

SAFEGUARDING

ADULTS

IN

SWINDON

Guidance Section

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GUIDANCE

A. RAISING A SAFEGUARDING CONCERN

Anyone who has a suspicion or a concern that abuse may have taken place, or might take place if no preventative measures are taken, needs to make a safeguarding referral. This is a checklist for maintaining good practice in responding, reporting and recording when someone has a concern.

Responding

- Ensure that you remain calm and do not show shock or disbelief;
- Listen carefully to what you are being told;
- Ensure a caring response is given;
- Reassure the person that you are treating the information seriously;
- Reassure the person that what has happened is not their fault;
- Ensure that any forensic evidence is preserved;
- Explain that you are required to share the information with a relevant manager and the regulating authority (as appropriate);
- Reassure the person that any further investigation will be conducted sensitively and with their full involvement wherever possible;
- Reassure the person that the service will take steps to support and where appropriate, protect them in the future;
- Do not stop someone who is freely reporting significant events;
- Make a written record of what the person has told you, taking into account that this report might be required as part of any legal action or disciplinary procedure;
- Do not promise to keep secrets or make promises you will be unable to keep;
- Do not contact the alleged 'abuser' or alleged 'victims' (depending on who is sharing the information);
- Do not be judgmental (e.g. why didn't you try to stop them?);
- Do not discuss the content of the disclosure with others outside of the concern raised. However, other people may need to be informed that an allegation has been made in order to ensure their safety;
- Do not "sit" on the information over the weekend until you are next on duty, etc. report the information immediately; and
- Do not interrogate the person for more details as a formal enquiry may take place later. This avoids unnecessary stress and repetition for the person concerned and does not place any future criminal or other investigation at risk.

Reporting

If you see, hear about or suspect abuse:

- Take urgent action as appropriate to protect the adult at risk from any immediate danger;
- Pass on the information to a relevant manager, as appropriate;
- Act within the wishes of the adult at risk where possible; (NB. There may be occasions where the individual's wishes need to be overridden. E.g. Where the risks of harm are considered to be too great; where others may be at risk; where a crime has been committed; where there are concerns about the person's mental capacity or concerns that there is coercive control.)

- Avoid asking investigative questions, e.g. who, what, where, when, why?
- Avoid making comments about what has happened;
- Support and reassure the individual throughout; and
- If the suspected abuse has taken place in a care home or involves a domiciliary care agency or any registered service, report the allegation to the appropriate team and the relevant regulatory authority.

Recording Statements

- Ensure that your writing is legible;
- Complete the Safeguarding Adult referral form;
- Highlight if the person alleged to have caused harm is a service user;
- Forward the form to the Safeguarding Team or if it is felt an urgent response is needed, the Emergency Duty Service;
- Record on the service user's file that a safeguarding adults alert was raised;
- Record what was said to you in the person's own words;
- Record if anyone else was there at the time;
- Record the date, time and setting in which the allegation was made or the event was witnessed;
- Separate any factual information from any opinions expressed;
- Do not record any concerns about abuse on Person Held Records where the information might be seen by the alleged abuser;
- Date, time and sign your report;
- Only send reports using secure methods or deliver them in person immediately; and
- Ensure all information is stored in a secure place.

See [Thresholds for Access to Adult Safeguarding Services](#)

B. Assessing the Concern

Following the receipt of a safeguarding concern, it is necessary for the appropriate Enquiry Manager to assess (or screen) the concern to determine if there is a requirement to proceed to a full Enquiry under Section 42 of the Care Act 2014.

- Does the concern raised involve harm to an adult in need for care and support as defined within this policy? It should also be noted that “in need for care and support” does not mean that the person needs to be in receipt of a community care service. An allegation of abuse or neglect could mean they would be eligible to receive support from community care services. This principle also needs to be applied if the adult is paying for their own service, in receipt of a direct payment, or has refused services in the past, have their needs and outcomes met informally.
- Is the person still at risk and requires immediate action to protect them for experiencing further abuse or neglect?
- What are the views of the individual who has allegedly been abused or harmed? In exceptional circumstances, this may not be appropriate as in doing so may put the individual at risk of further harm. Consideration needs to be given to whether:
 - A crime has been committed;
 - There is a strong indication that the person lacks Mental Capacity to agree with what has allegedly happened to them;
 - That there are other people at risk;
 - The person has been coerced into a decision not to participate in safeguarding procedures or into making decisions that has led to harm;
 - There is a need to proceed in the public interest; or
 - the person is able to take appropriate action themselves.
- Would a different procedure be more appropriate or more effective? For example complaints action, disciplinary action, an alternative investigation. Feedback needs to be made available of the outcome of any alternative action and the personnel involved in this needs to be informed that should their investigation/enquiries indicate more serious harm, they must inform the Enquiry Manager who may need to escalate the case using safeguarding procedures.
- Does the concern state abuse or neglect has occurred or does it indicate that there is a risk of it? Where it is unclear, further information gathering may be required which may include an assessment of risk which can identify actions to reduce further risk or enable the individual to manage their own risks.
- If the concern is saying self neglect has occurred, but on assessment it is clear that it is more about need for services, this should be referred/redirected to the appropriate care team.
- Has a crime been committed? If this is a crime or a need to protect forensic evidence, direct contact with the police is required as their investigation takes priority over any other enquiry. **This action does not negate the need to a multi-agency approach**; safeguarding procedures will still need to be instigated to obtain information of the outcome of the initial criminal investigation and to determine what other enquiries may be required. The safeguarding team and/or other social care services may need to assist in a criminal investigation and coordinate other actions

required. If the Enquiry Manager is unsure if a crime has been committed, advice needs to be obtained from the Safeguarding Adults' Investigation Team. A decision from the Police that they consider a crime has not taken place or the case does not require their involvement, does not mean that the safeguarding case should be automatically closed. Other enquiries under these procedures may still be required.

Timing

The Enquiry Manager should consider all alerts immediately. The Assessment of the Initial concern should be completed within **1 working day** of receipt of the referral. Where there is insufficient information or a need to obtain further details to complete the screening decision, additional time may be required. In most cases this should take no more than 3 or 4 days, however in some circumstances to ensure involvement of the person who is subject of the concern, a longer period of time may be needed. The enquiry manager will need to ensure such delays do not present an additional risk for the adult.

Role of Enquiry Officer/Response Officer

During the Assessment of the concern the Enquiry Manager can request for an Officer to obtain additional information to enable a final decision about a case progressing to a Section 42 enquiry.

As guided by the Enquiry Manager, the Enquiry Officer / Response Officer's role is to:

- Establish any risks around engaging with the adult, for example holding a discussion with the person's care manager or the person raising the concern.
- Engage with the adult at the earliest opportunity to:
 - discuss their desired outcomes
 - determine if they meet the criteria for safeguarding
 - find out about their person's circumstances
 - consider whether they are able to participate in the safeguarding process
 - consider if they would prefer to take action themselves and whether they would need any support to do so.
- Where the adult expresses that they do not want further action taken, if required, provide advice or sign post the person to help them to be able to protect themselves.
- To recommend to the EM whether irrespective of the individual's views there is a compelling reason to proceed with an enquiry.

Where it is considered that the person may have substantial difficulties in engaging with the safeguarding process, the EO/RO needs to determine who would be the most appropriate person to represent them. In discussion with the EM, an application to the advocacy service may be required.

Feedback to Alerter

The person who has raised the concern needs to know if the referral was appropriate or not, and requires some acknowledgement that some action is being taken to resolve their concerns. Without going into great detail and bearing in mind confidentiality, a letter should be sent thanking them for the referral, saying whether the case is progressing through the safeguarding route or not and suggesting further action they may wish to take if the safeguarding adults procedures was not appropriate. This may also assist in the accuracy of future concerns raised.

Threshold decisions

In ensuring that safeguarding concerns are dealt with in a person centred way it is inappropriate to prescribe a range of thresholds that need to be met before deciding whether to progress to a full enquiry. However there are some considerations that need to be taken into account that may determine that action is taken or is taken in a particular way. In exceptional circumstances these may conflict with the persons own views on whether or not we can proceed with a safeguarding enquiry.

Considerations and Additional Risks

Consideration	Impact	Action/response
If there are indicators to suspect the person lacks capacity	Inability to understand safeguarding process, impact of any actions or how to keep safe.	<ul style="list-style-type: none"> Engage with suitable representative/advocate Arrange for an Mental Capacity Assessment Refer to IMCA service Appropriate assessments are in place to mitigate/manage risk. Consider what level of information to disclose/information share with the person or others.
The person is believed to be under duress	Unable to talk freely or say what they really want or how they feel about what has happened	<ul style="list-style-type: none"> Attempt to access the person alone Assess risk and if believed to be too high, Carry out enquiry without involving the person Engage with other services the person is involved with who may have an opportunity to broach the subject in question Consider MARAC? Risk Enablement?
The person is reliant of other people	Reluctance to engage due to a concern that they may lose the support of others or concerned they will get some into trouble.	<ul style="list-style-type: none"> Consider wider implications – e.g. are others at risk? Public interest? Assess risks and if believed to be too high, carry out enquiry without involving the person. Consider other ways to obtain evidence – e.g. contract monitoring visits, welfare calls from Neighbourhood Policing Team, care reviews. Is the person experiencing difficulties in accessing protection or ensuring their own human or civil rights are met?

Consideration	Impact	Action/response
		<ul style="list-style-type: none"> Is there potential for the risk to increase because the alleged perpetrator is responsible for the persons care or well-being?
The person appears to have low expectations, low self-worth or conditioned into believing that any action would be futile.	Reluctance to engage as there will be no favourable outcomes. The person could become isolated.	<ul style="list-style-type: none"> Provide reassurance and support. Consider the root cause could be as a result of psychological abuse, domestic abuse, Any planning may require the inclusion of required treatment to assist the person in participating in safeguarding process. Ensure there is an understanding within agencies, that this could constitute a “substantial difficulty” in engaging requiring advocacy referral.
The person is isolated	Makes it hard to self-protect or seek assistance. The person could be targeted Open to exploitation by “friends”?	<ul style="list-style-type: none"> Consider the effects on self-worth and mental health. Do they have family or friends that can speak up on their behalf if required? Consider part of safeguarding plan assessment to assist in reducing isolation or signposting to “befriending” schemes
The concern is about something that has occurred in the past and the person said they did not want action taken	The abuse will continue or become worse	<ul style="list-style-type: none"> Consider wider implications – e.g. are others at risk? Public interest? Assess risks and if believed to be too high, carry out enquiry without involving the person. Consider other ways to obtain evidence – e.g. contract monitoring visits, welfare calls from Neighbourhood Policing Team, care reviews.
There is a history of abuse	Abuse/neglect becomes the norm for the person so unlikely to report it and may not participate.	<ul style="list-style-type: none"> Reassurance and support needed to facilitate participation. The person’s history should be viewed as a substantial difficulty in participating in safeguarding procedures. Consider the need to proceed with involvement of representative rather than the person directly.

Consideration	Impact	Action/response
	Leads to low self-worth lack of confidence and trust in available support.	<ul style="list-style-type: none"> Consider if there are any historic matters that need addressing/resolving
The person, or person allegedly harming them, is addicted to substances or gambling	<p>Possibility of financial or physical abuse or neglect if the person is their main carer. The adult is sympathetic to those causing harm and less likely to report or respond to safeguarding plan. There may be difficulties in gaining access to the individual. Is there a risk that association with others who could cause harm? (e.g. dangerous drug gangs)</p>	<ul style="list-style-type: none"> Gain opportunities to engage with the adult alone and/or utilise agencies that may be able to engage easily (e.g. GP, health visitor) Assess risk and if believed to be too high, Carry out enquiry without involving the person Consideration of other forums that may be in a position to help, e.g. MARAC, CSP, ASB
Others (including children), are at risk of further harm	Harm to others and psychological impact on the adult who may feel responsible	<ul style="list-style-type: none"> Raise matters with relevant team (e.g. submit referral to Children's Safeguarding, notify DAIT, pass information to MAPPA, MARAC etc) Multi Agency Safeguarding Hub (MASH)
These are prompts and this is not an exhaustive list of considerations		

C. PLANNING THE ENQUIRY

Once the concern has been assessed and screened and it has been determined that a Section 42 enquiry is required, there is a need to plan this with the relevant team, agencies and individuals, including the person subject of the safeguarding concern or their representative.

If, following discussion with the Police, there is a possibility of a crime being committed, the Enquiry should always be planned within the context of a coordinated discussion to plan the enquiry particularly with a view on how the adult will be involved in the case. Where there is a serious crime being alleged, a meeting needs to be convened.

In all cases where a concern is progressing to an enquiry, discussion with the person who is subject of the concern and relevant agencies is required. Consideration needs to be given as to the best way to achieve agreement of an enquiry plan, i.e. a meeting, telephone discussions, (conference call or series of calls), email discussion. In all cases a record of the discussion needs to be maintained.

Purpose

- To confirm if the initial concern needs an enquiry under Section 42 of the Care Act 2014 and if not, to consider if another enquiry or another process is required;
- To identify initial actions by key agencies required to keep the individual safe during the period of the enquiry;
- To agree how urgent an enquiry is and whether an immediate response is required and whether there are any urgent actions to assist in the enquiry, for example forensic medical examinations;
- To consider if in ensuring the safety of an adult at risk there is a need to do so under a legal framework, for example: Deprivation of Liberty Safeguards (see [Code of Practice - Deprivation of Liberty Safeguards](#));
- To consider the views of the adult and what outcomes they would like from the safeguarding process. Where this is not available their views expressed via their representative (family member, friend, advocate)
- Consider the need for an Independent Mental Capacity Advocate;
- To consider any action already instigated or being considered by other agencies (e.g. criminal investigation, disciplinary action, serious incident investigation etc.) and how this may impact on any enquiry under this procedure;
- To carry out an enquiry in tandem with other procedures, assessments and investigations. This may include the following:
 - Criminal Investigation/Civil Proceedings;
 - Regulatory Contact Compliance Procedures;
 - Mental Health Act Assessment;
 - Mental Capacity Act Assessment;
 - Care Programme Approach/Community Care Assessment/Care Plan Review/Review Meeting;
 - Complaints Procedures;
 - Disciplinary Procedures;

- Health & Safety Investigations;
 - Environmental Health processes;
 - Anti-Social Behaviour Teams investigations; and
 - Public protection issues (for example PREVENT).
- To seek advice on any legal framework under which further enquiries could be pursued or actions taken and any Human Rights issues;
 - To assess all information held by agencies and information collected following the receipt of the initial concern;
 - To decide who should be informed about the alleged abuse, for example, any agencies involved with the adult, family members, others who may be at risk, however, this should be in agreement with the person who is subject of the safeguarding concern as appropriate;
 - To carry out an assessment of risk to the individual and/or other adults who could be at risk and consider:
 - The risk of repeated or escalating acts affecting the adult or other adults at risk;
 - The extent of the abuse;
 - The length of time the abuse has been occurring; and
 - The impact of an enquiry on the individual's well-being (there may be occasions where an enquiry could be detrimental to the individual and preventing future harm or working on their recovery maybe the priority).
- The adult at risk's capacity may need to be assessed by appropriately qualified professionals. In order to make decisions, the adult at risk's emotional, physical, intellectual and mental capacity in relation to their desired outcomes;
 - Their ability to assess and manage their own risks – are they able to safeguarding themselves in future?;
 - If there have been difficulties in engaging with the adult, to agree ways of involving them at the earliest opportunity;
 - To consider the needs of others who may be involved in the concern. For example, if the person alleged to have caused harm is an adult at risk, the enquiry should ensure an assessment of their needs is undertaken independent of this enquiry. It should also be considered whether the person alleged to have caused harm requires and Independent Mental Capacity Advocate.
 - To determine the most appropriate enquiry method or methods to address the concerns detailed in the referral (e.g. interviews, examination of written records, conversations);
 - Decide how, where and with whom conversations or interviews will be held and who would carry these out and
 - To ensure that there is clarity about the purpose, extent and limits of the enquiry being carried out by the relevant agency or agencies.
 - The need for an examination for medical or evidential examinations; and The degree of risk to the adult, including:
 - The risk of repeated or escalating acts affecting the adult or other adults at risk;
 - The extent of the abuse;
 - The length of time the abuse has been occurring;

- The impact of an enquiry on the individual's well-being (there may be occasions where an enquiry could be detrimental to the individual and preventing future harm or working on their recovery maybe the priority);
- The adult at risk's capacity may need to be assessed by appropriately qualified professionals. In order to make decisions, the adult at risk's emotional, physical, intellectual and mental capacity in relation to their desired outcomes;
- Their ability to assess and manage their own risks – are they able to safeguarding themselves in future?;

NB: In serious or complex cases, a Planning Meeting should always be called. the Enquiry Manager is responsible for:

- Identifying the key agencies to be involved in the Planning process and how the adult is supported and included;
- Ensuring the adult is supported if required. This could require the need for a referral to the advocacy service.
- Ensuring immediate consideration of the initial referral and allocation to an Enquiry Officer;
- Agreeing the approach (whether face to face discussion is required or not) with relevant agencies;
- Liaison with the police concerning the collection of relevant evidence or information when it is believed a crime has been committed;
- Ensuring that available reports and information and evidence regarding the enquiry are available as appropriate;
- Chairing any Planning Meetings or leading the discussion and ensuring the decisions made are communicated to the participants at an early stage;
- Arranging for an appropriate minute taker when a meeting is required
- To ensure the correct information management process is followed and data is provided as required by the Local Safeguarding Adults' Board; and
- To ascertain if there are or should be other public protection processes in place.

