



*Safeguarding  
is everybody's  
business*

# The Care Act Statutory Guidance

## Safeguarding Extract

*This document contains an extract from the Care Act Statutory Guidance issued by the Department of Health and includes the Care Act 2014 safeguarding legislation and schedule 2 of the act. (Some diagrams have been removed to assist with copying)*

## *Contents*

<i>The Care Act Statutory Guidance Section14-Safeguarding</i>	<i>2</i>
<i>Appendix 1</i>	<i>51</i>
<i>The Care Act 2014 Sections 42-47 &amp; 68</i>	
<i>The Care Act 2014 Schedule 2</i>	
<i>Appendix 2</i>	
<i>The Care Act Statutory Guidance Section1-Wellbeing</i>	<i>56</i>

# 14. Safeguarding

This chapter provides guidance on sections 42–46 of the Care Act 2014.

## This chapter covers:

- Adult safeguarding – what it is and why it matters;
- Abuse and neglect:
  - Understanding what they are and spotting the signs;
  - Reporting and responding to abuse and neglect;
- Carers and adult safeguarding;
- Adult safeguarding procedures;
- Local authority's role and multi-agency working;
- Criminal offences and adult safeguarding;
- Safeguarding enquiries;
- Safeguarding Adults Boards;
- Safeguarding Adults Reviews;
- Information sharing, confidentiality and record keeping;
- Roles, responsibilities and training in local authorities, the NHS and other agencies.

14.1. This chapter replaces the 'No secrets' guidance.

14.2. The safeguarding duties apply to an adult who:

- has needs for care and support (whether or not the local authority is meeting any of those needs) and;
- is experiencing, or at risk of, abuse or neglect; and
- as a result of those care and support needs is unable to protect themselves from either the risk of, or the experience of abuse or neglect.

14.3. The adult experiencing, or at risk of abuse or neglect will hereafter be referred to as the *adult* throughout this chapter.

14.4. The safeguarding duties have a legal effect in relation to organisations other than the local authority on for example the NHS and the Police.

14.5 Where someone is 18 or over but is still receiving children's services and a safeguarding issue is raised, the matter should be dealt with through adult safeguarding arrangements. For example, this could occur when a young person with substantial and complex needs continues to be supported in a residential educational setting until the age of 25 (see also chapter 16). Where appropriate, adult safeguarding services should involve the local authority's children's safeguarding colleagues as well as any relevant partners (e.g. the Police or NHS) or other persons relevant to the case. However, the level of needs is not relevant, and the young adult does not need to have eligible needs for care and support under the Care Act, or be receiving any particular service from the local authority, in

order for the safeguarding duties to apply – so long as the conditions set out in paragraph 14.2 are met.

14.6. Local authority statutory adult safeguarding duties apply equally to those adults with care and support needs regardless of whether those needs are being met, regardless of whether the adult lacks mental capacity or not, and regardless of setting, other than prisons and approved premises where prison governors and National Offender Management Service (NOMS) respectively have responsibility. However, senior representatives of those services may sit on the Safeguarding Adults Board and play an important role in the strategic development of adult safeguarding locally. Additionally, they may ask for advice from the local authority when faced with a safeguarding issue that they are finding particularly challenging.

## Adult safeguarding – what it is and why it matters

14.7. Safeguarding means protecting an adult's right to live in safety, free from abuse and neglect. It is about people and organisations working together to prevent and stop both the risks and experience of abuse or neglect, while at the same time making sure that the adult's wellbeing is promoted including, where appropriate, having regard to their views, wishes, feelings and beliefs in deciding on any action. This must recognise that adults sometimes have complex interpersonal relationships and may be ambivalent, unclear or unrealistic about their personal circumstances.

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

14.9. Safeguarding is not a substitute for:

- providers' responsibilities to provide safe and high quality care and support;
- commissioners regularly assuring themselves of the safety and effectiveness of commissioned services;
- the Care Quality Commission (CQC) ensuring that regulated providers comply with the fundamental standards of care or by taking enforcement action; and
- the core duties of the police to prevent and detect crime and protect life and property.

