Safeguarding Adults Practice Guidance

Getting the Basics Right

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1. Introduction

This guidance discusses key areas of safeguarding adults practice in Oldham. It provides operational guidance in relation to safeguarding adults where there are concerns about abuse, harm or neglect of an adult at risk. It should be read after reading Oldham's Multi agency Safeguarding Adults Policy and Operational Procedures for Safeguarding Adults at Risk of Abuse or Neglect to support the translation of this policy and procedure into practice.

The purpose of this practice guidance is to support practitioners and safeguarding adults' managers to understand and implement the standard of practice required within adult safeguarding.

The guidance refers to the key approaches and steps that can be taken to safeguard adults at risk.

When implementing the guidance practitioners and safeguarding adult's managers should do so in line with the six key principles of safeguarding.

- Empowerment
- Prevention
- Proportionality
- Protection
- Partnership – co-production
- Accountability

(Care Act Statutory Guidance, 14.13)

When implementing the guidance practitioners and safeguarding adults managers should also apply a making safeguarding personal approach to ensure that the adult at risk experiences the process as empowering through personalised, outcome focused safeguarding practice which enhances involvement, choice and control, as well as improving quality of life, wellbeing and safety

(Care Act Statutory Guidance, 14.15).

2. Making Safeguarding Personal

The Making Safeguarding Personal (MSP) approach is an agenda for change aimed at achieving a cultural shift in the way we work with adults who are experiencing or at risk of abuse and neglect.

MSP emphasises the need to move away from process led safeguarding practice and systems, to person centred, interventions based practice which uses preventative, wellbeing and safety approaches to meet the desired outcomes of adults at risk.

The approach therefore applies across a spectrum of work through prevention (such as helping adults to understand what abuse is, how to recognise the signs, where to seek help, and how to build resilience), promoting wellbeing (such as maximising independence) and promoting safety (such as reporting or responding to safeguarding concerns).

Across the full range of practice:

"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."

(Lawson et al, 2014, Making Safeguarding Personal: Guide 2014)

The value of safeguarding processes is recognised in MSP, as a means to enhance accountability and evidence practice.

It is the uncritical application of process that it challenged as this can lead to process led practice which sees completion of the process, rather than work towards individualised outcomes as the end in itself.

Practitioners should be acutely aware that process led practice can be experienced as oppressive and abusive in itself.

The promotion of individualised, outcome focused safeguarding practice is a response to the evidence base on safeguarding adults and the approach has been explicitly adopted in both the Care Act 2014 and Care and Support Statutory Guidance which accompanies the Act.

The culture shift MSP promotes requires multi-agency support from a highly skilled workforce as delivering personalised responses will mean practitioners negotiating conflicting principles and statutory responsibilities.

It is recognised that there is scope for misunderstanding the concept of MSP. Practitioners should always remain aware that they **must** consider both the MSP focus on individual outcomes and wishes **and** the possibilities of coercion and control, risks to others, and wider public protection responsibilities within their safeguarding practice.

3. The 5 Step Safeguarding Process

There are 5 key steps within the safeguarding process:

These are:

- Safeguarding concern
- Information gathering
- Strategy meeting or discussion
- Section 42 (statutory enquiry) enquiry or other (none statutory) enquiry
- Case Conference meeting or discussion

*A sixth step of Review may apply dependent on the outcome of case conference.

Within these steps practitioners will therefore undertake a range of conversations, activities and interventions with the aim of promoting the individualised outcomes, safety and wellbeing of the individual at risk of harm.

Practitioners will also undertake conversations, activities and interventions for public protection purposes where others may also be at risk of abuse or neglect.

It is essential to understand and be confident in negotiating process in order to support people to achieve their personal outcomes and support wider public safety.

Step 1 and 2:

3.1. Receiving a safeguarding Concern and completing information gathering

The aim of the first two steps in the safeguarding adult's process is for practitioners to work with individuals who are experiencing or at risk of abuse of neglect in support of their wellbeing and safety, including taking any emergency actions required.

Within these steps a practitioner will be required to establish the views, opinions and personal outcomes of the adult at risk in relation to the safeguarding concern, instigate any emergency measures required, and make a recommendation on how to respond to information gathered.

A safeguarding adult's managers will be required to make a final decision on whether the local authority's statutory duties to make safeguarding enquiries under section 42 of the Care Act 2014 and provide a rationale for this decision. They will also need to consider whether other (non-statutory enquires) may be appropriate, and document their rationale for this decision.

3.2. Screening a referral - is this a safeguarding concern?

When screening any referral the practitioner and safeguarding adult's manager should carefully consider the information being reported and whether further information is required to give clarity and context to the referral.

The first key area for consideration for practice is what is being reported?

Quality of Care Issues

A quality of care issue is about the standards of care provided by a regulated provider.

Examples would include environmental concerns, poor practice impacting on dignity and respect, quality of recording, the quality of policies, procedures and processes.

Quality issues which relate to a registered care providers can be reported to Quality Monitoring Officers based within commissioning services.

