

# **THE PROCEDURES**

## 4. ADULT SAFEGUARDING PROCEDURES

### 4.1 Context

The main objective of adult safeguarding procedures is to provide guidance to enable adults to be kept safe from abuse or neglect and immediate action to be taken where required in order to achieve this.

The procedures are a means for staff to combine principles of protection and prevention with individuals' self-determination, respecting their views, wishes and preferences in accordance with Making Safeguarding Personal.

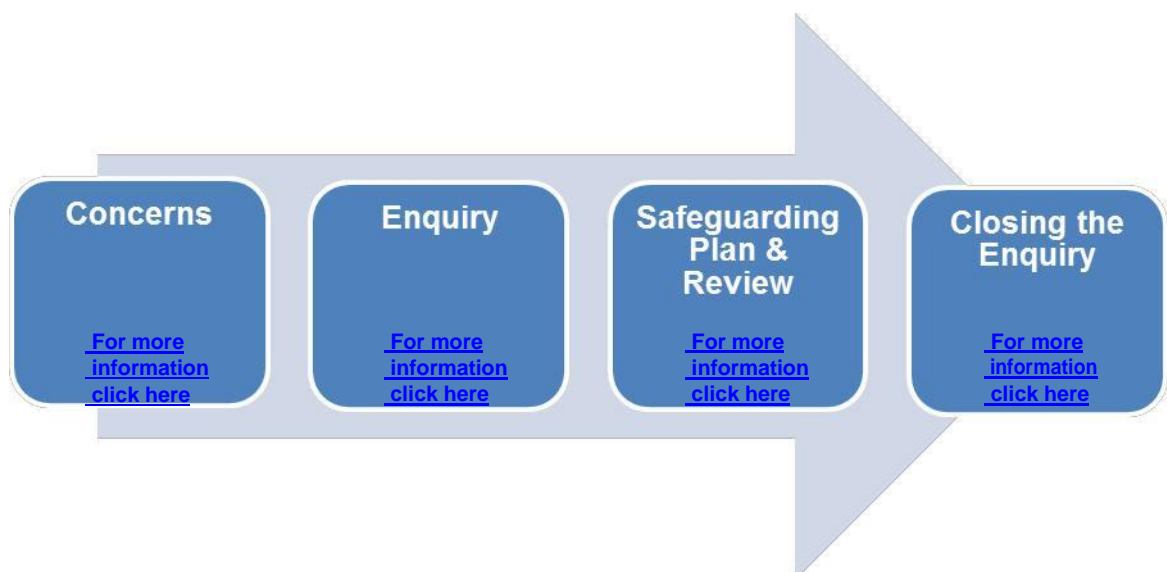
They are a framework for managing safeguarding interventions that are fair and just, through strong multi-agency partnerships that provide timely and effective prevention of and responses to abuse and neglect.

All organisations who work with or support adults experiencing, or who are at risk of, abuse and neglect may be called upon to lead or contribute to a safeguarding concern and need to be prepared to take on this responsibility.

Guidance is often criticised for over-standardising practice and undervaluing the skills required when applying policies in diverse circumstances. The key focus is on using professional skills to gain a real understanding of what the adults want to achieve and what action is required to help them to achieve it.

### 4.2 The Four Stage process

The Procedures have been structured around a Four Stage Process:



Before going through each stage of the process in depth, the next section will define roles and responsibilities and provide context within which the procedures operate.

## 4.3 Responsibilities

### 4.3.1 Local Authority and NHS partnerships

Local Authorities can continue to enter into partnership arrangements with the NHS for the NHS to carry out a Local Authority's 'health-related functions' (as defined in the 2000 Regulations [[the NHS Bodies and Local Authorities Partnership Arrangements Regulations 2000](#)<sup>lxxviii</sup>]).

In addition, by virtue of [Regulation 4 of the 2000 Regulations](#)<sup>lxxix</sup>, arrangements may only be entered into 'if the partnership arrangements are likely to lead to an improvement in the way in which those functions are exercised'. The Local Authority would still remain legally responsible for how its functions (including adult safeguarding) are carried out via partnership arrangements.' (Department of Health March 2015).

Work is underway in Berkshire to establish partnership arrangements between the NHS and Local Authorities. Refer to your local area team for further information.

### 4.3.2 Managers/Safeguarding Leads in all organisations

Every organisation will have a safeguarding manager or lead, although the specific roles and responsibilities will vary and they may not sit with one member of staff. Please refer to your local area for more information.

The role may include:

- Managerial support and direction to staff in that organisation.
- Decision making for concerns raised by members of staff and/or members of the public.

### 4.3.3 Safeguarding Adult Referral Points

Each organisation must have its own operational policy on how it manages adult safeguarding concerns, including a list of referral points with up-to-date contact details, so that staff and the public know how to report abuse and neglect. Referral points may be through a contact centre, specific access team or through a MASH or other locally agreed arrangements. **The Local Authority is the main referral point** even if others have their own, and all Local Authorities should provide referral points that are accessible outside normal working hours in order to respond to urgent concerns.

### 4.3.4 Professional responsible for undertaking actions under adult safeguarding

Each Local Authority has professionals responsible for undertaking actions under adult safeguarding. In some instances there is a lead professional supported by other staff, where there are complex issues or additional skills and expertise is required. The professional responsible will retain responsibility for undertaking and co-ordinating actions under Section 42 enquiries.

### 4.3.5 Safeguarding Manager

Safeguarding Manager is the member of staff who manages, makes decisions, provides guidance and has oversight of safeguarding concerns that are referred to the Local Authority, or through the Mental Health Trust where there are the above agreements in place.

The role will differ in each Local Authority but should be available for advice and consultation in complex cases. Refer to your area for more information.

#### **4.3.6 Feedback**

All adult safeguarding concerns referred to the Local Authority should be assessed to decide if the criteria for adult safeguarding are met. Keeping the person who raised the concern informed is an essential requirement under these policies and procedures. Feedback provides assurance that action has been taken whether under adult safeguarding or not. Organisations raising concerns may want to challenge or discuss decisions and need to be updated on what action has been taken. It is more likely that the public will continue to raise concerns, where there is an acknowledgement that their concern has reached the right agency and is being taken seriously. Feedback to the wider community needs to take account of confidentiality and requirements of the [Data Protection Act 1998](#)<sup>xiv</sup>. ( [See Information Governance Appendix Two](#)).

#### **4.3.7 Feedback to people alleged to have caused harm**

The principles of natural justice must be applied, consistently with the overriding aim of safety and the requirements of the Data Protection Act 1998. Providing information on the nature and outcomes of concerns to people alleged to have caused harm also needs to be seen in the wider context of prevention; for example, information can be used to support people to change or modify their behaviour. The person/organisation that is alleged to be responsible for abuse and/or neglect should be provided with sufficient information to enable them to understand what it is that they are alleged to have done or threatened to do that is wrong and to allow their view to be heard and considered. Whilst the safety of the adult remains paramount the right of reply should be offered where it is safe to do so. Decision making should take into consideration:

- The possibility that the referral may be malicious
- The right to challenge and natural justice
- Whether there are underlying issues for example employment disputes
- Family conflict
- Relationship dynamics
- Whether it is safe to disclose particularly where there is domestic abuse
- Compliance with the [Mental Capacity Act 2005](#)<sup>vii</sup>

Feedback should be provided in a way that will not exacerbate the situation, or breach the [Data Protection Act 1998](#)<sup>xiv</sup>.

