

**Warrington Safeguarding  
Adults Procedures – Section 6:  
Planning and undertaking enquiries  
and/or other investigations**

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## 6 Planning and Undertaking Enquiries and/or other Investigations

What happens as a result of an enquiry should reflect the adult's wishes wherever possible, as stated by them or by their representative or advocate. If they lack capacity it should be in their best interests if they are not able to make the decision and be proportionate to the level of concern.

The scope of the enquiry, who leads it and its nature, and how long it takes, will depend on the particular circumstances. It will usually start with asking the adult their view and wishes which will often determine what next steps to take.

Everyone involved in an enquiry must focus on improving the adult's well-being and work together to that shared aim. The objectives of an enquiry into abuse or neglect are to:

- Establish facts
- Ascertain the adult's views and wishes
- Assess the needs of the adult for protection, support and redress and how they might be met
- Protect from the abuse and neglect, in accordance with the wishes of the adult
- Make decisions as to what follow-up action should be taken with regard to the person or organisation responsible for the abuse or neglect
- Enable the adult to achieve resolution and recovery

The wishes of the adult are very important, particularly where they have capacity to make decisions about their safeguarding. The wishes of those that lack capacity are of equal importance. Wishes need to be balanced alongside wider considerations such as the level of risk or risk to others including any children affected.

All adults at risk, regardless of whether they have capacity or not may want highly intrusive help, such as the barring of a person from their home, or a person to be brought to justice or they may wish to be helped in less intrusive ways, such as through the provision of advice as to the various options available to them and the risks and advantages of these various options.

**REMEMBER: Any intervention in family or personal relationships needs to be carefully considered. While abusive relationships never contribute to the wellbeing of an adult, interventions which remove all contact with family members may also be experienced as abusive interventions and risk breaching the adult's right to family life if not justified or proportionate.**

Where an adult lacks capacity to make decisions about their safeguarding plans, then a range of options should be identified, which help the adult stay as much in control of their life as possible. Wherever possible, the adult should be supported to recognise risks and to manage them. Safeguarding plans should empower the adult as far as possible to make choices and to develop their own capability to respond to them.

In safeguarding situations there needs to be recognition of the adult's right to safety with other rights - such as the right to liberty and autonomy and rights to private and family life.

Action may therefore be primarily supportive or responsive, acting only with the adults consent or where there is a public or vital interest, or it may involve the application of civil orders, sanctions, suspension, regulatory activity or criminal prosecution, disciplinary action or de-registration from a professional body.

It is important, when considering the management of any intervention or enquiry, to approach reports of incidents or allegations with an open mind. In considering how to respond the following factors need to be considered:

- The adult's needs for care and support
- The adult's risk of abuse or neglect
- The adult's ability to protect themselves or the ability of their networks to increase the support they offer
- The impact on the adult, their wishes
- The possible impact on important relationships
- Potential of action and increasing risk to the adult
- The risk of repeated or increasingly serious acts involving children, or another adult at risk of abuse or neglect
- The responsibility of the person or organisation that has caused the abuse or neglect
- Research evidence to support any intervention

## 6.1 The Scope of an Enquiry

At this stage, the local authority also has a duty to consider whether the adult requires an independent advocate to represent and support the adult in the enquiry.

As part of the assessment of any safeguarding concern, the adult should be talked to wherever possible in order to determine whether there is 'reasonable cause to suspect' abuse or neglect.

Therefore, this conversation with the adult at the start of the enquiry may not be the first conversation with the adult, and may build on their views obtained some hours or days before.

**REMEMBER: The adult should always be involved from the beginning of the enquiry unless there are exceptional circumstances that would increase the risk of abuse. If the adult has substantial difficulty in being involved, and where there is no one appropriate to support them, then the local authority must arrange for an independent advocate to represent them for the purpose of facilitating their involvement.**

Professionals and other staff need to handle enquiries in a sensitive and skilled way to ensure distress to the adult is minimised. It is likely that many enquiries will require the input and supervision of a social worker, particularly the more complex situations and to support the adult to realise the outcomes they want and to reach a resolution or recovery.