Quality of care issues in isolation do not require a safeguarding concern to be commenced and would not meet the criteria for section 42 enquiries.

An Unmanaged Risk Factor Arising From Unmet Wellbeing Outcomes

A risk to wellbeing may be identified when an adult has a physical or mental impairment or illness, which results in the adult being unable to achieve two of the following outcomes:

- maintaining nutrition;
- maintaining personal hygiene;
- managing toilet needs;
- being appropriately clothed;
- being able to make use of the adult's home safely;
- maintaining a habitable home environment;
- accessing and engaging in work, training, education or volunteering;
- making use of necessary facilities or services in the local community including public transport, and recreational facilities or services
- carrying out any caring responsibilities the adult has for a child

Unmet outcomes and unmanaged need may result in an adult being at risk of harm. An example would include a person who is experiencing symptoms of a new or deteriorating health condition resulting in new or additional unmet outcomes, and experiencing significant risks to their wellbeing as a result.

Careful consideration should be given to whether the information being reported could be most appropriately responded to via a wellbeing assessment, risk assessment, carer's assessment, signposting and support planning.

or

Whether a form of abuse is being alleged?

Wellbeing and risk management issues in isolation do not require a safeguarding concern to be commenced and would not meet the criteria for section 42 enquiries. They should be responded to appropriately and recorded on the appropriate documentation (e.g. assessment. reassessment, risk assessment, carer's assessment).

A Report Of Abuse Or Neglect

If the information being reported relates to one or more of the 10 categories of abuse this is a safeguarding concern.

- Physical abuse
- Domestic violence
- Sexual abuse
- Psychological abuse
- Financial and Material abuse
- Modern Slavery
- Discriminatory abuse
- Organisational abuse
- Neglect or omission
- Self-neglect

Information gathering and a triage discussion between the practitioner and safeguarding adult's manager should then be completed. Even if it is quickly established that the concern is unfounded, as it did initially relate to safeguarding **it must be recorded as a safeguarding concern** (please see 'Documenting a Decision' for further information).

3.3. Initial Information Gathering and Triage Discussion

In order to establish if abuse is being alleged and section 42 criteria is met the triage discussion may give consideration to:

- The information already known
- Who may be at risk of or experiencing abuse?
- What category of abuse is alleged?
- Who is alleged to have caused harm?

- Is there anyone else who may also be experiencing harm or abuse by the person / persons alleged to have caused harm?
- Further questions which need answering or further information which is required. The purpose of the questions should be to provide clarity on what is being reported and / or ensure the individual and any others who are potentially experiencing or at risk of harm are safe.
- Assessment of immediate risks and emergency safety planning actions should be agreed, timescales for the actions to be completed set and actions delegated to specific individuals.
- Further questions which need answering or further information which is required should be planned and agreed to ensure sufficient information is available to make a decision on whether section 42 criteria is met.
- The responsible practitioner should be clear what further information (if any) they need to gather, from whom and by when.

The key starting point for Information gathering is:

The views, opinions and desired outcomes of the individual at risk of harm

These must be considered alongside:

Multi-agency information

Practitioners should gather information from relevant agencies involved with the individual in order to provide as full an understanding as possible of the situation, the wellbeing, risk and safety factors involved.

Practitioners and Safeguarding Adults Managers should also consider whether they may need to in reach to the Multi Agency Safeguarding Hub (MASH) for support and advice regarding processes that can enable a multi-agency package of support to be put in place.

And

Where is appropriate to share information with others (eg Police, MASH, Quality Assurance and Safeguarding Hub) if there is a wider public protection issue.

Other Key factors for consideration are:

- Consent
- Capacity
- Crime
- Rights and risks

3.4. Timescales

Information gathering should commence immediately in an emergency, otherwise within 24 hours of receiving a concern.

3.5. The reality of practice

It is recognised that the order Information gathering and triage are applied in will occur with a degree of flexibility in live practice.

It should also be recognised that safeguarding practice occurs across a spectrum, ranging from prevention, through wellbeing, risk management and safety interventions. It may be that more than one type of issue is reported in the same referral. Breaking down the issues into the categories described above will support decision making and prioritising on the response or range of responses required in practice.

3.6. Emergency safety planning and actions

Assessment of immediate risk factors, proposed management actions and potential outcomes should discussed and be agreed by the individual (where they have capacity), or their advocate (if the lack capacity) unless circumstances are identified where it would be detrimental to do so.

Emergency safety plan actions should be agreed and implemented within agreed timescales by the responsible practitioner.

Similarly, where partner organisations such as the police have raised safeguarding concerns about an individual, the MASH processes enable a multi-agency package of support to be put in place.

Where the person alleged to have caused harm is also an adult at risk their allocated team will need to:

- Review their needs
- Assess their capacity
- Consider what risk (if any) they are at and how this will be managed.
- Consider what risk (if any) they pose to others and how this will be managed.

Where the person alleged to have come to harm and the person alleged to have caused harm are allocated to the same worker the ethics of their involvement in both cases should be discussed with their manager.