If the matter is subject to police involvement, the police should always be consulted so criminal investigations are not compromised.

[The Local Government Ombudsman](#)<sup>lxxxii</sup> and the [Parliamentary and Health Ombudsman](#)<sup>lxxxii</sup> are both useful sources to explore case examples. [The](#)

[Information Commissioner](#)<sup>lxxxiii</sup> provides advice on sharing information.

#### **4.3.8 Dealing with repeat allegations**

All concerns should be considered on their own merit. An adult who makes repeated allegations that have been investigated and decided to be unfounded should be treated without prejudice. Where there are patterns of similar concerns being raised by the same adult within a short time period, a risk assessment and risk management plan should be developed and a local process agreed for responding to further concerns of the same nature from the same adult. All organisations are responsible for recording and noting where there are such situations and may be asked to contribute to a multi-agency response. Information sharing to assess and analyse data is essential to ensure that adults are safeguarded and an appropriate response is made. Staff should also be mindful of public interest issues.

In considering how to respond to repeated concerns the following factors need to be considered:

- The safety of the adult who the concern is about;
- Mental capacity and ability of the support networks of the individual to raise the concern, if appropriate, or they are the adult at risk, to increase support to meet outcomes of safeguarding concerns;
- Wishes of the adult at risk and impact of the concern on them;
- Impact on important relationships;
- Level of risk.

#### **4.3.9 Dispute resolution and escalation**

Professional disagreements should be resolved at the earliest opportunity, ensuring that the safety and wellbeing of the adult at risk remains paramount. Challenges to decisions should be respectful and resolved through co-operation. Disagreements can arise in a number of areas and staff should always be prepared to review decisions and plans with an open mind. Assurance that the adult at risk is safe takes priority. Disagreements should be talked through and appropriate channels of communication established to avoid misinterpretation.

In the event that operational staff are unable to resolve matters, more senior managers should be consulted. Multi-agency network meetings may be a helpful way to explore issues with a view to improving practice. In exceptional circumstances or where it is likely that partnership protocols are needed the SAB should be informed.

In the case of care providers, unresolved disputes should be raised with the relevant managers leading on the concern and commissioners.

#### **4.3.10 Cross-boundary and inter-authority adult safeguarding enquiries**

Risks may be increased by complicated cross-boundary arrangements, and it may be dangerous and unproductive for organisations to delay action due to disagreements over responsibilities. The rule for managing safeguarding enquiries is that the Local Authority for the area where the abuse occurred has the responsibility to carry out the duties under [Section 42 Care Act 2014](#), but there

should be close liaison with the placing authority.

The 'placing Local Authority' continues to hold responsibility for commissioning and funding a placement. However, many people at risk live in residential settings outside the area of the placing authority. In addition, a safeguarding incident might occur during a short-term health or social care stay, or on a trip, requiring police action in that area or immediate steps to protect the person while they are in that area.

The initial lead in response to a safeguarding concern should always be taken by the Local Authority for the area where the incident occurred. This might include taking immediate action to ensure the safety of the person, or arranging an early discussion with the police when a criminal offence is suspected.

Further action should then be taken in line with [Making Safeguarding Personal](#)<sup>vi</sup> on the views of the adult, and the [Care and Support statutory guidance](#)<sup>ii</sup> on who is best placed to lead on an enquiry.

#### 4.3.11 Timescales

The adult safeguarding procedures **do not** set definitive timescales for each element of the process; however, **suggested** target timescales are included in the table below. In addition, individual local authorities or SABs may make decisions on timescales for their own performance monitoring.

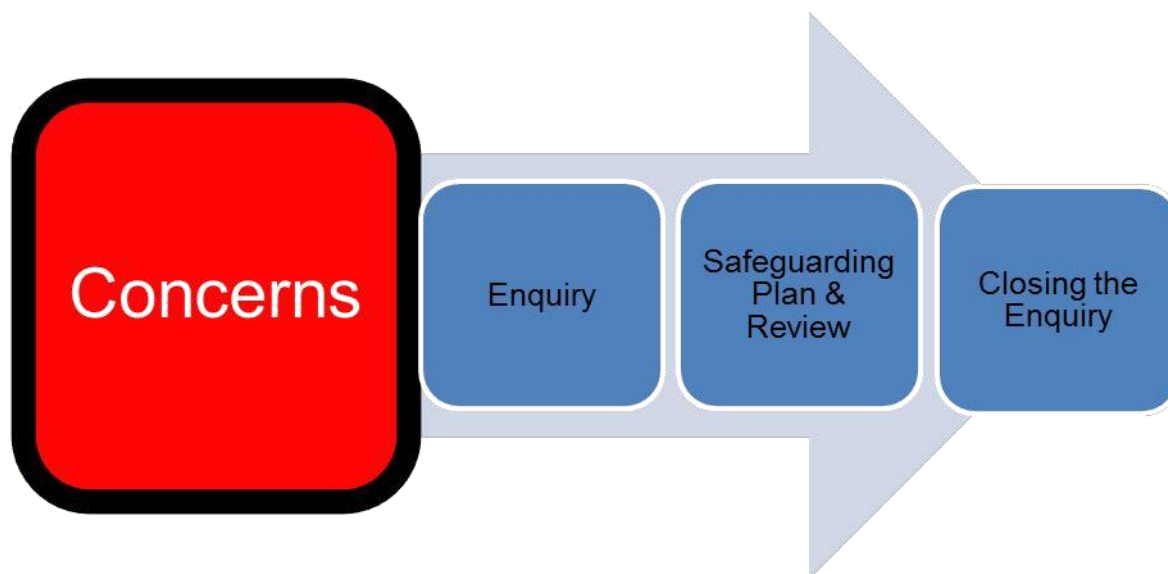
Local guidance on timescales should reflect the ethos of Making Safeguarding Personal. It is important that timely action is taken, whilst respecting the principle that the views of the adult at risk are paramount. It is the responsibility of all agencies proactively to monitor concerns to ensure that drift does not prevent timely action and place people at further risk. Divergence from any target timescales may be justified where:

- Adherence to the agreed timescales would jeopardise achieving the outcome that the adult at risk wants;
- It would not be in the best interests of the adult at risk;
- Significant changes in risk are identified that need to be addressed;
- Supported decision making may require an appropriate resource not immediately available;
- Persons' physical, mental and/or emotional wellbeing may be temporarily compromised.

**Note:** Safeguarding processes are driven by the nature of the case and the needs of the client. Some local authorities will have clear requirements for working within timescales, while others will be more flexible. Please refer to your local area for more information. The timescales below are indicative.

## INDICATIVE TIMESCALES

<b>Stage one: Concerns</b>	Immediate action in cases of emergency.
	Within one working day in other cases.
<b>Stage two: Enquiries</b>	
Initial conversation	Same day concern received if not already taken place.
Planning meetings or Strategy discussions	Within 5 working days.
Enquiry actions	Target time within 20 working days.
Agreeing outcomes	Within 5 working days of enquiry report.
<b>Stage three: Safeguarding Plan &amp; Review</b>	
Safeguarding Plan	Within 5 working days of enquiry report.
Review	Not more than 3 months, but dependent upon risk.
<b>Stage four: Closing the Enquiry</b>	
Closing the enquiry	Actions immediately following decision to close where possible. Other actions within 5 working days.



