



WIRRAL  
SAFEGUARDING ADULTS  
PARTNERSHIP BOARD

# Wirral Multi-Agency Safeguarding Adults Policy

Version 1

## Information Sheet

<b>Policy Title</b>	<b>Wirral Multi-agency Safeguarding Adults Policy</b>
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## Foreword

This policy has been developed by Wirral Council, to meet the requirements of the Care Act and the Department of Health Statutory Guidance. It is designed to support current good practice in adult safeguarding and outlines the arrangements which apply to the region.

This Policy is endorsed and agreed by all members of The Wirral Safeguarding Adults Partnership Board.

## Useful contacts

If you wish to report a safeguarding concern please use the following telephone number:

<b>LOCAL AUTHORITY</b>	<b>CONTACT NUMBER FOR RAISING SAFEGUARDING CONCERNS</b>
Wirral	0151 514 2222

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## Introduction

The Care Act 2014 marks a shift from local authorities providing services towards the concept of meeting needs. In the Care Act, adult safeguarding is established as a core function of every local authority's care and support system. Chapter 14 of the Care and Support statutory guidance provides guidance on Sections 42-46 of the Care Act which sets out the new statutory framework for safeguarding adults. This replaced the No secrets guidance (2000).

The Care Act's statutory guidance outlines a number of fundamental principles that must underpin the care and support system including adult safeguarding. It also sets out common expectations of how local authorities should approach and engage with people when assessing their needs and providing support:

- Promotion of well-being applies in all cases where a local authority is carrying out a care and support function, or making a decision in relation to a person, including the support provided in the context of adult safeguarding
- Duty to promote well-being applies equally to people who do not have eligible needs but come into contact with services in some other way (for example, via an assessment that does not lead to ongoing care and support) as it does to those who go on to receive care and support, and have an ongoing relationship with the local authority
- People must be supported to achieve the outcomes that matter to them in their life with practitioners retaining focus on the person's needs and goals throughout the intervention
- Building on the Mental Capacity Act 2005 principles, practitioners should assume that the person at the centre of the enquiry is able to assess and understand what is in their best interests regarding outcomes, goals and well-being. It is critical to begin with the assumption that the person is best placed to make judgements and decisions about their care and well-being
- It is vital to establish an individual's views and wishes about what support they want and require from the outset of the contact. These should be considered if a person has made their views explicit in the past and no longer has capacity to make those decisions for themselves
- The importance of a preventative approach because well-being cannot be achieved through crisis management. By providing effective intervention at the right time, risk factors may be prevented from escalating
- The importance of the person participating as fully as possible in decisions that affect them. People should be given the necessary information and support in a format and at a pace that is acceptable to them so that they can consider options and make their own decisions rather than being excluded from the decision-making process

- Promoting participation by providing support that is co-produced with people, families, friends, carers, and the community. Co-production is when a person influences what services they receive, or when groups of people get together to influence the way that services are designed, commissioned and delivered. This approach promotes people's resilience and helps to develop self-reliance and independence, as well as ensuring that services reflect what the people who use them want
- The importance of considering a person in the context of their family and wider support networks, taking into account the impact of an individual's need on those who support them and take steps to help others access information or support
- The need to protect people from abuse and neglect. In carrying out any care and support functions the local authority and its partner agencies should ensure that the person is and remains protected from abuse or neglect. This is not confined only to safeguarding issues, but should be a general principle applied in every case
- The need to ensure that any restriction on the person's rights or freedom of action is kept to the necessary minimum. Where action has to be taken which places restrictions on rights or freedoms, it must be the least restrictive necessary

## Glossary

**Adult at risk** - A person aged 18 or over who is in need of care and support, regardless of whether they are receiving them, and because of those needs are unable to protect themselves against abuse or neglect.

**Adult safeguarding** - Protecting a person's right to live in safety, free from abuse and neglect.

**Advocacy** – Support for people who have difficulty expressing their concerns and the outcomes they want during the safeguarding process.

**Best interest** – The Mental Capacity Act 2005 states that if a person lacks mental capacity to make a particular decision then whoever is making that decision or taking any action on that person's behalf must do so in the person's best interest.

**Carer** – In this document carer refers to family/friend carers as distinct from paid carers who are referred to as support workers. The Care Act defines the carer as an adult who provides or intends to provide care for another adult who needs support.

**Concern** - Describes when there is or might be an incident of abuse or neglect. Replaces the previously used term “alert.”

**Enquiry** - An enquiry is the action taken or instigated by the Local Authority in response to a concern that abuse or neglect may be taking place. The purpose of the enquiry is to establish whether or not the local authority or another organisation, or person needs to do something to stop or prevent the abuse or neglect.

**Equality Act 2010** – Protects people from discrimination in the workplace and in wider society. It replaced previous anti-discrimination laws making the law easier to understand and strengthening protection in some situations.

**General Data Protection Regulations 2018** - As of May 2018 the Data Protection Act [DPA] will be replaced by the General Data Protection Regulation 2018. The regulations govern how and why personal data is processed, it is intended to strengthen and unify data protection. Article 9 (h) in particular allows the processing of special categories of personal data necessary to provide health and social care.

**Independent Mental Capacity Advocate (IMCA)** - Established by the Mental Capacity Act 2005. IMCAs are mainly instructed to represent people who lack mental capacity when there is no-one outside of services, such as a family member or a friend, who can represent them. IMCAs are a legal safeguard who will help people make important decisions about where they live, serious medical treatment options, care reviews, or adult safeguarding concerns.

**Making Safeguarding Personal** – This refers to person-centred and outcome-focused practice. It is about empowering individuals to express what is important to them by whatever means appropriate. Practitioners must demonstrate through their practice that they have carefully listened to the individual and those important to them and how they want matters to progress. Outcomes of interventions should be

meaningful to the person at the centre of the enquiry and reflect their original wishes wherever practicable.