3.7. Making a decision on the outcome

Is Section 42 eligibility criteria met?

The Care Act 2014 section 42 duty to make safeguarding enquiries applies where a local authority has reasonable cause to suspect that an adult in its area (whether or not ordinarily resident there)

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

Documenting a decision

The practitioner working on the safeguarding concern is required to complete the safeguarding concern form on the mosaic electronic recording system, make a recommendation on the outcome of the concern, and document any other actions which have been implemented.

Where the concern relates to a care home provider the practitioner should also record a level of harm for the concern (see operational procedure part 3).

The safeguarding adults manager will be required to record their decision as to whether the section 42 criteria is met and the duty to make safeguarding enquiries applies within the managers decision section of the safeguarding concern form.

A local authority also has the power to make 'other' non-statutory safeguarding enquiries where the section 42 criteria is not met but there is a sufficient rationale to do so. The safeguarding adults manager should also record a decision on whether none statutory safeguarding enquiries are thought to be appropriate.

If neither the section 42 duty applies nor the power to make non-statutory safeguarding enquiries are through to be appropriate the safeguarding adults manager should record their decision to close the concern.

Rationale for decision

A rationale for both the practitioner's recommendation and the managers final decision on whether safeguarding enquiries are required or a concern can be closed **must** be recorded based on an analysis of the information gathered.

The rationale for the practitioner's recommendation should be recorded by the practitioner in the worker recommendation section of the Safeguarding Concern form.

The rationale for the final decision should this be recorded and by the safeguarding adults manager in the Manager Decision section of the Safeguarding Concern form.

Proportionate recording

Recording on a safeguarding concern form should be proportionate to its purpose and address the points raised above. Practitioner and safeguarding adults' managers should show awareness that they are **not required document full s.42 enquiries in the concern stage**, but must do so where appropriate in the enquiry stage.

Step 3: Strategy meeting or discussion

Where the criteria for s.42 enquiry is met, or a non-statutory enquiry is pursued a strategy meeting or discussion **must** happen **must** be recorded.

3.8. Organising, chairing and participating in a strategy meeting or discussion

The aim of the third step in the safeguarding adult's process is to work with the individual who is experiencing or at risk of abuse of neglect and relevant multi agency partners to plan the safeguarding enquiry, establish the facts, and identify the actions required to safeguard the individual or others.

Within these steps safeguarding adult's managers will be required to ensure that the strategy meeting or discussion takes place.

The practitioner will be required to fully participate and engage in the step.

Discussion or meeting?

The decision as to whether to hold a strategy discussion or meeting should be proportionate to the concern raised. Where a multi-agency view of risks is required a meeting will be required. There may be circumstances where it is not always possible to convene an immediate meeting even when a multi-agency view is required. A strategy discussion should take place in the interim, with a meeting to follow as soon as possible thereafter.

When a meeting is required:

The Safeguarding Adults Manager can engage practitioners and business support staff to assist in arranging the meeting or discussion and the practical tasks of:

- Arranging a time / date
- Booking an appropriate venue
- Arranging a minute taker
- Sending out secure invites

The safeguarding adults manager will also need to prepare for the meeting ensuring that they and their minute taker have relevant:

- Signing in sheet
- Ground rules
- Agenda

In advance of the meeting.

Room availability:

Careful consideration of the room used for strategy meetings should be given. The most suitable venue may be personal to the individual at the centre of the concern (would they like the meeting to be at their home or an alternative venue?). If the meeting is to take place in an organisational setting the room should offer privacy, be able to ensure confidentiality and be accessible for all parties attending. It should have a breakout room or area nearby to accommodate anyone who needs a break from the meeting for any reason.

If you are unable to find a suitable room available at your work base alternative venues should be considered and enquiries regarding availability made on the numbers below:

Civic centre	Reception - 770 4025
Link centre	Reception - 770 4786
Maple House	Reception - 770 8000

For Cluster offices, please refer to individual arrangements, or escalate to the Cluster Lead where required.

A strategy meeting or discussion should cover the following:

- The background to the safeguarding concern
- Emergency measures taken
- Information gathered to date
- Making safeguarding personal outcomes (if obtained or know at this point)
- Any capacity issues for the person who is at risk of abuse or neglect
- Relevant information to the enquiry from all people involved in the meeting / discussion
- Enquiry plan (methodology for enquiry which details of who is expected to do what and when during the enquiry, timescales, communication strategy)
- Risk assessment
- Interim safeguarding plan

Planning the enquiry:

It is the responsibility of a Safeguarding Adults Manager to plan a safeguarding enquiry in the strategy meeting / discussion in conjunction with key partners.

A safeguarding enquiry officer should be nominated.

A methodology should be set up.

The enquiry plan should be clear and specific detailing:

What questions the enquiry needs to address (there may be just one, or several areas where facts need to be established).

It should include a table of actions addressing what actions are to be taken and proposed outcomes.