14.10. The Care Act requires that each local authority must:

- make enquiries, or cause others to do so, if it believes an adult is experiencing, or is at risk of, abuse or neglect (see paragraph 14.16 onwards). An enquiry should establish whether any action needs to be taken to prevent or stop abuse or neglect, and if so, by whom;
- set up a Safeguarding Adults Board (SAB) (see paragraph 14.105 onwards);

- arrange, where appropriate, for an independent advocate to represent and support an adult who is the subject of a safeguarding enquiry or Safeguarding Adult Review (SAR) where the adult has 'substantial difficulty' in being involved in the process and where there is no other suitable person to represent and support them (see chapter 7 on advocacy);
- co-operate with each of its relevant partners (as set out in Section 6 of the Care Act) in order to protect the adult. In their turn each relevant partner must also co-operate with the local authority.

14.11. The aims of adult safeguarding are to:

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

14.12. In order to achieve these aims, it is necessary to:

- ensure that everyone, both individuals and organisations, are clear about their roles and responsibilities;
- create strong multi-agency partnerships that provide timely and effective prevention of and responses to abuse or neglect;
- support the development of a positive learning environment across these partnerships and at all levels within them to help break down cultures that are risk-averse and seek to scapegoat or blame practitioners;
- enable access to mainstream community resources such as accessible leisure facilities, safe town centres and community groups that can reduce the social and physical isolation which in itself may increase the risk of abuse or neglect; and
- clarify how responses to safeguarding concerns deriving from the poor quality and inadequacy of service provision, including patient safety in the health sector, should be responded to.

14.13. The following six principles apply to all sectors and settings including care and support services, further education colleges, commissioning, regulation and provision of health and care services, social work, healthcare, welfare benefits, housing, wider local authority functions and the criminal justice system. The principles should inform the ways in which professionals and other staff work with adults. The principles can also help SABs, and organisations more widely, by using them to examine and improve their local arrangements.

## Six key principles underpin all adult safeguarding work

- **Empowerment** – People being supported and encouraged to make their own decisions and informed consent.  
“I am asked what I want as the outcomes from the safeguarding process and these directly inform what happens.”
- **Prevention** – It is better to take action before harm occurs.  
“I receive clear and simple information about what abuse is, how to recognise the signs and what I can do to seek help.”
- **Proportionality** – Proportionate and least intrusive response appropriate to the risk presented.  
*“I am sure that the professionals will work for my best interests, as I see them and they will only get involved as much as needed.”*
- **Protection** – Support and representation for those in greatest need.  
*“I get help and support to report abuse. I get help to take part in the safeguarding process to the extent to which I want and to which I am able.”*
- **Partnership** – Local solutions through services working with their communities. Communities have a part to play in preventing, detecting and reporting neglect and abuse.  
*“I know that staff treat any personal and sensitive information in confidence, only sharing what is helpful and necessary. I am confident that professionals will work together to get the best result for me.”*
- **Accountability** – Accountability and transparency in delivering safeguarding.  
*“I understand the role of everyone involved in my life.”*

## Making safeguarding personal

14.14. In addition to these principles, it is also important that all safeguarding partners take a broad community approach to establishing safeguarding arrangements. It is vital that all organisations recognise that adult safeguarding arrangements are there to protect individuals. We all have different preferences, histories, circumstances and life-styles, so it is unhelpful to prescribe a process that must be followed whenever a concern is raised; and the case study below helps illustrate this.

Two brothers with mild learning disabilities lived in their family home, where they had remained following the death of their parents some time previously. Large amounts of rubbish had accumulated both in the garden and inside the house, with cleanliness and self-neglect also an issue. They had been targeted by fraudsters, resulting in criminal investigation and conviction of those responsible, but the brothers had refused subsequent services from adult social care and their case had been closed. They had, however, had a good relationship with their social worker, and as concerns about their health and wellbeing continued it was decided that the social worker would maintain contact, calling in every couple of weeks to see how they were, and offer any help needed, on their terms. After almost a year, through the gradual building of trust and understanding, the brothers asked to be considered for supported housing; with the social worker's help they improved the state of their house enough to sell it, and moved to a living environment in which practical support could be provided.