**Person/organisation alleged to have caused harm** - The person/organisation suspected to be the source of risk to an adult at risk.

**Person in position of trust** – When a person holds a position of authority and uses that position to his or her advantage to commit a crime or to intentionally abuse or neglect someone who is vulnerable and unable to protect him or herself.

**Safeguarding Adults Board (SAB)** – Each local authority must have a SAB to assure itself that local safeguarding arrangements and partners act to help and protect adults at risk. SABs will oversee and lead adult safeguarding and will be interested in all matters that contribute to the prevention of abuse and neglect.

**Safeguarding Adult Reviews (SAR)** – Undertaken when an individual with care and support needs dies or suffers unnecessarily as a result of abuse or neglect and there is a concern that the local authority or a partner organisation could have done more to protect them.



## 1. Context, principles and values

### 1.1 Context

The Care Act puts adult safeguarding on a legal footing and requires each local authority to set up a Safeguarding Adults Board (SAB) with core membership from the local authority, the police and the NHS (specifically Integrated Care Settings). One of a SAB's key functions is to ensure that policies and procedures governing adult safeguarding are fit for purpose and can be translated into effective adult safeguarding practice.

Wirral SAB is asked to adopt this policy in order to achieve consistency across the area in the way in which adults are safeguarded from neglect or abuse. All organisations involved in safeguarding are asked to adopt this policy in respect of their relevant roles and functions, but may wish to add local practice guidance, protocols and organisation operation manuals.

### 1.2 Statutory safeguarding duties

Sections 42–46 of the Care Act constitute the statutory adult safeguarding framework in which local authorities need to:

- **Lead a multi-agency local adult safeguarding system** that seeks to prevent abuse and neglect and stop it quickly when it happens
- **Make enquiries, or request others to make them** when they think an adult with care and support needs may be at risk of abuse or neglect and they need to find out what action may be needed
- **Establish a Safeguarding Adults Board** with the local authority, NHS and police as core members and develop, share and implement a joint safeguarding strategy
- **Carry out a safeguarding adults review (SAR)** when someone with care and support needs dies or suffers unnecessarily as a result of neglect or abuse and there is a concern that the local authority or its partners could have done more to protect them
- **Arrange for an independent advocate** to represent and support someone who is the subject of a safeguarding enquiry or review, if required.

The new statutory adult safeguarding framework requires a fundamental shift in approach to supporting adults at risk. This policy is designed to support partner organisations and their staff to make the shift in culture and practice necessary to achieve the Care Act's vision for adult safeguarding where:

- Safeguarding is the responsibility of all agencies
- A whole-system approach is developed
- Safeguarding responses are proportionate, transparent and outcome-focused
- The adult's wishes are at the centre of a safeguarding enquiry
- There is an emphasis on prevention and early intervention
- People are supported in their recovery from abuse or neglect.

### 1.3 Principles

This policy is based on **The Six Principles of Safeguarding** that underpin all adult safeguarding work:

<b>Empowerment</b>	Adults are encouraged to make their own decisions and are provided with support and information.	I am consulted about the outcomes I want from the safeguarding process and these directly inform what happens
<b>Prevention</b>	Strategies are developed to prevent abuse and neglect and that promote resilience and self-determination.	I am provided with easily understood information about what abuse is, how to recognise the signs and what I can do to seek help
<b>Proportionate</b>	A proportionate and least intrusive response is made balanced with the level of risk.	I am confident that professionals will work in my interest and only get involved as much as needed
<b>Protection</b>	Adults are offered ways to protect themselves, and there is a co-ordinated response to adult safeguarding.	I am provided with help and support to report abuse. I am supported to take part in the safeguarding process to the extent to which I want and to which I am able. I feel part of the safeguarding process and it is not something which happens around me. I am allowed to take risks.
<b>Partnerships</b>	Local solutions through services working together within their communities	I am confident that information will be appropriately shared in a way that takes into account its personal and sensitive nature. I am confident that agencies will work together to find the most effective responses for my own situation
<b>Accountable</b>	Accountability and transparency in delivering a safeguarding response.	I am clear about the roles and responsibilities of all the people involved in the response

The Care Act and guidance state that safeguarding:

- Is person led
- Engages the person all the way through the process and addresses their needs
- Is outcome-focused
- Is based upon a community approach from all partners and providers

The Wirral multi-agency safeguarding adults policy is built on strong multi-agency partnerships working together with adults to prevent abuse and neglect where possible, and provides a consistent approach when responding to safeguarding concerns. This entails joint accountability for the management of risk, timely information sharing, co-operation and a collegiate approach that respects boundaries and confidentiality within legal frameworks.

## 1.4 Making Safeguarding Personal Values

### Person-led safeguarding

This policy adopts the principle of “no decision about me without me” and means that the adult, their families and carers are working together with agencies to find the right solutions to keep the person safe and to support them in making informed choices.

A person-led approach leads to services which are: person-centred and focused on the outcomes identified by the person; planned, commissioned and delivered in a joined-up way between organisations; responsive and which can be changed when required.

Personalised care and support is for everyone, but some people will need more support than others to make choices and manage risks. Making risks clear and understood is crucial to empowering and safeguarding adults and in recognising people as “experts in their own lives”. A person-led approach is supported by personalised information and advice and, where needed, access to advocacy support.