Examples of actions may include:

- Meeting with individual at risk to be held ….
- Adult to be interviewed on …. at … by …
- Care records examined for the last … months
- Staff statement to be obtained from…. By… on …

It should also detail who is responsible for each action, where actions should be completed (specific settings may need to be considered for interviews), when the action should be completed by and whether a review of the action is needed.

A communication strategy should also be agreed addressing:

- Who should those involved in the enquiry contact throughout the enquiry process as a point of co-ordination?
- Who the outcomes of actions be returned.
- How any specific communication needs of individuals involved in the enquiry will be addressed.

A risk assessment must be put in place which assesses any risks to the individual and others whilst the safeguarding enquiry is being undertaken.

An interim safeguarding plan must be put in place.

Risk factors to the individual and others must be continuously under assessment throughout an enquiry with management plans agreed in partnership with the individual and other key multi-disciplinary members to ensure effective ongoing risk management.

The date for the case conference should be set. Where it is unlikely that policy timescales will be met the reasons for this should be documented in the enquiry plan to demonstrate accountability.

3.9. Causing others to make enquiries

The Local Authority's responsibilities when enquiries are Police led:

Throughout the safeguarding process practitioners and Safeguarding Adults Managers should be mindful of how their practice may impact on any potential criminal enquiries. The impact of practice decisions on an individual or witnesses ability to give uncontaminated evidence.

Where enquiries are led by the Police this does not negate the local authorities' duty to fulfil the lead co-coordinating role in the safeguarding enquiry and the enquiry should be commenced on the electronic recording system.

Regular updates from the Police should be sought and documented in individual's case notes on the electronic recording system by the co-ordinating enquiry officer up to and including the outcome of Police investigations.

Consideration should be given to any other actions e.g. risk management, quality of care issues, preventative and empowering social work interventions, sign posting, that need to be addressed by the local authority whilst Police enquiries are being undertaken. These should have been agreed as appropriate to go ahead by the Police when the enquiry plan was put in place.

Where Police close an enquiry with no further action, the enquiry plan should be reviewed and updated to address how the enquiry will now proceed.

When working with providers:

Providers should be made aware not to commence internal enquiries into safeguarding concerns in advance of the safeguarding enquiry plan being agreed.

Enquiries delegated to providers:

Where the levels of harm apply to a safeguarding enquiry (For residential and nursing care homes) level 3 enquiries can be delegated to providers (as per operational procedures part 3). Level 4 and 5 enquiries should be fully lead by the local authority.

For enquiries which do not involve a care home the Care Act, and Oldham's multi-agency policy and procedures state that enquiries can be delegated where it is appropriate to do so. Safeguarding

adults managers must therefore decide whether delegation is appropriate in line with the operational procedures.

Delegating enquiries may include requesting a provider complete an enquiry or requesting information or specialist reports for multi-disciplinary professionals to contribute to enquiries.

Delegation of enquiries **must** only be completed after a safeguarding concern has been completed. The decision to delegate will take place in a strategy meeting or discussion. The person **must** have been seen, and risk assessment and management actions confirmed in advance of any delegation of enquiries.

Examples

A report from safeguarding lead nurse into whether pressure damage was avoidable or not.

A report from a consultant detailing whether an Injury was accidental or non-accidental.

A report from manual handling offering an expert view on whether appropriate manual handling techniques have been used.

Partner Non-Engagement

Where a specialist report or documentation has been requested from a partner agency and this information is not provided within agreed timescales set out at the strategy meeting the following pathway can be used to assist the process:

Step 1 - safeguarding enquiry officer to contact the person responsible for providing the information, discuss the reasons for not meeting timescales, potential impact and request that information is shared within one week.

Step 2 – safeguarding enquiry officer to write to the person responsible for providing the information to request that information is shared within one week.

Step 3 - safeguarding adults' manager to write to the person / agency responsible for providing the information to request that the information is shared immediately.

Step 4 – escalate to safeguarding lead

Where information is consistently not shared by an agency please report to the safeguarding lead and safeguarding adults' board manager.

Step 4: Safeguarding Enquiry

3.10. What practice issues to consider in relation to section 42 (Statutory) and non-statutory enquiries?

What is a section 42 (statutory) enquiry?

An enquiry refers to the actions taken, or instigated, by the local authority AFTER it has been established that the adult at risk meets the criteria for safeguarding outlined in section 42 of the Care Act 2014.

What is a non-statutory enquiry?

A non-statutory enquiry is an enquiry undertaken as a power by the local authority. This type of enquiry should be considered where it has been established that the adult at risk does not meet the full criteria for section 42, but there is sufficient reason identified for continued support to be offered to the individual in relation to their wellbeing and safety.

The purpose of a safeguarding enquiry

The purpose of a safeguarding enquiry is to establish the facts in relation to the concern raised.

A safeguarding enquiry should be proportionate in its scale. Proportionate enquiries constitute the least intrusive response appropriate to the risk presented.