** Where the Enquiry Manager has decided to manage the initial stages of the alert without holding a "face to face" meeting, the Enquiry Manager would lead this discussion which must be fully recorded and include the outcome of the discussion(s).*

Timing

Overall, timescale to complete Planning Actions should be within 5 working days (one working day in serious cases with a risk of imminent harm) of the initial alert being raised. However, in the interests of ensuring there is meaningful and appropriate involvement of the individual who is subject of the concern, this time frame needs to be relaxed. Should a delay in concluding this stage of the process occur, this is to be clearly recorded outlining the reasons and interim action taken to ensure continued safeguards for the individual.

Quorum

- If it is decided that a Planning Meeting is required, attendance is by invitation only from the Enquiry Manager bearing in mind the views and wishes of the adult. Other agencies that are deemed to be able to make a significant contribution as they may have professional expertise or knowledge around the concern should be invited. There must be sufficient information available to make decisions in planning the enquiry.
- For an effective Planning Meeting (or telephone discussion) it must include the Enquiry Manager and the agency representative(s) appropriate to the concern raised. For example, if a crime is considered to have been committed, this should include the police or it should include health staff in the event of a concern regarding a clinical incident.
- The person who is the subject of the concern should be invited to any planning meeting or involved in a planning discussion. If in exceptional circumstances this would be inappropriate or put the person at further risk of harm, alternative methods of involvement need to be established e.g. involving their advocate/representative, one to one conversations.

Agencies who consistently refuse or fail to be involved in the process when invited at any stage will be reported by the Enquiry Manager to the Adult Safeguarding Manager.

Where it is decided that a health and social care professional working with the person alleged to have caused harm is required to attend any meetings held under this policy, this professional would not be involved in the decision making process and may only be required for part of the meeting.

Confidentiality

All information given at the planning stage is strictly confidential and disclosure may only occur within the interagency agreement on Information Sharing and Confidentiality. This means that information shared while planning the enquiry by an agency is still owned by that agency but also held by other agencies participating making the decisions. (See Section J: [Information Sharing Protocol](#))

The Enquiry Officer is responsible for:

- Conducting initial enquiries;
- Holding a conversation with the adult within an agreed timeframe to establish their desired outcomes;
- Keeping the Enquiry Manager updated;
- Gathering background information about the adult, the alleged abuse, support networks, carers and the involvement of other agencies;
- Gathering information in a way that is sensitive to the needs of the adult but that does not alert the alleged perpetrator;
- Completing reports as instructed by the Enquiry Manager;
- Maintaining confidentiality and accessing managerial and professional support systems; and

- Informing the adult and/or their representative about the outcome of any initial action taken.

Other Professionals involved in the planning process are responsible for:

- Sharing their respective agencies' knowledge about the incident and the background of the adult and/ or person alleged to have caused harm;
- Contributing to the assessment of risk;
- Informing the discussion/meeting of any concerns about possible violence, intimidation or coercion;
- Providing specialist knowledge when required (e.g. Legal);
- Submitting a report if unable to attend any meetings or participating in any discussion; and
- Completing any actions allocated during the planning process.

Process and content of a Planning Meeting

In a situation requiring immediate action some or all of these decisions will have taken place to ensure the safety of the adult and/or others who are considered at risk. A Planning Meeting may then be helpful as a means of formalising those actions and agreeing further action

- To plan the Enquiry, assess risks and allocate tasks;
- To agree what other agencies may need to be involved or in some cases may carry out the Enquiry (e.g. employers, commissioners of services);
- To consider the views and the desired outcomes of the adult and negotiate outcomes if there is an overwhelming reason they cannot be achieved (for example where an individual does not want to pursue action under the safeguarding procedures, but it is felt that others could be at risk, or their decision was made under duress); (see [Section 1: Capacity, Consent & Best Interest](#))
- To ensure that an assessment of the individual's mental capacity is arranged as required;
- To consider what action is required to minimise the risk to the adult and whether any legal action may be required to secure the individual's safety (for example Application to the Court of Protection);
- To consider the potential risks to others and what action needs to be taken to secure their safety;
- To agree what practical support is required for the adult and/or their carer (e.g. advocacy) if not already considered;
- To ensure that issues relating to equalities and diversity (race, culture, sexual orientation, age, language, communication, disability, gender, marriage and civil partnership status, gender reassignment (transgender) and pregnancy and maternity) that may require special arrangements are addressed;
- To consider the needs and wishes of the person who raised the initial concern and ensure that appropriate action is taken to protect them as necessary and provide feedback as appropriate and in line with "need to know" and confidentiality;
- To develop an Action Plan for the Enquiry;
- To set the date for any Adult Safeguarding Conference if required;

- To close down the Enquiry with an Adult Safeguarding Plan if that is felt appropriate by those present; and
- To consider if a review of care and support is required.

Minutes of the Planning Meeting

- The minutes of the meeting should include the following:
 - Time and date of alleged incident/allegation and brief synopsis of what has occurred;
 - The views of the adult concerning their wishes (via their representative if necessary);
 - The mental Capacity of the adult (as appropriate);
 - Information shared;
 - Persons involved in incident/allegation;
 - List of attendees and those who were unable to attend;
 - Identified risks;
 - Actions agreed in managing any risk(s);
 - Decisions made in respect of the allegation;
 - Responsibility for actions;
 - In the exceptional circumstances where the adult themselves are not able to participate in the process at this stage, the reasons for this need to be recorded together with action required and timeframe in which to engage with them or their representative; and
 - If it is agreed that the case should be closed or follow a different route at this stage, the reasons for this and the discussion that took place to come to this conclusion needs to be recorded.
- Full Minutes including the action will be circulated within 5 working days;
- Both must be commented on for corrections or amendments in 5 working days and returned or shredded on receipt of corrected version;
- All agencies will ensure that Minutes, which relate to Adult Safeguarding, will be kept in the confidential section of the person's file (They will not for example be attached to their medical records which may follow a person through hospital departments); and
- The Action Plan can be made available to those providing a service to the adult as appropriate at the discretion of the Enquiry Manager.

D. SAFEGUARDING ENQUIRIES

Overall the purpose of any enquiry is to determine whether the allegation of abuse or neglect is substantiated or not and identify any risks or potential risk and consider if agencies or others should be doing something to help and protect the adult.

Safeguarding Enquiries are to:

- Protect the individual (or individuals) from serious harm;
- Establish and record the facts about the circumstances giving rise to concern;
- Establish evidence for formal proceedings (e.g. criminal, regulatory, contractual or disciplinary);
- Establish with those subject of the safeguarding concern what outcomes they would like as a result of the safeguarding process (if not already established prior to embarking on the enquiry);
- Establish with the adult whether they feel their personal safety is at risk, whether they wish professional intervention to occur and what their views are on sharing information with other agencies who need to know;
- Decide if protective or other action is needed for the adult at risk or any others;
- Identify the sources and levels of risk through the completion of a risk assessment;
- Decide whether alleged or suspected abuse has taken place and record the reasons for these conclusions;
- Ensure that appropriate action is taken to protect the person who raised the initial concern if necessary;
- Ensure that appropriate action is taken in respect of anyone alleged to have caused harm;
- Identify if other enquiries are required following, or to run concurrently or instead of the current enquiry; and
- Identify any lessons to be learnt for the future, including recommending changes to the organisation and delivery of services.

The tasks that need to be undertaken include the following:

- Collect evidence to indicate whether there is any foundation to what has been alleged;
- Carry out a comprehensive assessment of the individual(s); Assess their personal safety or safety of others;
- Determine the person's mental capacity if not already established. It may be necessary to factor in the impact abuse could have on the individual's capacity to understand the harmful nature of their experience; (see Section I: [Capacity, Consent and Best Interest](#))
- Liaise with the individual or their representative, relative, advocate etc.;
- Where the person lacks capacity and has an allocated IMCA, liaison with the IMCA;
- Determine the preferred outcome of the person if he or she has capacity;
- Determine the need for medical intervention relating to the physical or mental welfare of the adult at risk;
- Decide whether legal advice needs to be sought;
- View other sources of evidence, including written records, statements from witnesses, forensic and medical evidence;

- Consider the different methods of gathering and presenting evidence and the different requirements with regard to standard of proof;
- Take into account the communication needs of the adult and ensure that an appropriate service is offered (e.g. people with dementia, those whose first language is not English and people with sensory impairment or a learning disability);
- Ensure effective care planning takes place; and
- Consider any Human Rights issues.

The Responsibilities of Wiltshire Police with Safeguarding Enquiries

The Police have a duty and a responsibility to prevent and investigate criminal offences committed against 'vulnerable adults' (adults in need for care and support) and deal with these matters sensitively, thoroughly and professionally. As well as Safeguarding Adults Investigators, any Police Officers may carry out an investigation as part of their everyday duties. Such investigations may need to be carried out jointly with adult services.

Safeguarding Adults Investigation Team

Safeguarding Adults Investigation Team (SAIT) has a major role with delivering these procedures and is part of Wiltshire Police's Public Protection Department. This specialist unit acts as the conduit for all referrals originating from both police and partner agencies and carries out investigations according to 'Strand 3' of the 'Three Strands of Vulnerability' (see below).

The referrals are triaged by the SAIT Investigations Manager who works in close liaison with the SBC Adult Safeguarding Team, before being forwarded to the most appropriate recipient. These will include relevant adult care services as well as other Police departments, such as Community Policing Teams.

Wiltshire Police identified areas of vulnerability are:

Strand 1: Welfare concern. Relevant issues are passed via dedicated contact centres to the relevant local authority support service, such as social services;

Strand 2: Victim/Witness to a crime/Anti-Social Behaviour incident. These concerns are managed locally by Community Policing Teams through the implementation of a risk assessment process and collaborative work with partner agencies; and

Strand 3: Safeguarding Adult investigations; i.e. those involving Adults at Risk who are in receipt of care services and subject to abuse from family member/person/carer in a position of trust and client on client Strand 3 concerns are those which meet the criteria for SAIT intervention.

E. INTERVIEWS & CONVERSATIONS

Care Act Guidance states that “An enquiry could range from a conversation with the adult, or if they lack capacity, or have substantial difficulty in understanding the enquiry their representative or advocate, prior to initiating a formal enquiry under section 42, right through to a much more formal multi-agency plan or course of action. Whatever the course of subsequent action, the professional concerned should record the concern, the adult’s views, wishes, and any immediate action has been taken and the reasons for those actions.”

Interviews and conversations that take place as part of a section 42 enquiry need to be conducted with the agreement of investigating manager.

The adult should not be involved in a formal interview alone (unless they wish otherwise) or in the presence of the person alleged to be responsible for the abuse or neglect. A joint interview (particularly as part of a Police investigation) is preferable at which the adult should be supported by any of the following:

- An appropriate health or social care professional;
- An independent advocate;
- A member of their family or close friend, as long as they are not being interviewed as a witness or implicated in the case; and
- If an interview is required with the person alleged to have caused harm, consideration needs to be given if they are also an adult with care and support needs or if they need to be accompanied by an appropriate adult or independent advocate.

Care should be taken to ensure that a premature determination of the facts does not occur. No plan of action, except in emergency circumstances, should be initiated until the facts surrounding the alleged abuse have been established. All information gathering must be recorded and shared with the Enquiry Manager and ultimately those involved in planning the enquiry.

Carrying out an interview or holding a conversation

During any interview the Enquiry Officer should ensure that:

- information about his/her designation and the agency he/she represents is stated clearly;
- how a formal interview is carried out is explained;
- the purpose and the reason for the interview is made clear;
- depending upon who is being interviewed or where appropriate, the desired outcomes of the adult at risk are understood;
- the welfare of the interviewee is considered whilst conducting the interview;
- an attempt is made to establish the facts in relation to the issue being investigated;
- if there are any signs of injury, an explanation is given for the cause of the injury and the general condition of the adult are noted and whether medical assistance has been sought or is still required;
- support networks are in place for the adult;
- any unmanaged risks are assessed;

- attention is paid to the indicators of abuse; and
- In all cases it will need to be made clear that the information gained may be used for another purpose (e.g. In an investigation carried out under staff disciplinary procedures)

If this is not a joint investigation with the Police and new facts come to light that indicate a full Police investigation may be required, the interview should be terminated to allow consultation with the Police to review the investigation.

Holding Conversations

It may be more appropriate for a less formal approach in carrying out an enquiry. A conversation or a series of conversations about the concern may be a more effective method to get the best out of the person or their representative. These should be recorded in the same way as a formal interview, however the Enquiry Officer needs to be aware of the impact on taking notes in such a setting and may formalise the interaction and a clip board or note pad may act as a barrier to a free flow of information. If this is the case, the enquiry officer should make notes immediately after the conversation.

Ending the Interview or conversation

The following points should be covered:

- A clear summary of what has been said during the interview;
- Any additional information and comments from the adult are invited;
- An outline of the next stage of the process, and who is going to be involved;
- How the adult will be involved in any outstanding actions (as appropriate); and
- Confirmation of the desired outcomes of the adult following the interview or conversation and their satisfaction with current support arrangements.

F. ENQUIRY REPORT

The Enquiry Manager will decide the format of any reports needed and the format in which they are required, i.e. whether it is required in writing or verbally. Where a case is likely to be subject to criminal or civil court proceedings, is a large scale or complex case, a written report should always be made available. Where an Enquiry Manager has decided that a full written report is not required from the Enquiry Officer, the details of the investigation must be fully recorded within the minutes of any safeguarding meetings and/or included in care records or on logs used by the safeguarding team to facilitate data collection.

A report will be presented to the Enquiry Manager and will form the basis of discussion at any Adult Safeguarding Conference/Review. It may also be used as evidence in Criminal and other proceedings. Overall, it is required to enable the development of a safeguarding plan.

The report will need to include the following areas:

- Details of the initial referral;
- Outline of the current allegations and any previous allegations;
- An assessment of the seriousness and impact of the alleged abuse or neglect;
- Location of the abuse;
- Possible causes of the abuse;
- Background information about the adult;
- Who was involved in the enquiry and who provided support to the adult;
- The mental capacity of the adult;
- Issues and opinions relating to consent;
- The desired outcomes of the adult;
- Social circumstance of the adult;
- Information about the person alleged to have caused harm (if applicable);
- A description of the enquiry process;
- Identification of any concerns regarding the co-operation given to the enquiry process;
- Identification of any concerns regarding the co-operation given to the person carrying out the enquiry in fulfilling their duties;
- Presentation and evaluation of the evidence;
- A view about future risks; and
- Recommendations about future action required and what may be required as part of the safeguarding plan.

Other Enquiries

If an enquiry is being held by other agencies, the enquiry manager will also agree the format of reports required following their enquiry.

This may include:

For clinical incident:

- A full Root Cause Analysis (RCA);

- A synopsis of preliminary findings if the RCA is still to be finalised; or
- 72 hour report.

For Enquiries carried out by an employer:

- A complaint report and/or response;
- A report of a disciplinary investigation and outcome of a disciplinary hearing; or
- A Health and Safety incident report.

Office of Public Guardian - depending upon the case, they may provide:

- Full report of their enquiries;
- A synopsis of an enquiry by letter or email; or
- An outline of their involvement with a specific case.

Regulator and Compliance reports:

- Reports following CQC Responsive Inspections;
- Reports of monitoring visits by SBC Contracts Team or CCG Quality Team; or
- Statements, letters, emails from the CQC or contracts or quality assurance officers.

Nb. Although the above may not always constitute a full report of an enquiry, they may be used as evidence of an enquiry or part of a wider enquiry by the Local Authority, a joint investigation with the Police, or be used in criminal proceedings.

The EM needs to check the suitability of the report and request additional information (see *Section J: [Information Sharing Protocol](#)*)

Logging Enquiries:

In all cases, irrespective of whether a safeguarding meeting or review meeting took place, the details of the enquiry need to be included in care records (case notes). If copies of the enquiry report are shared with others involved in the safeguarding concern, the Enquiry Manager should direct the agency in receipt of the report on the need for ensuring the security of the information and that this is only shared on a need to know basis following a discussion. The Enquiry manager is also responsible to ensure that the relevant logs are completed to enable accurate data collection within 10 working days of completion of the enquiry or following any safeguarding meeting.

