighbourhood. In the same regard, children's practitioners may also have concerns about vulnerable adults who may be susceptible to abuse from other adults, children and young people. In order to safeguard both children and vulnerable adults in such situations, it is essential that children and adult services including those commissioned, work together effectively to recognise and promote the importance of a whole family approach.

The [Northamptonshire Protocol for Raising Concerns about Vulnerable Children & Adults](#) provides a 'Think Family' approach to help practitioners understand risk and vulnerability factors and to promote effective communication, timely referrals between adult and children's services, including transition between children's and adults' services, and promote good practice in multi-agency working.

The Protocol is collaborative guidance between Northamptonshire Safeguarding Adults Board and Northamptonshire Children's Partnership (NSCP) and seeks to assist practitioners with how to raise concerns about a vulnerable adult or child. It should be read in conjunction with the specific inter-agency procedures relevant to the circumstances.

3.1 Legislation, National Guidance and Toolkits

3.1 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.

3.2 [ADASS Inter-Authority Safeguarding Arrangements](#) (ADASS, 2016)

This 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.

3.3 [The Care Act 2014 - Sections 42 – 47](#)

Sections 42 to 47 of the Care Act sets 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, and provides information about how the Care Act works in practice. There is a legal duty to follow the guidance when working with adults with needs for care and support, and carers.

3.4 [Child Sexual Exploitation](#)

This non-statutory advice has been produced to help practitioners who work with children and families to identify child sexual exploitation (CSE) and take appropriate action in response. This advice replaces the 2009 guidance 'Safeguarding Children and Young People from Sexual Exploitation'.

3.5 [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.

3.6 [Coroner's Services and Investigations](#) (Ministry of Justice, 2014)

This short 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.

3.7 [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.

3.8 Deprivation of Liberty Safeguards – see 3.20 - Mental Capacity Act 2005 and the Deprivation of Liberty Safeguards 2009

3.9 [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). Further information including guidance on how to make referrals can be found in the link above. [Guidance for Local Authorities and regulatory bodies about the duty and power to refer a person to DBS](#).

3.10 [Domestic Violence and Abuse - A Guide to Support Practitioners and Managers](#) (Local Government Association and ADASS, 2015)

The Guide 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.

In January 2019, the Government published the draft [Domestic Abuse Bill](#) to help tackle domestic abuse. The bill will introduce the first ever statutory government definition of domestic abuse to specifically include economic abuse and controlling and manipulative non-physical abuse - this will enable everyone, including victims themselves, to understand what constitutes abuse and will encourage more victims to come forward.

[Coercive Control](#) (Research in Practice for Adults)

The website is aimed at social workers and other health and social care practitioners to help 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.

3.11 [Female Genital Mutilation - 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.

3.12 [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.

3.13 [Gaining Access to an Adult at Risk 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.

3.14 [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.

3.15 [Homelessness: duty to refer](#)

The [Homelessness Reduction Act 2017](#) places duties on local housing authorities to intervene at earlier stages to prevent homelessness in their areas, and to provide homelessness services to all those who are eligible. Additionally, the Act introduced a duty on specified public authorities to refer individuals who they think may be homeless or threatened with homelessness to local authority homelessness/housing options teams – [Refer to paragraph 7 of the Homelessness code of guidance](#). This duty came into effect on 1 October 2018.

3.16 [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.

3.17 [LeDeR Programme](#)

The Learning Disabilities Mortality Review (LeDeR) Programme is a project and is the first comprehensive, national review set up in order to understand why people with learning disabilities typically die much earlier than average, and to inform a strategy to reduce this inequality. 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, will need to have an initial review, regardless of whether the death was expected or not, the cause of death or the place of death. For further information, contact your Clinical Commissioning Group Safeguarding Team and/or Local Area Contact for LeDeR.