Though the Care Act gives local authorities the lead co-ordinating role in adult safeguarding it recognises that they cannot complete this function alone. A multi-agency approach should always be considered to support full understanding of the evidence. Consideration of the need to involve key partners including the Police and NHS should always be given. Being clear on roles and responsibilities of multi-agency partners will help support best practice in decision making as who to involve in the enquiry and for what purpose.

Proportionate enquiries may take a variety of forms including:

- A series of conversations, contacts or interventions with the adult at risk
- Telephone calls
- One off visits
- Examination of recorded evidence
- Meetings
- Interviews
- Statements being taken
- Site visits

They may be one off conversation or actions or a series of conversations or actions which should have been planned in at the strategy meeting or discussion which preceded the enquiry.

The enquiry officer may be tasked with both establishing evidence for a report and implementing risk management interventions.

Risk management interventions as part of a safeguarding enquiry

Case example A: Financial Abuse

An allegation of financial abuse was made by a female in a hospital setting that her son was persistently extorting money from her to purchase illicit drugs.

Whilst in a place of safety support was given to her to assist with informed decision making, consider what outcome she wanted, and whether with support she could become more assertive in saying 'no' to her son given that she had never been able to do this.

Legal options including obtaining an injunction to remove her son from her home or prevent contact were discussed.

Her capacity was not in doubt and consideration was given with her to establishing appointeeship.

Liaison with probation services assisted to help her son obtain own accommodation.

After considering both wellbeing and safety factors the individual decided to withdraw her complaint to the police and maintain a relationship with her son.

The initial Police involvement and safeguarding enquiries were sufficient to effect some change and restraint on his behaviour.

Case Example B: Physical abuse

Repeat safeguarding concerns of physical abuse towards a female hospital inpatient were made by hospital staff. The allegation was of physical abuse in a long term relationship. The male partner was the main carer for the female and was under considerable stress in this role. The female had had repeated admissions to hospital with a complex anxiety disorder overlaid on physical health problems. The allegations were always denied by both parties.

Risk management considered both wellbeing and safety resulting in the following interventions:

- Carer's assessment for husband
- Referral for husband to counsellor
- Exploration with the female as to her wishes to live independently.
- Short stay breaks offered for female.
- Long term monitoring & supportive contact with couple.

After some years of the above mix of interventions the female chose to move into separate accommodation and maintain regularly contact via visits from her husband.

Case Example C: Neglect

A male with a long term mental health diagnosis experienced relapse after a long period of stability. In the course of reassessment it became clear that the home care agency staff visiting him were not always reporting failed visits. Internal agency procedures were not robust enough in supporting communication with his care manager, and advice from his care manager was not being implemented when it had been given. A safeguarding enquiry was therefore required.

Risk Management included:

- Clearer specification in support plan of what monitoring and support re medication actually meant workers should do.
- More frequent blood tests to monitor medication intake arranged.

- Implementation of existing agency procedures re 'failed visits' and communication with allocated team.

Other practice issues to consider

In all cases practitioners should try to ascertain the views of the adult and take full account the personal outcomes of the individual who has experienced or is at risk of abuse and neglect.

Where the individual has substantial difficulty engaging in the safeguarding process the views of their advocate should be sought. This may be an appropriate person of the individuals' choice or a formal Care Act Advocate.

Enquiries should be completed in partnership with the individual and experienced as empowering.

In practice there may be an overlap between the information discussed with an individual in the information gathering step and the section 42 (Statutory) enquiry step. If making safeguarding personal outcomes have been obtained at an early stage practitioners should record proportionately in the concern form and in full detail in the enquiry form on the electronic recording system.

Assessment to address the needs of the adult for protection should consider safety from both a risk and strengths based perspective. What factors heighten the risk to the individual's safety and what factors strengthen then individual's safety.

Wellbeing should be considered alongside safety at all times and consideration given to both physical and psychological wellbeing.

Protection plans should be agreed with the adult.

The enquiry will also need to address what (if any) follow up action should be taken with the person or organisation alleged to have caused harm.

Examples of possible outcomes may include:

- Criminal convictions
- Referrals to professional bodies to review professional registrations
- Referrals to DBS and vetting and barring service
- Reviews of policy and procedure
- Learning and positive change may occur

3.11. Unwise decision making

Where an individual at risk has capacity best practice recognises their right to make unwise decisions which may place them at ongoing risk and affect the interventions of multi-agency partners. This right does not diminish the responsibilities a local authority or multi-agency partners have towards an individual and alternative approaches require considered where high risk remains. Research has identified relational practice as key (Brown et al, 2013). Harm minimisation approaches support the reduction of risk and offers time to build an empowering and trusting relationship (Spencer-Lane, 2015, p.282). Braye et al (2015) highlight joint exploration and analysis of individual understanding and motivation when declining support, appropriate challenge, responsiveness, consistency, high quality evidence based assessments and support plans, and factual and thorough case recordings as effective ways of working to support an individual in this situation (pp.75-87).

Step 5: Case Conference meeting or discussion

A case conference meeting or discussion must be completed and recorded to conclude the safeguarding process.