G. ADULT SAFEGUARDING PLAN

Depending on the outcome of an enquiry a Safeguarding Plan should be developed. This should reflect the wishes of the adult as much as possible. The overall aim of the plan is to “achieve resolution and recovery” while supporting the adult to recognise risks and if possible manage risks for themselves. A plan may be required irrespective of whether the enquiry concludes that an allegation is substantiated or not. An inconclusive outcome could still lead to a requirement that further protective or preventative measures may need to be put in place to reduce the likelihood of reoccurrence.

Appropriate support needs to be available to the individual to maximise or inform the level of their involvement in the safeguarding process. The default position is that the person who is subject of the concern is directly involved in the process, enabled to participate in any discussions or invited to any meetings that are arranged. However, if this is not possible or believed to be detrimental, the Enquiry Manager needs to ensure involvement of their representative and that someone is tasked with establishing their view and wishes.

Aims

- To ensure that all professionals are working in a co-ordinated way, to assess all relevant information and plan how to safeguard the adult and promote their wellbeing and the welfare of any others who may be at risk;
- To ensure the views and wishes of the adult are respected as much as possible. This is to include decisions about:
 - Their desired (or negotiated) outcomes of the enquiry;
 - Their agreement to participate in any discussions to draw together the safeguarding plan;
 - Who they want to represent their views if they choose not to participate; and
 - Further involvement in the enquiry and ongoing support required as the case progresses.
(See Section I: [Capacity, Consent and Best Interest](#))
- To ensure an inter-agency approach for assessment, planning and review of the individual;
- To record all discussions and decisions in relation to the proposed course of action; and
- To evaluate progress of other processes taking place that had previously been agreed by the Enquiry Manager as part of the overall enquiry – e.g. Police, CQC, Clinical Governance, Health and Safety Executive investigations, actions by a provider.

The Adult Safeguarding Plan

The safeguarding plan needs to include all the actions required following the enquiry to make the adult safe and help them to recognise risks and manage them as much as possible for themselves. This may mean that the safeguarding plan should establish options to develop skills to respond to risks and make choices about taking informed risks.

The findings of the enquiry should inform the safeguarding plan and reflect the desired outcomes of the individual.

The safeguarding plan may need to include:

- A review of existing care plans or a new assessment of care and support needs for the adult and if necessary the person responsible for the alleged abuse;
- A change in service provided or an amendment of a support plan or change in accommodation;
- Action required to support the adult through the Criminal Justice System if the case is to progress to Court;
- Action by an employer to deal with an allegation against a member of staff and “in house” action to enable the adult to regain confidence in the service they previously enjoyed;
- Action under the Mental Capacity Act. For example Best Interest Meetings, issues relating to Power of Attorney;
- Actions required when an adult is refusing involvement and declining support and there is a belief that they are a victim of coercive and controlling behaviour by someone and this is influencing their willingness to accept support;
- Action under the Mental Health Act;
- Any treatment or therapy or referrals to additional services to assist with the person’s recovery;
- Actions relating to the management of finances;
- Actions relevant to the person (s) or organisations considered to be the source of the abuse or neglect e.g. compliance action by the relevant commissioner;
- Support required to the person who is alleged to have carried out the abuse where they too have care and support needs. This may include advocacy, ensuring entitlement to legal rights under the Police and Criminal Evidence Act 1984 (PACE) and if they lack mental capacity, access to an IMCA. Actions relating to improving the adult’s knowledge of being and staying safe (e.g. visit from crime prevention services) and development of any risk management plan;
- Issues relating to Legal Advice. For example there may be occasions where an injunction is required for someone who is a victim of Domestic Abuse; and
- For allegations against staff, refer to [Section P](#) of this guidance, but overall consideration is required regarding action to be taken by employers where an enquiry has highlighted a conduct issue resulting in sanctions against an employee. These may include referrals to DBS, notifications to professional bodies (NMC, HCPS etc.).

Following an enquiry, a formal meeting (an Adult Safeguarding Conference) should be considered to ensure effective multi agency involvement. However, if it is felt that a discussion or series of discussions (rather than a formal meeting) would be sufficient to draw up a safeguarding plan, attention should still be given to the points below.

The purpose of an Adult Safeguarding Conference

- In a multi-agency setting, draw together and analyse the information which has been obtained through the initial enquiries at the planning stage;

- Seek approval from the adult about the safeguarding plan. Where the adult lacks capacity to make decisions, a range of options should be identified, which help them to stay in control of their life as much as possible;
- To ensure the wishes, feelings and views of the adult and their carer/representative are taken into account during the conference and recorded. This should include:
 - Were they able to make informed decisions about their safety during the case (if the case is to be closed at this stage)?
 - Their views about the case and the process; and
 - Do they feel safer at the end of the process?
- For professionals to share relevant and accurate information and ensure there is differentiation between what is fact and what is opinion;
- Help to make judgements about the likelihood of the adult and others who may be affected being at risk of significant harm in the future. This may include lessons learnt that may help prevent abuse in another setting or in different circumstances;
- Consider the effectiveness of the support provided to the adult(s), their carers/representative and others involved in the concern up to this stage of the safeguarding process and agree changes to arrangements to maximise their involvement;
- Enable a discussion regarding mental capacity and Best Interest, particularly when the adult or the person alleged to have caused harm lacks mental capacity. This may require a report from an Independent Mental Capacity Advocate (IMCA);
- Consider any actions required to reduce risk of harm to the person who has refused to participate in the process or has declined support. This is particularly important if there is a concern that the adult is acting under duress;
- Decide what further action is needed to safeguard the adult and promote their health and wellbeing, and how actions will be taken forward, and with what intended outcomes;
- Help resolve issues when there are serious concerns that an adult may not otherwise be safeguarded adequately or where there is dissatisfaction with the outcome of any part of the safeguarding process;
- Evaluate action(s) taken to protect the alerter(s) where required;
- Identify additional action(s) required following the closure of a criminal investigation;
- Agree the Adult Safeguarding Plan;
- Identify any additional actions required regarding the person(s) alleged to have caused the harm;
- Agree an on-going risk management strategy where appropriate and how this will be co-ordinated;
- Agree what information is to be fed back to the alerter (within the bounds of confidentiality and the individual's rights to privacy) and who is to be responsible for feeding back this information;
- Decide whether there are any other individuals or organisations that have a legitimate right to know about the progress or outcome of the investigation;
- Confirm that all actions have been completed from the enquiry action plan and set timescales for any outstanding or new actions; and
- Determine whether the case should be subject of a Safeguarding Adults Review or large scale investigation.

When the process is not concluded at an Adult Safeguarding Conference, a Safeguarding Review meeting will be called at the discretion of the Enquiry Manager within 8 weeks of the Conference or a time to suit the person who is subject of the safeguarding concern to enable their involvement.

H. Adult Safeguarding Outcomes Review

This section is currently under development

I. CAPACITY, CONSENT AND BEST INTEREST

Issues of mental capacity and consent are often central to our understanding and exploration of adult abuse. Wherever possible it is essential that individuals understand the nature and effects of the alleged abuse and the choices and possible outcomes facing them.

In the context of adult abuse there are two stages at which the capacity to give consent may require consideration:

- Did the adult at risk have the mental capacity to consent to the act, relationship or situation which constitutes the allegation of adult abuse?
and
- Does the adult at risk have the mental capacity to give consent to any actions that professionals wish to take to investigate the matter further and to take steps to prevent further abuse?

Although a person may not have consented to the abusive act, they may not agree to any agency intervention as a consequence.

In situations where the adult at risk is assessed as not having mental capacity in relation to particular acts and/or decisions, professionals and others are required to act in the 'best interests' of the individual concerned (see below).

It is important to establish an adult at risk's mental capacity in relation to specific acts/decisions at an early stage in the investigatory procedure. This is necessary to ensure that an individual's rights are not violated under the Human Rights Act 1998.

How decisions are made will be determined on an individual, case-by-case basis. However the prime principle which underpins both current law and medical practice with regard to issues of mental capacity is that people should be:

“enabled and encouraged to take for themselves those decisions which they are able to take”

(Law Commission Report No. 231 (1995), para 2.46)

The Mental Capacity Act 2005: Principles underlying good practice:

The statutory principles which underpin issues around mental capacity are set out in Section 1 of The Mental Capacity Act 2005. The principles are:

- A person must be assumed to have capacity unless it is established that he lacks capacity;
- A person is not to be treated as unable to make a decision unless all practicable steps to help him to do so have been taken without success;
- A person is not to be treated as unable to make a decision merely because he makes an unwise or eccentric decision;
- An act done or decision made for or on behalf of a person who lacks capacity must be in his best interests; and
- Before the act is done or the decision made, regard must be had as to whether the purpose for which it is needed can be as effectively achieved in a way that is less restrictive of the person's rights and freedom of action. This is the “minimum intervention principle” supporting practices that interfere least with the individual's

freedom of action and follows the spirit of Article 8 of the European Convention of Human Rights.

Mental Capacity

- All adults are presumed to have mental capacity unless there is clear evidence to the contrary. Section 2 of the Mental Capacity Act 2005 states that a person lacks capacity if at the material time -
“S/he is unable by reason of mental disability to make a decision for himself (or herself) on the matter in question because of an impairment of or a disturbance in the functioning of the mind or brain.”
- The impairment or disturbance may be permanent or temporary and may result from a range of conditions eg a mental disorder, including dementia, an acquired brain injury or stroke, a learning disability, temporary delirium resulting from a physical illness, the short-term effects of alcohol or drugs. Simply experiencing one of these conditions does not necessarily lead to lack of mental capacity.
- A lack of capacity cannot be established merely by reference to a person’s age, disability or behaviour.
- The question of whether someone has capacity must be decided on the balance of probabilities – i.e. a reasonable belief that it is more likely than not.
- Consideration of capacity is limited to the particular decision at the particular time. It is not a general assessment of capacity.

For example the test of capacity to give consent to medical treatment will vary from the test of the capacity to make a gift or draw up a will. It is essential that in situations where an adult at risk is thought to lack capacity, both medical and legal advice be sought at the earliest opportunity.

Ability to make a decision

Section 3 of The Mental Capacity Act 2005 states that someone is “unable to make a decision” if the person experiences an impairment of or a disturbance in the functioning of the mind or brain that makes them unable to do **any** of the following in relation to a particular decision:

- Unable to understand the information relevant to the decision i.e. to understand the reasonable foreseeable consequences of deciding or failing to make a decision;
- Unable to retain the information;
- Unable to use the information as part of the process of making the decision; or
- Unable to communicate the decision either verbally or non-verbally.

All assessments of an adult at risk’s capacity should be recorded in the case file of the individual agency.

Consent

According to the ‘Mental Health Act (1983): Code of Practice’, consent is defined as:

“The voluntary and continuing permission of the adult to agree to a course of action or inaction, based on an adequate knowledge of the purpose, nature, likely effects and risks of the proposed action or inaction including the likelihood of its success and any alternatives to it.”

Permission given under any unfair or undue pressure is not 'consent'.

It is important to note that the law states that there are some acts to which some adults are legally able to give consent and some relationships within which consent cannot be given. For example, in law, it is against the law for a "care worker" to have sexual activity with a "mentally disordered person" (Sexual Offences Act 2003).

Best Interests

Where an adult at risk is judged to lack capacity in relation to a specific decision, this decision should be made in their 'best interests' following the Statutory Checklist in the Mental Capacity Act Code of Practice.

Section 4 of The Mental Capacity Act 2005 gives guidance on particular factors to be taken into account. None of the factors carries any more weight or priority than another.

The person making the decision must first consider whether the person is likely to regain capacity at some time and if so when. This suggests that non-urgent decisions might be postponed if there is a likelihood of the person regaining capacity.

There is also a requirement to permit and encourage the person to participate as fully as possible in any act or decision.

The factors, which must be considered, include:

- The ascertainable past and present wishes and feelings of the person concerned (including any written statements);
- The beliefs and values (including religious and cultural beliefs) likely to influence his/her decision if he/she had capacity; and
- Other factors that the person would be likely to consider if they were able to do so (for example a sense of family obligation).

In particular, talk to others considered appropriate to consult: anyone named by the person or engaged in caring for them; close relatives or friends who take an interest in their welfare; anyone with Lasting or Enduring Power of Attorney; any Court of Protection Deputy, instructed Independent Mental Capacity Advocate or advocate.

There may be different options or choices that can be made: before the final choice is made all other less restrictive possible options should be considered and wherever possible chosen so that no unnecessary limits are placed on the person's current or future opportunities, whilst still allowing the original purpose of the decision to be achieved. Best interests are not limited to best medical interests'. Re MB [1997] The Courts have given guidance that medical, emotional, social and welfare interests may be relevant and should be entered into the 'balance sheet'.

Acts in connection with care or treatment

The Mental Capacity Act Code of Practice provides guidance to anyone who is working with and/or caring for adults who may lack capacity to make certain decisions. It describes their responsibilities when acting or making decisions on behalf of individuals who lack capacity to make these for themselves. In particular the Code of Practice focuses on those who have a duty of care to someone who lacks the capacity to agree to the care that is being provided.

Section 5 of the Act allows carers, healthcare and social care staff to carry out certain tasks without fear of liability. These tasks involve the personal care, healthcare or treatment of people who lack the capacity to consent to them. The aim is to give legal backing for acts that need to be carried out in the best interests of the person who lacks the capacity to consent.

Under the Act where a person does an act in connection with the care or treatment of another person, he /she will not incur liability so long as he reasonably believes that:

- They have observed the Mental Capacity Act Principles;
- They can show they have assessed capacity;
- They “reasonably believe” on balance of probabilities that the person lacks capacity to make the decision;
- They can show they have used the Best Interests checklist; and
- They “reasonably believe” the action is in the best interests of the person.

It does not however authorise restraint unless:

There is a reasonable belief that restraint is necessary to prevent harm to the person and

The form of restraint is proportionate to the likelihood of the person suffering harm and the seriousness of that harm. i.e. the least restrictive action for the shortest period practicable

[See Mental Capacity Code of Practice](#)

(www.justice.gov.uk/protecting-the-vulnerable/mental-capacity-act)

Medical Treatment

In the context of determining whether or not medical treatment should be provided, or what kind of medical treatment should be provided to someone who lacks capacity, the House of Lords has defined best interest as medical treatment which is:

‘Necessary to save life or prevent a deterioration or ensure an improvement in the patient’s physical or mental health; and in accordance with a practice accepted at the time by a responsible body of medical opinion skilled in the particular form of treatment in question’

(Code of Practice: Mental Health Act 1983)

J. Information Sharing Protocol Safeguarding Adults

This protocol is to be used in conjunction with the [Policy and Procedures for Safeguarding](#)

The protocol sets out standards and principles to be applied whenever personal information is shared or exchanged. It details the specific arrangements and responsibilities for sharing information relating to adults who have needs for care and support, who are experiencing abuse or neglect or at risk of it and are unable to protect themselves from the abuse or neglect or the risk of it as a result of their care and support needs - from here on referred to as “adult”. All the organisations signed up to the Protocol are fully committed to ensuring that these standards and principles are adhered to at all times.

Organisations and agencies in Swindon recognise that initiatives requiring a multi-agency approach cannot be achieved without the sharing of information about individual service users, levels of activity, the level and nature of resources, and about their approach to addressing the issues. The agreement to work in a multi-agency system to support adults therefore includes a commitment to enable such information to be shared in ways that are compliant with their statutory responsibilities and the requirements of the law:

- Information about individuals will be shared only when and where it is needed;
- Information will be shared in accordance with statutory duties;
- Information that is provided in confidence will be treated as confidential;
- Information will be used only for the purposes for which it was collected and shared;
- Where appropriate, individuals will be fully informed about the way their personal information is used and shared;
- Where possible, consent to share information will always be sought from the appropriate individual (see [section 5 below](#)); and
- Considerations of confidentiality and privacy will not cease when an individual dies where Freedom of Information principles will need to be applied. Consideration will need to be given to any views expressed by the person prior to death.