People must be assumed to have capacity to make their own decisions and be given all practicable help before anyone treats them as not being able to make their own decisions. If the adult has substantial difficulty in being involved, and where there is no one appropriate to support them, such as family, then the local authority must arrange for an independent advocate to represent them for the purpose of facilitating their involvement.

**REMEMBER: A criminal investigation by the police takes priority over all other enquiries, although a multi-agency approach should be agreed to ensure that the interests and personal wishes of the adult will be considered throughout, even if they do not wish to provide any evidence or support a prosecution.**

If the adult has the mental capacity to make informed decisions about their safety and they do not want any action to be taken, this does not preclude the sharing of information with relevant professional colleagues.

This is to enable professionals to assess the risk of harm and to be confident that the adult is not being unduly influenced, coerced or intimidated and is aware of all the options. This will also enable professionals to check the safety and validity of decisions made. It is good practice to inform the adult that this action is being taken unless doing so would increase the risk of harm.

The Care Act Statutory Guidance stresses that we must recognise that adults sometimes have complex interpersonal relationships and may be ambivalent, unclear or unrealistic about their personal circumstances.

**REMEMBER: People have complex lives and being safe is only one of the things they want for themselves. Professionals should work with the adult to establish what being safe means to them and how that can be best achieved. Professionals and other staff should not be advocating safety measures that do not take account of individual well-being.**

The duty to make enquiries does not provide for a legal power of entry or right of unimpeded access to the adult, but there are a range of existing legal powers which are available to gain access should this be necessary.

Whether it is necessary to seek legal intervention and which powers would be the most appropriate to rely on in order to gain access to an adult to assess any safeguarding risk or otherwise protect an adult will always depend on the individual circumstances of the case.

All attempts to resolve the situation should begin with negotiation, persuasion and the building of trust. If all attempts fail then the local authority must consider whether the refusal to give access is unreasonable and whether the circumstances justify intervention.

One of the most challenging areas of practice in safeguarding relates to unwise decisions, coercion and mental capacity.

For example, making a decision to remain in a relationship where you may be abused by someone does not in itself indicate mental incapacity. It may be that the relationship is more important to you than the harm that is being done, perhaps more so if the harm is not life-threatening.

However, it is important to recognise that where a person is at high risk of harm this may limit their capacity to safeguard themselves due to fear, coercion or understandable psychological responses designed to limit the extent of the harm. The person may identify with, absolve or rationalise the perpetrators actions, leading to them not acknowledging the level of risk they face.

A 'safe enquiry' means ensuring the individual causing concern is not and will not easily become aware of the enquiry. It is a cornerstone of best practice in domestic abuse, and has been developed following circumstances in which women and their children have been

placed at risk of serious harm due to the individual becoming aware that professionals knew about their behaviour.

Research has shown that incidence of violence and levels of harm increase when an individual's control is being challenged.

**REMEMBER: If an apparently mentally capacitated person repeatedly makes unwise decisions that put them at significant risk of harm, or makes a particular unwise decision that is obviously irrational or out of character there may need to be further investigation taking into account the person's past decisions, choices and patterns of behaviour.**

## 6.2 Causing others to make enquiries

Although the local authority is the lead agency for making enquiries, it may require others to undertake them. The specific circumstances will often determine who the right person to begin an enquiry is.

In many cases a professional who already knows the adult will be the best person. They may be a social worker, a housing support worker, a GP or other health worker such as a community nurse.

In practice more complex enquiries will require a range of people to contribute their expertise and knowledge of the adult. In this respect 'causing others to make enquiries' already happens and will continue to happen in multi-agency safeguarding responses.

Therefore 'causing others to make enquiries' should not appear to be a formal process where artificial 'handovers' or boundaries are set, but should reflect effective partnership working, where professionals work together to meet the desired outcomes of the adult.