3.18 Making Safeguarding Personal - [Making Safeguarding Personal Guide](#) (Local Government Association, 2014)

The 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: [A Toolkit for Responses](#) (Local Government Association, 2015)

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.

3.19 [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. This guidance 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.

3.20 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 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, including:

- 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.

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 and clarifies the acid test in determining what constitutes a deprivation of liberty.

[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. 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.

3.21 [Modern Slavery Act 2015](#)

The Modern Slavery Act categorises offences of Slavery, Servitude and Forced or Compulsory Labour and Human Trafficking. It is estimated that there were between 10,000 and 13,000 potential victims of modern slavery in the UK in 2013 (Modern Slavery Strategy, HM Government, 2014). Practice guidance relating to the national strategy to respond to Modern Slavery and human trafficking includes details of the Duty to Notify and how to refer victims into the National Referral Mechanism. Further information can be found here on the Government's [National Referral Mechanism and the duty to refer](#) including information in different languages.

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.

However, if the potential victim does not want to be referred to the National Referral Mechanism, then an MS1 form should be completed and sent to dutytonotify@homeoffice.gsi.gov.uk. The MS1 form can be anonymous. The [MS1 form and guidance](#) is available.

3.22 [NHS Accountability and Assurance Framework](#) (Department of Health, 2015)

This document sets out the safeguarding roles, duties and responsibilities of all organisations in the NHS.

3.23 [Office of the Public Guardian Safeguarding Policy: Protecting Vulnerable Adults](#) (2015)

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.

3.24 [Pressure Ulcers Safeguarding Adults Protocol](#) (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.

3.25 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, CONTEST. 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. CONTEST is the UK's counter terrorism strategy that aims to reduce the risk we face from terrorism; it is made up of 4 work streams. See 2.4.3 above.

1. **PURSUE:** to stop terrorist attacks;
2. **PREVENT:** to stop people becoming terrorists or supporting terrorism;
3. **PROTECT:** to strengthen our protection against a terrorist attack; and
4. **PREPARE:** to mitigate the impact of a terrorist attack.

3.26 [Prevention in Adult Safeguarding](#) (Social Care Institute of Excellence, 2011)

This 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.

3.27 [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.

4. Local Multi-Agency Policies & Procedures, Guidance and Toolkits

4.1. [Safeguarding Adults Boards](#)

Safeguarding Adults Boards (SABs) are multi-agency partnerships that are committed to the effective safeguarding of adults in their respective localities.

In accordance with Section 43 of the Care Act:

- (1) Each local authority must establish a Safeguarding Adults Board (“SAB”) for its area.
- (2) The objective of a SAB is to help and protect adults in its area in cases of the kind described in section 42(1).
- (3) The way in which a SAB must seek to achieve its objective is by co-ordinating and ensuring the effectiveness of what each of its members does.
- (4) A SAB may do anything which appears to it to be necessary or desirable for the purpose of achieving its objective.
- (5) Schedule 2 (which includes provision about the membership, funding and other resources, strategy and annual report of an SAB) has effect.
- (6) Where two or more local authorities exercise their respective duties under subsection (1) by establishing an SAB for their combined area—
 - (a) a reference in this section, section 44 or Schedule 2 to the authority establishing the SAB is to be read as a reference to the authorities establishing it, and
 - (b) a reference in this section, that section or that Schedule to the SAB’s area is to be read as a reference to the combined area.

Section 14.136 of the [Care and Support Statutory Guidance](#), states that Safeguarding Adult Boards have three core duties:

- It must publish a strategic plan for each financial year that sets out how it will meet its main objective and what members will do to achieve this. The plan should be developed with local community involvement, and the SAB must consult the local Healthwatch organisation. The plan should be evidence based and make use of all available evidence and intelligence from partners to form and develop its plan.
- It must publish an annual report detailing what the SAB has done during the year to achieve its main objectives to implement its strategic plan, and what each member has done to implement the strategy, as well as detailing the findings of any safeguarding adults reviews and subsequent action. It must conduct any Safeguarding Adults Reviews (SARs) in accordance with Section 44 of the Act.
- It must conduct any Safeguarding Adults Review in accordance with Section 44 of the Act.