**14.15.** Making safeguarding personal means it should be person-led and outcome-focused. It engages the person in a conversation about how best to respond to their safeguarding situation in a way that enhances involvement, choice and control as well as improving quality of life, wellbeing and safety. Nevertheless, there are key issues that local authorities and their partners should consider [See decision tree at annex J] if they suspect or are made aware of abuse or neglect. See paragraph 14.204 for more detail about what such guidelines should cover.

## What are abuse and neglect?

**14.16.** This section considers the different types and patterns of abuse and neglect and the different circumstances in which they may take place. This is not intended to be an exhaustive list but an illustrative guide as to the sort of behaviour which could give rise to a safeguarding concern. This chapter also contains a number of illustrative case studies showing the action that was taken to help the adult stay or become safe.

**14.17.** Local authorities should not limit their view of what constitutes abuse or neglect, as they can take many forms and the circumstances of the individual case should always be considered; although the criteria at paragraph 14.2 will need to be met before the issue is considered as a safeguarding concern. Exploitation, in particular, is a common theme in the following list of the types of abuse and neglect.

- **Physical abuse** – including assault, hitting, slapping, pushing, misuse of medication, restraint or inappropriate physical sanctions. Domestic violence – including psychological, physical, sexual, financial, emotional abuse; so called ‘honour’ based violence.
- **Sexual abuse** – including rape, indecent exposure, sexual harassment, inappropriate looking or touching, sexual teasing or innuendo, sexual photography, subjection to pornography or witnessing sexual acts, indecent exposure and sexual assault or sexual acts to which the adult has not consented or was pressured into consenting.

- **Psychological abuse** – including emotional abuse, threats of harm or abandonment, deprivation of contact, humiliation, blaming, controlling, intimidation, coercion, harassment, verbal abuse, cyber bullying, isolation or unreasonable and unjustified withdrawal of services or supportive networks.
- **Financial or material abuse** – including theft, fraud, internet scamming, coercion in relation to an adult’s financial affairs or arrangements, including in connection with wills, property, inheritance or financial transactions, or the misuse or misappropriation of property, possessions or benefits.
- **Modern slavery** – encompasses slavery, human trafficking, forced labour and domestic servitude. Traffickers and slave masters use whatever means they have at their disposal to coerce, deceive and force individuals into a life of abuse, servitude and inhumane treatment.
- **Discriminatory abuse** – including forms of harassment, slurs or similar treatment; because of race, gender and gender identity, age, disability, sexual orientation or religion.
- **Organisational abuse** – including neglect and poor care practice within an institution or specific care setting such as a hospital or care home, for example, or in relation to care provided in one’s own home. This may range from one off incidents to on-going ill-treatment. It can be through neglect or poor professional practice as a result of the structure, policies, processes and practices within an organisation.
- **Neglect and acts of omission** – including ignoring medical, emotional or physical care needs, failure to provide access to appropriate health, care and support or educational services, the withholding of the necessities of life, such as medication, adequate nutrition and heating
- **Self-neglect** – this covers a wide range of behaviour neglecting to care for one’s personal hygiene, health or surroundings and includes behaviour such as hoarding.

14.18. Incidents of abuse may be one-off or multiple, and affect one person or more. Professionals and others should look beyond single incidents or individuals to identify patterns of harm, just as the Care Quality Commission, as the regulator of service quality, does when it looks at the quality of care in health and care services. Repeated instances of poor care may be an indication of more serious problems and of what we now describe as organisational abuse. In order to see these patterns it is important that information is recorded and appropriately shared.

14.19. Patterns of abuse vary and include:

- serial abusing in which the perpetrator seeks out and ‘grooms’ individuals. Sexual abuse sometimes falls into this pattern as do some forms of financial abuse;
- long-term abuse in the context of an ongoing family relationship such as domestic violence between spouses or generations or persistent psychological abuse; or
- opportunistic abuse such as theft occurring because money or jewellery has been left lying around.