*“Making Safeguarding Personal (MSP) “It is about seeing people as experts in their own lives and working alongside them with the aim of enabling them to resolve their circumstances and support their recovery. MSP is also about collecting information about the extent to which this shift has a positive impact on people’s lives. It is a shift from a process supported by conversations to a series of conversations supported by a process.”*

Source: ADASS Making Safeguarding Personal: Guide 2014

Statutory guidance states that all safeguarding partners should:

*“take a broad community approach to establishing safeguarding arrangements. It is vital that all organisations recognise that adult safeguarding arrangements are there to protect individuals. We all have different preferences, histories, circumstances and life-styles, so it is unhelpful to prescribe a process that must be followed whenever a concern is raised” and that adult safeguarding should “be person led and outcome focused. It engages the person in a conversation about how best to respond to their safeguarding situation in a way that enhances involvement, choice and control as well as improving quality of life, well-being and safety.”*

## 1.5 Values - Supporting adults at risk of abuse

Safeguarding has the highest priority across all organisations. All partner organisations acknowledge the priority of safeguarding adults at risk and it is reflected across all organisational corporate priorities.

Values include:

- People are able to access support and protection to live independently and have control over their lives
- Appropriate safeguarding options should be discussed with the adult at risk according to their wishes and preferences. They should take proper account of any additional factors associated with the person's disability, age, gender, sexual orientation, race, religion, culture or lifestyle
- The adult at risk should be the primary focus of decision making, determining what safeguards they want in place and provided with options so that they maintain choice and control
- All action should begin with the assumption that the adult at risk is best-placed to judge their own situation and knows best the outcomes, goals and well-being they want to achieve
- The person's views, wishes, feelings and beliefs should be paramount and are critical to a personalised way of working with them
- There is a presumption that adults have mental capacity to make informed decisions about their lives. If someone has been assessed as not having mental capacity to make decisions about their safety, decision making will be made in their best interests as set out in the Mental Capacity Act 2005 and the Mental Capacity Act Code of Practice
- Adults at risk will have access to supported decision making to achieve their desired outcomes involving their representative/advocate where appropriate
- Adults at risk should be given accessible information, advice and support and be supported to be included in all forums that are making decisions about their lives. The maxim "no decision about me without me" should govern all decision making
- All decisions should be made with the adult at risk and promote their well-being and be reasonable, justified, proportionate and ethical
- Timeliness should be determined by the personal circumstances of the adult at risk
- Every effort should be made to ensure that adults at risk are afforded appropriate protection under the law and have full access to the criminal justice system when a crime has been committed.

## **1.6 Mental capacity, consent and best interests**

People must be assumed to have capacity to make their own decisions and be given all practicable help before they are considered not to be able to do so. Where an adult is found to lack capacity, then any action taken, or any decision made for, or on their behalf, must be made in their best interests. Professionals and other staff have a responsibility to ensure they understand and always work in line with the Mental Capacity Act. In all safeguarding activity due regard must be given to the Mental Capacity Act. In all cases where a person has been assessed as lacking capacity to make a decision, a best-interest decision must be made. Even when a person is assessed as lacking capacity, they must still be encouraged to participate in the safeguarding process.

## **1.7 Deprivation of Liberty Safeguards (DoLS)**

The Deprivation of Liberty Safeguards (DoLS) provides protection to people in hospital and care homes. DoLS apply to people who have mental ill health and do not have the capacity to decide whether or not they should be accommodated in the relevant care home or hospital to receive care or treatment.

The acid test to be applied to decide if DoLS is applicable is: a person is being deprived of their liberty if they:

- Are under continuous supervision and control
- Are not free to leave, and
- Lack capacity to consent to these things

Requests for authorisation to deprive someone of their liberty, if considered in the person's best interests, are made through the local authority as the supervisory body. All decisions on care and treatment must comply with the MCA and the DoLS Code of Practice. In case of serious dispute, it may be necessary for the local authority to apply to the Court of Protection.

## **1.8 Advocacy and support**

The Care Act requires that a local authority must arrange, where appropriate, for an independent advocate to represent and support an adult who is the subject of a safeguarding enquiry or Safeguarding Adults Review (SAR) where the adult has "substantial difficulty" in being involved in the process and where there is no other appropriate individual to help them.

There are distinct differences between an Independent Mental Capacity Advocate (IMCA), introduced under the Mental Capacity Act, and an Independent Advocate, introduced under the Care Act. Independent advocates cannot undertake advocacy services under the Mental Capacity Act, however where there is an appointed IMCA they may also take on the role of Independent Advocate under the Care Act.

## 2. Safeguarding Adults policy

### 2.1 What is safeguarding?

Safeguarding is defined as:

*“protecting an adult’s right to live in safety, free from abuse and neglect.”*

- Care and support statutory guidance, Chapter 14

Adult safeguarding is about preventing and responding to concerns of abuse, harm or neglect of adults with Care & Support needs. Staff should work together in partnership with adults so that they are:

- Safe and able to protect themselves from abuse and neglect
- Treated fairly and with dignity and respect
- Protected when they need to be
- Easily able to get the support, protection and services that they need.

The aims of Adult Safeguarding are to:

- Stop abuse or neglect wherever possible
- Prevent harm and reduce the risk of abuse or neglect to adults with care and support needs
- Safeguard adults in a way that supports them in making choices and having control about how they want to live
- Promote an approach that concentrates on improving life for the adults concerned
- Raise public awareness so that communities as a whole, alongside professionals, play their part in preventing, identifying and responding to abuse and neglect
- Provide information and support in accessible ways to help adults understand the different types of abuse, how to stay safe and what to do to raise a concern about the safety or well-being of an adult
- Address what has caused the abuse.