In observing the Data Protection Act (1998), the Swindon Local Safeguarding Board (LSAB) will work to ensure that the following principles apply in handling personal information:

- where an individual has a choice as to whether the information can be shared or not, it will be as easy as possible for the individual to exercise that choice;
- information will only be processed without an individual's knowledge where this is assessed by the Data Controller as necessary for purposes such as national security, public safety, the prevention of crime or disorder, the protection of health or morals, or the protection of the rights and freedoms of others;
- only information which is essential to the wellbeing of the individual will be collected and processed;
- personal information will be on a need-to-know basis to be accessed only by staff who need it to do their jobs;
- any information which is no longer needed will be deleted or securely disposed of in line with agencies' retention and disposal policies;
- decisions affecting an individual will only be made on the basis of reliable and up to date information;

- personal information will be protected from unauthorised or accidental disclosure subject to any statutory exemptions, a copy of any information held will normally be provided on request;
- any inaccurate or misleading information will be checked and corrected as soon as it is identified; and
- proper procedures will be in place for dealing promptly with any complaints that are made. The principles apply to personal information which is held both on computer and in some paper records (including all papers records previously covered by the Access to Personal Files Act 1987) Replaced by the Data Protection Act (1998)) in line with agencies' policies and code of practice.

1. Scope

Introduction

Effective safeguarding procedures depend largely on the ability to supply and share information in the best interests of the subject of the safeguarding concern and to achieve appropriate resolution and recovery.

This document is intended to support the multi-agency procedures and outline the statutory responsibilities as laid out in the Care Act 2014 (section 45) and its guidance:

If the LSAB requests a person to supply information to it, or to some other person specified in the request (for example the Safeguarding Enquiry Manager), the person to whom the request is made must comply with the request if this is (1) made for the purpose of enabling or assisting the LSAB to exercise its functions and (2) the request is made to a person whose functions or activities the LSAB considers to be such that the person is likely to have information relevant to the exercise of a function by the LSAB.

Provided that either (3) the information relates to:

- (a) the person to whom the request is made; or
- (b) a function or activity of that person; or
- (c) a person in respect of whom that person exercises a function or engages in an activity.

OR (4) the information is:

- (a) information requested by the LSAB from a person to whom information was supplied in compliance with another request under this section, and is the same as, or is derived from, information so supplied.

The Care Act also states that information may be used by the LSAB, or other person to whom it is supplied under the criteria above, only for the purpose of enabling or assisting the LSAB to exercise its functions.

This protocol applies to all adults who have needs for care and support irrespective of these needs being met by the Local Authority, who are living in Swindon or where abuse is alleged to have taken place in Swindon. Where an adult is placed outside of the area, the Local

Authority where the abuse occurs will have the overall responsibility for coordinating the Safeguarding Adults arrangements. Swindon Borough Council, as the placing Local Authorities will have a continuing duty of care and will be required to supply information relevant to the case.

General principles of information sharing

The general principles of information sharing in safeguarding adults are that information should only be disclosed on a 'need to know' basis, when it is in the best interests of the individual.

Article 8 of the European Convention on Human Rights gives everyone the right to respect for their private and family life, their home and their correspondence. Authorities can only interfere with this if they are working within the law, are pursuing a legitimate aim (including protecting the health and rights of others) and the action taken is no more than is needed to achieve the legitimate aim of protection.

If the alleged abuse constitutes a crime, the police should be consulted before any information is shared so that evidence is protected and the risk to the adult is minimised. Requests for anonymity by the person raising the initial safeguarding concern will be respected. However, it cannot be guaranteed, especially if the referrer's information becomes an essential element in any subsequent legal proceedings. Wherever possible, contact information of an "anonymous" referrer should be obtained to enable collection of further information if required, to provide feedback regarding the case and if necessary to negotiate the previous request for anonymity.

2. Objectives and Purpose

Objectives

To set out a framework to allow the secure, lawful and confidential sharing of information between organisations, to enable them to have adequate and accurate information to allow them to meet the needs of adults who are subject to safeguarding procedures in accordance with national and local policy and legislative requirements (; Mental Capacity Act 2005, Care Act 2014).

Purpose

This protocol:

- a) outlines the procedures that will ensure that information is disclosed in line with organisational responsibilities;
- b) sets out the reasons why information needs to be shared, and who it will need to be shared with, in order to provide protection for adults;
- c) describes the detail of the specific arrangements for each identified purpose of information sharing; and
- d) sets out the factors that may support the organisation/agency in reaching a decision as to whether or not to share information. It supports the legal responsibility of each

organisation, as Data Controller, to determine how and why personal data is processed or shared.

3. Definitions

The definition of people to be covered by adult safeguarding arrangements as stipulated in the Care Act 2014 is an adult who:

- has needs for care and support (whether or not the authority is meeting any of those needs);
- is experiencing, or is at risk of, abuse or neglect, and;
- as a result of those needs is unable to protect himself or herself against the abuse or neglect or the risk of it.
-

The term 'enquiry' is used in this protocol to cover any part of the safeguarding process under section 42 of the Care Act 2014 - from initial information gathering, enquiries about alleged incidents and relevant background, safeguarding meetings, investigations or enquiries of possible abuse and harm, reviews and action planning. An enquiry may be as simple as a conversation with an individual to determine what (if any) action needs to be taken, or as complex as a multi-agency investigation led by the Police where a crime has been alleged.

Safeguarding Adult Reviews

The LSAB must arrange for a review to be carried out when an adult in need for care and support in its area dies and when there is "reasonable cause for concern" and that the death is known or suspected to have been caused by abuse or neglect (or had it not been for a significant intervention an adult would have died as a result of abuse or neglect or suffered permanent harm or impacted on their health and wellbeing). There are other cases where they may be a need for a Safeguarding Adults Review.

Data Controller

Under the Data Protection Act 1998 Data controller means a person who, either alone or jointly or in common with other persons, determines the purposes for which and the manner in which any personal data is, or is to be processed.

Data processor

In relation to personal data, the Data Processor means any person, other than the employer of the Data Controller, who processes the data on behalf of the Data Controller

Data Subject

The Data Subject means a living individual who is the subject of personal data.

4. Purpose and professional involvement

Purpose

In order to deliver services that protect adults, organisations / agencies will be required to share relevant information about the adult who is experiencing abuse or neglect or is at risk of it, and about other individuals having interaction with the adult where it is relevant to the identified risk of abuse or neglect. This information will need to be shared, between the organisations / agencies that provide services to support the adult as directed by the LSAB or person specified by the Board.

Information will be shared only for the following purposes:

- a) In order to facilitate enquiries where an allegation has been made or there is concern that abuse is taking place;
- b) In order to evaluate the outcome of the enquiry and the effectiveness of the interventions provided; and
- c) In order to highlight or address risks to others that which may have been identified in the course of an enquiry or highlighted as at risk in the initial concern.

Professional Involvement

Only those with a significant contribution to make in the safeguarding proceedings will be party to the information and involved in evaluating its relevance to achieving an appropriate outcome. This will apply across all the agencies that take part in the multi-agency safeguarding enquiry, planning discussions or meetings or case conference or reviews.

Only relevant information will be shared. Therefore, there will be different levels of access operating in respect of each adult or adults in question, with minimal information held centrally.

The levels of information shared will be based on the requirement to protect the adult(s) from abuse or the risk of it, and these levels are to be determined by the Local Authority's Enquiry Manager (in consultation with the Data Controller as required). When sharing information with another organisation / agency it should be made clear by the recipient, whether there is any intention to share the information with other parties. The information should be only shared in the best interests of the adult who is the subject of the safeguarding concern and in negotiation with the relevant Enquiry Manager.

Any professional involved in information sharing with regard to safeguarding concerns must have undergone relevant training on sharing confidential information.

5. Consent for information sharing

Seeking consent for information sharing

Wherever possible, informed consent to share information should be obtained from the adult or their representative.

Although the organisation which holds information about an adult is the Data Controller of that information, there are legal limitations on the uses to which the information may be put

without the adult's consent. Wherever possible, the adult should be told what information is being shared, with whom and why. The person may refuse consent for certain information to be shared with certain others, e.g. relatives, and any such dissent should be respected, if possible. However, should it be considered that not sharing particular information with others would not be in their best interests, a discussion should take place and support provided to enable an informed final decision.

Under the Data Protection Act, an adult can request to see personal information about them which is held by an organisation. They may then be provided with information regarding themselves only. All Third Party information will be reviewed and removed if necessary in line with agencies' process for dealing with data protection subject access requests. Information may also be removed if its disclosure to the requester might give rise to a serious risk of harm or injury to any person.

Subject to mental capacity, consent from the adult should be sought prior to sharing information within or between agencies, unless seeking that consent would be likely to cause or increase the risk of harm, either to the individual or to others. Where an individual lacks capacity, their representative or advocate should be consulted to gain agreement to the information being shared. Information may be shared under Schedule 2 or Schedule 3 of DPA 1998.

The adult or their representative will be given a full explanation as to why the information needs to be shared and who will have access to it.

Best practice in obtaining consent

The process should be respectful and transparent. Professionals should be very clear why the information is to be shared and who it will be shared with. Professionals should talk through the implications of this for the adult (or adults) who are the subject of the safeguarding concern, discussing what effect sharing or not sharing the information may have. Professionals should enable the person to identify any particular items of information they do not wish to share, or any agencies or individuals they do not wish to share the information with. The scope of the information required should be agreed in the Planning Meeting or during discussions (particularly with the individual) during the planning phase of the enquiry.

If circumstances change, and an agency not identified to the adult needs to know information, then renewed consent should be sought.

When consent should not be sought

Professionals should not seek to obtain consent when doing so would:

- Place the adult at increased risk of significant or serious harm;
- Place a third party at risk; or
- Prejudice the prevention or detection of a serious crime.

Delays in seeking consent for information sharing

In cases where there is a perceived risk of compromising the enquiry, the seeking of consent may be delayed or omitted at this point. There may also be occasions where in the interests of obtaining informed consent from the individual it is necessary to delay the enquiry. This should only be done if such a delay will not compromise the outcomes of the enquiry. The reasons for any delay or omission should be evidenced and recorded and agreed with agencies and individuals involved in the case.

A delay in seeking consent may also be required on occasions where someone's lack of capacity to consent is considered to be temporary. A decision will be required as to whether such a delay would compromise an enquiry in which case the person's representative/advocate should be consulted.

Mental capacity and consent

It should be noted that the adult is assumed to have capacity to give consent and that a lack of capacity should be clearly evidenced and recorded.

Irrespective of someone's mental capacity, the Local Authority has a duty to arrange for an independent advocate where the adult will have substantial difficulties in participating in a safeguarding case or if there is no one else who can represent or support them. If the person has been assessed as lacking capacity, an Independent Mental Capacity Advocate should be engaged where there is no other suitable person to represent and support them. In these circumstances the advocate will support the person with making decisions about the sharing of information and will ensure that any decisions made are in the individual's best interest.

Refusing consent

If consent to share information either cannot be obtained, or is refused by an adult with mental capacity, the information may still need to be shared to prevent possible future harm to the adult. It may also need to be shared in the interests of pursuing an enquiry, particularly in regards to a criminal investigation or in the public interest.

This will involve weighing up the potential impact of the disclosure, not just in respect of the adult, but also in respect of other individuals who may be affected by the disclosure, against the impact in not disclosing that information. This will be explained to the adult or their representative.

Where an adult is assessed as having capacity and is refusing to consent to a disclosure, consideration must be given as to whether the legal basis for disclosure allows their refusal to be over-ridden. A record will be made of the lack of consent and the reasons for exchanging data without it, should the decision be made that the information can be shared without consent. A record of this must be included in minutes of meetings or on case notes.

Recording consent

Explicit consent may be given in writing or orally. Written consent is preferable as it reduces the scope for later disputes about the terms of the consent. Consent may also be implicit, for example when a person asks a professional to carry out a task which cannot be done without sharing information.

When consent is given, the professional should ensure that they are clear about the terms of the consent:

- what information may be shared
- with whom
- whether the consent is specifically withheld for sharing particular information or for sharing with a particular agency

The professional should record the consent given and any limits on it and if possible obtain the person's signature on this record. A signed statement should be obtained if the person gives a blanket or partial refusal.

6. Recording

Clear and accurate records must be kept, listing every decision to share (or not the share) information, details of the information shared, with whom and when, and the reasons for this. The record should also include details of the consent approval or refusal.

7. Framework for Information Sharing

When gathering information for an enquiry, multi-agency planning meeting, case conference or reviews, the following points should always be considered:

- The wishes, if known, of the adult who is the subject of the safeguarding concern;
- Whether the adult has given consent to involve other agencies/organisations;
- The justification for sharing information if consent has been refused. In considering this, agencies' / organisation's should have regard to the best interests of the adult and the potential implications of non-disclosure;
- The organisation / agency internal policies and procedures in respect of the disclosure of personal data;
- Whether all the information about the concern and the adult is available, or whether other information is needed and how it will be gathered. It may be necessary to convene the meeting when further information is available; and
- Whether there may be any other possible victims, or other people including children who may need protecting.

The planning discussion should be the forum in which to consider if, how and when relatives, services providers and other interested parties should be informed of the allegations and in which decisions should be taken on how enquiries are to be held.

Confidentiality within meetings can be promoted by the use of the proforma attendance sheet for a strategy meeting. This sheet which confirms the confidential status of information discussed and includes a statement that commits attendees to the Information Sharing Protocol and that information may only be shared in the best interests of the individual and in consultation of the Enquiry Manager.

At the end of an enquiry, the Local Authority will need to disclose to the Disclosure and Barring Service (DBS) relevant information, if requested, and required to respond to any Data Protection subject access requests received once investigations are complete and the case is finalised. In such cases third party information, i.e. not about the person alleged to have caused harm, will be redacted. If this is in relation to a deceased person, a request for information by DBS will be dealt with under the Freedom of Information Act (2000).

Consideration will always be given to the attendance at any meeting of the adult or their representatives. As third party information or sensitive information with regards to crime detection may need to be shared during the meeting, consideration will need to be given as to whether the meeting should be held in two parts. At the end of any such meeting or information-gathering exercise, an agreement should be reached over what information is included within the formal record.

Any information that is shared in a conference / review will be considered strictly confidential and will not be disclosed or discussed with any others unless at the time it is considered to be relevant to the enquiry or necessary to safeguard the adult or any other person or is required as part of a disclosure to the DBS.

8. Sensitive and non-sensitive information – what is the difference and how should it be shared?

Information will only be shared under the Safeguarding Adults process if it is likely to assist in meeting to outcomes of the case and assisting the adult to achieve resolution or recovery and where there is a need for a response in a criminal investigation or in the interests of public safety. Information may be of a “sensitive or non-sensitive” nature.

The Data Protection Act 1998 defines ‘sensitive personal information’ as information about a person’s:

- Physical or mental health condition;
- Racial or ethnic origins;
- Political opinions;
- Trade union membership;
- Religious beliefs;
- Sexual life; and
- Criminal offences (alleged or otherwise) and criminal proceedings

All other information is defined as non-sensitive.

If there is consent, all essential information can be shared. However, if consent is not given, there are different rules for sharing sensitive and non-sensitive information.

If there is a need to share non-sensitive personal information without the consent of the Data Subject, one or more of the following Schedule 2 conditions must be met:

- Disclosure is necessary to fulfil a contract with the Data Subject;
 - Disclosure is necessary to comply with a legal obligation of the Data Controller;
 - Disclosure is necessary to protect the ‘vital interests’ of the Data Subject – this generally applies to life and death situations where there are serious and immediate concerns for someone’s safety;
 - Disclosure is necessary in order to perform a statutory function conferred upon any organisation under an Act of Parliament;
 - Disclosure is necessary to perform a public function undertaken in the public interest;
- and

- Disclosure is necessary for the legitimate interests of the Data Controller, unless to do so would conflict with the rights, freedoms and legitimate interests of the Data Subject.

If the personal information needing to be shared is **sensitive**, one or more of the conditions above must be met, and also one or more of the following schedule 3 conditions must apply:

- The Data Subject (or their authorised representative) has explicitly consented to disclosure;
- Disclosure is necessary to establish, exercise or defend legal rights or for the purposes of legal advice or legal proceedings. This includes rights under the Human Rights Act 1998.
- Disclosure is necessary to protect someone's vital interests and the person to whom the information relates cannot consent (e.g. because of a lack of capacity to make a decision), is unreasonably withholding consent, or consent cannot reasonably be expected to be obtained. 'Vital interests' generally applies to life and death situations where there are serious and immediate concerns for someone's safety.
- Disclosure is necessary to perform a statutory function conferred upon any organisation under an Act of Parliament;
- Disclosure is necessary in order for an anti-fraud organisation to prevent fraud; and
- Disclosure is necessary for a health professional to undertake work for medical purposes.