## STAGE 1: CONCERNS

### What is an adult safeguarding concern?

An adult safeguarding concern is any worry about an adult who has or appears to have care and support needs, that they may be subject to, or may be at risk of, abuse and neglect and may be unable to protect themselves against this.

A concern may be raised by anyone, and can be:

- An active disclosure of abuse by the adult, where the adult tells a member of staff that they are experiencing abuse and/or neglect;
- A passive disclosure of abuse where someone has noticed signs of abuse or neglect, for example clinical staff who notice unexplained injuries;
- An allegation of abuse by a third party, for example a family/friend or neighbour who have observed abuse or neglect or have been told of it by the adult;
- A complaint or concern raised by an adult or a third party who doesn't perceive that it is abuse or neglect. Complaint officers should consider whether there are safeguarding matters;
- A concern raised by staff or volunteers, others using the service, a carer or a member of the public;
- An observation of the behaviour of the adult at risk;
- An observation of the behaviour of another;
- Patterns of concerns or risks that emerge through reviews, audits and complaints or regulatory inspections or monitoring visits (CQC, Monitor etc.).

Concerns can be raised in person, by telephone, email or letter. They may also be raised through specific organisation processes.

Some concerns may not sit under adult safeguarding processes, but remain concerns that may require other action. All concerns should be responded to, and SABs should be satisfied that concerns are being addressed appropriately through their oversight of safeguarding practice.

### Police Engagement

Staff contact with the police will fall mainly into four main areas:



- A. Reporting a crime – if an individual witnesses a crime, they have a duty to report it to the police;
- B. Third party reporting of a crime – if an individual is made aware of a crime, they should support the adult at risk to report to the police, or make a best interest decision to do so. In domestic abuse situations practitioners should be aware of the principles of ‘Safe Enquires’ (see domestic abuse and safeguarding adults);
- C. Consultation with the police – seeking advice;
- D. Sharing intelligence and managing risk – where there is an integrated MASH, this will be the channel for information sharing, in addition to agreed information sharing protocols.

Where the safeguarding concerns arise from abuse or neglect deliberately intended to cause harm, then it will not only be necessary to immediately consider what steps are needed to protect the adult but also how best to report as a possible crime. **Early engagement with the police is vital to support the criminal investigation.**

#### **PRIOR TO RAISING A CONCERN WITH THE LOCAL AUTHORITY:**

#### **IMMEDIATE ACTION BY THE PERSON RAISING THE CONCERN**

The person who raises the concern has a responsibility to first and foremost safeguard the adult at risk.

- a. Make an evaluation of the risk and take steps to ensure that the adult is in no immediate danger;
- b. Arrange any medical treatment. (Note that offences of a sexual nature will require expert advice from the police);
- c. If a crime is in progress or life is at risk, dial emergency services – 999;
- d. Encourage and support the adult to report the matter to the police if a crime is suspected and not an emergency situation;
- e. Take steps to preserve any physical evidence if a crime may have been committed, and preserve evidence through recording;
- f. Ensure that other people are not in danger;
- g. If you are a paid employee, inform your manager. Report the matter internally through your internal agency reporting procedures (e.g. NHS colleagues may still need to report under clinical governance or serious incident processes.) Report to HR department if an employee is the source of risk;
- h. Record the information received, risk evaluation and all actions.

#### **THE SAFEGUARDING MANAGER/LEAD SHOULD REVIEW ACTION TAKEN, AND:**

- a. Clarify that the adult at risk is safe, that their views have been clearly sought and recorded and that they are aware what action will be taken;
- b. Address any gaps;
- c. Check that issues of consent and mental capacity have been addressed;
- d. In the event that a person’s wishes are being overridden, check that this is appropriate and that the adult understands why;
- e. Contact the children and families department if a child or young person is also at risk;
- f. If the person allegedly causing the harm is also an adult at risk, arrange appropriate care and support;

- g. Make sure action is taken to safeguard other people;
- h. Take any action in line with disciplinary procedures; including whether it is appropriate to suspend staff or move them to alternative duties;
- i. If your service is registered with the Care Quality Commission, and the incident constitutes a notifiable event, complete and send a notification to CQC;
- j. In addition, if a criminal offence has occurred or may occur, contact the Police force where the crime has / may occur;
- k. Preserve forensic evidence and consider a referral to specialist services;
- l. Make a referral under Prevent if appropriate;
- m. Consider if the case should be put forward for a SAR;
- n. Record the information received and all actions and decisions.

### **Considerations prior to raising a concern with the Local Authority**

The organisation's safeguarding representative or lead will usually lead on decision making. Where such support is unavailable, consultation with other more senior staff should take place. In the event that these are unavailable, seeking the advice of the Local Authority should be considered.

Staff should also take action without the immediate authority of a line manager:

- If discussion with the manager would involve delay in an apparently high-risk situation;
- If the person has raised concerns with their manager and they have not taken appropriate action (whistleblowing).

Decisions need to take into account all relevant information that is available, including the views of the adult in all circumstances where it is possible and safe to seek their views. If the adult does not want to pursue matters through safeguarding action, staff should be sure that the adult is fully aware of the consequences of their decisions, and that all options have been explored and that not proceeding further is consistent with legal duties.

There may be some occasions when the adult at risk does not want to pursue a referral to the Local Authority. It is best practice to gain the person's consent but when this cannot be gained, the concern can still be raised **where necessary**. Be specific about the adult's views. Where there is a potentially high risk situation, staff should be vigilant of possible coercion and the emotional or psychological impact that the abuse may have had on the adult.

Decision makers also need to take account of whether or not there is a public or vital interest to refer the concern to the Local Authority. Where there is a risk to other adults, children or young people or there is a public interest to take action because a criminal offence had occurred and the view is that it is a safeguarding matter, the wishes of the individual may be overridden. **Where the sharing of information to prevent harm is necessary, lack of consent to information sharing can also be overridden.** For further information, refer to Berkshire's [Information Sharing Protocol](#) and [Appendix 2 Information Governance](#).

In the event that people lack the capacity to provide consent, action should be taken in line with the Mental Capacity Act 2005. [Please refer to Practice in Section 3.](#)

Where a possible crime has been committed people should always be encouraged to report the matter to the police.

Some local areas may have a Threshold Guidance Document for practitioners to refer to.