## 2.2 Who do adult safeguarding duties apply to?

Where a local authority has reasonable cause to suspect that an adult in its area (whether or not ordinarily resident) and that adult:

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

Then the local authority must make (or cause to be made) whatever enquiries it thinks necessary to enable it to decide whether any action should be taken in the adult's case and if so, what should happen and who should do it. This then constitutes a statutory Section 42 enquiry

**Within** the scope of this definition are:

- All adults who meet the above criteria regardless of their mental capacity to make decisions about their own safety or other decisions relating to safeguarding processes and activities
- Adults who manage their own care and support through personal or health budgets
- Adults whose needs for care and support have not been assessed as eligible or which have been assessed as below the level of eligibility for support
- Adults who fund their own care and support
- Children and young people in specific circumstances (please see Section 2.7)

### 2.2.1 Outside the scope of this policy

- Adults in custodial settings i.e. prisons and approved premises. Prison governors and National Offender Management Services have responsibility for these arrangements. The SAB does however have a duty to assist prison governors on adult safeguarding matters. Local authorities need to assess for care and support needs of prisoners which take account of their well-being. Equally NHS England has a responsibility to commission health services delivered through offender health teams which contribute towards safeguarding offenders.

## 2.3 Prevention

Section 2 of the Care Act requires local authorities to ensure the provision of preventative services (i.e. services which help prevent or delay the development of care and support needs, or reduce care and support needs). Organisations should take a broad community approach to establishing safeguarding arrangements, working together on prevention strategies.



It is a responsibility of a SAB to have an overview of prevention strategies and ensure that they are linked to relevant local partnerships which may include for example: Health and Well-Being Board, quality surveillance group, and community safety partnerships. Prevention strategies might include:

- Identifying adults at risk of abuse
- Public awareness
- Information, advice and advocacy
- Inter-agency cooperation
- Training and education
- Integrated policies and procedures
- Integrated quality and safeguarding strategies
- Community links and community support
- Regulation and legislation
- Proactive approach to Prevent (further information on Prevent can be found by following the Counter-Terrorism and Security Act 2015 link on page 24)
- Safer recruitment – (further information on the Disclosure and Barring Service (DBS) can be found by following the DBS link on page 31)

Prevention should be discussed at every stage of safeguarding, and is especially important at the closure stage (which can happen at any time) when working with adults on resilience and recovery. Discussions between staff and adults, their personal network and the wider community (if appropriate) help build resilience as part of the recovery process. Where support is needed to prevent abuse, this needs to be identified and put into safeguarding planning.

## **2.4 Information and advice**

Information and advice is critical in preventing or delaying the need for services and, in relation to safeguarding, can be the first step to responding to a concern. All organisations should ensure that they are able to provide this service and can signpost adults to receive the right kind of help by the right organisation.

This includes information and advice about safeguarding and should include:

- How to raise concerns about the safety or well-being of an adult who has needs for care and support
- Awareness of different types of abuse and neglect
- How people can keep safe, and how to support people to keep safe
- The safeguarding adults process
- How SABs work.

Whereas information may be generic to a lesser or greater extent, advice needs to be tailored to the person seeking it, recognising people may communicate in different ways. Advice and information should, where possible, be provided in the manner preferred by the person and in a format they can understand. This should be consistent with the [Equality Act 2010](#). 'Reasonable adjustments' should be made to ensure that disabled people have equal access to information and advice



services. Reasonable adjustments could include the provision of information in accessible formats or with communication support.

Organisations have a number of direct opportunities to provide, or signpost people to information and advice, in particular for safeguarding:

- At first point of contact
- During or following an adult safeguarding enquiry
- Developing safeguarding plans
- Risk management plans
- Through complaints and feedback about a service which identifies a safeguarding concern.

## 2.5 Information Sharing

It is good practice to seek consent from individuals before sharing their personal data, though not always practical or realistic in the context of adult safeguarding.

Information sharing agreements do not in themselves make the sharing of personal and sensitive data legal or ethical. The General Data Protection Regulations 2018 sets out the legal context and is the overarching protocol which promotes best practice and co-operation across partner organisations.

For further information on information sharing please refer to your local safeguarding procedures.

## 2.6 Different types of enquiries

### Safeguarding enquiry

This refers to any enquiries made or instigated by the local authority **AFTER** receiving a safeguarding concern. There are two types of safeguarding enquiries. If the adult fits the criteria outlined in Section 42 of the Care Act, then the local authority is required by law to conduct enquiries or ensure that enquiries are made. These will be referred to as '**Statutory Safeguarding Enquiries**'. Local authorities will sometimes decide to make safeguarding enquiries for an adult who does not fit the Section 42 criteria. These enquiries are not required by law and therefore will be referred to as 'Non-Statutory Enquiries'.

### Statutory safeguarding enquiry

Please see section 2.2 for the definition and details of a statutory safeguarding enquiry.

### Non-statutory (discretionary) safeguarding enquiry

a) These are safeguarding enquiries carried out on behalf of adults who **do not** fit the criteria outlined in Section 42 of the Care Act.

These enquiries may relate to an adult who:

b) is believed to be experiencing, or is at risk of, abuse or neglect

c) does not have care and support needs (but might just have support needs).

### **Who may be considered for statutory and non-statutory enquiries?**

This may include people with learning disabilities, mental health issues, older people, and people with a physical disability or impairment. It may also include adult victims of abusive care practices, neglect and self-neglect, domestic abuse, sexual exploitation, hate crime, female genital mutilation, forced marriage, modern slavery, human trafficking, honour-based violence, and anti-social abuse behaviour.

An adult's need for additional support to protect themselves may be increased when complicated by additional factors, such as, controlling and coercive behaviour, physical frailty or chronic illness, sensory impairment, challenging behaviour, drug or alcohol problems, social or emotional problems, or poverty or homelessness and it is important to note that vulnerability can fluctuate.

Many adults may not realise that they are being abused and/or exploited, particularly where there is an abuse of power, a dependency, a relationship or a reluctance to assert themselves for fear of making the situation worse.