9. Best Practice in Sharing Information

- Share only on a need-to-know basis;
- Only share enough information to achieve the necessary outcome. This is known as the principle of **proportionality**. The amount of confidential information disclosed and the number of people to whom it is disclosed, should be no more than is strictly necessary to protect the health and wellbeing of the adult or adults who are the subject of the safeguarding concern;
- Make it clear whether each item of information shared is fact or opinion;
- Ensure that the information is given to the right person and that they understand the confidential nature of the information and what to do with it;
- Record the name, job title, department and organisation of the person to whom the information was given;
- When sending information in writing, ensure that it is marked "Private and Confidential - for addressee only" and sent by either 'Signed-For' or 'Special Delivery' postal service;
- Ask the recipient to acknowledge receipt via phone/email/writing;
- When asked by a caller to provide information over the phone, always check the caller's name, job title, department and organisation. Clarify the legal basis for their request, and the purpose to which the information will be put. If appropriate, phone the organisation's main switchboard to confirm that the caller works for the organisation as claimed; and
- Never discuss or share information in a public place.

10. Purpose of Data Sharing

Information may be shared for the following purpose:

Information should be shared to facilitate an enquiry into an allegation or concern that abuse or neglect has occurred or may occur, or to highlight or address risks to others that may have been identified in the course of an enquiry. Information must also be shared to assist in Safeguarding Adult Reviews. Sharing of appropriate information may also serve to respond effectively to issues or concern which may put an adult(s) at risk or to help monitor the outcome of enquiries and the effectiveness of services provided.

The information will be:

- Accurate and up to date;
- Relevant to the enquiry and specific to the issues of concern;
- To the level of detail required in order to address the identified risks and the purposes of the enquiry;
- Shared in detail only with those agencies accountable for the reduction or elimination of the identified risk;
- Shared on a 'need to know' basis' with those agencies identified as providing services relevant to an enquiry or intervention;
- Stored securely within each relevant agency;
- Recorded as having been disclosed or not disclosed, along with the reason for that decision and the details of the person to whom it has been disclosed;
- Made available to the person to whom the information relates on request, providing there is no risk of harm or prejudice to the enquiry by doing so;
- Retained after the completion of the enquiry according to statutory and local requirements concerning adults records and or in line with Police policy on record retention;
- Summarised and anonymised before being published or shared in order to highlight more general issues of risk;
- The information may identify any individuals considered to be potential sources of abuse or neglect to adults; and
- Accessed only by officers and staff with relevant responsibilities from the relevant agencies.

11. Legislative Framework for Information Sharing

The Care Act 2014: brings safeguarding onto a statutory footing and requires cooperation with regards to the supply of information.

The Bichard Enquiry (2004/5) comments on the need for key agencies to share information in the interest of protecting vulnerable people.

The Caldicott Reports (Caldicott Committee Report on the Review of Patient-identifiable Information 1997, and the Caldicott Information Governance Review Panel 2012) are clear that confidential information may need to be disclosed in the best interests of the person,

(providing the patient has not objected to the disclosure) and discuss in what circumstances this may be appropriate, and what safeguards need to be observed.

The Data Protection Act 1998 is an important piece of legislation in the context of personal information. It gives individuals the right of access to information held about them. It protects against the unnecessary sharing of identifiable information. It does not decree that organisations cannot share personal information to provide an effective service, and to protect a person from abuse. It gives guidance on developing information-sharing protocols. The Common Law Duty of Confidence places constraints on what may be done with confidential information. Such information may be disclosed only if there is a statutory duty/power to share, or if the individual has explicitly consented to the disclosure of their information, or there is an exceptional public interest justifying disclosure, or if disclosure without consent is approved under Section 251 of the NHS Act 2006.

The Freedom of Information Act 2000 provides a general right of access to information held by public authorities or by those providing services for public authorities. It extended the rights given in the Data Protection Act for individuals to access information about themselves, to allow access to all the types of information held, whether personal or non-personal, paper or electronic unless it is exempt.

Under the FOI Act, Information contained in social care records can also continue to be subject to a duty of confidence after the death of the individual concerned, and so be exempt from release. There are no special provisions within the Act, to release deceased person's information to next of kin, so care should be taken before releasing any sensitive information about a deceased person, as any information released under the Act becomes publically available.

The Human Rights Act 1998 and the European Convention of Human Rights Article 8 protects an individual's right to respect for his private and family life, his home and his correspondence. However Article 8 also says that the right to a private life can be legitimately interfered with when it is accordance with the law and is necessary for the prevention of crime and disorder, public safety, protection of health or morals, or the protection of rights and freedoms of others.

The Public Interest Disclosure Act 1998 encourages people to report concerns about malpractice in the workplace. It provides some protection for people at work who raise genuine concerns about issues such as criminal activities, negligence, breach of contract, miscarriage of justice, danger to health and safety or the environment. Reporting abuse of a vulnerable adult to an employer or other responsible person is a protected disclosure within the meaning of the Act.

The National Health Service Act 1977 Section 2 provides for sharing information with other NHS professionals and practitioners from other agencies carrying out health service functions that would otherwise be carried out by the NHS.

The Health Act 1999 Section 27 states that NHS bodies and local authorities shall cooperate with one another (this allows for practitioners to share information) in order to secure the health and welfare of people.

The Safeguarding Vulnerable Groups Act 2008 amended by the Protection of Freedoms Act 2012 imposes a legal duty upon any person who is a provider of activities classed as 'restricted activity' to a vulnerable person to refer a worker to the independent safeguarding authority in circumstances where the worker has been dismissed (or would have been dismissed had he/she not retired or resigned) suspended or transferred to a non-care position on the grounds of gross misconduct (whether or not in the course of employment) which harmed or placed at risk of harm a vulnerable adult.

The duty also arises where information comes to light later e.g. after a worker has resigned, retired or transferred to a non-care position and the provider would have dismissed the worker or considered dismissing the worker on such grounds. Other parties, i.e. police and local authorities, also have a duty to refer.

The Criminal Justice Act 2003 Section 325 details the arrangements for assessing risks posed by different offenders. This function is performed under the Multi Agency Public Protection Arrangements (MAPPA) process. Cooperation, including the exchange of information, is expected from all statutory authorities and registered "social landlords" who provide or manage residential accommodation.

The Care Quality Commission Safeguarding Protocol 2013 details information sharing agreements between CQC and local authorities

12. Implementation, Monitoring and Review

This protocol sets out the specific arrangements and responsibilities for sharing information relating to adult safeguarding.

The protocol will be reviewed on an annual basis by the Swindon Local Safeguarding Adults Board, incorporating any changes in practice, relevant legislation or organisational structure.

13. Security in Information Transfer

Personal data should always be treated securely and confidentially.

Personal data includes any information that can be used to identify an individual. Transferring means using both manual and electronic methods of providing information to someone inside or outside the organisation. This includes:

- sending data electronically to anyone outside the organisation;
- sending data by post;
- physically taking data from one building to another, or to another organisation;
- disclosing personal data in a conversation, either during a face to face meeting or over the telephone;
- Copying data on to CDs;
- Copying data on to memory sticks and flash drives;
- Taking data away on a laptop;
- Attaching a file of data to an email message;
- Uploading a file to another computer system; and
- Printing out data on paper and sending it or taking it away from the office.

Any sharing of personal data should be made in accordance with the disclosing organisation's internal data security / data protection policies, procedures and standards. Personal data kept in electronic format on any portable device should be encrypted, and personal data which is at significant risk should be encrypted before being transferred electronically.

14. Breach Management

In the event of any breach of the confidentiality or beach of the Data Protection Act, all parties should be notified within 2 working days of the breach.

As soon as a notification has been made, the parties involved must liaise to determine what steps, if any, can be taken to:

- determine whether or not the Data Subject or their legal representative should be notified of the breach;
- mitigate any impact of the breach in relation to the individuals who may suffer harm from the breach;
- investigate the actual or suspected breach; and
- take steps to prevent a re-occurrence of the breach

The decision to report any breaches will be made using the relevant agencies' breach incident reporting processes.

Agreed at the LSAB on 19 November 2015

K. EVIDENCE

Preserving Evidence

Whilst your first concern will be the immediate well-being and dignity of the person who is subject of the safeguarding concern, efforts to preserve potential forensic evidence may be vital to the investigation within the Safeguarding Enquiry particularly if it is considered that a criminal offence has occurred.

Forensic evidence (e.g. fingerprints, fibres or body fluids) can be transferred and destroyed easily. Therefore nothing should be touched unless it is for the immediate well-being of the individual or the preservation of potential forensic evidence.

The individual must not be allowed to come into contact with the person who is alleged to have caused the harm, or any person who has had contact with that individual, as cross-contamination of evidence can occur.

The scene(s) of the incident should be identified and all persons should be removed from the location preventing any further entry/egress until the police attend.

Where a sexual offence is suspected, the adult should be discouraged from washing, drinking, cleaning teeth, or going to the toilet, until he/she has been medically examined by a forensic physician or forensic nurse. If the complainant indicates a need to use the toilet prior to the examination attempt to obtain advice from a police officer about preservation of possible evidence.

Handling of potential evidence should be kept to an absolute minimum, with any such handling/movement being carefully carried out, recorded and police officer notified.

Anything used to warm or comfort the individual e.g. a blanket, must also be preserved.

A written record of any obvious injuries to the individual and/or the person alleged to have caused harm should be made. Consideration could be given to a sketch/photograph/body map if felt to be more effective. The adult at risk or the person alleged to have caused harm should not be asked to undress unless a more thorough examination by a healthcare professional is necessary for his/her medical wellbeing.

Forensic Medical Examinations

There are two reasons for considering the need for a forensic medical examination. The first is to ascertain the need for any immediate or on-going medical treatment; the second is to help provide forensic evidence that could be used in a criminal prosecution.

If there is a possibility that forensic evidence can be obtained, the Safeguarding Adult Investigator or Enquiry Officer should seek the person's permission to involve the police in order that they can arrange for a forensic medical examination to take place. If the person is unable to give consent to involve the police the Safeguarding Adult Investigator should determine what is in the adult's best interests and should follow the guidance in Mental Capacity Act the Code of Practice 2007 in determining the best interests. Advice should be

sought from a forensic physician/forensic nurse, the adult's General Practitioner or any other healthcare professional as required.

If the subject of the safeguarding concern attends the Swindon and Wiltshire Sexual Assault Referral Centre (SARC) an assessment of his/her capacity to consent to the examination will be made by the attending forensic physician/nurse. The forensic physician or nurse should refer to 'Guidance for staff supporting Vulnerable Adults using the Sexual Assault Referral Centre' held at the SARC.

L. AGENCY ROLES AND RESPONSIBILITIES

This section applies to all partners and service providers including services in the statutory, voluntary and private sector.

Guiding Principles Duty to Report

All staff who work for agencies that are contracted to provide a service, have a **duty to report any** allegations or suspicions of abuse of an adult in for care and support as set out in the policy. This places an individual responsibility on staff to report and an organisational responsibility in each agency to ensure that staff receive support and training in Safeguarding Adults.

Duty to Work Collaboratively

All agencies have a duty to collaborate, and must co-operate fully with any safeguarding enquiry held under this policy. Where a larger agency undertakes its own enquiry this must be in full collaboration with the team managing the safeguarding concern, keeping the Enquiry Manager fully informed.

Responsibilities of service providers

It is the responsibility of all agencies that deliver services to adults to:

- Report the alleged abuse to the relevant team or referral point in compliance with these procedures;
- Where applicable submit reports to the appropriate regulatory authority or professional registration body;
- Have rigorous safer recruitment practices in place;
- Seek to work in non-abusive way and actively promote empowerment;
- Promote an open organisational culture which encourages staff and service users to report concerns;
- Identify a Safeguarding Lead;
- Have a policy and process for confidentiality & information sharing;
- Have policies & procedures to support good practice;
- Ensure staff and volunteers know about abuse, what action to take and to whom they should report;
- provide appropriate training and be able to demonstrate its effectiveness;
- Co-operate with enquiries into allegations of abuse which are undertaken using the Policy and Procedures for Safeguarding Adults in Swindon and comply with local safeguarding children's procedures; and
- Have internal policies, procedures and guidance on protecting adults which clearly links to the Policy and Procedures for Safeguarding Adults in Swindon, which should include:
 - A statement of principle committing the service to preventing abuse;
 - An outline of the training that will be available to enable staff to be aware of abuse and how to prevent it;

- A statement on safer recruitment practices;
- The actions and behaviours that are considered to be abusive;
- The action to be taken if abuse is witnessed or suspected;
- Prevention of abuse including sharing doubts and concerns about colleagues (often referred to as 'whistle-blowing');
- An outline of disciplinary procedures in the event of abuse being perpetrated by a member of staff;
- Information for residents and their supporters and staff on how to use the complaints procedure if abuse occurs or is suspected;
- Information about organisations that can provide advice and support for staff; and
- When a referral to the Disclosure and Barring Service should be made (where applicable).

Employment Practice

All agencies must ensure that disciplinary procedures are compatible with the responsibility to protect individuals. All agencies including providers of services should disseminate information about the multi-agency Policy and Procedures for Safeguarding Adults in Swindon to staff.

Where relevant all agencies should draw up guidelines covering the following areas:

- Challenging Behaviour;
- Personal and Intimate Care;
- Care Tissue viability;
- Infection control;
- Control and Restraint;
- Sexuality;
- Medication;
- Invasive Treatments;
- Observational practice (incl. use of technology);
- Handling of service users' money and personal budgets;
- Risk Assessments and Risk Management;
- Violence at Work;
- Duty of Candour; and
- Whistle-Blowing.

Staff responsibilities in relation to the safeguarding adults must be clearly documented and incorporated into all individual terms and conditions and specified contracts of employment.

Staff Support

It is essential that staff working in situations involving the abuse of adults are appropriately supported by management. Issues relating to personal safety must be supported through procedures such as risk assessment and where appropriate Violence at Work policies. An assessment of the risks to staff and other individuals needs to be made from the "alert" and monitored throughout the investigation. Concerns about personal safety or the risk of violent or aggressive behaviour must also be recorded on the case file. In some situations,

confidential support or counselling may need to be offered to staff. This will always be in addition to debriefing which must be offered to staff who are raising concerns or who have been asked to carry out an enquiry.

Contracts

All contracts covering employment and services must reflect the importance of safeguarding adults and agencies providing services must adhere to the multi- agency Policy and Procedures for Safeguarding Adults in Swindon. Contracts of employment should also address the duty of staff to report abuse and to co-operate with any adult safeguarding investigations (See Section P: [Allegations Against Staff](#)).

Whistle-Blowing

Whistle-blowing procedures should be used if an employee suspects any member of their organisation is abusing, colluding with the alleged abuse or concerns are not being addressed adequately by the organisation. A referral under the Policy and Procedures for Safeguarding Adults in Swindon may also be required.

Duty of Candour

In some services there is a legal responsibility to demonstrate a Duty of Candour. This is to ensure providers are open and transparent with people who use services and other 'relevant persons' (people acting lawfully on their behalf) in general in relation to care and treatment. CQC regulations also set 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 when things go wrong.

Training

Appropriate training regarding the awareness and prevention of abuse should be provided for staff and volunteers during the induction period and on an on-going basis. Staff and volunteers should be made aware of the importance of following the service's policies in the interests of their service users and know how to report abuse. The policy and training should set out clear expectations of staff (or volunteers) behaviour, manner and attitude.

Safeguarding Enquiries – when to involve the Contracts Compliance or Quality Assurance Teams

The teams responsible for contracts compliance and quality assurance need to be informed when there is an allegation about the conduct or standards of a service, or where a member of staff or volunteer in a service has caused harm to a vulnerable person.

The allegation could be about an incident in any service. The Enquiry Manager should:

- Notify (e-mail) the appropriate commissioning/contracts or quality assurance lead when a decision is made to progress to a Section 42 enquiry. The information should include the name of the service and a brief summary of the concern;

- Consider the need to invite the relevant commissioning/contracts lead to any planning meetings and subsequent meetings. This would always be required if there was a serious allegation of Organisational (Institutional) Abuse;
- Inform the commissioning/contracts or quality assurance lead, at any point in the investigation, of any situation that is causing serious concern and where other service users may be at serious risk (this may include those who fund their own care or have been placed by another authority); and
- Following notification from the Enquiry Manager, the commissioning/contracts or quality assurance lead may decide to escalate the issue for a decision if additional action is required in relation to the contract in place. For example suspending new placements or referrals.

Personal Budgets

All service users and their relatives, supporters and advocates must be made aware of the Policy and Procedures for Safeguarding Adults and know how to access help and advice through the appropriate channels. Service users in receipt of Direct Payments or Individual Budgets should be informed about where to go for support if they are concerned about abuse and should be made aware of who to call if they wish to report an allegation of abuse on commencing personalised support. They may also need to be made aware of safer recruitment practice and other approaches to take in minimise personal risk.