### **GOOD PRACTICE GUIDANCE – DISCLOSURE**

- Speak in a private and safe place
- Accept what the person is saying
- Don't 'interview' the person; but establish the basic facts avoiding asking the same questions more than once
- Ask them what they would like to happen and what they would like you to do
- Don't promise the person that you'll keep what they tell you confidential; explain who you will tell and why
- If there are grounds to override a person's consent to share information, explain what these are
- Explain how the adult will be involved and kept informed
- Provide information and advice on keeping safe and the safeguarding process
- Make a best interest decision about the risks and protection needed if the person is unable to provide informed consent

#### **Establish**

- The risks and what immediate steps to take
- Communication needs, whether an interpreter or other support is needed
- Whether it is likely that advocacy may be required
- Personal care and support arrangements
- Mental capacity to make decisions about whether the adult is able to protect themselves and understand the safeguarding process

### **CONCERNS CHECKLIST**

- Safety of adult and others made
- Initial conversation held with the adult
- Emergency services contacted and recorded
- Medical treatment sought
- Consent sought
- Mental Capacity considered
- Best Interest Decisions made and recorded
- Public and vital interest considered and recorded
- Police report made
- Evidence preserved
- Referrals to specialist agencies
- Referral to children services if there are children and young people safeguarding matters
- Action taken to remove/reduce risk where possible and recorded
- Recorded clear rationales for decision making
- Referral to Local Authority included relevant information

## Referral to the Local Authority

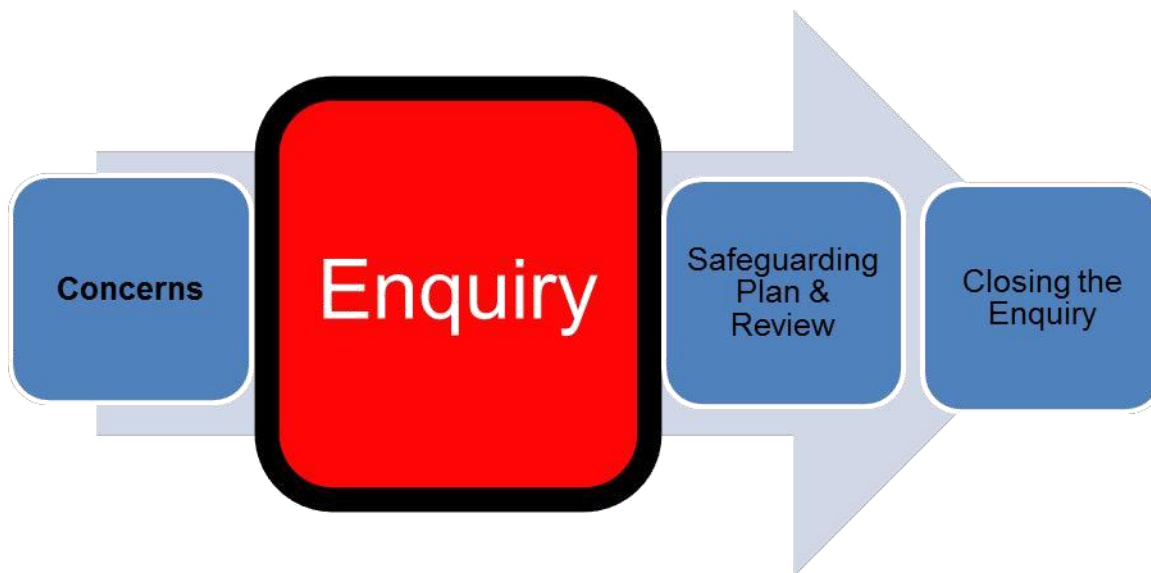
If, on the basis of the information available, it appears that the following three steps are met a referral **must** be made to the Local Authority.



## Information the referral might contain

Organisations that refer to the Local Authority should include the following information:

- Demographic and contact details for the adult at risk, the person who raised the concern and for any other relevant individual, specifically carers and next of kin;
- Basic facts, focussing on whether or not the person has care and support needs including communication and on-going health needs;
- Factual details of what the concern is about; what, when, who, where;
- Immediate risks and action taken to address risk;
- Preferred method of communication;
- If reported as a crime - details of which police station/officer, crime reference number etc.;
- Whether the adult at risk has any cognitive impairment which may impede their ability to protect themselves;
- Any information on the person alleged to have caused harm;
- Wishes and views of the adult at risk, in particular consent;
- Advocacy involvement (includes family/friends);
- Information from other relevant organisations for example, the Care Quality Commission;
- Any recent history (if known) about previous concerns of a similar nature or concerns raised about the same person, or someone within the same household.



## STAGE 2: ENQUIRY

When the Local Authority becomes aware of a situation that meets the criteria described in the above three steps, it **must** make or arrange an enquiry under [Section 42 of the Care Act 2014](#)<sup>xx</sup>. '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 (whether under this Part or otherwise) and, if so, what and by whom.'

An enquiry should establish whether and what action needs to be taken to prevent or stop abuse or neglect.

Local Authorities should aim to provide swift and personalised safeguarding responses, involving the adult at risk in the decision making process as far as possible. Further guidance is given about cases in which the adult at risk may lack capacity or has a substantial difficulty in being involved is given in [Section 3](#). Local Authorities should record the information received, the views and wishes ascertained, the decisions taken and the reasons for them and any advice and information given.

### Role of the Local Authority

The Local Authority should decide very early on in the process who is the best person/organisation to lead on the enquiry. Where there are multiple agencies involved, the LA should take the lead and delegate specific parts of the enquiry as appropriate, co-ordinate the response and ensure the enquiry is completed to a satisfactory standard in line with Making Safeguarding Personal. The Local Authority retains the responsibility for ensuring that the enquiry is referred to the right place and is acted upon. If the Local Authority has asked someone else to make enquiries, it is able to challenge the organisation/individual making the enquiry if it considers that the process and/or outcome are unsatisfactory. In exceptional cases, the Local Authority may undertake an additional enquiry, for example, if the original fails to address significant issues.

The information in some referrals may be sufficiently comprehensive that it is clear that immediate risks are being managed, and that the criteria are met for a formal Section 42 enquiry. In other cases some additional information gathering may be needed to fully establish that the three steps are met. Decisions need to take into

account all relevant information through a multi-agency approach wherever possible, including the views of the adult taking into consideration mental capacity and consent. ( [See Best Practice](#))

The degree of involvement of the Local Authority will vary from case-to-case, but at a minimum must involve decision making about how the enquiry will be carried out, oversight of the enquiry, decision making at the conclusion of the enquiry about what actions are required, ensuring data collection is carried out, and quality assurance of the enquiry has been undertaken.