## Domestic abuse

14.20. In 2013, the Home Office announced changes to the definition of domestic abuse:

- Incident or pattern of incidents of controlling, coercive or threatening behaviour, violence or abuse... by someone who is or has been an intimate partner or family member regardless of gender or sexuality
- Includes: psychological, physical, sexual, financial, emotional abuse; so called 'honour' based violence; Female Genital Mutilation; forced marriage.
- Age range extended down to 16.

14.21. Many people think that domestic abuse is about intimate partners, but it is clear that other family members are included and that much safeguarding work (that meets the criteria set out in paragraph 14.2) that occurs at home is, in fact is concerned with domestic abuse. This confirms that domestic abuse approaches and legislation can be considered safeguarding responses in appropriate cases.

## Financial abuse

14.22. Financial abuse is the main form of abuse by the Office of the Public Guardian both amongst adults and children at risk. Financial recorded abuse can occur in isolation, but as research has shown, where there are other forms of abuse, there is likely to be financial abuse occurring. Although this is not always the case, everyone should also be aware of this possibility.

14.23. Potential indicators of financial abuse include:

- change in living conditions;
- lack of heating, clothing or food;
- inability to pay bills/unexplained shortage of money;
- unexplained withdrawals from an account;
- unexplained loss/misplacement of financial documents;
- the recent addition of authorised signers on a client or donor's signature card; or
- sudden or unexpected changes in a will or other financial documents.

This is not an exhaustive list, nor do these examples prove that there is actual abuse occurring. However, they do indicate that a closer look and possible investigation may be needed.

Mrs B is an 88 year old woman with dementia who was admitted to a care home from hospital following a fall. Mrs B appointed her only daughter G, to act for her under a Lasting Power of Attorney in relation to her property and financial affairs.

Mrs B's former home was sold and she became liable to pay the full fees of her care home. Mrs B's daughter failed to pay the fees and arrears built up, until the home made a referral to the local authority, who in turn alerted the Office of the Public Guardian (OPG).

OPG carried out an investigation and discovered that G was not providing her mother with any money for clothing or toiletries, which were being provided by the home from their own stocks. A visit and discussion with Mrs B revealed that she was unable to participate in any activities or outings arranged by the home, which she dearly wished to do. Her room was bare of any personal effects, and she had limited stocks of underwear and nightwear.

The Police were alerted and interviewed G, who admitted using the proceeds of the mother's house for her own benefit. The OPG applied to the Court of Protection for suspension of the power of attorney and the appointment of a deputy, who was able to seek recovery of funds and ensure Mrs B's needs were met.

**14.24.** The above case study highlights the need for local authorities not to underestimate the potential impact of financial abuse. It could significantly threaten an adult's health and wellbeing. Most financial abuse is also capable of amounting to theft or fraud and so would be a matter for the police to investigate. It may also require attention and collaboration from a wider group of organisations, including shops and financial institutions such as banks.

**14.25.** Where the abuse is by someone who has the authority to manage an adult's money, the relevant body should be informed, for example, the Office of the Public Guardian for deputies (see 14.48) and Department for Work and Pensions (DWP) in relation to appointees.

**14.26.** If anyone has concerns that a DWP appointee is acting incorrectly they should contact the DWP immediately. In addition to a name and address the DWP can get things done more quickly if it also has a National Insurance number. However, people should not delay acting because they do not know the adult's National Insurance number. The important thing is to alert DWP to their concerns. If DWP know that the person is also known to the local authority then they should also inform them.

## Who abuses and neglects adults?

**14.27.** Anyone can carry out abuse or neglect, including:

- spouses/partners;
- other family members;
- neighbours;
- friends;
- acquaintances;
- local residents;
- people who deliberately exploit adults they perceive as vulnerable to abuse;
- paid staff or professionals; and
- volunteers and strangers.

While a lot of attention is paid, for example, to targeted fraud or internet scams perpetrated by complete strangers, it is far more likely that the person responsible for abuse is known to the adult and is in a position of trust and power.