The Northamptonshire Safeguarding Adults Board (NSAB) is independently chaired, and has a number of Sub Groups that support the delivery of the priorities and themes detailed in the [NSAB Strategic Plan 2019-21](#).

4.2 [Safeguarding Adults Review \(SAR\)](#)

Formerly known as Serious Case Reviews, Safeguarding Adults Reviews (SARs) are a statutory duty under the Care Act that Safeguarding Adults Boards must undertake. The criteria for a SAR 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; or
- 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.

The purpose of a Safeguarding Adults Review is not to reinvestigate or to apportion blame, but is to:

- Establish whether there are any lessons to be learnt from the circumstances of the case, about the way in which local professionals and agencies work together to safeguard adults;
- Review the effectiveness of procedures;
- Inform and improve local inter-agency practice;
- Improve practice by acting on learning; and
- Highlight good practice.

The [Northamptonshire Safeguarding Adults Review Protocol](#) outlines the procedure for making a referral.

Any professional can make a referral via secure email or by password protecting the document. It is recommended that staff should discuss their concerns with their manager or agency safeguarding lead prior to making a referral to Northamptonshire Safeguarding Adults Board.

The Safeguarding Adults Review referral form can be found on the [Northamptonshire Safeguarding Adults Board website](#) under 'Referring a case for consideration'.

4.3 [Northamptonshire Safeguarding Adults Board Website](#)

The NSAB website is a 'one stop shop' for safeguarding information including [useful contacts](#), [legislation](#), [national guidance and toolkits](#) and local multi-agency [Policies & Procedures](#). The website will be continuously updated when resources are made available and when legislation changes.

You can also make a safeguarding concern directly from the website by clicking on the red '[Report Concern](#)' box.

Appendices

Appendix 1: Legal Remedies

This section is a table of legal remedies and useful references to consider in adult safeguarding cases. Guidance should be sought from relevant agency legal team.

| Type of adult safeguarding scenario | Consider the following Legal Remedies |
|-------------------------------------|---|
| <p>Physical Abuse</p> | <p>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.)</p> <p>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. Further information can be found at Criminal Injuries Compensation claim.</p> <p>Police and Criminal Evidence Act 1984 - Section 17 is a police power to enter and save life www.legislation.gov.uk/ukpga/1984/60/section/1</p> <p>Family Law Act 1996 - can be used to obtain injunctions against perpetrators; non-molestation and occupation orders.</p> <p>Domestic Violence Crimes & 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.</p> <p>'Vulnerable Adult' in this Act means an individual 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 Northamptonshire Child Protection Procedures.</p> |
| <p>Sexual Abuse</p> | <p>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.</p> |
| <p>Psychological Abuse</p> | <p>Protection from Harassment 1997 - can be used by Police or individual to obtain an injunction.</p> <p>Anti-Social Behaviour Orders - Crime and Disorder Act 1998 - police power.</p> <p>Equality Act 2010. 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.</p> |

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| <p>Neglect</p> | <p>NB: the Legal Remedies below could also apply to self-neglect and organisational abuse.</p> <p>Section 5 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.</p> <p>Criminal law - statute and common law can be considered, including:</p> <p>Section 44 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.</p> <p>Section 20-25 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.</p> <p>Police and Criminal Evidence Act 1984 - Section 17 is a Police power to enter and save life.</p> <p>Referral to the Care Quality Commission in circumstances in which a provider is failing to meet the national standards of quality and safety.</p> |
| <p>Self-neglect</p> | <p>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.</p> <p>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. See section on neglect above and legal remedies table below.</p> |
| <p>Financial Abuse</p> | <p>Lasting Powers of Attorney (LPA) were introduced by the Mental Capacity Act 2005.</p> <p>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.</p> <p>There are two types of Lasting Power of Attorney (LPA):</p> <ul style="list-style-type: none"> • 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. <p>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.</p> <p>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.</p> <p>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.</p> |