## **Criminal Investigations**

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

## **Ill treatment and wilful neglect**

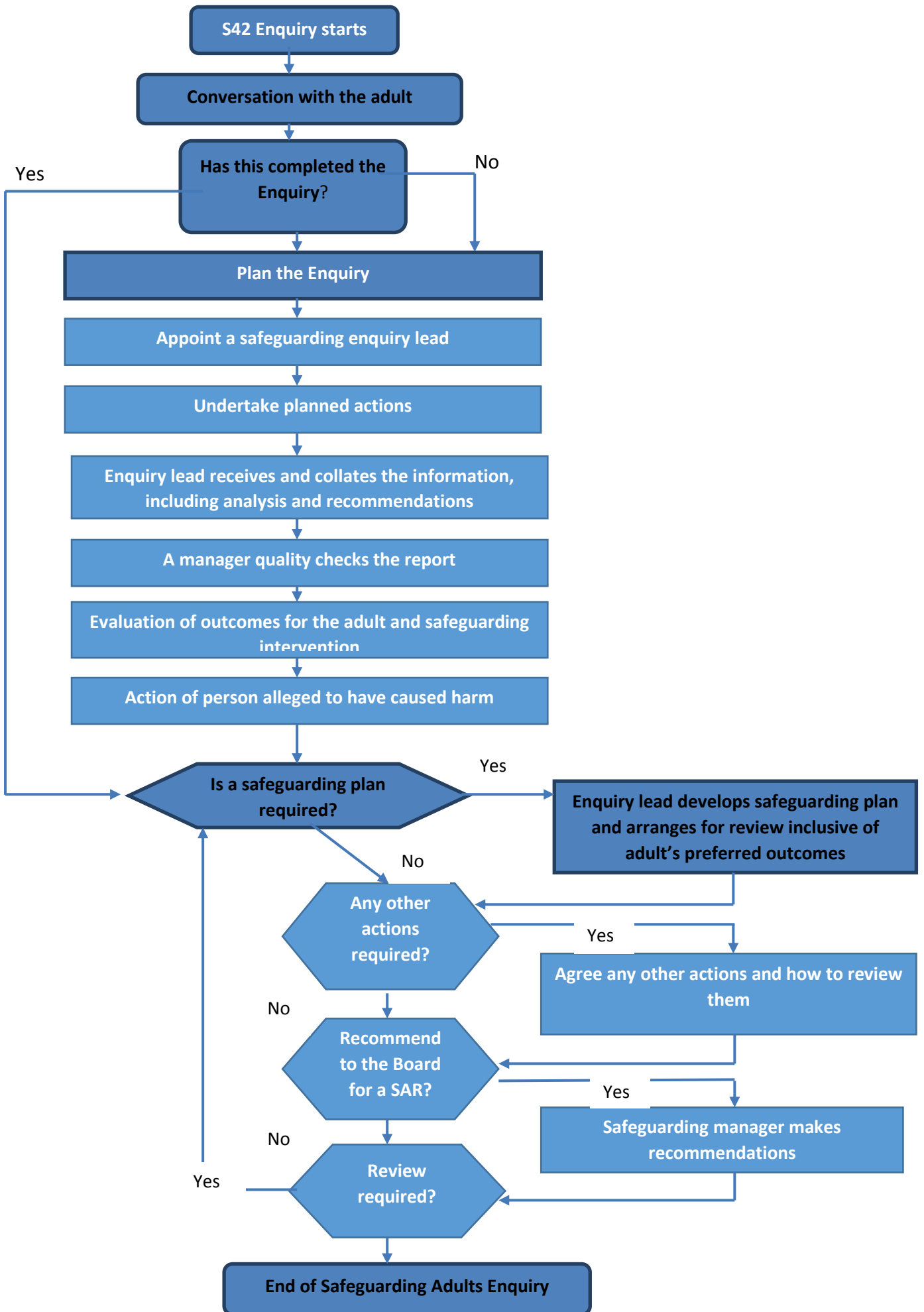
The police will determine whether there should be criminal investigations by people in positions of trust where there is ill treatment and wilful neglect. There are a number of possible offences which may apply, including the specific offences mentioned below.

[Section 44 Mental Capacity Act 2005](#)<sup>lxxxiv</sup> makes it a specific criminal offence to wilfully ill-treat or neglect a person who lacks capacity.

[Section 127 Mental Health Act 1983](#)<sup>lxxxv</sup> creates an offence in relation to staff employed in hospitals or mental health nursing homes where there is ill-treatment or wilful neglect.

Sections 20 to 25 of the [Criminal Justice and Courts Act 2015](#)<sup>lxxxvi</sup> relate to offences by care workers and care providers.

# Section 42 Enquiry Flowchart



## **Conversations with the adult (including appropriate support)**

In the majority of cases, unless it is unsafe to do so, each enquiry will start with a conversation with the adult at risk. The safeguarding lead or manager should ensure if conversations have already taken place and are sufficient. The adult and/or their advocate should not have to repeat their story. In many cases staff/organisation who already knows the adult well maybe best placed to lead on the enquiry. They may be a housing support worker, a GP or other health worker such as a community nurse or a social worker. While many enquiries will require significant input from a social care practitioner, there will be aspects that should and can be undertaken by other professionals.

Points to consider:

- The pace of conversations
- Whether the presenting issue identifies the risk to the adult's safety, or whether there are additional risks to be considered
- Wider understanding and assessment of the adult's overall wellbeing

The adult should be aware at the end of the meeting, what action will be taken and provided with contact details for key people.

### **Objectives**

- Establish the facts;
- Ascertain the adult's views and wishes and preferred outcomes;
- Assess the needs of the adult for protection, support and redress and how these might be met;
- Protect the person from the abuse and neglect, in accordance with the wishes of the adult where possible;
- Enable the adult to achieve resolution where possible.

Staff need to handle enquiries in a sensitive and skilled way to ensure minimal distress to the adult and where information is already known people should not have to tell their story again; this doesn't prevent clarification been sought where necessary. There is a skill involved in eliciting information and asking the right questions, to ascertain what the concern is, how it impacts on the adult at risk, what action they would find acceptable and the level of associated risk. Whilst it is essential to put the adult at risk at ease, and to build up a rapport, the objectives of an enquiry should focus the conversation. ( [See Good Practice Guidance](#) )

### **Desired Outcomes identified by the adult**

The desired outcome by the adult at risk should be clarified and confirmed at the end of the conversation(s), to:

- Ensure that the outcome is achievable;
- Manage any expectations that the adult at risk may have and;
- Give focus to the enquiry.

Staff should support adults at risk to think in terms of realistic outcomes, but should not restrict or unduly influence the outcome that the adult would like.



Outcomes should make a difference to risk, and at the same time satisfy the persons' desire for justice and enhance their wellbeing.

The adult's views, wishes and desired outcomes may change throughout the course of the enquiry process. There should be an on-going dialogue and conversation with the adult to ensure their views and wishes are gained as the process continues, and enquiries re-planned should the adult change their views.

<b>INITIAL ACTION AND DECISION MAKING UNDER SECTION 42</b>		
<b>Action</b>	<ul style="list-style-type: none"> <li>• Establish the adult is safe</li> <li>• Establish need for advocacy</li> <li>• Establish consent and capacity to make relevant decisions by understanding the management of risk, what a safeguarding enquiry is, how they might protect themselves</li> <li>• Is the adult aware of the safeguarding concern and do they perceive it as a concern and want action / support</li> <li>• Is there suspicion that a crime may have been committed and a report to the police needed</li> <li>• The adult at risk's desired outcome is established</li> <li>• Provide feedback to the person making the referral</li> <li>• Record all actions and conversations</li> </ul>	Enquiry lead
<b>Decisions</b>	<ul style="list-style-type: none"> <li>• Who is best placed to speak with the adult at risk</li> <li>• Are there any reasons to delay speaking with the adult at risk</li> <li>• What the safeguarding enquiry might consist of</li> <li>• Whether to proceed without consent</li> <li>• What follow-up action may be needed</li> <li>• Whether actions so far have completed the enquiry</li> </ul>	Decisions made by the safeguarding lead / manager

Talking through an enquiry may result in resolving it, if not, the duties under Section 42 continue. If the adult has capacity and expresses a clear and informed wish not to pursue the matter further, the Local Authority should consider whether it is appropriate to end the enquiry. It should consider whether it still has reasonable cause to suspect that the adult is at risk and whether further enquiries are necessary before deciding whether further action should be taken. The adult's consent is not required to take further steps, where appropriate, but the Local Authority must bear in mind the importance of respecting the adult's own views.

**This decision will be made by the Local Authority safeguarding manager** by checking with the adult and consulting with relevant partners and advocate.