The main purpose of the case conference is to review the findings of the safeguarding enquiry, identify any ongoing risks and agree safeguarding actions required to respond to the concerns.

Within the conference it is necessary to establish whether:

- The desired outcomes of the adult at risk have been met
- And
- On the basis of the enquiry report decide on the balance of probabilities whether abuse or neglect has occurred.

3.12. The balance of probabilities

The balance of probabilities have a lower standard of proof than a criminal investigation which require proof beyond reasonable doubt. The balance of probabilities is based on the evidence that is available. There is no specific quantity of evidence required when applying the balance of probabilities, and one piece of evidence either way could determine a substantiated or unsubstantiated finding in an enquiry.

3.13. The standards of proof

An enquiry may find that each individual element of a concern is substantiated, unsubstantiated or inconclusive.

An inconclusive finding may be appropriate when it is not possible on the basis of the evidence available to say with certainty that something did or didn't happen".

An overall finding of fully substantiated, substantiated partially, inconclusive, not substantiated, investigation ceased at individuals request needs to be recorded in relation to each category of abuse identified.

3.14. Ongoing risk

These decisions will allow assessment of the extent of any ongoing risk and determine what actions or further safety planning may be required as a result of the findings and decisions.

3.15. The conference should cover

- Why the case conference has been convened
- The details of the written report
- The findings of the enquiry
- The balance of probabilities
- Risk assessment
- Recommendations
- Safeguarding plan
- Desired outcomes
- Date for case conference review if applicable.

3.16. Planning

Planning the case conference discussion or meeting in advance is crucial to best practice.

3.17. Meeting or discussion

When deciding whether to hold a case conference meeting or discussion the **principle of proportionality** should be applied by the safeguarding adult's manager.

Please see the multi-agency operational procedures regarding the circumstances which would support decision making.

3.18. Draft report

The draft enquiry report should be read by the safeguarding adults' manager a minimum of 2 days in advance of the meeting or discussion and it should be agreed that it is ready to go to conference. 2 working days is set as the minimum time required to share the report in advance of the conference. The complexity of the case would influence whether additional time would be required to read the report and plan the case conference.

Before sharing the report with others consideration should then be given as to when it will be necessary to anonymise enquiry reports.

Where anonymising is required to protect confidentiality the report should be amended to ensure individuals are not identifiable.

An example of this would be:

Witness 1

Witness 2

Witness 3

The draft enquiry report should be shared with relevant parties as agreed by the safeguarding adults' manager. The report can be taken out and discussed in person with the individual alleged to have experienced harm or their representatives (with their consent and where it would not be detrimental to do so) to allow for feedback.

As this is a draft report it should explained that the report cannot be left with the individual or representative at this stage, but brought back and represented in the case conference, where any amendments may be agreed.

3.19. Setting the case conference meeting up

When setting a meeting up the practitioner and safeguarding adults' manager should consider the same issues as when setting a strategy meeting up:

Please see the guidance in step 3 in relation to setting up meetings, delegating tasks, preparation and room booking.

3.20. Deciding who to invite

People participating in the case conference should be of sufficient seniority to make a decision concerning the organisations role.

For example, a registered provider manager may attend the case conference which relates to an allegation made against a member of their staff team.

A registered providers area manager / managing director / owner may attend a case conference which relates to an allegation made against the providers operational manager.

The Care Quality Commission

Where the allegation /concern relates to a regulated or contracted services the safeguarding enquiry officer should consider inviting The Care Quality Commission**.**

The job of a CQC inspector is to monitor any services which are registered under the Health and Social Care Act 2008.

CQC inspectors should be notified of individual safeguarding cases involving a provider service. Cases can be discussed by telephone where it is unclear if their involvement is appropriate. Invitations to key meetings (strategy and case conference) should be made to support them to make an informed decision on whether their attendance is appropriate.

CQC inspectors may chose not to be involved in all individual cases, but may consider attendance appropriate in relation to issues such as breach of regulations or issues of institutional abuse.

Examples of this could include where a service might be condoning poor practice, or there is a series of medication errors which could indicate poor managerial processes.

Quality Monitoring Officers

Where quality issues are identified as part of the enquiry which require follow up attendance of Quality Monitoring officers from both the local authority and the CCG should be considered (dependent on who is responsible for funding). See key contacts list.

Contracts and commissioning

Where contract compliance or breach of contract issues are identified as part of the enquiry inviting contacts officers from both the local authority and the CCG should be considered (dependent on who is responsible for funding).

Clinical commissioning group

Where a joint funding is in place such as continuing health care or funded nursing care the CCG lead safeguarding nurse for adults should be invited to the case conference.

Where an allegation / concern relates to a GP CCG lead safeguarding nurse for adults should be invited to the case conference.

3.21. Risk assessment and safeguarding plan

The risks of abuse and safeguarding plan need to be updated taking all of the above into account and a detailed plan of what is going to happen recorded.