### **Who can carry out an enquiry?**

Although the local authority is the lead agency for making enquiries, it may cause others to do so. The specific circumstances will often determine who is the most appropriate person /agency to carry out an enquiry, such as: care provider, health professional, or social worker. The local authority will determine who is the most relevant person/agency to carry out an enquiry. The police will lead criminal investigations. The local authority will decide when a case can be closed and if the Section 42 duty is satisfied.

### **Sharing information early**

Learning from case reviews frequently highlight failures to share information, such failures can lead to serious harm or abuse. Sharing information early is key to helping effectively where there are emerging concerns. A professional should never assume that someone else will pass on information which they think may be critical to the safety and well-being of an adult at risk of abuse or neglect. If a professional has concerns about an adult's welfare in relation to abuse and neglect they should share the information with the local authority.

People in the wider community can also help by being aware of signs of abuse and neglect, how they can respond and how to keep people safe. If a criminal act is committed the statutory guidance advises that sharing information does not rely on the consent of the victim. Criminal investigation by the police takes priority over all other enquiries but not over the adult's well-being and close co-operation and co-ordination among the relevant agencies. This is critical to ensure safety and well-being is promoted during the criminal investigation.

## 2.7 Out-of-area enquiries

In the case of a safeguarding concern for someone who is temporarily residing in another local authority area the host authority will take the lead for the assessment and co-ordination of the safeguarding enquiry. Examples include where someone is receiving hospital or residential care in another local authority area. This includes care which is funded by the local authority or health and care which is paid for by individuals. See ADASS [Out of Area Safeguarding Adult Arrangements](#) for further information.

## 2.8 Children and young people

Local authorities have specific duties under the [Children Act 1989](#) in respect of children in need (*Section 17*) and children at risk of significant harm (*Section 47*). All those working with adults and children in health, social care and voluntary sector settings have a responsibility to safeguard children when they become aware of, or identify, a child at risk of harm. They should follow Local Safeguarding Childrens Partnership procedures which are based on the Government Guidance [Working Together to Safeguard Children 2015](#). There is an expectation that health and social care professionals who come into contact with children, parents and carers in the course of their work are aware of their responsibilities to safeguard and promote the welfare of children and young people. Children identified as being placed at risk by the behaviour of their parents or carers should be referred by adult workers into children's services.

Where the person who is alleged to have been abused or harmed is over the age of 18 years by the time the safeguarding incident is reported, but the incident occurred prior to the young person reaching 18 years, any investigation into the concern will be led by Children and Young People's services in line with section 7 ADASS out-of-area safeguarding adults arrangements.

## 2.9 Transition

Together the [Children and Families Act 2014](#) and the Care Act, create a new comprehensive legislative framework for [transition](#), when a child turns 18 (MCA applies once a person turns 16). The duties in both Acts are on the local authority, but this does not exclude the need for all organisations to work together to ensure that the safeguarding adult's policy and procedures work in conjunction with those for children and young people.

There should be robust joint working arrangements between children's and adults' services for young people who meet the criteria. The young person's care needs should be at the forefront of any support planning and requires a co-ordinated multi-agency approach. Assessments of care needs should include issues of safeguarding and risk. Care planning must ensure that the young adult's safety is not put at risk through delays in providing services that they need to maintain their independence, well-being and choice.

Where there are on-going safeguarding issues for a young person and it is anticipated that on reaching 18 they are likely to require adult safeguarding, safeguarding arrangements should be discussed as part of transition support

planning and protection. Conference chairs and Independent Reviewing Officers, if involved, should seek assurance that there has been appropriate consultation with the young person by adult social care and invite them to any relevant conference or review. Clarification should be sought on:

- What information and advice the young person has received about adult safeguarding
- The need for advocacy and support
- Whether a mental capacity assessment is needed and who will undertake it.
- If best interest decisions need to be made
- Whether any application needs to be made to the Court of Protection

If the young person is not subject to a plan, it may be prudent to hold a safeguarding meeting.

## **2.10 Carers and safeguarding**

Circumstances in which a carer could be involved in a situation that may require a safeguarding response include when a carer may:

- Witness or speak up about abuse or neglect
- Experience intentional or unintentional harm from the adult they are trying to support or from professionals and organisations they are in contact with
- Unintentionally or intentionally harm or neglect the adult they support on their own or with others.

Whether abuse is intentional or unintentional, safeguarding under Section 42 of the Care Act may be required.

### 3. Definition of abuse

Safeguarding means protecting an adult's right to live in safety, free from abuse and neglect. It is about people and organisations working together to prevent and stop both the risks and experience of abuse or neglect, while at the same time making sure that the adult's well-being is promoted. This must recognise that adults sometimes have complex interpersonal relationships and may be ambivalent, unclear or unrealistic about their personal circumstances.

Organisations should always promote the adult's well-being in their safeguarding arrangements. People have complex lives and being safe is only one of the things they want for themselves. Professionals should work with the adult to establish what being safe means to them and how that can be best achieved. Professionals and other staff should not be advocating "safety" measures that do not take account of individual well-being, as defined in Section 1 of the Care Act 2014.

Abuse of a person at risk may consist of a single act or repeated acts affecting more than one person. It may occur as a result of a failure to undertake action or appropriate care tasks. It may be an act of neglect or an omission to act, or it may occur where an adult at risk is persuaded to enter into a financial or sexual transaction to which they do not, or cannot, consent.

Abuse can occur in any relationship and any setting and may result in significant harm to or exploitation of, the individual. In many cases abuse may be a criminal offence.

Intent is not an issue at the point of deciding whether an act or a failure to act is abuse; it is the impact of the act on the person and the harm or risk of harm to that person.