However, the local authority retains the responsibility for ensuring that the enquiry is referred to the right place and is acted upon. The local authority, in its lead and coordinating role, should assure itself that the enquiry satisfies its duty under section 42 to decide what action (if any) is necessary to help and protect the adult and by whom and to ensure that such action is taken when necessary.

In this role if the local authority has asked someone else to make enquiries, it is able to challenge the body making the enquiry if it considers that the process and/or outcome is unsatisfactory.

Where a crime is suspected and referred to the police, then the police must lead the criminal investigations, with the local authority's support where appropriate, for example by providing information and assistance.

The local authority has an ongoing duty to promote the wellbeing of the adult in these circumstances.

## 6.3 Further Enquiries and Next Steps

Once the wishes of the adult are known and an initial enquiry undertaken, discussions should be undertaken with them as to whether further enquiry is needed and what further action could be taken.

That action could take a number of courses: it could include disciplinary, complaints or

criminal investigations or work by contracts managers and CQC to improve care standards. Those discussions should enable the adult to understand what their options might be and how their wishes might best be realised.

Social workers must be able to set out both the civil and criminal justice approaches that are open and other approaches that might help to promote their wellbeing, such as therapeutic or family work, mediation and conflict resolution, peer or circles of support. In complex domestic circumstances, it may take the adult some time to gain the confidence and self-esteem to protect themselves and take action and their wishes may change.

The police, health services and others may need to be involved to help ensure these wishes are realised.

Once the facts have been established, a further discussion of the needs and wishes of the adult is likely to take place. This could be focused safeguarding planning to enable the adult to achieve resolution or recovery, or fuller assessments by health and social care agencies. This will entail joint discussion, decision taking and planning with the adult for their future safety and well-being. This applies if it is concluded that the allegation is true or otherwise, as many enquiries may be inconclusive.

The local authority must determine what further action is necessary. Where the local authority determines that it should itself take further action, then the authority would be under a duty to do so.

The Mental Capacity Act is clear that local authorities must presume that an adult has the capacity to make a decision until there is a reason to suspect that capacity is in some way compromised; the adult is best placed to make choices about their wellbeing which may involve taking certain risks.

**REMEMBER: Where an adult may lack capacity to make decisions about arrangements for enquiries or managing any abusive situation, then their capacity must always be assessed and any decision made in their best interests.**

If the adult has the capacity to make decisions in this area of their life and declines assistance, this can limit the intervention that organisations can make. The focus should therefore be, on harm reduction. It should not however limit the action that may be required to protect others who are at risk of harm.

The potential for 'undue influence' will need to be considered if relevant. If the adult is thought to be refusing intervention on the grounds of duress then action must be taken. In order to make sound decisions, the adult's emotional, physical, intellectual and mental capacity in relation to self-determination and consent and any intimidation, misuse of authority or undue influence will have to be assessed.

## **6.4 Completing Enquiries and Taking Action**

Once enquiries are completed, the outcome should be notified to the local authority which should then determine with the adult what, if any, further action is necessary and acceptable.

It is for the local authority to determine the appropriateness of the outcome of the enquiry. One outcome of the enquiry may be the formulation of agreed action for the adult which should be recorded on their care plan. This will be the responsibility of the relevant

agencies to implement. In relation to the adult this should set out:

- What steps are to be taken to assure their safety in future
- The provision of any support, treatment or therapy including on-going advocacy
- Any modifications needed in the way services are provided How best to support the adult through any action they take to seek justice or redress
- Any on-going risk management strategy as appropriate
- Any action to be taken in relation to the person or organisation that has caused the concern

Although the standard of proof for a criminal prosecution is 'beyond reasonable doubt', the standard of proof for internal disciplinary procedures and for discretionary barring consideration by the Disclosure and Barring Service (DBS) is usually the civil standard of 'on the balance of probabilities'.