Working with conflicting principles:

The principles of empowerment and protection may be in conflict in some cases. Where an individual is supported to make informed choice, but felt to be making an unwise decision regarding their safety, consideration of other key factors may also help to determine a way forward.

Consideration should be given to making safeguarding personal, other key safeguarding principles (partnership, proportionality, prevention, accountability), risk assessment and management and statutory requirements. All of these factors will contribute to decision making in such situations.

Co-produced safeguarding plans may reflect:

- The priorities of the individual at the heart of the plan.
- The level of risk to an individual and others.
- Safety factors (eg financial stability, stable support network, personal strength)
- Physical risks (the hazards and benefits)
- Psychological risks (the hazards and benefits)
- Individual rights
- Risks to others

How risks will be managed in partnership with the individual and other key multidisciplinary partners.

All of which should promote better outcomes for the individual and demonstrate accountability and defensible decision making on the part of the local authority.

3.22. Referring to regulatory bodies

As part of section 42 enquiries, it may necessary to refer a person alleged to have caused harm to an official body such as the Disclosure and Barring Service (DBS) or Nursing and Midwifery Council (MNC), General Medical Council (GMC), The Health Care Professionals Council (HCPC).

Case Conference Review

Consideration should be given as to whether a case conference review is required.

This will be required where a case conference resulted in a number of further actions or recommendations. This is essential to ensure that the safeguarding plan is working effectively, and to ensure than any actions agreed have been followed up on.

Alternatively it may be decided that a wellbeing review is required where risks relating to safety are already managed but monitoring and support of wellbeing is ongoing.

Safeguarding Adults Review

Within a case conference or case conference review it should aloes be considered whether a referral for a safeguarding adults review should be made to the local safeguarding adult's board.

A SAR referral should be made where:

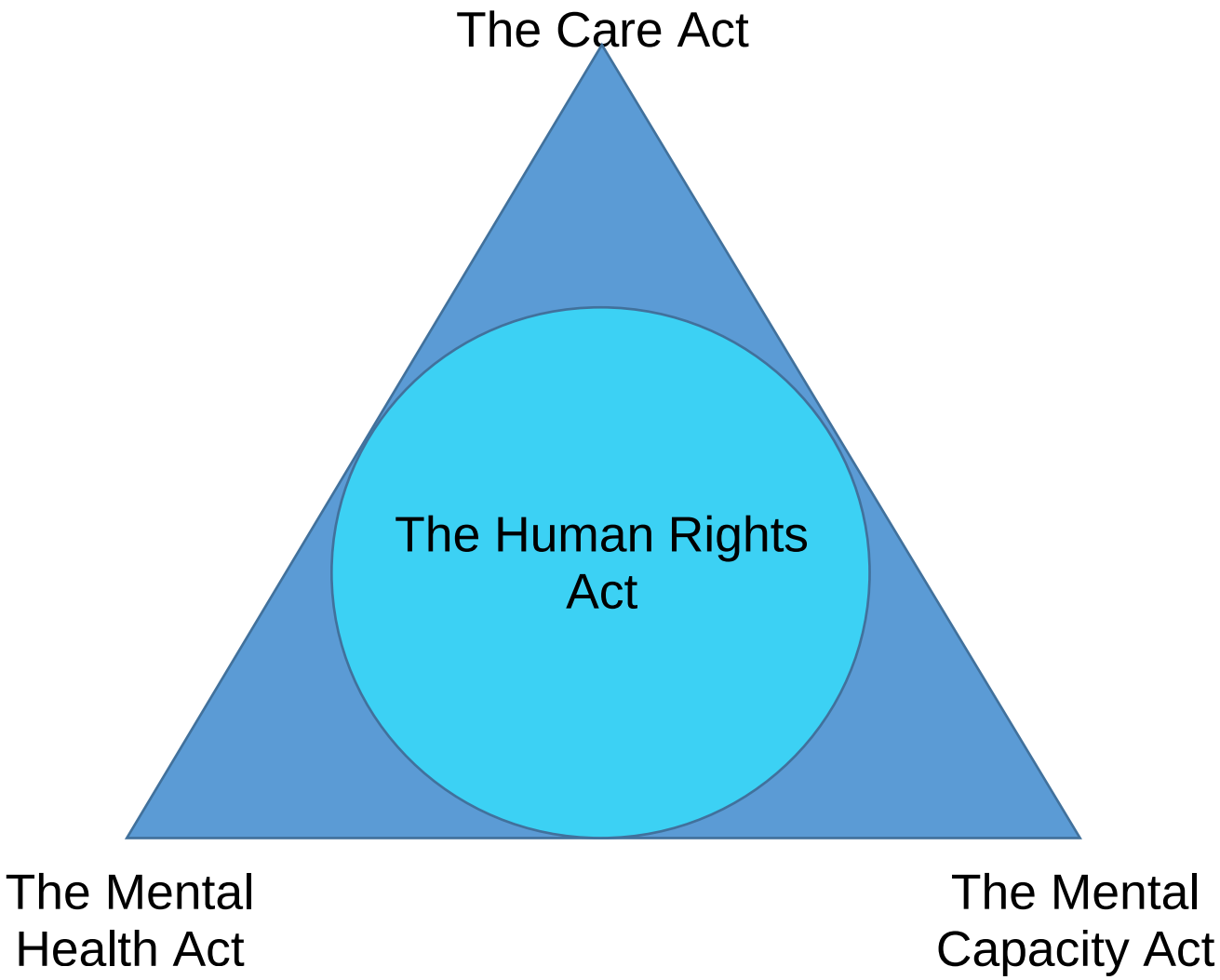
- An adult in the local area has died as a result of abuse or neglect, whether known or suspected and there is a concern that partner agencies could have worked more effectively to protect the person at risk.
- Where practice gives rise to concerns about how agencies have worked together when the death or serious injury of an adult at risk has occurred.