## **Planning an Enquiry under further Section 42 duties**

All enquiries need to be planned and co-ordinated and key people identified. No agency should undertake an enquiry prior to a planning discussion, unless it is necessary for the protection of the adult at risk or others.

The Local Authority professional leading on the enquiry should be confident and understand what is required. Dependent upon the complexity of an enquiry, the person leading on the Section 42 may wish to convene a multi-agency planning group.

Enquiries are proportionate to the particular situation. The circumstances of each individual case determine the scope and who leads it. Enquiries should be outcome focussed, and best suit the particular circumstances to achieve the outcomes for the adult.

There is a statutory duty of co-operation and in most cases there will be an expectation that enquiry will be made as requested. The statutory duty does not apply if co-operation would be incompatible with its own duties or would have an adverse effect on its own functions.

If an organisation declines to undertake an enquiry or if the enquiry is not done, local escalation procedures should be followed. The key consideration of the safety and wellbeing of the adult must not be compromised in the course of any discussions or escalation and it is important to emphasise that the duty to co-operate is mutual.

When planning an enquiry, a review should be made of:

- The adult's mental capacity to understand the type of enquiry, the outcomes and the effect on their safety now and in the future;
- Whether consent has been sought;
- Whether an advocate or other support is needed;
- The level and impact of risk of abuse and neglect;
- The adults' desired outcome;
- The adults own strengths and support networks.

## **Communication and actions**

It may be helpful to agree the best way to keep the adult and relevant parties informed. Where the enquiry is complicated and requires a number of actions that may be taken by others to support the outcome, it may be appropriate for a round table meeting. Where enquiries are simple, single agency enquiries it may not be necessary to hold a meeting. Action should never be put on hold, due to the logistics of arranging meetings. Proportionality should be the guiding principle.

If the adult wishes to participate in meetings with relevant partners, one should be convened. Action however, should not be 'on hold' until a meeting can be convened. If the adult does not have the capacity to attend, then an advocate should represent their views.

## GOOD PRACTICE GUIDE

### INVOLVING ADULTS IN SAFEGUARDING MEETINGS

Effective involvement of adults and/or their representatives in safeguarding meetings requires professionals to be creative and to think in a person-centred way.

- How should the adult be involved?
- Where is the best place to hold the meeting?
- How long should the meeting last?
- Timing of the meeting?
- Agenda
- Preparation with the adult
- Who should chair?
- Agreement by all parties to equality

Information sharing should be timely, co-operation between organisations to achieve outcomes and co-ordinate actions, keeping the safety of the adult as paramount. Information sharing should comply with all legislative requirements.

Where one agency is unable to progress matters further, for example a criminal investigation may be completed but not necessarily achieve desired outcomes (e.g. criminal conviction), the Local Authority in consultation with the adult and others decide if and what further action is needed.

#### **Support networks**

The strengths of the adult at risk should always be considered. Mapping out with the adult, and identifying their strengths and that of their personal network may reduce risks sufficiently so that people feel safe without the need to take matters further.

Risk should be assessed and managed at the beginning of the enquiry and reviewed throughout. A multi-agency approach to risk should aim to:

- Prevent further abuse or neglect;
- Keep the risk of abuse or neglect at a level that is acceptable to the person and;
- Support the individual to continue in the risky situation if that is their choice and they have the capacity to make that decision.

#### **Types of safeguarding enquiries**

Responsibility to coordinate the safeguarding enquiry lies with the local authority. The local authority cannot discharge this duty, but another agency may lead on specific elements of the safeguarding enquiry. See table below for examples.

Enquiries can range from non-complex single agency interventions to multi-agency complex enquiries. The key questions in choosing the right type of enquiry, is

dependent on:

- What outcome does the adult want?
- How can enquiries be assessed as successful in achieving outcomes?
- What prevention measures need to be in place?
- How can risk be reduced?

Identifying the primary source of risk may assist in deciding what the most appropriate and proportionate response to the individual enquiry might be. There are no hard and fast rules and judgement will need to be made about what type of enquiry and actions are right for each particular situation.

### **Linking different types of enquiries**

There are a number of different types of enquiries. It is important to ensure that where there is more than one enquiry, information is dovetailed to avoid delays, duplications and making people repeat their story.

Other processes, including police investigations, can continue alongside the safeguarding adult's enquiry. Where there are HR processes to consider, it is important to ensure an open and transparent approach with staff, and that they are provided with the appropriate support, including trade union representation. The remit and authority of organisations need to be clear when considering how different types of investigations might support Section 42 enquiries.

Types of enquiries	Who might lead
Criminal (including assault, theft, fraud, hate crime, domestic violence and abuse or wilful neglect.	Police
Domestic violence (serious risk of harm)	Police coordinate the MARAC process
Anti-social behaviour (e.g. harassment, nuisance by neighbours)	Community safety services/local Policing (e.g. Safer Neighbourhood Teams).
Breach of tenancy agreement (e.g. harassment, nuisance by neighbours)	Landlord/registered social landlord/housing trust/community safety services
Bogus callers or rogue traders	Trading Standards/Police
Complaint regarding failure of service provision(including neglect of provision of care and failure to protect one service user from the actions of another)	Manager/proprietor of service/complaints department Ombudsman (if unresolved through complaints procedure)
Breach of contract to provide care and support	Service commissioner (e.g. Local Authority, NHS CCG)
Fitness of registered service provider	CQC
Serious Incident (SI) in NHS settings	Root cause analysis investigation by relevant NHS Provider
Unresolved serious complaint in health care setting	CQC, Health Service Ombudsman
Breach of rights of person detained under the MCA 2007 Deprivation of Liberty Safeguards (DoLs)	CQC, Local Authority, OPG/Court of Protection
Breach of terms of employment/disciplinary procedures	Employer
Breach of professional code of conduct	Professional regulatory body
Breach of health and safety legislation and regulations	HSE/CQC/Local Authority Link to – 2015 MoUlxvii
Misuse of enduring or lasting power of attorney or misconduct of a court-appointed deputy	OPG/Court of Protection/Police
Inappropriate person making decisions about the care and wellbeing of an adult who does not have mental capacity to make decisions about their safety and which are not in their best interests	OPG/Court of Protection
Misuse of Appointeeship or agency	DWP
Safeguarding Adults Review ( <a href="#">Care Act Section 44</a> <sup>liv</sup> )	Local Safeguarding Adults Boards

[A range of options can also be found at the LGA website for Making Safeguarding Personal.](#)

## **Enquiry Reports**

Once all actions have been completed a report should be collated and drawn up by the Enquiry Officer overseen by the Enquiry Lead. In some more complex enquiries, there may be a number of actions taken by other staff that support the enquiry. Where there are contributions from other agencies/staff, these should be forwarded within agreed formats and timeframes, so that there is one comprehensive report that includes all sources of information.

Reports need to be concise, factual and accurate. Reports should be drafted and discussed with the adult at risk/advocate. Reports need to address general and specific personalised issues. They should cover:

- Views of the adult at risk
- Whether outcomes were achieved
- Is there evidence that Section 42 criteria were met
- Whether any further action is required and, if so, by whom
- Who supported the adult and if this is an on-going requirement.

In some enquiries, there will be an investigation, for example, a disciplinary investigation; these might be appended to the Enquiry Report. In drawing up the report, the risk assessment should be reviewed and any safeguarding plan adjusted accordingly.