This means that when criminal procedures are concluded without action being taken this does not automatically mean that regulatory or disciplinary procedures should cease or not be considered. In any event there remains a legal duty to make a referral to the DBS if a person is dismissed or removed from their role due to harm to a child or an adult in need of care and support.

If a person resigns from their role prior to any investigation concluding, the investigation should continue, ideally with the person contributing to this process.

If they decline to engage in the investigation process, they should still be offered the usual protections and representation, but the employer retains the responsibility to conclude the investigation, with or without the person.

The employer should arrive at a decision at the conclusion of the investigation as to what steps they would have taken if the person had remained in their employ. If the employer determines, for example, that the person would have been dismissed, this should be reflected in any future reference requests.

## **6.5 Safeguarding Meetings or Discussions**

A safeguarding meeting will be convened or safeguarding discussion undertaken when the safeguarding concern has been assessed as requiring a section 42 enquiry conducted via the safeguarding referral route.

A safeguarding discussion allows for a 'virtual' safeguarding meeting to occur for example, via telephone or conference call, which may be appropriate or necessary in certain circumstances.

The content of any safeguarding discussion should be recorded in the same way as a safeguarding meeting. A discussion would typically be held where there is urgency in the safeguarding situation, geographic distances prevent a timely meeting, initial tasks need to be commenced, or due to the particular needs, views or wishes of the adult.

## **6.6 The aim of the Safeguarding Meeting or Discussion**

The first aim of the safeguarding meeting or discussion is to agree a plan on how to effectively meet the desired outcomes of the adult at risk. Therefore a significant focus of any discussion will be the views of the adult, confirming with them how they can be



supported and enabled to have choice and control in the circumstances. This is the first, but not the only aim of the safeguarding meeting.

Other factors in the situation need to be considered in the light of the adult's desired outcomes, such as relevant law, guidance and public and vital interests. There is a difference between the adult's desired outcomes being central to the safeguarding meeting, and the adult's desired outcomes being the only outcome sought in the safeguarding meeting.

**REMEMBER: There is a clear difference between professionals minimising the adult's views in a particular situation in order to manage their own concerns, and professionals being able to employ their skills and knowledge of the law to offer advice and support to allow informed choice to take place.**

The meeting needs to determine how risks can be minimised, for example, in the way services are provided. Its primary aim is to co-ordinate the strands of any enquiry.

## **6.7 The Role of the Police at the meeting**

In cases where there is a possibility of a criminal prosecution, the Police shall act as 'lead agency'. Once the Police assume this role, no action should be taken without consulting and obtaining the approval of the Police first.

Although the local authority has the lead and coordinating role in making enquiries, where criminal activity is suspected the early involvement of the Police is likely to have benefits in many cases.

Many of the police investigators involved in safeguarding investigations are specially trained for that role and work in specialist units. Each of those units has a set of arrangements to help provide advice and guidance to ensure that a thorough investigation takes place in order to achieve successful outcomes for the individual. The police service has identified ways that enable non specialist officers to seek advice from supervisors at every stage of the safeguarding process, even when specialist departments are unavailable.

A criminal investigation by the Police takes priority over all other enquiries, although a multi-agency approach should be agreed to ensure that the interests and personal wishes of the adult will be considered throughout, even if they do not wish to provide any evidence or support a prosecution.

The welfare of the adult and others, including children, is paramount and requires continued risk assessment to ensure the outcome is in their interests and enhances their wellbeing.

If the adult has the mental capacity to make informed decisions about their safety and they do not want any action to be taken, this does not preclude the sharing of information with relevant professional colleagues. This is to enable professionals to assess the risk of harm and to be confident that the adult is not being unduly influenced, coerced or intimidated and is aware of all the options.

This will also enable professionals to check the safety and validity of decisions made. It is good practice to inform the adult that this action is being taken unless doing so would

increase the risk of harm.