M. SUPPORT TO VICTIMS AND WITNESSES

This section is currently under review

N. Inter-authority Safeguarding Arrangements

The following is based on a protocol developed by the Association of the Directors of Social Services (ADASS). It is intended to clarify the responsibilities of placing and host authorities when there is a concern about abuse of someone who is:

- receiving services in Swindon, but has been placed here or funded by another authority; or
- receiving services in another authority area where Swindon Borough Council are the placing or funding authority

If the social care teams within Swindon experience difficulties with another authority not implementing appropriate Safeguarding Adult procedures, the team manager responsible for the service user or the safeguarding lead should draw attention to that authority's responsibilities under the agreed ADASS Protocol. If the matter continues to be unresolved, the relevant team manager should inform the appropriate head of adult services in Swindon, who should discuss the matter with their counterpart in the authority where the abuse has been alleged.

NB: Any disputes of this nature should not compromise the safety and well-being of any service user or delay action from taking place.

Guidance for Inter-Authority Safeguarding Adults Enquiry and Protection Arrangements

The agreement was ratified by the ADASS in June 2016 and is intended for adoption by all Local Authorities and Safeguarding Adult Boards. To refer to the full document, go to: [Out-of-Area Safeguarding Adults Arrangements](#)

4 Introduction

These arrangements recognise the increased risk to adults whose care arrangements are complicated by cross boundary considerations. These may arise, for instance, where funding/commissioning responsibility lies with one authority and where concerns about potential abuse and/ or exploitation subsequently arise in another. This would apply where the individual lives or otherwise receives services in another local authority area.

5 Purpose

The protocol aims to clarify the responsibilities and actions to be taken under section 42 of the Care Act by local authorities with respect to people who live in one area, but for whom some responsibility remains with the area from which they originated or where they are ordinarily resident. In simple terms, it is the local authority area where the abuse or neglect is alleged to have occur who will be responsible for instigating any necessary enquiries.

This protocol should be read in conjunction the Care Act 2014 and subsequent guidance March 2016. It applies to all care and support settings and all adults with care and support needs irrespective of whether their care and support is being funded by a local authority or a

health authority.

The terminology used in the protocol to clarify responsibilities is:

Host Authority – The Local Authority in the area where the alleged abuse occurred, and which therefore has the S42 duty to make enquiries or cause them to be made (whether or not the host authority is commissioning care and support services for the adult).

Placing Authority – The Local Authority or NHS Body that is responsible for commissioning care and support services for an individual involved in a safeguarding adults enquiry. Where the “placing authority” is not involved in commissioning or purchasing the care and support service (for example where an individual is funding their own care) the “host authority” is still responsible for carrying out the Section 42 enquiry but may need to liaise and consult with services in the area from which the person originated. As with all safeguarding arrangements, ensuring the individual is central to the process continues to be a priority.

6 Principles

The 6 principles of Empowerment, Prevention, Proportionality, Protection, Partnership and Accountability underpin this guidance and actions to be taken.

Clarity about the responsibilities of host and placing authorities at the outset of the enquiry is essential to ensure the person’s wellbeing and desired outcomes remain paramount. Negotiation at an early stage should enable clarity of roles and expectations, allow any issues to be addressed, agree timescales to mitigate drift in undertaking the enquiry, and agree who is best placed to undertake this, taking account of geographical distance.

The host authority will be responsible to ensuring arrangements are in place to effectively manage the enquiry.

The placing authority need to ensure that they contribute to the enquiry, provide any necessary support or information and maintain overall responsibility for the person placed. This may require them to carry-out reviews of the placement, needs assessments and care and support planning.

The placing authority should ensure that the provider, in service specifications, has arrangements in place for protecting adults at risk and for managing concerns, which in turn link with local policy and procedures set out by the host authority.

Placing authorities and host authorities may need to negotiate arrangements should there be a need to take urgent action to safeguarding the individual. The host authority may be better placed to make decisions and advise on alternative local provision. The host authority may need to take action on behalf of the placing authority but ensure the placing authority is informed and involved at the earliest opportunity. Flexible arrangements may be required to prevent delays in taking action. This may include the host authority incurring costs that may need to be reimbursed by the placing authority at a later date. However, the host authority

should keep costs to a minimum and attempt to secure agreement from the placing authority prior to proceeding.

The host authority are responsible for ensuring the voice of the individual is heard at the earliest opportunity and should arrange independent advocacy if required. Liaison with the placing authority may be needed to ensure how this is to be achieved.

If a Safeguarding Adult Review (SAR) is being considered, the LSAB will need to determine who should be involved in the process. Liaison with the Chairs of the Safeguarding Adults Boards (SAB) in the placing authorities is required to assist in determining the need and methodology of the SAR. Placing authorities are required to provide information as a priority when a SAR is carried out. Any disputes on the requirement for or nature of a SAR, should be directed to the chairs of the respective SAB.

The initial concern could be raised with either the host or placing authority and each authority must inform the other at the earliest opportunity. *This applies also in regards to the person alleged to have caused the alleged abuse.*

4 Responsibilities of Host Authorities

- 4.1 The authority where the abuse occurred should always take the initial lead on referral. This may include taking immediate action to protect the adult, if appropriate, co-ordinate initial information gathering, background checks and arranging an early discussion with the police if a criminal offence may have been committed. The host authority will need to consult with the placing authority and provide relevant updates.
- 4.2 If it is necessary to move the adult to a safer environment, this should be done with the agreement of the individual, their family and the placing authority wherever possible. The placing authority will still be responsible for the funding of alternative provision but such arrangements will need reviewing throughout the enquiry. If funding agreement is not obtained, this should not prevent the host authority from taking action to protect the person.
- 4.3 As much as possible, applying principles of making safeguarding person still remains a priority. The host authority will gather information held by other agencies regarding the concern. This may include the Police, CQC, other health or social care agencies or commissioners relating to the provider and/or people involved.
- 4.4 An enquiry manager will be allocated the case and have lead responsibility for the enquiry. An enquiry or response officer will also be identified to assist with the management of the case.
- 4.5 It is the responsibility of the host authority to co-ordinate any investigation of organisational abuse. If the alleged abuse took place in a residential or nursing home, other people could potentially be at risk and enquiries should be carried out with this in mind involving a wider range of placing authorities as necessary.

- 4.6 The Care Quality Commission should always be included in investigations involving regulated care providers and enquiries should make reference to national guidance regarding arrangements for the safeguarding of adults at risk. See [Statement on CQC's roles and responsibilities for safeguarding children and adults June 2015](#).
- 4.7 There will be instances where allegations relate to one individual only, when in another area in the very short term (for example a day trip or holiday). In these cases it may be appropriate to negotiate with the placing authority their undertaking certain aspects of the enquiry. However, the host authority should retain the overall co-ordinating role throughout.
- 4.8 The host authority is responsible for the section 42 enquiry as per the Policy and Procedures for Safeguarding Adults in Swindon. In general most cases will run along the same lines as any other concern raised, however relevant placing authorities need to be invited to contribute to aid the planning process to maximise their involvement. This may require the use of technology particularly when the distances between host and placing authority could be a barrier to participation.
- 4.9 The named Investigating Manager needs to ensure that all agencies are working together effectively, taking account of MSP principles, and may chair planning discussions or meetings where required.
- 4.10 If the placing authority is not present then the Investigating Manager is responsible for confirming decisions made, actions agreed and agreement with the placing authority on the tasks to be assigned. They will also liaise with the placing authority throughout the enquiry to ensure the outcomes required are clarified and jointly agreed with the adult.
- 4.11 The Host Authority will also set out a clear communication and engagement strategy which will include communication with all those affected by the safeguarding adult concern:- service users, families, carers and advocacy services, including Independent Mental Capacity Advocate (IMCA) services where appropriate and Care Act advocacy services where substantial difficulties are identified. The planning process will also agree whether, and if so, how, other placing authorities will be informed of the concerns raised and why, and who will do this. All placing authorities will need to have a clear understanding of their roles and responsibilities.
- 4.12 At the end of the enquiry a safeguarding plan may be required. All relevant parties, should be involved in the development of the plan and consideration will be given to how the adult's desired outcomes have been achieved, any remaining risks and further action required (e.g. DBS referral). The plan will confirm actions needed and who is responsible for each. The plan should focus on the provision of care in relation to the safeguarding from abuse or neglect and how to offer recovery and resolution to the individual. The safeguarding plan is not a care and support plan for the individual (although an outcome could be that a care and support plan is developed or reviewed).

4.13 The Safeguarding Plan should set out:

- The views, wishes and goals of the adult and level of risk that s/he is comfortable with;
- What steps are to be taken to assure the future safety of the adult at risk; and
- The provision of any support, treatment or therapy, including on-going advocacy;
 - Any changes needed in the way services are provided (e.g. same gender care or placement; appointment of an Office of the Public Guardian deputy);
 - How best to support the adult through any action they may want to take to seek justice or redress; and
 - Any on-going risk management strategy as appropriate.

(See Section G: [Adult Safeguarding Plan](#))

4.14 If any tasks are allocated to the host authority relating to a care setting, it will be the responsibility of the host authority to keep the placing authority and other relevant agencies informed of progress made or any additional concerns raised, particularly if the placing authority continues to place their service user in that service.

4.15 The host authority will ensure feedback on the progress of the case is provided to health and social care commissioners, regulator and other interested parties if not involved with the process. Minutes of meetings should also be shared, even if the relevant commissioner or CQC are not part of the discussions.

4.16 The Investigating Manager will agree with relevant parties of the need for a review of the safeguarding plan and decide on the appropriate timeframe needed bearing in mind the views and wish of the individual subject of the safeguarding concern. If a meeting is held, the Enquiry Manager should ensure the placing authority is invited to attend/participate and liaise over the involvement of other parties including the adult or their representative.

4.17 Depending upon the complexity and nature of the concern, there may be a need for a comprehensive communication plan. This may also include media statements and press releases. As much as possible, the host authority will need to involve the placing authority in agreed the approach required involving the service user (s) or their representatives as appropriate.

4.18 If the concerns indicate the need for an Enquiry as an organisational level, there may be a need to form a strategic group that will have oversight of the whole service safeguarding enquiry.

(See Section Q: [Large Scale Investigation](#))

5 Responsibilities of Placing Authorities

5.1 If the placing authority is made aware of a concern in another area, they have the duty to ensure the safeguarding team in the host authority are made aware of the concern. The placing authority will be responsible for the planning of their care

needs and consider if the placement continues to meet the need of the individual and if necessary make alternative arrangements while ensuring the current provider is able support them safely and effectively until a suitable service is available liaising with the host authority as required.

- 5.2 The placing authority is required to provide all relevant information to the Investigating Manager and provide support to the adult.
- 5.3 The placing authority should nominate a link person for liaison purposes during the investigation. They will be invited to attend any Adult Safeguarding strategy meeting and/ or may be required to submit a written report.
- 5.4 The placing authority should liaise with the Investigating Manager regarding the enquiry and provide a named representative with the authority to make decisions and participate in the planning process. There is an expectation that the representative will have established a relationship with the individual and be best placed to ascertain the person's views and wishes and undertake some of the initial enquiries with them.
- 5.5 If a mental capacity assessment and/or an independent advocate are needed as part of the safeguarding enquiry, the placing authority should confirm with the host authority how this will be provided or commissioned, as part of the planning discussions.
- 5.6 If meetings are required, the placing authorities' representative will attend either in person or via a conference call facility arranged by the host authority. They will also ensure family members are invited to the meeting as appropriate. The placing authority will assist families with travel arrangements and where agreed, any reasonable travel costs. This is not the responsibility of the host authority. If they are unable to attend, the placing authority representative will be responsible that views are obtained and shared to the host authority or shared at any meetings and feedback provided following the meeting.
- 5.7 The placing authority will notify the Enquiry Manager of completion of any protection actions agreed following the enquiry. Ongoing protection planning and review of safeguarding plans for each individual is the responsibility of their placing authority and may be discussed at any subsequent review meetings.

6 Responsibilities of Provider Agencies

(See Section L. [Agency Roles and Responsibilities](#))

- 6.1 Provider agencies should have in place suitable safeguarding adult procedures to prevent and respond to abuse which link with the local inter-agency policy and procedures set out by the host authority. They have a duty to ensure the adult and others are protected from further harm and investigate incidents as required (e.g. under disciplinary procedures, Health and Safety or complaints).
- 6.2 All safeguarding concerns should be raised with the host local authority, in line with multi-agency procedures, regardless of who is believed to be a source of risk and

participate in any discussions and/or safeguarding meetings arranged by the host authority.

- 6.3 The provider needs to report matters to commissioners and regulators and prevent future risks to the adult or others. If the provider is registered with the Charity Commission as a charitable organisation, they also have a duty to report safeguarding concerns to the Charity Commission.
- 6.4 The host authority may discuss the matters raised with the provider and consider if further action is required. The Investigating manager may ask the provider to carry out the enquiry and agree the scope of this prior to proceeding. It may be that the issue would best be dealt with as a disciplinary matter or a complaint investigation and the provider and at the end of their process report the outcomes. The provider will also need to report further concerns should their investigation indicates a more serious situation may have occurred. During their enquiry, the provider should ensure the adult or their representative is involved, particularly in being able to say what their desired outcomes are, however, with disciplinary matters, there may be limitations on the sharing of information and outcomes available. For example, a desired outcome may be at odds with employment law. If this is the case, this should be clearly explained.
- 6.5 Consideration will need to be given to the appropriateness of the provider carrying out the enquiry on behalf of the host authority. It could be that there is a serious conflict of interests on their part, previous concerns where there is a view that the enquiry was insufficient or where a crime is being alleged;
- 6.6 The provider is required to provide contact details of placing authorities. This should also include other placed there, not directly involved in the concern but may be at risk. If information is not forthcoming, the provider will need to be reminded of their duty under section 45 of the Care Act.
- 6.7 As part of the safeguarding plan, the placing authority may need to reassess the individual concerned and the provider is required to ensure accurate information is provide to facilitate this. This could include information obtained a result of the provider's enquiries.
- 6.8 Once the enquires have been completed by the provider, the full details of this together with the outcomes and further action taken of required, must be provided to the relevant enquiry manager.
- 6.9 Any further recommendations will be made by the host authority in collaboration with the placing authority and the provider. This could include requirement for staff training, changes in procedures within the provider service, referrals to DBS. Consideration will be given to what extent the desired outcome of the individual have been achieved. Reviewing arrangements will also be agreed at this stage.

7 Children Young People and Transitional Arrangements

- 7.1 The host authority will need to give consideration as to the extent of the involvement of children's services should the concern be about a service where people who are under the age of 18 are placed. This may require the involvement of children services within the placing authority as well as the host authority. In some circumstances it may be appropriate for children's safeguarding to take the lead role, involving adult services (either from the host or placing authority) in their processes.
- 7.2 As stated in section one of the Safeguarding Adult Policy and Procedures, adult safeguarding have the responsibility to manage safeguarding cases where the person is over 18 years of age but still supported by children's services under transitional arrangements.

8 NHS Placements

- 8.1 Health Commissioners are required to inform local CCGs when placing people requiring continuing health care in their area. The "host" CCG needs to ensure such information is passed to the relevant local authority.
- 8.2 A reassessment of the adults needs may be required as part of the safeguarding plan, which may result in them being eligible for Continuing Health Care. This means the funding responsibility could move from the placing authority to the NHS in the host authority. It is the duty of the placing authority to liaise with the relevant NHS body.
- 8.3 Where a placement is fully NHS funded there may still be a need for the enquiry manager to liaise with the placing local authority to obtain historical information or should there be a need for the individual to return to that local authority area.
- 8.4 When a person has services commissioned by a regional specialised commissioning team, there may be the need for the host authority to liaise with an NHS body in the person's originating area.
- 8.5 There will be occasions where an individual is not specifically placed within the host authority area, but may be a subject of a concern there e.g. an individual is admitted to hospital whose ordinary residence is another local authority. In these circumstances it is still the responsibility of the host authority to instigate enquiries regarding abuse occurring in its area and the local authority where they usually live will still be considered a placing authority and involved in the process as required.

9 South West Safeguarding Adults Cross boundary information sharing protocol

- 9.1 The south west cross boundary information sharing protocol enables a host local authority to communicate concerns about poor care services to other local authorities or PCT commissioners who are also commissioning the service. Inter authority communication is essential to ensure that:

- Placing authorities are aware of permanent or temporary commissioning bans;
- Placing authorities can identify people they have placed in a setting and undertake reviews to ensure those people are well and still appropriately placed; and
- Host and placing authorities can work together from the outset to safeguard people living in settings or using services where there are safeguarding adults concerns.

Where it is believed that other local authorities need to be made aware of a concern about a whole service, the lead for safeguarding in consultation with the commissioning team will decide on the appropriate notification.

O. SAFEGUARDING ADULT REVIEWS

1. Introduction

This document sets out the Swindon LSAB agreed framework for undertaking a systematic evaluation of inter-agency involvement in cases where an adult in need for care and support* has died, been seriously injured or subject to significant harm where abuse has taken place or suspected to have taken place.