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

## Spotting signs of abuse and neglect

14.29. Workers across a wide range of organisations need to be vigilant about adult safeguarding concerns in all walks of life including, amongst others in health and social care, welfare, policing, banking, fire and rescue services and trading standards; leisure services, faith groups, and housing. GPs, in particular, are often well-placed to notice changes in an adult that may indicate they are being abused or neglected. Findings from Serious Case Reviews have sometimes stated that if professionals or other staff had acted upon their concerns or sought more information, then death or serious harm might have been prevented. The following example illustrates that someone who might not typically be thought of, in this case the neighbour, does in fact have an important role to play in identifying when an adult is at risk.

Mr A is in his 40s, and lives in a housing association flat with little family contact. His mental health is relatively stable, after a previous period of hospitalisation, and he has visits from a mental health support worker.

He rarely goes out, but he lets people into his accommodation because of his loneliness. The police were alerted by Mr A's neighbours to several domestic disturbances. His accommodation had been targeted by a number of local people and he had become subjected to verbal, financial and sometime physical abuse. Although Mr A initially insisted they were his friends, he did indicate he was frightened; he attended a case conference with representatives from adult social care, mental health services and the police, from which emerged a plan to strengthen his own self-protective ability as well as to deal with the present abuse. Mr A has made different arrangements for managing his money so that he does not accumulate large sums at home. A community-based visiting service has been engaged to keep him company through visits to his home, and with time his support worker aims to help get involved in social activities that will bring more positive contacts to allay the loneliness that Mr A sees as his main challenge.

Anyone can witness or become aware of information suggesting that abuse and neglect is occurring. The matter may, for example, be raised by a worried neighbour (see above case study), a concerned bank cashier, a GP, a welfare benefits officer, a housing support worker or a nurse on a ward. Primary care staff may be particularly well-placed to spot abuse and neglect, as in many cases they may be the only professionals with whom the adult has contact. The adult may say or do things that hint that all is not well. It may come in the form of a complaint, a call for a police response, an expression of concern, or come to light during a needs assessment. Regardless of how the safeguarding concern is identified, everyone should understand what to do, and where to go locally to get help and advice. It is vital that professionals, other staff and members of the public are vigilant on behalf of those unable to protect themselves. This will include:

- knowing about different types of abuse and neglect and their signs;
- supporting adults to keep safe;
- knowing who to tell about suspected abuse or neglect; and
- supporting adults to think and weigh up the risks and benefits of different options when exercising choice and control.

Awareness campaigns for the general public and multi-agency training for all staff will contribute to achieving these objectives.

## Reporting and responding to abuse and neglect

**14.31.** It is important to understand the circumstances of abuse, including the wider context such as whether others may be at risk of abuse, whether there is any emerging pattern of abuse, whether others have witnessed abuse and the role of family members and paid staff or professionals.

**14.32.** The circumstances surrounding any actual or suspected case of abuse or neglect will inform the response. For example, it is important to recognise that abuse or neglect may be unintentional and may arise because a carer is struggling to care for another person. This makes the need to take action no less important, but in such circumstances, an appropriate response could be a support package for the carer and monitoring. However, the primary focus must still be how to safeguard the adult. In other circumstances where the safeguarding concerns arise from abuse or neglect deliberately intended to cause harm, then it would not only be necessary to immediately consider what steps are needed to protect the adult but also whether to refer the matter to the police to consider whether a criminal investigation would be required or appropriate.

**14.33.** The nature and timing of the intervention and who is best placed to lead will be, in part, determined by the circumstances. For example, where there is poor, neglectful care or practice, resulting in pressure sores for example, then an employer-led disciplinary response may be more appropriate; but this situation will need additional responses such as clinical intervention to improve the care given immediately and a clinical audit of practice. Commissioning or regulatory enforcement action may also be appropriate.