The Police have a legal duty to investigate abuse if it is a crime and the local authority has a statutory duty to assess the needs of adults. The authority to act in this area is derived from a range of legislation and government guidance. Therefore action is best undertaken on a partnership basis with all the agencies involved.

Some instances of abuse will constitute a criminal offence, and adults at risk are entitled to the protection of the law in the same way as any other member of the public. In addition some statutory offences have been created which specifically protect those who may be incapacitated in various ways.

Alleged criminal offences differ from other non-criminal allegations of abuse in that invariably the responsibility for initiating action i.e. criminal proceedings lies with the Police and the Crown Prosecution Service.

## **6.8 The Role of the Safeguarding Strategy Manager**

The safeguarding manager has a range of functions in line with their primary role of quality assuring the local authorities safeguarding responses.

However, in respect of them chairing the safeguarding meeting, they will facilitate discussion regarding the safeguarding concern and all relevant issues, information and evidence currently available.

They will from the outset of the meeting ensure that the adult's views and desired outcomes are heard. They will also seek to allow all views to be aired whilst maintaining focus on the adults desired outcomes and the safeguarding concern.

Actions agreed at the meeting should always be relevant to the adults desired outcomes, and include a communications plan with the adult and relevant others.

The meeting should have a collective approach in terms of decision making, with the strategy manager giving guidance and ensuring good quality safeguarding responses.

As well as activity relating to safeguarding enquiries responded to via the safeguarding referral route, safeguarding managers also have quality assurance functions in areas such as; case audit, ensuring appropriate initial responses to safeguarding concerns, good quality safeguarding risk assessments and the enquiries responded to via the care management route.

## **6.9 Preparation and Participation**

It is expected that all attendees of the safeguarding meeting or discussion will participate and will contribute information, and within the meeting respect that any discussion and material are subject to relevant confidentiality requirements. Dependant on the circumstances and if confidentiality cannot be guaranteed, this may limit what can be disclosed to the meeting.

It is important that any written information appropriate to disclose to all invitees of the meeting is shared in advance by the strategy manager. It is also important that any written information, investigations or reports must be provided in advance of the meeting to the strategy manager and other attendee's as appropriate. This is to ensure that by being able to properly consider the information in advance of the meeting, the adults and agencies

rights to fairness are not affected.

In certain circumstances, for example, where an urgent meeting is required, it may not be possible to collect and distribute written information in advance of the meeting. However, in such circumstances sufficient time should be set aside for due consideration of the information.

Information should include: the details of the concern and any prior or related concerns; the views of the adult; assessments relevant to any issues of coercion, consent or capacity; social situation and any support networks of the adult; information about the individual causing the concern; what and who has been involved in any investigations; details of placing or funding agency and any other agencies involved; recommendations for future actions.

When providing details of adult at risk and person alleged to be responsible, it is important to ensure accurate spelling as this enables the police and other agencies to carry out appropriate checks.

## **6.10 Who may be involved in a Safeguarding Meeting or Discussion?**

The individual circumstances of each safeguarding situation should determine who is involved in the safeguarding meeting or discussion. Individuals should be invited only if they have a contribution to make to the meeting. The individual causing the concern will not be invited to a safeguarding meeting or discussion, but may need to be communicated with.

Although encouraged, it is not a specific requirement that the adult or representatives should, or should not, be present at any safeguarding meeting. The adult's presence at a meeting is not, in itself, always the ultimate expression of control and choice.

Conversation and engagement with the adult and relevant others is essential so that their wishes and views form the focus of the meeting, but how this is achieved will vary from situation to situation.

**REMEMBER: If the adult is present, they should be free to contribute equally and fully to the matters being discussed and this will require preparation in advance and support during the meeting. If the adult is not treated fairly in this respect, the meeting can become tokenistic, and places the adult in a position of being excluded and treated unfairly.**

It is critical that the adult's voice is heard and appropriate weight given to their views in the meeting – either directly, via an advocate or relevant person, or via whatever method agreed with them to be the most comfortable and appropriate in the circumstances. It is also important that the adult is not only able to contribute and their voice heard, but that they also understand and appreciate what other people present at the meeting are saying.