Recommendations should be monitored and taken forward. Agencies are responsible for carrying out the recommendations which might be included in future safeguarding plans.

## **Standards and Analysis**

The report should be tested that it meets the standards above, and analysed to assess whether there are gaps, contradictions and that information has been triangulated, i.e. is the report evidence based, and is there sufficient corroboration to draw conclusions.

The report and recommendations of the enquiry should be discussed with the adult at risk and / or their advocate, who may have a view about whether it has been completed to a satisfactory standard.

Overall, the Local Authority should decide if the enquiry is completed to a satisfactory standard. If another organisation has led on the enquiry, the Local Authority may decide that a further enquiry should be undertaken by the Local Authority. The exception to this is where there is a criminal investigation and in this case, the Local Authority should consider if any other enquiry is needed that will not compromise action taken by the police.

## **Outcome to the enquiry**

All enquiries should have established outcomes that determine the effectiveness of interventions. Decisions should be made whether:

1. The adult has needs for care and support
2. They were experiencing or at risk of abuse or neglect

3. They were unable to protect themselves
4. Further action should be taken to protect the adult from abuse or neglect

These decisions are made by the Safeguarding Manager in consultation with the adult and other parties involved in the enquiry.

### **Evaluation by the adult at risk**

1. Were the desired outcomes met? (In exploring this, there is a need to clarify whether they were):
  - a. Fully met;
  - b. Partially met;
  - c. Not met.
2. Do they feel safer?
  - a. Yes;
  - b. Partially - in some areas but not others;
  - c. No.

The evaluation is that of the adult, and not of other parties. Whilst staff may consider that enquiry and actions already taken have made the adult safe, and that their outcomes were met, the important factor is how actions have impacted on the adult. This should be clarified when assessing the performance of safeguarding.

### **Outcome for the person(s) alleged to have caused harm**

To ensure the safety and wellbeing of other people, it may be necessary to take action against the person/organisation alleged to have caused harm. Where this may involve a prosecution, the police and the Crown Prosecution Service lead sharing information within statutory guidance.

The police may also consider action under the Common Law Police Disclosure (CLPD) which is the name for the system that has replaced the 'Notifiable Occupations Scheme'. The CLPD addresses risk of harm regardless of the employer or regulatory body and there are no lists of specific occupations. The CLPD focusses on:

- Disclosure where there is a public protection risk
- Disclosures are subject to thresholds of 'pressing social need'.
- The 'pressing social need' threshold for making a disclosure under common law powers is considered to be the same as that required for the disclosure of non-conviction information by the Disclosure and Barring Service (DBS) under Part V of the Police Act 1997 (as amended).

### **Referrals to Professional Bodies**

Where it is considered that a referral should be made to the DBS careful consideration should be given to the type of information needed. This is particularly pertinent for people in a position of trust.

Where appropriate, employers should report workers to the statutory and other bodies responsible for professional regulation such as the General Medical

Council the Nursing and Midwifery Council and the Health & Care Professions Council. The legal duty to refer to the Disclosure and Barring Service may apply regardless of a referral to other bodies. Please [refer to Appendix 3](#)

## **Support for people who are alleged to have caused harm**

Where the person is also an adult who has care and support needs, organisations should consider what support and actions may help them not to abuse others. For example, enquiries may indicate that abuse was caused because the adult's needs were not met and therefore a review of their needs should be made.

Where the person alleged to have caused harm is a carer, consideration should be given to whether they are themselves in need of care and support.

Checks might be made whether staff were provided with the right training, supervision and support. Whilst this does not condone deliberate intentions of abuse, prevention strategies to reduce the risk of it occurring again to the adult or other people should be considered.

People who are known perpetrators of domestic violence may benefit from [Domestic Violence Prevention Programmes](#)<sup>lxxxviii</sup>.

When considering action for people who abuse, prevention and action to safeguard adults should work in tandem.

## **Recovery & Resilience**

Adults who have experienced abuse and neglect may need to build up their resilience. This a process whereby people use their own strengths and abilities to overcome what has happened, learn from the experience and have an awareness that may prevent a reoccurrence, or at the least, enable people to recognise the signs and risks of abuse and neglect, and know who and how to contact for help.

Resilience is supported by recovery actions, which includes adults identifying actions that they would like to see to prevent the same situation arising. The process of resilience is evidenced by:

- The ability to make realistic plans and being capable of taking the steps necessary to follow through with them;
- A positive perception of the situation and confidence in the adult at risk own strengths and abilities;
- Increasing their communication and problem-solving skills.

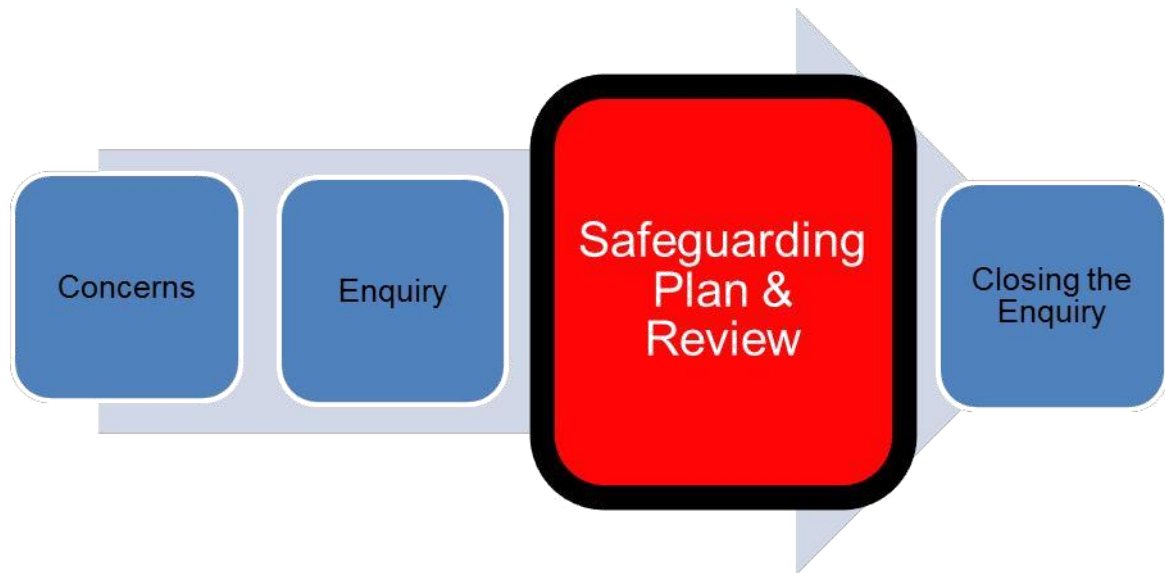
Resilience processes that either promote well-being or protect against risk factors, benefits individuals and increases their capacity for recovery. This can be done through individual coping strategies assisted by:

- Strong personal networks and communities
- Social policies that make resilience more likely to occur
- Handovers/referrals to other services for example care management, or psychological services to assist building up resilience
- Restorative practice



If no further safeguarding action is required and there are alternative ways of supporting adults where they may be needed, then the adult safeguarding process can be closed down.