**14.34.** Early sharing of information is the key to providing an effective response where there are emerging concerns (see information sharing (14.150) and confidentiality (14.157) section). To ensure effective safeguarding arrangements:

- all organisations must have arrangements in place which set out clearly the processes and the principles for sharing information between each other, with other professionals and the SAB; this could be via an Information Sharing Agreement to formalise the arrangements; and,
- no professional should assume that someone else will pass on information which they think may be critical to the safety and wellbeing of the adult. If a professional has concerns about the adult's welfare and believes they are suffering or likely to suffer abuse or neglect, then they should share the information with the local

authority and, or, the police if they believe or suspect that a crime has been committed.

## Carers and safeguarding

**14.35.** Circumstances in which a carer (for example, a family member or friend) could be involved in a situation that may require a safeguarding response include:

- a carer may witness or speak up about abuse or neglect;
- a carer may experience intentional or unintentional harm from the adult they are trying to support or from professionals and organisations they are in contact with; or,
- a carer may unintentionally or intentionally harm or neglect the adult they support on their own or with others.

**14.36.** Assessment of both the carer and the adult they care for must include consideration of both their wellbeing. Section 1 of the Care Act includes protection from abuse and neglect as part of the definition of wellbeing. As such, a needs or carer's assessment is an important opportunity to explore the individuals' circumstances and consider whether it would be possible to provide information, or support that prevents abuse or neglect from occurring, for example, by providing training to the carer about the condition that the adult they care for has or to support them to care more safely. Where that is necessary the local authority should make arrangements for providing it.

**14.37.** If a carer speaks up about abuse or neglect, it is essential that they are listened to and that where appropriate a safeguarding enquiry is undertaken and other agencies are involved as appropriate.

**14.38.** If a carer experiences intentional or unintentional harm from the adult they are supporting, or if a carer unintentionally or intentionally harms or neglects the adult they support, consideration should be given to:

- whether, as part of the assessment and support planning process for the carer and, or, the adult they care for, support can be provided that removes or mitigates the abuse. For example, the provision of training or information or other support that minimises the stress experienced by the carer. In some circumstances the carer may need to have independent representation or advocacy; in others, a carer may benefit from having such support if they are under great stress or similar; and
- whether other agencies should be involved; in some circumstances where a criminal offence is suspected this will include alerting the police, or in others the primary healthcare services may need to be involved in monitoring.

**14.39.** Other key considerations in relation to carers should include:

- involving carers in safeguarding enquiries relating to the adult they care for, as appropriate;
- whether or not joint assessment is appropriate in each individual circumstance;
- the risk factors that may increase the likelihood of abuse or neglect occurring; and

- whether a change in circumstance changes the risk of abuse or neglect occurring. A change in circumstance should also trigger the review of the care and support plan and, or, support plan. Further information about these considerations can be found in an ADASS paper on carers and safeguarding.

Mrs D lives with her husband, B has a long term brain injury which affects his mood, behaviour and his ability to manage close family relationships. This has often led to him shouting and hitting out at his wife, who is also his main informal carer. Mrs D told a professional who was involved in supporting her that she was becoming increasingly frightened by B's physical and verbal outbursts and at times feared for her personal safety.

Other family members were unaware of the extent of the harm and Mrs D was exhausted and considering leaving the situation. The local authority became involved. The situation presented significant personal risk to Mrs D but there was also a risk of fragmenting relationships if the local authority staff were not sensitive to the needs of the whole family. The practitioner, under supervision from her social work manager invested time in meeting with Mrs D to explore her preferences around managing her safety and how information about the situation would be communicated with the wider family and with B. This presented dilemmas around balancing the local authority's duty of care towards Mrs D with her wishes to remain in the situation with B. Placing emphasis on the latter inevitably meant that Mrs D would not be entirely free from the risk of harm but allowed the practitioner to explore help and support options which would enable Mrs D to manage and sustain her safety at a level which was acceptable to her.

The practitioner received regular supervision to allow time to reflect on the support being offered and to ensure that it was 'person centred'. The outcome for Mrs D was that she was able to continue to care for B by working in partnership with the local authority. The practitioner offered advice about how to safely access help in an emergency and helped her to develop strategies to manage her own safety – this included staff building rapport with B, building on his strengths and desire to participate in social activities outside the family home. The effect of this was that some of the trigger points of him being at home with his wife for sustained periods during the day were reduced because he was there less. Mrs D also had a number of pre-existing support avenues, including counselling and a good relationship with her son and her friends. The situation will be reviewed regularly with Mrs D but for the time being she feels much more able to manage.