Professionals and others need to look beyond single incidents or people to identify patterns of harm. Repeated instances of poor care may be an indication of more serious problems and of what we now describe as organisational abuse. In order to see these patterns it is important that information is recorded and appropriately shared. Patterns of abuse vary and include:

- Serial abusing in which the perpetrator seeks and grooms people. Sexual abuse sometimes falls into this pattern as do some forms of financial abuse
- Long-term abuse in the context of a continuing family relationship such as domestic violence between spouses or generations, or persistent psychological abuse
- Opportunistic abuse such as theft occurring because money or jewellery has been left lying around.

### 3.1 Types of abuse and neglect

The Care and Support Statutory Guidance identifies types of abuse, but also emphasises that organisations should not limit their view of what constitutes abuse or neglect. The specific circumstances of an individual case should always be considered. All three factors need to be satisfied for a safeguarding enquiry to be addressed in accordance with Section 42 of the Care Act. This table identifies what forms of abuse are considered in the guidance documents.

Types of abuse	Description or supporting guidance
<b>Discriminatory abuse</b>	<p>Discrimination on the grounds of race, faith or religion, age, disability, gender, sexual orientation and political views, along with racist, sexist, homophobic or ageist comments or jokes, or comments and jokes based on a person's disability or any other form of harassment, slur or similar treatment. Excluding a person from activities on the basis they are 'not liked' is also discriminatory abuse, for example, hate crime</p>
<b>Domestic abuse</b>	<p>The cross-government definition of domestic violence and abuse is: any incident or pattern of incidents of controlling, coercive, threatening behaviour, violence or abuse between people aged 16 or over who are, or have been, intimate partners or family members regardless of gender or sexuality. The abuse can encompass but it is not limited to:</p> <ul style="list-style-type: none"> <li>• psychological</li> <li>• sexual (including female genital mutilation)</li> <li>• financial</li> <li>• emotional</li> <li>• forced marriage</li> <li>• honour-based violence.</li> </ul> <p>A new offence of coercive and controlling behaviour in intimate and familial relationships was introduced in the Serious Crime Act 2015.  <u><a href="http://legislation.gov.uk">Serious Crime Act 2015 - Legislation.gov.uk</a></u>            The offence imposes a maximum five years imprisonment. The offence closes the gap in the law around patterns of coercive and controlling behaviour during a relationship between intimate partners, former partners who still live together, or family members, sending a clear message that it is wrong to violate the trust of those closest to you, providing better protection to victims experiencing continuous abuse allowing for earlier identification, intervention and prevention.</p>

<p><b>Financial or material abuse</b></p>	<p>Theft, fraud, internet scamming, coercion in relation to an adult’s financial affairs or arrangements, including in connection with wills, property, inheritance or financial transactions, or the misuse or misappropriation of property, possessions or benefits.</p> <p>Internet scams, postal scams and doorstep crime are more often than not targeted at adults at risk and all forms of financial abuse. These scams are becoming ever more sophisticated and elaborate. For example:  internet scammers can build very convincing websites  people can be referred to a website to check the caller’s legitimacy but this may be a copy of a legitimate website  postal scams are mass-produced letters which are made to look like personal letters or important documents  doorstep criminals call unannounced at the adult’s home under the guise of legitimate business and offering to fix an often non-existent problem with their property. Sometimes they pose as police officers or someone in a position of authority</p> <p>In all cases this is financial abuse and the adult at risk can be persuaded to part with large sums of money and in some cases their life savings. These instances should always be reported to the local police service and local authority Trading Standards Services for investigation. The SAB will need to consider how to involve local Trading Standards in its work. These scams and crimes can seriously affect the health, including mental health, of an adult at risk. Agencies working together can better protect adults at risk. Failure to do so can result in an increased cost to the state, especially if the adult at risk loses their income and independence.</p>
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<p><b>Modern slavery</b></p>	<p>Slavery, servitude and forced or compulsory labour. A person commits an offence if:</p> <ul style="list-style-type: none"> <li>• The person holds another person in slavery or servitude and the circumstances are such that the person knows or ought to know that the other person is held in slavery or servitude, or</li> <li>• The person requires another person to perform forced or compulsory labour and the circumstances are such that the person knows or ought to know that the other person is being required to perform forced or compulsory labour.</li> </ul> <p>There are many different characteristics that distinguish slavery from other human rights violations, however only one needs to be present for slavery to exist. Someone is in slavery if they are:</p> <ul style="list-style-type: none"> <li>• Forced to work – through mental or physical threat</li> <li>• Owned or controlled by an “employer”, usually through mental or physical abuse or the threat of abuse</li> <li>• Dehumanised, treated as a commodity or bought and sold as property</li> <li>• Physically constrained or has restrictions placed on his/her freedom of movement</li> <li>• Subject to human trafficking</li> </ul> <p>Contemporary slavery takes various forms and affects people of all ages, gender and race. Adults who are enslaved are not always subject to human trafficking. Recent court cases have found homeless adults promised paid work opportunities enslaved and forced to work and live in dehumanising conditions, and adults with a learning difficulty restricted in their movements and threatened to hand over their finances and work for no gains. From 1 November 2015, specified public authorities have a duty to notify the Secretary of State of any person identified in England and Wales as a suspected victim of slavery or human trafficking, under <u>Section 52 Modern Slavery Act 2015</u>.</p>
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<b>Neglect and acts of omission</b>	Ignoring medical, emotional or physical care needs, failure to provide access to appropriate health, social care or educational services, and the withholding of the necessities of life such as medication, adequate nutrition and heating. Neglect also includes a failure to intervene in situations that are dangerous to the person concerned or to others, particularly when the person lacks the mental capacity to assess risk for themselves.
<b>Organisational abuse</b>	Is the mistreatment, abuse or neglect of an adult by a regime or people in a setting or service where the adult lives or that they use. Such abuse violates the person's dignity and represents a lack of respect for their human rights.
<b>Physical abuse</b>	Assault, hitting, slapping, pushing, misuse of medication, restraint or inappropriate physical sanctions.
<b>Psychological abuse</b>	Emotional abuse, threats of harm or abandonment, deprivation of contact, humiliation, blaming, controlling, intimidation, coercion, harassment, verbal abuse, cyber bullying, isolation or unreasonable and unjustified withdrawal of services or supportive networks.
<b>Sexual abuse</b>	Rape, indecent exposure, sexual harassment, inappropriate looking or touching, sexual teasing or innuendo, sexual photography, subjection to pornography or witnessing sexual acts, indecent exposure and sexual assault or sexual acts to which the adult has not consented or was pressured into consenting.
<b>Self-neglect</b>	This covers a wide range of behaviour concerning a person's personal hygiene, health or surroundings and includes behaviour such as hoarding. It should be noted that self-neglect may not prompt a section 42 enquiry. An assessment should be made on a case-by-case basis. A decision on whether a safeguarding response is needed will depend on the person's ability to protect themselves by controlling their own behaviour. There may come a point when they are no longer able to do this, without external support.