It should be emphasised that the specific nature of individual cases requires that this framework should be adapted for different situations.

*NB. The adult who is the subject of any SAR need not have been *in receipt* of care and support services for the LSAB to arrange a review in relation to them.

1.1. The purpose of this section is:

- To ensure that local practice is in line with section 44 of the Care Act 2014.
- To support the view that the public interest is best served by the presence of an effective Safeguarding Adult Review process.
- To facilitate a consistent approach to the process and practice in undertaking a Safeguarding Adult Review.
- To state that there is a statutory requirement for all agencies to supply information enabling or assisting the SAB to exercise its functions of which one is the arrangement of Adult Safeguarding Reviews.
- To outline the types of reviews that may be appropriate and how these should be managed.

2. Legislation

2.1. Section 44 of the Care Act 2014 states that An LSAB must arrange for there to be a review of a case involving an adult in its area with needs for care and support (whether or not the local authority has been meeting any of those needs) if:

- (a) There is reasonable cause for concern about how the LSAB, members of it or other persons with relevant functions worked together to safeguard the adult, and the adult has died, and the LSAB knows or suspects that the death resulted from abuse or neglect (whether or not it knew about or suspected the abuse or neglect before the adult died).
- (b) The adult is still alive, and the LSAB knows or suspects that the adult has experienced serious abuse or neglect. I.e. had it not been for a significant intervention an adult would have died as a result of abuse or neglect or suffered permanent harm or impacted on their health and wellbeing.
- (c) The LSAB may arrange for there to be a review of any other case involving an adult in its area with needs for care and support (whether or not the local authority has been meeting any of those needs).

Each member of the SAB must co-operate in and contribute to the carrying out of a review under this section with a view to:

- (a) Identifying the lessons to be learnt from the adult's case; and
- (b) Applying those lessons to future cases.

The Act also states (Schedule 2 (4)) that findings of any reviews concluded in the year and need to be reported in the LSAB annual report and state what is to be done to implement the findings of any reviews. Where the LSAB decide not to implement a finding of a review, the reasons for its decision also needs including in the annual report.

2.2. Care Act Guidance (October 2014) provides further information on Safeguarding Adult Reviews and how they should be conducted. The details will be reflected in the guidance that follows.

3. Purpose of Safeguarding Adult Review

3.1. The purpose of having a Safeguarding Adult Review is not to reinvestigate or to apportion blame, it is:

- To establish whether there are lessons to be learnt from the circumstances of the case about the way in which local professionals and agencies work together to safeguard adults in need for care and support;
- To review the effectiveness of procedures (both multi-agency and those of individual organisations);
- To inform and improve local inter-agency practice;
- To improve practice by acting on the lessons from Safeguarding Adult Reviews and thereby developing best practice; and
- To prepare or commission a report which brings together and analyses the findings of the various reports from agencies in order to make recommendations for future action to present to the LSAB and include in the annual report.

3.2. It is acknowledged that all agencies will have their own internal/statutory review procedures to investigate serious incidents; e.g. an Untoward Incident. Agencies may also have their own mechanisms for reflective practice.

3.3. Safeguarding Adults Reviews may also be used to consider good practice and promote this so it can be applied in future cases or inform future practice.

3.4. All reviews need to reflect the 6 Safeguarding Principles: Empowerment; Protection; Prevention; Proportionality; Partnership and Accountability.

4. Criteria for Safeguarding Adult Review

4.1. The relevant Safeguarding Adults Board has the lead responsibility for conducting a Safeguarding Adult Review and should give consideration when:

- An adult in need for care and support dies (including death by suicide) and abuse or neglect is known or suspected to be a factor in his or her death. In such

circumstances the LSAB should always conduct a review into the involvement of agencies and professionals associated with the adult.

- An adult at risk has sustained a potentially life-threatening injury through abuse or neglect suffered, serious sexual abuse, or sustained serious and permanent impairment of health or development through abuse or neglect, and the case gives rise to concerns about the way in which local professionals and services work together to safeguard adults in vulnerable situations.
- Serious abuse takes place in an institution or when multiple abusers are involved. In these circumstances the same principles of review apply. Such reviews are, however, likely to be more complex, on a larger scale, and may require more time. Terms of reference need to be carefully constructed to explore the issues relevant to each specific case.
- Financial, institutional or systemic abuse has taken place where the outcome may not be life threatening but may have a long-term detrimental effect on a person's well-being and it is of a nature where there are serious negative outcomes for the individuals concerned.
- Any other circumstance which the Chair of the LSAB agrees should be the subject of a referral to the LSAB for a Safeguarding Adult Review.

4.2. The LSAB is responsible for commissioning a Safeguarding Adult Review. The Board will ensure the application meets the agreed criteria outlined above.

5. The Process for carrying out a Safeguarding Adult Review

- 5.1. Any agency can make an application for a SAR. It must be made in writing to the Chair of the LSAB, who will decide whether to refer it to the LSAB to agree if the criteria are met.
- 5.2. The application should be made without delay and as soon as the applying agency believes they have sufficient information to suggest the criteria for a SAR has been met.
- 5.3. The adult who experienced harm, or their family or representatives need to be included at the earliest opportunity to determine how they would like to be involved in the process.
- 5.4. The Board will convene an extraordinary meeting if required or consider the application at its next quarterly meeting, dependent upon the circumstances. The LSAB may instruct the Safeguarding Adult Review Group to consider an application, ensure the criteria is met, consider further information and make recommendations back to the LSAB.
- 5.5. All partner agencies are entitled to attend whether they had involvement in the case, or not. If there was direct involvement by any Board member or member of the SAR group, representation from someone who is independent of the case will be required.

- 5.6. All Board members will be informed when a Safeguarding Adult Review is taking place. In the event of an application being declined, the reasons need to be recorded and shared with the applicant in writing by the chair.
- 5.7. The LSAB will inform the relevant communication leads from relevant organisations that an application has been approved.
- 5.8. The LSAB will agree the nature and composition of the Safeguarding Adult Review. This may include a more “traditional” review process requiring an Independent Chair, Individual Management Reviews, chronologies and producing a full Overview Report with a detailed action plan. It may be more appropriate to hold a small case audit, a single agency review (or a review involving a small number of agencies) or consider other methodologies (for example the Learning Together methodology developed by the Social Care Institute of Excellence (SCIE) or a Root Cause Analysis. Conclusions regarding the type of review required will be established based on which method will promote the most effective learning, prevent abuse or neglect or minimise the risk of it in the future and avoid hindsight bias. The approach adopted needs to be proportionate taking into account the scale and complexity of the issues being considered.

6. Review Methodology

The Care Act 2014 or its Guidance does not prescribe a single model for SARs but the “process will promote effective learning and improvement action to prevent future deaths or serious harm occurring again”. *The choice of approach for each SAR is significant as how a review is conducted will influence the learning and whether the process is constructive and educative for those involved* (SCIE 2015).

Examples of models which may be considered are:

- 6.1. The SCIE Learning Together Model which has been used in both safeguarding adults and safeguarding children’s reviews. The model uses systems thinking to gain a deeper understanding of current local practice and cultivate an open, learning culture. Practitioners are part of the case review team, their perspectives are used to inform all aspects of the Review, including lessons learned.
- 6.2. SILP (Significant Incident Learning Process) is an approach that explores a broad base of involvement including families, frontline practitioners and first line managers view of the case, accessing agency reports and participating in the analysis of the material via a ‘Learning Event’ and ‘Recall Session’.
- 6.3. Root Cause Analysis (RCA) has been used within health agencies as the method to learn from significant incidents. RCA sets out to find the systemic causes of operational problems. It provides a systematic investigation technique that looks beyond the individuals concerned and seeks to understand the underlying causes and environmental context in which the incident happened.
- 6.4. Appreciative Inquiry (AI), is rooted in action research and organisational development, and is a strengths-based, collaborative approach for creating learning change. SAR’s conducted as an appreciative inquiry seek to create a safe,

respectful and comfortable environment in which people look together at the interventions that have successfully safeguarded; and share honestly about the things they got wrong. They get to look at where, how and why events took place and use their collective hindsight knowledge to design practice improvements.

- 6.5. "Traditional" review process – "Serious Case Review" requiring an Independent Chair, Individual Management Reviews, chronologies and producing a full Overview Report with a detailed action plan.
- 6.6. Smaller scale audits. In some cases, it may be valuable to conduct individual management reviews, or smaller scale audits of individual cases which give rise to concern but which do not meet the criteria for a full case review. A specific terms of reference will be agreed in advance of any individual management reviews, or smaller scale audits of individual cases. The findings of such audits need to be communicated with the LSAB, Safeguarding Adult Review Panel or Quality Assurance Sub Group.

7. Initiating a Safeguarding Adult Review

Once the SAR has been agreed, depending upon the methodology to be used:

- 7.1. The LSAB, via the Chair, will appoint a Lead Reviewer and if necessary an Independent Chair for the Safeguarding Adult Review. They will need to have appropriate skills and experience to fulfil the role. This will include:
 - strong leadership and ability to motivate others;
 - expert facilitation skills and ability to handle multiple perspectives and potentially sensitive and complex group dynamics;
 - collaborative problem solving experience and knowledge of participative approaches;
 - good analytic skills and ability to manage qualitative data;
 - safeguarding knowledge; and
 - inclined to promote an open, reflective learning culture.
- 7.2. The LSAB Chair will be responsible for requesting relevant agencies to identify review group members who need to be senior managers of the respective organisation or have expertise in the field under scrutiny.
- 7.3. The LSAB Chair will be responsible for drafting the terms of reference for the Safeguarding Adult Review and for drafting timescales for the process. This will ordinarily need to be completed within a six month period. However, consideration may need to be given to extending this timescale if the case in question is part of court proceedings and carrying out the review could prejudice the case.
- 7.4. Depending upon the type of review being instigated, the LSAB Chair and SAR Chair (or lead reviewer) will formally write to panel agencies setting out the process, reports required and draft terms of reference. Agencies will also be informed of the timescale for completion of the SAR chronology and any Individual Management

Reviews (IMR) reports required which will normally be produced one month and six weeks respectively of notification.

7.5. Consideration will be given to informing the victim(s) and those alleged to have caused harm and their families about the Safeguarding Adult Review and determine how involved the adult (s) subject of the SAR or their representatives should or wish to be.

7.6. The Care Quality Commission, and any other bodies as required, will be informed of a Safeguarding Adult Review taking place by the LSAB Chair.

8. Conduct of Safeguarding Adult Review

8.1. Scoping Meeting

(Dependant on the methodology agreed)

8.1.1. The Scoping Meeting will agree:

- The initial Terms of Reference or research question(s) for the Review including the time period under review, that participants will need to focus on;
- The agencies that need to be directly involved in the review in terms of completing reports, chronologies, committing to the process, and ensuring availability of staff for conversations with reviewers;
- The “evidence” or information required from each participant;
- The support and other resources needed;
- Time scales within which the review process should be completed;
- Dates, time and venues of meetings;
- The nature and extent of legal advice required, in particular: Data Protection, Freedom of Information and Human Rights Act and Domestic Violence Crime and Victims Act 2004;
- This meeting will decide the point at which the merged chronologies should be undertaken; and
- The involvement of the adult (s) subject of the SAR or their representatives.

8.1.2. Any chronologies are expected within one month from the letter date advising of the Safeguarding Adult Review.

8.2. Safeguarding Adult Review Group (or Panel) – Initial Meeting

8.2.1. The Safeguarding Adult Review Group/Panel will agree:

- Final Terms of Reference (or research questions) for the review;
- Format of any reports or information required;
- Membership of any additional groups required as part of the process (e.g. a Case Group which encompasses frontline practitioners as used in the SCIE model);

- Communications protocol and leadership during the review and following completion;
- The dates of future meetings; and
- Timescales for completion and distribution of draft and final reports.

8.2.2. It is the responsibility of each Safeguarding Adult Review Member to ensure their Chief Executive or Chief Operating Officer is informed at all stages of the process.

8.3. Safeguarding Adult Review Group – Analysis of Information or Interim meeting

8.3.1. During the Course of the SAR, the Review Group will need to evaluate the information or reports and determine if further work is required or if the outcomes of the review can be determined. It is expected that this can be completed in a single meeting. However, consideration will be given, depending on the complexity of the case and number of organisations involved, whether a further meeting is required.

8.3.2. Depending upon the model being used, this meeting may be an opportunity to bring together the members of the review group together with the group directly involved in the case or those involved in writing reports, holding conversations or analysing available information to answer any questions. Panel members will have read and considered all information presented prior to this meeting.

8.3.3. Each agency involved where appropriate, will be asked to:

- Present and examine the chronology of events, highlighting any discrepancies;
- Present a comprehensive report of the actions or proposed actions by their agencies; and
- Ensure any other reports and other relevant information is made available.

8.3.4. The review panel will assess whether any new information has come to light that warrants any additional or alternative actions or investigation. Information Governance advice will be sought prior to finalising a SAR report.

8.3.5. If, at any stage whilst undertaking the review, information is received which requires notification to a statutory body regarding significant omission by individual/s or organisations this should be undertaken by the Chair of the Safeguarding Adult Review without delay. A decision will be made as to whether the Safeguarding Adult Review should be suspended pending the outcome of such notification.

8.4. Final SAR Report

8.4.1. The LSAB will have agreed that all involved organisations will be named within the Report of the SAR.

- 8.4.2. The Lead Reviewer or [independent] author will draft a report following the Safeguarding Adult Review Group Meeting. This will be sent in advance of next agreed meeting date.
- 8.4.3. An Executive Summary will be developed as required. This will need to include as a minimum, information about the review process, key issues arising from the case and the recommendations that have been made. Any publication will need to be timed in accordance with the conclusion of any related court proceedings.
The content will need to be suitably anonymised in order to protect the confidentiality of relevant family members and others.
- 8.4.4. Reports should be in plain English and free from jargon as much as possible. When jargon is required, for example within a quote, the terminology must be clearly explained or a glossary provided.
- 8.4.5. Communication leads and Chief Executives will be aware of the findings and any recommendations in the draft SAR report.

8.5. Safeguarding Adult Review Group Meeting – Final SAR Report

- 8.5.1. The Safeguarding Adult Review Group will meet to agree the final SAR Report. Agreement should be sought from contributing agencies that they are satisfied that information is fully and fairly represented in the Report.
- 8.5.2. A decision will be made regarding the publication of the Report, and if required, a communication statement will be prepared in advance of this by the Review Group with input from the relevant Communications Team.
- 8.5.3. If required, findings and recommendations from the SAR report will be translated into an action plan. Agencies may be required to develop their own individual action plans to address required action pertinent to their own organisation.
- 8.5.4. The Group will also need to consider the involvement of the Adult(s) subject of the SAR or their representatives and how the SAR report and findings should be shared with them.

8.6. LSAB SAR Report Consideration, Approval and further required actions

- 8.6.1. Decisions about the following will be required:
- Agreement will be made about the communications process for:
 - Dissemination within LSAB member organisations; and
 - Dissemination within Safeguarding Adult Review Panel organisations.
 - Agree an Executive Summary if required.

- Agree if, how and when the report and/or any Executive Summary should be published for public access purposes and agree on any communications statement in consultation with the Board Chair, Communications Team and lead reviewer/author.
- Consider the need for professional briefings with key learning points for organisations.
- Agree actions required which should be endorsed at executive level by each agency and where appropriate developed into an action plans (either individual agency action plans or a composite action plan to be monitored by the Board).
- The Board will also agree the format of any action plans, but will need to include: who is responsible, timeframe, the expected outcomes.
- Agree on whether further discussion is required and at what level. For example where an outcome from a SAR leads to a requirement to change practice to resolve a particular learning point and this has resource implications, for the Board or its members, it may be necessary to meet and discuss specific funding options.

8.6.2. The Safeguarding Adults Board will continue to monitor the progress of the outcomes of a SAR until such time it is satisfied that resolution has been achieved.

9. Annual Report

All Safeguarding Adult Reviews conducted within the year should be referenced within the annual report and reported to the Department of Health and Care Quality Commission as required.

10. Additional Considerations for a Safeguarding Adult Review

- 10.1. Consideration will be made throughout the process of how to keep the victim and those alleged to have caused harm informed.
- 10.2. There will be a need to address the budgetary requirements for undertaking a Safeguarding Adult Review. This will be the responsibility of the LSAB.
- 10.3. Where a death has occurred the Safeguarding Adults Board is advised to liaise with their local Coroner's Office to ensure that the arrangements for undertaking a Safeguarding Adult Review are acceptable.
- 10.4. Due regard for criminal/civil process should be observed at all times.
- 10.5. Arrangements to obtain or secure records through statutory agencies should be utilised whenever appropriate.
- 10.6. Reference needs to be made to the Information sharing guidelines within these procedures and agencies have a duty to share information under the Care Act 2014 – Section 45.