<b>ACTIONS AND DECISIONS UNDER SECTION 42 ENQUIRIES</b>		
	<b>WHAT TO DO</b>	<b>WHO SHOULD BE INVOLVED</b>
<b>Actions</b>	Allocate the Enquiry Plan the Enquiry Identify lead professional in individual agencies Clarify desired outcomes Identify links to other procedures in progress Undertake agreed action Update safeguarding plan Agree communication Agree outcomes for person(s) alleged to have caused harm Make referrals as agreed in relation to the person alleged to have caused harm Make referrals in relation to the adult Evaluation by the adult / advocate Explore recovery and resilience	Local Authority (LA) Adult at risk /advocate / relevant professionals Allocated LA lead Adult at risk /advocate Allocated LA lead Relevant lead professional/ adult at risk / advocate Adult at risk /advocate Adult at risk /advocate / Allocated LA lead
<b>Decisions</b>	What type of enquiry is appropriate and proportionate? Who should lead and who should contribute? Do reports provided by other agencies meet required standards? Is it necessary for the Local Authority to make further enquiries under safeguarding? Should the enquiry be closed or taken forward for review? Actions for the adult? Actions for the person alleged to have caused harm?	Lead professional in consultation with the adult and others



### STAGE 3: SAFEGUARDING PLAN AND REVIEW

In most cases there will be a natural transition between deciding what actions are needed and the end of the enquiry, into formalising what these actions are and who needs to be responsible for each action - this is the adult safeguarding plan.

An adult safeguarding plan is not a care and support plan, and it will focus on care provision only in relation to the aspects that safeguard against abuse or neglect, or which offer a therapeutic or recovery based resolution. In many cases the provision of care and support may be important in addressing the risk of abuse or neglect, but where this is the intention the adult safeguarding plan must be specific as to how this intervention will achieve this outcome.

The **Safeguarding Plan** should set out:

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

The plan should outline the roles and responsibilities of all individuals and agencies involved. It should identify which lead professional in each agency will monitor and review their relevant part of the plan, and when this will happen. Adult safeguarding plans should be person-centred and outcome-focused. Safeguarding plans should be made with the full participation of the adult at risk. In some circumstances it may be appropriate for safeguarding plans to be monitored through ongoing care

management responsibilities. In other situations, a specific safeguarding review may be required.

### **Review of the Plan (optional)**

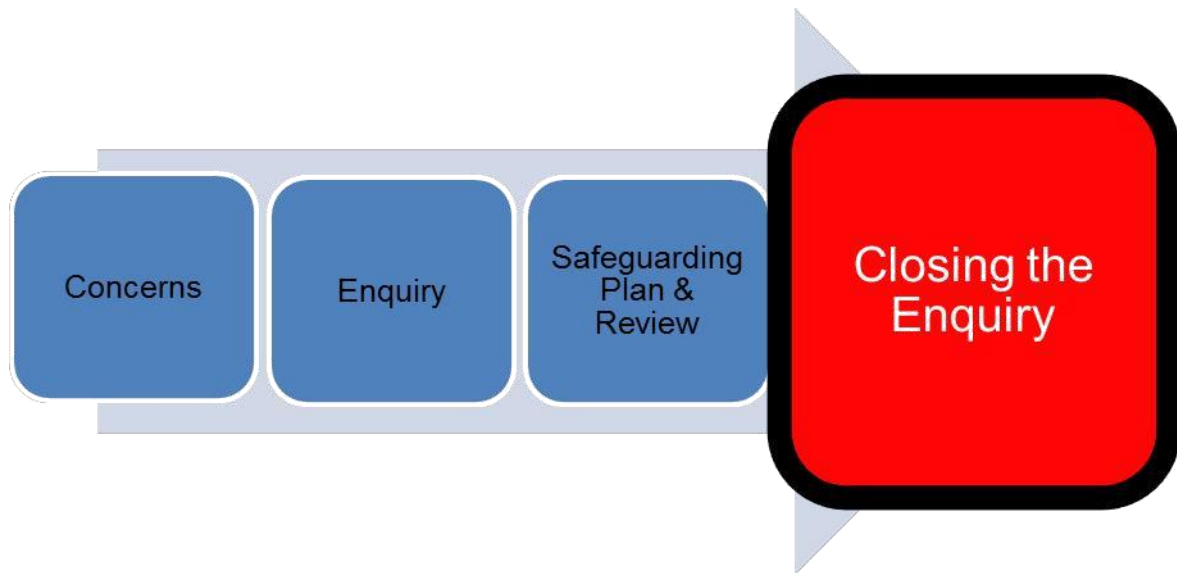
The plan should be monitored on an on-going basis, within agreed timescales. The purpose of the review is to:

- Evaluate the effectiveness of the adult safeguarding plan;
- Evaluate whether the plan is meeting/achieving outcomes;
- Evaluate risk.

Reviews of adult safeguarding plans, and decisions about plans should be communicated and agreed with the adult at risk. Following the review process, it may be determined that:

- The adult safeguarding plan is no longer required; or
- The adult safeguarding plan needs to continue.

Any changes or revisions as a result of the review of the plan should be made, new review timescales set (if needed) and agreement reached regarding the lead professional for each organisation who will continue to monitor and review the plan within their organisation; or, it may also be agreed, if needed, to instigate a new adult safeguarding Section 42 Enquiry. New safeguarding enquiries will only be needed when the Local Authority determines it is necessary. If the decision is that further enquiries would be a disproportionate response to new or changed risks, further review and monitoring may continue.



## **STAGE 4: CLOSING THE ENQUIRY**

Safeguarding can be closed at any stage. Individuals should be advised on how and who to contact with agreement on how matters will be followed up with the adult at risk if there are further concerns. It is good practice where a care management assessment, Care Programme Approach (CPA), reassessment of care and support, health review, placement review or any other pre-booked review is due to take place following the safeguarding enquiry, for a standard check to be made that there has been no reoccurrence of concerns.

Closure records should note the reason for this decision and the views of the adult at risk to the proposed closure. The manager responsible should ensure that all actions have been taken, building in any personalised actions:

- Agreements with the adult at risk to closure;
- Referral for assessment and support;
- Advice and information provided;
- All organisations involved in the enquiry updated and informed;
- Feedback has been provided to the referrer;
- Action taken with the person alleged to have caused harm;
- Action taken to support other service users;
- Referral to children and young people made (if necessary);
- Outcomes noted and evaluated by adult at risk;
- Consideration for a SAR;
- Any lessons to be learnt.

### **Closing enquiries down when other processes continue**

The adult safeguarding process may be closed but other processes may continue,

for example, a disciplinary or professional body investigation. These processes may take some time. Consideration may need to be given to the impact of these on the adult and how this will be monitored. Where there are outstanding criminal investigations and pending court actions, the adult safeguarding process can also be closed providing that the adult is safeguarded.

All closures, no matter at what stage, are subject to an evaluation of outcomes identified by the adult at risk. If the adult at risk disagrees with the decision to close down safeguarding their reasons should be fully explored and alternatives offered.

At the close of each enquiry there should be evidence of:

- Enhanced safeguarding practice ensuring that people have an opportunity to discuss the outcomes they want at the start of safeguarding activity.
- Follow-up discussions with people at the end of safeguarding activity to see to what extent their desired outcomes have been met.
- Recording the results in a way that can be used to inform practice and provide aggregated outcomes information for safeguarding adults boards.