For example, professionals should avoid such things as acronyms and medico-legal terms, which can present barriers to communication. If complex discussions are unavoidable sufficient time and preparation should be set aside either before or during the meeting in order for the adult's rights to fairness to be maintained.

As well as a chair and minute taker, the following is a guide as to who may be consulted in a safeguarding discussion or invited to attend the safeguarding meeting – it is not an

exhaustive list and could include other people:

- Police and/or Probation
- Health Services
- Commissioner and/or Quality Monitoring Officer
- Social Worker and/or line manager
- Fire and Rescue Services
- Provider
- Trading Standards
- Housing
- Legal adviser
- Childcare worker
- Voluntary/Third Sector
- Advocacy
- Employer of the individual causing the concern
- Human resources (HR)

Where the safeguarding concern relates to a provider their contribution, as with all other attendees, should be considered prior to the meeting in consultation with the strategy manager.

The Care Quality Commission should be invited to all strategy meetings that involve a registered provider.

Transparency and partnership working is vital in safeguarding but objectively ascertaining the facts is as equally important. Therefore, safeguarding concerns may require an initial consultation between the commissioners and other involved parties which may or may not involve the provider.

In its lead and coordinating role in safeguarding there is a requirement for the council to maintain an independent overview, so that a 'professional scepticism' should be maintained until the evidence in any case is seen to be robust.

The provider is a key partner in reducing any risk of abuse or neglect and should be fully included in any safeguarding adults strategy and protection plan, the exceptions are:

- Where the allegation is specifically against the manager of the service– in which case a more senior representative of the provider should be sought
- Where the organisation cannot provide someone who is not implicated in the concerns that have been raised
- Where there are other serious concerns that suggest they are 'unfit' to take part in the process

There may be circumstances where the local authority may determine that safeguarding concerns not meeting the safeguarding enquiry threshold should still be investigated by the provider.

How this decision is arrived at will be determined by the circumstances of the safeguarding situation, such as the seriousness of the allegation, but also take into account current and past intelligence relating to the providers ability to properly investigate concerns.

## **6.11 Recording of the safeguarding meeting or discussion**

The minutes of the safeguarding meeting or discussion (and any subsequent progress meetings) should be distributed within 10 working days of the meeting being held. It is

important that the minutes differentiate between fact and opinion and who the information/evidence is from.

All decisions and actions should be recorded, including details of who is responsible for each action, and any differences of opinion or emphasis fairly recorded. The legal basis for the safeguarding intervention, a description of any investigations completed, and a communication plan with the adult and/or relevant others is required.

Minutes will be distributed to involved professionals and will always be distributed to the Care Quality Commission in cases regarding regulated providers, even if an inspector does not attend the meeting. Minutes can be provided to the adult and/or relevant others subject to the usual Data Protection Act and other confidentiality requirements.

## **6.12 Care Management Route**

Enquiries conducted via the care management route are still enquiries conducted in response to suspected abuse or neglect, and are therefore no less important.

The adult has access to the same range of legal and civil rights outlined in the Care Act and Statutory Guidance - including the right to advocacy.

The adult's views and desired outcomes are central to these enquiries. It is more likely that safeguarding situations where there are no evident public or vital interests will be responded to via this route, and/or the adult has particular views or wishes, and/or the nature of the suspected abuse is of a degree where a more proportionate response is agreed.

Safeguarding concerns being responded to via the care management route will be coordinated by the social work team that has completed the safeguarding risk assessment.

However, safeguarding managers have a role in ensuring that the care management response is consistent with the principles of the Care Act.

How those safeguarding concerns are responded to will vary from situation to situation and the Care Act Statutory Guidance envisages that this may be by various assessments, reviews and/or provision of health, social care or provision of other services.