- 10.7. There must be regular briefings with agency Chief Executive Officers and Communications Leads. An agreed communication position must be agreed and reviewed regularly throughout each stage of the SAR.

11. Other reviews / Enquiries

- 11.1. Any SAR will need to take account of a Coroner's Inquiry and any criminal investigation related to the case, including disclosure issues, to ensure that relevant information can be shared without affecting due process or incurring significant delay in the review process.
- 11.2. The LSAB Chair will ensure contact is made with the Chair of any parallel process in order to minimise avoidable duplication. The LSAB should also consider how the process can dovetail with any other relevant investigations that may need to run in parallel or take priority. Consideration will be needed to determine if reviews can be commissioned jointly so as to reduce duplication of work for the organisations involved. It will also be helpful if running a SAR in parallel with other reviews, to establish at the outset all the relevant areas that need to be addressed, to reduce potential for duplication for families and staff.
- 11.3. Other reviews or enquiries may include:
- A Domestic Homicide Review – Statutory reviews where the death of a person aged 16 or over has or appears to have resulted from violence, abuse or neglect by; a person to whom he/she was related or had been in an intimate personal relationship with or by a member of the same household as himself or herself.
 - Drug related deaths review – a review of an adult who dies as a result of substance misuse (in Swindon this will incorporate drugs and alcohol).
 - Suicide Audit – reviews cases following an inquest finding death by suicide.
 - Independent Investigations into the care and treatment of someone who is or has been under the care of specialist mental health services in the six months prior to the event : Health Authorities must commission independent investigations in accordance with Government guidance when a homicide has been committed by a patient or when it is necessary to comply with the State's obligations under [Article 2](#) of the European Convention on Human Rights. Independent. The Health Authority may also commission an independent investigation when an adverse event warrants.
 - Serious Case Reviews – Regulation 5 of the Local Safeguarding Children Boards Regulations 2006 requires LSCBs to undertake reviews of serious cases and undertake a systematic evaluation of inter-agency involvement in cases where a child has died or is seriously harmed, and abuse or neglect is known or suspected to be a factor.

12. Criminal Proceedings

- 12.1. In some cases, criminal proceedings may follow the death or serious injury of an adult at risk. Those co-ordinating the review should discuss with the relevant criminal justice agencies how the review process should take account of such

- proceedings, e.g. how does this affect timing, disclosure issues, the way in which the review is conducted (including interviews of relevant personnel), and who should contribute at what stage.
- 12.2. Case reviews should not be delayed as a matter of course because of outstanding criminal proceedings or an outstanding decision on whether or not to prosecute. Much useful work to understand and learn from the features of the case can often proceed without risk of contamination of witnesses in criminal proceedings. However, a judgement will need to be made as to whether due process would be affected by any publication.
- 12.3. In some cases, it may not be possible to complete or to publish a review until after a Coroner Inquiry or criminal proceedings have been concluded but this should not prevent early lessons learned from being implemented. It may be that in the final report reference is made to any court outcomes or judgements.

13. Accountability and Disclosure

- 13.1. The LSAB need to consider carefully who might have an interest in reviews – e.g. elected and appointed members of authorities, the Coroner, staff, members of the adult at risk's family, the public, the media – and what information should be made available to each of these parties. This must take into account the following:
- The need to maintain confidentiality in respect of personal information contained within reports on the adult at risk, family members and others;
 - The accountability of public services and the importance of maintaining public confidence in the process of internal review;
 - The need to secure full and open participation from the different agencies and professionals involved;
 - The responsibility to provide relevant information to those with a legitimate interest; and
 - Constraints on sharing information when criminal proceedings or an inquest are outstanding, in that access to the contents of information may not be within the control of the LSAB. (3rd party ownership of information and Public Interest Immunity).
- 13.2. It is important to anticipate requests for information and plan in advance how they should be met. For example, a lead agency may take responsibility for debriefing family members, or for responding to media interest about a case, in liaison with contributing agencies and professionals.

14. Learning Lessons Locally

The LSAB recognises that SARs are likely to be of minimum value unless lessons are learned from them. The following will be relevant in helping that maximum benefit is gained from the review process:

- The SAR should be conducted, as far as possible, in such a way that the process is a learning exercise in itself, rather than a trial or ordeal. The SAR should avoid hindsight bias;

- Consideration should be given to what information needs to be disseminated, how and to whom, in the light of a review. Examples of both good and bad practice and areas where change is required should be communicated.
- Recommendations should focus on a small number of key areas, with specific and achievable proposals for change and intended outcomes. The role of training and staff development should be identified in all reports.
- The LSAB should carefully audit action against recommendations and intended outcomes or ensure other agencies do so. The Review Group or Panel may need to reconvene to evaluate progress against the action plan; and
- The LSAB will need to consider how lessons learned locally will be communicated regionally or nationally and whether there are findings that require policy and practice change.

P. Allegations Against Staff

This section should be read in conjunction with Section L: [Agency Roles and Responsibilities](#)

This section relates to circumstances where an allegation(s) has been made that a member of staff or volunteer(s) has caused harm to an adult with care and support needs. It applies to all staff, people on work experience placements, and volunteers who work with service users in any health, care, support or training services.

Services covered by this section

- All services for adults who have needs for care and support that are provided by partners and all service providers. This includes services in the statutory, voluntary and private sector and service providers that are commissioned by key agency;
- Befriending and “sitting” services, clubs and leisure groups; Employment agencies providing staff to work with adults in need for care and support; and
- **All** services for adults with care and support needs whether or not they are funded by a statutory body.

This section is to be applied where:

- Abuse has been alleged or suspected as part of a current enquiry in connection with the individual’s work;
- An allegation has been made about an individual outside of their particular work context;
- An allegation has been made in respect of past or present users of the service; and
- It has been discovered that an individual known to have been involved previously in adult abuse, is or has been working with vulnerable people.

Standards of conduct

All staff, paid or unpaid workers and volunteers working with adults at risk are required to maintain a high standard of conduct and work professionally in accordance with national standards of good practice (e.g. National Minimum Standards, HCPC Standards of Conduct, Performance and Ethics, standards set by Nursing and Midwifery Council).

Induction and staff training should include the risk of allegations being made and what action the employer will take should such an allegation be made. Training should also be provided on the prevention and recognition of abuse (*See Section L: [Agency Roles & Responsibilities](#)*).

This section should always be used in circumstances where there are allegations or suspicions of abuse or neglect by staff, care workers, people on work experience programmes or volunteers. They should also be used when staff, care workers or volunteers have used inappropriate sanctions against a service user including the inappropriate use of restraint (physical interventions) i.e. other than permitted by law or guidance issued by government or required as part of a care plan.

Responsibility to make a referral using the Safeguarding Adults Procedures

It is recognised that circumstances where a member of staff has been alleged to have caused the harm is a difficult time for the individual involved, their colleagues, manager and proprietor of the service. It is also difficult for service users and carers.

However, all allegations require immediate attention and need to be investigated using the Policy and Procedures for Safeguarding Adults in Swindon. It is important that employers understand their responsibilities in respect of these procedures and the process that the enquiry will follow.

NB: Providers of services must not instigate actions/investigations as this may compromise a full enquiry under the procedures, however all providers have a duty to ensure the safety of their service users and protect them from further harm.

It is also recognised that action taken may have a significant impact (including financial and continuity of service) on the smaller employers and self-employed care workers. Agencies involved in implementing these procedures must act promptly.

Relationship to the organisation's internal procedures

The employer's Human Resources policy and procedures should include guidance about how an allegation of abuse will be dealt with and provide clear links with the local Safeguarding procedures.

Following an allegation or suspicion that abuse has taken place, an enquiry under these procedures should be considered in the first instance **i.e. Safeguarding Adult procedures take precedence over the employers' procedures.**

All organisations providing services in Swindon have a duty to apply these procedures and support safeguarding principles in their practice.

All terms and conditions covering employment and services must reflect the importance of the safeguarding adults and agencies providing services must adhere to the Policy and Procedures for Safeguarding Adults.

Terms and conditions of employment should also address the duty of staff to report abuse and to co-operate with any adult safeguarding enquiry (See [Section L: Agency Roles & Responsibilities](#)).

All providers of services need to have an internal process on how to submit alerts once abuse is alleged or suspected. Service providers need to have a procedure in place describing how these procedures will be applied within their organisation. This internal procedure should complement not replace the Policy and Procedures for Safeguarding Adults in Swindon. In regulated services this is usually a requirement.

Making a Referral

If the employer has received an alert or is concerned that abuse has taken place, they are to refer the case to the relevant Safeguarding Team within the relevant Local Authority or Police Safeguarding Adults Investigation Team without delay.

For regulated services, there is also a requirement to notify the regulating authority. Due regard should also be given to preserving evidence (See [Section K: Evidence](#)) If service providers are unsure as to what might constitute evidence, they should contact one of the Police Safeguarding Adults Investigation Team for advice.

Following discussions with appropriate agencies, the Enquiry Manager will make a decision concerning the severity of the allegation and whether it requires a Section 42 Enquiry (under the Care Act 2014).

Advice will be given to the service provider on what appropriate action is required. This could be around further safeguards to the adult or adults, or whether precautionary action is required with regards to the member of staff e.g. suspension, redeployment, leave etc.

If the case is to proceed to a Section 42 Enquiry, and the Enquiry Manager is satisfied that the employer or employer's representative is not part of the abusive situation, they must be invited to participate in the enquiry. In all cases, the employer should be kept informed about the progress of the case within the bounds of confidentiality.

To ensure that any criminal investigation is not compromised, the employer will also need to be given appropriate guidance on what information can be shared with the employee in question. The employer also needs to be aware that information may only be shared on a "need to know" basis and that they should make every effort to ensure that confidentiality is maintained.

Actions Taken by Employers

Although the ultimate responsibility lies with the employer, it is essential that they give due regard to the advice given by those taking action on the referral.

- **Support to Employees**

If the employee is a member of a trade union or professional association they should be advised to contact that body at the outset of the enquiry. The employer should arrange to provide appropriate support to the individual while the enquiry is on-going. For staff or volunteers who are themselves adults in need for care and support, additional support may be required from advocacy or specialist support service.

The employer should keep the person who is the subject of the allegations informed of the progress of the case within the parameter of confidentiality agreed by the Investigating Manager.

If the person is suspended, the employer should also make arrangements to keep the individual informed about developments in the workplace.

- **Suspension**

There will be occasions where it is necessary to suspend an employee about whom an allegation has been made. Suspension from duty is not an indication of guilt. Suspension must not be used as a punitive measure and should be in line with the organisation's staff disciplinary procedures and best employment practice.

Suspending a member of staff should be seen as a precautionary measure to ensure that the safety of the alleged victim and other service users is maintained.

In some cases it may be necessary in order to preserve evidence and also to protect the employee themselves from further allegations.

Suspension should not be automatic or undertaken without careful thought. Consideration could be given to other action, for example, redeploying a member of staff to another section or unit, offering leave or working under supervision.

- **Record keeping**

It is important that employers keep a clear and comprehensive record of any allegations made; details of how the allegations were followed up and resolved and of any actions taken and decisions reached, which could include “no case to answer”.

These should be kept in a person’s confidential personnel file and a copy given to the individual.

Such information should be retained on file, irrespective of whether the person has left the organisation.

The purpose of the record is to enable accurate information be given in response to any future request for a reference. It will also provide clarification when any future DBS Disclosure reveals information from the police that an enquiry was carried out that did not lead to a prosecution or conviction. The information may also be needed if further allegations are made concerning the same individual.

- **Incident Forms**

On those services where it is a requirement or if it is a requirement to inform the Health and Safety Executive, an incident form should be completed in addition to making the appropriate referral.

Information Sharing

Under Section 45 of the Care Act 2014, there is a requirement to supply information for the purpose of enabling or assisting the Safeguarding Adults Board to exercise its functions. (*See Section J: [Information Sharing Protocol](#)*)

There are some circumstances where one agency will need to request information from another to assist with an enquiry, for example:

- Police information being used in a subsequent disciplinary hearing; or
- Information from an employer regarding a previous disciplinary investigation being made available to the Police as part of a safeguarding enquiry.

In all cases information needs to be requested in writing to the appropriate agency outlining the reasons why the information is required and how the information will be used. Due regard needs to be given to the Human Rights of the individual and freedom of information and data protection.

Actions to be taken when an enquiry is completed

- **Support and Training**

If it is decided at the conclusion of a case that a person who has been suspended can return to work, the employer should consider how best to facilitate that. Most people will benefit from some help and support after what will have been a very stressful experience.

The enquiry may also have highlighted the need for additional training. If the person who was the subject of the allegation is still a user of the service the employer will need to consider how contact with that person can best be managed.

Where an allegation is investigated and found to be untrue, it is likely that the member of staff will require on-going support and supervision. It is recognised that an unfounded allegation can have a considerable impact on the member of staff and employers must give due consideration to this in deciding the support required.

- **Disciplinary Action**

At the conclusion of the enquiry there may be a need for the employer to take disciplinary action. In some cases this line of action will need to be pursued even if the conclusion is that bad practice has taken place rather than abuse.

The fact that criminal proceedings are not being pursued is not in itself an indication that the alleged abuse did not take place. Disciplinary action is based on the balance of probability and does not need the same level of proof as action taken within the Criminal Justice System.

Any disciplinary action should be carried out in line with the organisation's disciplinary procedures and in line with good employment practice. If the employee chooses not to attend their investigatory interview or their disciplinary hearing, a disciplinary decision may need to be taken in their absence. As the outcome of such action could impact on them continuing to work in their chosen profession, notification of the outcome of the disciplinary hearing will need to be issued in writing.

- **Learning lessons**

At the conclusion of the enquiry in which an allegation is substantiated the employer should review the circumstances of the case to determine whether there are any improvements that need to be made to the organisation's procedures or practice to help prevent similar events in the future.

- **Referral to the Disclosure and Barring Service & Professional Bodies**

Employers are required to refer individuals to the Disclosure and Barring Service for them to consider whether a member of staff should be prevented from future work with vulnerable groups. This must be done either if the safeguarding process, criminal prosecution or disciplinary process has substantiated a case against the employee. It should also be noted that a referral may be required when an employee has left the employment prior to the necessary action being taken. Further information can be found by visiting the DBS website: <http://www.homeoffice.gov.uk/agencies-public-bodies/dbs/services/>

- **Referral to Professional bodies**

Employers are also responsible for making referrals to professional bodies (e.g. [Health and Care Professionals Council](#), [Nursing and Midwifery Council](#), [General Medical Council](#)) regarding the fitness to practice of a member of staff where this is appropriate.

Guidance for organisations engaging volunteers

Although many of the actions required for employees can apply to how volunteers are

managed, agencies need to be aware of the following specific issues relating to the engagement of volunteers.

The organisation engaging volunteers needs to:

- Have clear policies in place on how volunteers are used to support vulnerable people;
- Have a policy on how to assess volunteer's suitability e.g. requesting references and carrying out DBS checks;
- Have a clear policy about the provision of references to other agencies or employers engaging a person who has previously been a volunteer with the organisation;
- Provide an induction programme that includes awareness of expectations, standards and processes. This also needs to include where concerns are raised about their conduct, what action may need to be taken, and how they can raise alerts concerning other people's conduct;
- To be prepared to suspend the volunteer from contact with vulnerable people if concerns are raised;
- A volunteer agreement outlining the responsibilities of the volunteer and the agency involved; and
- To provide on-going support and training to volunteers.

Resignations and “Compromise Agreements”

(The term “compromise agreements” is used to describe the situation by which a person agrees to resign and the employer agrees not to pursue any disciplinary action and both parties agree a form of words to be used in references.)

The fact that a person tenders his/her resignation or ceases to provide their services must not prevent an allegation being investigated in accordance with these procedures.

It is important that every effort is made to reach a conclusion in all cases where an allegation has been made about the safety and well-being of an adult at risk including any in which the person concerned refuses to co-operate with the process.

Wherever possible the person should be given a full opportunity to answer the allegation and make representations about it. The fact that a person resigns is not an indicator of innocence or guilt.

Even if a person resigns and/or refuses to co-operate with the enquiry, this will not prevent the matter being investigated under the Safeguarding procedures. Although this may cause difficulties, it is important that the enquiry is completed. It may be difficult to reach a conclusion about what has happened in these circumstances and may not be possible to then apply any disciplinary sanctions but it is important to reach and record a conclusion wherever possible.

Even if someone resigns the employer retains the duty to make a referral to the Disclosure and Barring Service where this is applicable

NB: Where there is an allegation or suspicion that abuse has taken place “compromise agreements” must not be used.

Q. Large Scale Enquiries

This section is currently under development