This is not an exhaustive list, there can be other types of abuse which may include:

### **Radicalisation**

Radicalisation is comparable to other forms of exploitation, such as grooming and child sexual exploitation. Radicalisation's aim is to attract people to another way of reasoning, inspire new recruits and embed extreme views and persuade vulnerable people of another cause's legitimacy. This may be through face-to-face encounters or through social media.

There are a number of factors that may make a person susceptible to exploitation by violent extremists. None of these factors should be considered in isolation but in conjunction with the individual circumstances.

**Prevent** is part of the government's counter-terrorism strategy which, in full is referred to as CONTEST. Prevent has multiple aims including responding to the ideological challenge of terrorism and the threat from those who promote it, prevent people from being drawn into terrorism and ensure that they are given appropriate advice and support and work with sectors and institutions where there are risks of radicalisation

Sections 36 to 41 of the Counter-Terrorism and Security Act 2015 sets out the duty on local authorities and partners of local panels to provide support for people vulnerable to being drawn into terrorism. In England and Wales this duty is the **Channel** programme. The duties of **Channel** Panel members and partners are set out in the Home Office Channel Duty Guidance

### **3.2 Who abuses and neglects adults?**

Anyone can abuse or cause neglect, including:

- Spouses/partners
- Other family members
- Neighbours
- Friends
- Acquaintances
- Local residents
- People who deliberately exploit adults they perceive as vulnerable to abuse
- Paid staff or professionals (people in a position of trust)
- Volunteers and strangers
- Carers
- Other adults with care and support needs

Abuse can happen anywhere: for example, in someone's own home, in a public place, in hospital, in a care home or in college. It can take place when an adult lives alone or with others.

### **3.3 Safeguarding adults boards roles and responsibilities**

Each local authority must set up a safeguarding adults board (SAB). The main objective of a SAB is to assure itself that local safeguarding arrangements and partners help and protect adults in its area who meet the criteria of an adult at risk.

A SAB has three core duties:

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

Local SABs decide how they operate but they must ensure that their arrangements deliver the duties and functions set out under Schedule 2 of the Care Act.

#### **Membership of a safeguarding adults board**

The information about how the SAB works should be easily accessible to partner organisations and to the general public. The following organisations must be represented on the SAB:

- The local authority which set it up
- The ICSs in the local authority's area
- The chief officer of police in the local authority's area.

SABs may also include such other organisations and people as the establishing local authority considers appropriate having consulted its SAB partners from the ICS and police. The SAB may wish to invite additional partners to some meetings depending on the specific focus or to participate in its work more generally.

SABs should assure themselves that the Board has the involvement of all partners necessary to effectively carry out its duties.

### **3.4 Safeguarding adults reviews**

Section 44 of the Care Act 2014 requires a SAB to arrange a safeguarding adults review when an adult with care and support needs (whether or not the local authority has been meeting any of those needs) if:

- There is reasonable cause for concern about how the SAB, its members or organisations worked together to safeguard the adult

**AND**

- The person has died (including death by suicide) and the SAB knows/suspects this resulted from abuse or neglect (whether or not it knew about this before the person died)

**OR**

- The person is still alive but the SAB knows or suspects they have experienced serious abuse/neglect, sustained potentially life threatening injury, serious sexual abuse or serious/permanent impairment of health or development.

The Care Act also enables SABs to carry out reviews in other cases where it feels this would be appropriate in order to promote learning and improvement which would prevent future deaths or serious harm. These may be cases which provide useful insights into the way organisations are working together to prevent and reduce abuse and neglect of adults but which may not meet the criteria for a safeguarding adults review.

The purpose of conducting a safeguarding adults review is to establish whether there are any lessons to be learnt from the circumstances of the case, about the way in which local professionals and agencies work together to safeguard adults at risk. The safeguarding adults review brings together and analyses the findings from individual agencies involved in order to make recommendations for future practice if necessary.

### **3.5 Duty of candour**

The duty of candour requires all health and adult social care providers registered with the Care Quality Commission (CQC) to be open with people when things go wrong. The regulations impose a specific and detailed duty on all providers where any harm to a service user from their care or treatment is above a certain harm threshold. The duty of candour is a legal requirement and CQC will be able to take enforcement action when it finds breaches.

### **Deal with concerns and complaints**

Partner organisations must support service users and carers who want to raise concerns about the care, treatment or other services they have received.

Partner organisations must give a helpful and honest response to anyone who complains about the care, treatment or other services they have received.