Referrals should be made to Quality.AssuranceSafeguarding@oldham.gov.uk

4. The Legal Context for Safeguarding

Working with the legal framework to safeguard adults is a skill expected from all adult social workers.

Core adult safeguarding legislation



The Human Rights Act 1998	Article 3	The right to protection from inhuman and degrading treatment. This is an absolute right.
	Article 5	The right to liberty and security of the person. This is a qualified right.
	Article 8	Right to respect for private and family life.

		This is a qualified right.
The Care Act 2014	Section 42	Duty to make safeguarding enquiries (or cause enquiries to be made)
	Section 47	Protection of property and pets by a local authority when caring for a person away from home.
	Section 67 and 68	Duty to appoint an advocate to represent and support the individual's participation in a safeguarding enquiry where it appears they may have substantial difficulty understanding the process and expressing their views and there is no appropriate support to help
The Mental Capacity Act 2005	Section 2 and 3	Assessment of mental capacity
	Section 4	Best interest assessment
	Section 4a	Restrictions on liberty
	Section 4b	DOLs
	Section 44	Wilful neglect
	Section 58	Complaints to the office of the public guardian re LPAs and deputies
The Mental Health Act 1983	Section 2	Admission to hospital for assessment
	Section 3	Admission to hospital for treatment
	Section 7	Guardianship
	Section 17	Community treatment order
	Section 115	Powers of entry and removal
	Section 135	Powers of entry and removal.
	Section 136	Police power to remove a mentally disordered person from a public place
The Children Act 1989	Section 47	Safeguarding enquiries / assessment

Other useful legislation

4.1. Criminal offences

- The Police and Criminal Evidence Act 1983
- The Sexual Offences Act 2003
- The Anti-Social Behaviour Crime and Policing Act 2014
- Modern Slavery Act 2015

4.2. Domestic abuse

- Domestic Violence, Crime and Victims Act 2004
- Serious Crime Act 2015 (section 76)

4.3. Environmental neglect and housing issues

- The prevention of damage by pests Act 1949
- Public Health Acts 1936 and 1961
- The building Act 1984
- The Public Heath (Control of disease) Act 1984, amended by the Health and Social Care Act 2008
- The Housing Act 1985 (amended by the housing act 1996) and Housing Act 1988
- Environmental Protection Act 1990
- Housing Act 2004

4.4. Information sharing

- The Crime and Disorder Act 1998 (Section 115)
- The Data Protection Act 1998

4.5. Inherent jurisdiction

Consideration must also be given to the possibility that an adult may be under constraint, subject to intimidation, manipulation, coercion or undue influence and that this may be a factor influencing their decision making.

Safeguarding Adults Managers and practitioners should be aware that there are circumstances when it may be appropriate to apply to the high court to override a capacitous decision. This function can be used in cases where adults have capacity but are vulnerable. It is also important to recognise that it cannot be used to force a person with capacity to do or not do something which they have considered and decided on (Spencer-Lane, 2015, p.285).

5. Links to other guidance

Care and support statutory guidance

https://www.gov.uk/government/publications/care-act-statutory-guidance/care-and-support-statutory-guidance

CQC

www.cqc.org.uk/

DBS

www.gov.uk/government/organisations/disclosure-and-barring-service

Mappa:

https://mappa.justice.gov.uk/connect.ti/MAPPA/groupHome

SCIE

www.scie.org.uk/adults/safeguarding/

http://www.oldham.gov.uk/downloads/download/374/safeguarding_adults

Also has:

- Body maps
- Case conference ground rules and agenda
- Guidance notes on Police and Criminal action
- Guidance on record keeping

6. References

Braye, S., Orr, D., Preston-Shoot, M., (2015), “Serious case review findings on the challenges of self-neglect: Indicators of good practice”, *The Journal of Adult Protection,* Vol. 17, Iss.2, pp. 75-87

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Care Act, 2014, HMSO, 2014

Available at: http://www.legislation.gov.uk/ukpga/2014/23/contents/enacted

Lawson, J; Lewis, S; Williams: C, (2014), Making Safeguarding Personal: Guide 2014, London.

Spencer-Lane, T., (2015) *Care Act Manual* (2nd Ed), London, Sweet and Maxwell