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| | <p>Further information about LPAs can be found on the website for the Office of the Public Guardian</p> <p>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.</p> <p>The Department of Work 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.</p> <p>Further information about Appointeeships can be found here on the Government website.</p> <p>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.</p> <p>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:</p> <ul style="list-style-type: none"> • Decide whether a person has capacity to make a particular decision for themselves; • Make declarations, decisions or orders on financial or welfare matters 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. <p>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.</p> <p>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.</p> |
| <p>Organisational Abuse</p> | <p>Consider the Legal Remedies identified in the sections relating to: physical, sexual, psychological, financial abuse and neglect.</p> <p>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:</p> <ul style="list-style-type: none"> • Causes a person’s death; and • Amounts to a gross breach of a relevant duty of care owed by the organisation to the deceased. <p>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.</p> |
| <p>Domestic Abuse</p> | <p>Consider the Legal Remedies identified in the sections relating to physical, sexual, psychological, financial abuse and neglect.</p> |

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| 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. |
| Support to Individual and Family | <p>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.</p> <p>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.</p> |
| Removal of the person thought to be the cause of risk | <p>Consider whether to involve the Police.</p> <p>Family Law Act 1996 - injunctions; non-molestation and occupation orders.</p> <p>Civil injunction - would need the individual to take legal advice from an independent solicitor or the Citizen's Advice Bureau.</p> <p>Mental Health Act 1983 - removal for assessment and/or treatment.</p> |
| Removal of subject | <p>Mental Health Act 1983 - removal for assessment and/or treatment.</p> <p>Mental Capacity Act 2005 s5.</p> |
| Deprivation of Liberty Safeguards | <p>The Mental Capacity Act Deprivation of Liberty Safeguards were introduced into the Mental Capacity Act 2005 through the Mental Health Act 1983.</p> <p>The MCA DOL safeguards apply to anyone:</p> <ul style="list-style-type: none"> • 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 ECHR) is considered after an independent assessment to be necessary in their best interest to protect them from harm. <p>The safeguards do not apply to people detained under the Mental Health Act 1983. The safeguards cover:</p> <ul style="list-style-type: none"> • Patients in hospitals; • 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. <p>The safeguards are designed to protect the interest of an extremely vulnerable group of individuals and to:</p> <ul style="list-style-type: none"> • 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; <p>What are the safeguards?</p> |

- 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 and treatment, to prevent deprivation of liberty. If deprivation of liberty cannot be avoided, it should be for no longer than is necessary; and
- 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.

The Deprivation of Liberty Safeguards (DoLS) means 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 covers:

- 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; and
- 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.

For full information, including the Code of Practice, guidance and forms, see:

www.gov.uk/government/publications/mental-capacityact-code-of-practice

Appendix 2: Terminology

| Terminology | Definition |
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| 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. |
| 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 of the criteria are met under the statutory duty for decision-making under Section 42 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). |
| Statutory duty for decision-making | <p>Section 42 (1) - where there is reasonable cause to suspect an adult has needs for care and support is experiencing or is at risk of abuse or neglect, and as a result can't protect themselves.</p> <p>Section 42 (2) – making (or causing to be made) whatever enquiries are necessary, and deciding whether action is necessary and if so, what, and by whom.</p> <p>This may also include for example:</p> <p>Section 9 – Assessment of an adult's needs for care and support.</p> <p>Section 10 – Assessment of a carer's needs for support.</p> |
| 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. |
| Safeguarding Officer | A suitably trained and experienced practitioner employed by the local authority who has responsibility for co-ordinating responses and decision making in respect of a safeguarding enquiry. |
| 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. |
| 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 at section 1.3). |