### **3.6 Whistle-blowing guidance**

It is the legal duty of every employee who works with adults at risk to report potential or actual abuse. Therefore, it is the responsibility of the employer to promote openness among staff and promote this process, taking the lead in giving clear priority to the protection of adults at risk. Procedures which empower staff to voice concerns about the practice they encounter should be owned and promoted by the voluntary, independent, statutory or private sector agencies which employ them. These policies are often known as “Codes of Conduct/Practice” or “Whistle-Blowing Procedures”. All members of staff or volunteers, who have concerns about the way a vulnerable person is being treated in their place of work, should follow the whistle-blowing procedures in their own organisation.

### **3.7 Record keeping and confidentiality**

Organisations will have their own recording systems for keeping comprehensive records whenever a concern is made/arises/occurs and of any work undertaken under the safeguarding adults’ procedures, including all concerns raised. Organisations should refer to their internal policies and procedures for additional guidance on recording and storage of records. Throughout the safeguarding adults’ process, detailed factual records must be kept. This includes the date and circumstances in which conversations and interviews are held and a record of all decisions taken relating to the process.

Records may be disclosed in court as part of the evidence in a criminal action or may be required if the regulatory CQC authority decides to take legal action against a provider. Records kept by service providers should be available to service commissioners and to regulatory authorities.

Agencies should identify arrangements, consistent with the principle of fairness, for making records available to those affected by, and subject to, enquiry with due regard to confidentiality.

All information should be held in accordance with the General Data Protection Regulations 2018 .

## **Appendix 1 Links to useful information**

### **Legal and national policy framework for adult safeguarding**

This section of the Policy Framework outlines key documents that lay the foundation for effective safeguarding at the local level. A summary is provided for each document together with a link if more detailed information is required.

#### **Care Act 2014 Statutory Guidance (Department of Health, 2016)**

The legal framework for the Care Act 2014 is supported by this statutory guidance which provides information and guidance about how the Care Act works in practice. The guidance has statutory status which means that there is a legal duty to have regard to it when working with adults who have care and support needs and carers.

[Care Act 2014 Statutory Guidance](#)

#### **Mental Capacity Act 2005 Code of Practice (Department of Constitutional Affairs, 2007)**

The legal framework provided by the Mental Capacity Act 2005 is supported by this Code of Practice, which provides guidance and information about how the Act works in practice. The code has statutory force, which means that certain categories of people have a legal duty to have regard to it when working with adults who may lack capacity to make decisions for themselves.

[Mental Capacity Act 2005 Code of Practice](#)

#### **SCIE: Adult Safeguarding Sharing Information**

This guide is part of a range of products to support implementation of the adult safeguarding aspects of the Care Act 2014. Sharing the right information, at the right time, with the right people, is fundamental to good practice in safeguarding adults but has been highlighted as a difficult area of practice.

[SCIE guide Adult Safeguarding: sharing information](#)

[SCIE's seven golden rules for information sharing](#)

#### **NHS Accountability and Assurance Framework (Department of Health, 2015)**

This document sets out the safeguarding roles, duties and responsibilities of all organisations in the NHS. It has been refreshed in partnership with colleagues from across the health and social care system, the Department of Health and the Department for Education.

[NHS Accountability and Assurance Framework](#)

## **Making Safeguarding Personal Guide 2014 (Local Government Association)**

This guide is intended to support councils and their partners to develop outcomes-focused, person-centred safeguarding practice. It was originally drafted to support the 53 councils who signed up to Making Safeguarding Personal (MSP) in 2013/14. It has been updated based on their experience. It gives some guidance about how to embark upon and take forward Making Safeguarding Personal in your council.

[Making Safeguarding Personal Guide 2014](#)

## **Commissioning for Better Outcomes (Department of Health, Local Government Association, ADASS, Think Local, Act Personal)**

This guidance outlines standards to support a dynamic process of continuous improvement and, through self-assessment and peer review, to challenge commissioners and their partners, to strengthen and innovate to achieve improved outcomes for adults using social care, their carers, families and communities. The standards are relevant to all aspects of commissioning and service redesign, including decommissioning. The standards have been designed to reflect the improvements that experience has shown are needed, to support the transformation of social care to meet people's reasonable aspirations, and to support the implementation of the Care Act 2014.

[Commissioning for Better Outcomes](#)

## **Disclosure and Barring Service**

The Disclosure and Barring Service (DBS) helps employers make safer recruitment decisions and prevent unsuitable people from working with vulnerable groups, including children. It replaces the Criminal Records Bureau (CRB) and Independent Safeguarding Authority (ISA). DBS is an executive non-departmental public body, sponsored by the Home Office.

[Disclosure and Barring Service - GOV.UK](#)

## **Nursing and Midwifery Council (NMC)**

The NMC regulates nurses and midwives in England, Wales, Scotland and Northern Ireland and exists to protect the public. They set standards of education, training, conduct and performance so that nurses and midwives can deliver high quality healthcare throughout their careers. They are responsible for investigating nurses and midwives who fall short of their standards. They maintain a register of nurses and midwives allowed to practise in the UK.

[NMC](#)

## **General Medical Council (GMC)**

The GMC helps to protect patients and improve medical education and practice in the UK by setting standards for students and doctors. The GMC supports them to achieve and exceed those standards, and take action when they are not met.

[GMC | Good medical practice](#)

## **Health and Care Professions Council**

The Health and Care Professions Council's standards of proficiency for social workers in England. The standards of proficiency set out what a social worker should know, understand and be able to do when they complete their training so that they can register with them.

[Social workers in England - Health and Care Professions Council](#)

## **National Institute for Health and Care (NICE) -Transitions from Children's to Adults Services**

This guidance outlines the quality standards that cover all young people (aged up to 25) using children's health and social care services who are due to make the transition to adults' services.

[Transitions Quality Standards](#)

## **Royal College of General Practitioners - GP Safeguarding Adults Toolkit**

[GP Toolkit](#)