## Adult safeguarding procedures

**14.40.** In order to respond appropriately where abuse or neglect may be taking place, own role and responsibility and have access to practical and legal guidance, advice and support. This will include understanding local inter-agency policies and procedures.

**14.41.** In any organisation, there should be adult safeguarding policies and procedures. These should reflect this statutory guidance and the decision making tree diagram 1B and

are for use locally to support the reduction or removal of safeguarding risks as well as to secure any support to protect the adult and, where necessary, to help the adult recover and develop resilience. Such policies and procedures should assist those working with adults how to develop swift and personalised safeguarding responses and how to involve adults in this decision making. This, in turn, should encourage proportionate responses and improve outcomes for the people concerned. Procedures may include:

- a statement of purpose relating to promoting wellbeing, preventing harm and responding effectively if concerns are raised;
- a statement of roles and responsibility, authority and accountability sufficiently specific to ensure that all staff and volunteers understand their role and limitations;
- a statement of the procedures for dealing with allegations of abuse, including those for dealing with emergencies by ensuring immediate safety, the processes for initially assessing abuse and neglect and deciding when intervention is appropriate, and the arrangements for reporting to the police, urgently when necessary;
- a full list of points of referral indicating how to access support and advice at all times, whether in normal working hours or outside them, with a comprehensive list of contact addresses and telephone numbers, including relevant national and local voluntary bodies;
- an indication of how to record allegations of abuse and neglect, any enquiry and all subsequent action;
- a list of sources of expert advice;
- a full description of channels of inter-agency communication and procedures for information sharing and for decision making;
- a list of all services which might offer access to support or redress; and,
- how professional disagreements are resolved especially with regard to whether decisions should be made, enquiries undertaken for example.

14.42. The SAB should keep policies and procedures under review and report on these in the annual report as necessary. Procedures should be updated to incorporate learning from published research, peer reviews, case law and lessons from recent cases and Safeguarding Adults Reviews. The procedures should also include the provisions of the law – criminal, civil and statutory – relevant to adult safeguarding. This should include local or agency specific information about obtaining legal advice and access to appropriate remedies.

14.43. The Care Act requires that each local authority must arrange for an independent advocate to represent and support an adult who is the subject of a safeguarding enquiry or Safeguarding Adult Review where the adult has ‘substantial difficulty’ in being involved in the process and where there is no other suitable person to represent and support them (see chapter 7).

## The Mental Capacity Act 2005

14.44. People must be assumed to have capacity to make their own decisions and be given all practicable help before anyone treats them as not being able to make their own

decisions. Where an adult is found to lack capacity to make a decision then any action taken, or any decision made for, or on their behalf, must be made in their

**14.45.** Professionals and other staff need to understand and always work in line with the Mental Capacity Act 2005 (MCA). They should use their professional judgement and balance many competing views. They will need considerable guidance and support from their employers if they are to help adults manage risk in ways and put them in control of decision-making if possible.

**14.46.** Regular face-to-face supervision from skilled managers is essential to enable staff to work confidently and competently in difficult and sensitive situations.

**14.47.** Mental capacity is frequently raised in relation to adult safeguarding. The requirement to apply the MCA in adult safeguarding enquiries challenges many professionals and requires utmost care, particularly where it appears an adult has capacity for making specific decisions that nevertheless places them at risk of being abused or neglected.<sup>187</sup>

**14.48.** The MCA created the criminal offences of ill-treatment and wilful neglect in respect of people who lack the ability to make decisions. The offences can be committed by anyone responsible for that adult's care and support – paid staff but also family carers as well as people who have the legal authority to act on that adult's behalf (i.e. persons with power of attorney or Court-appointed deputies).

**14.49.** These offences are punishable by fines or imprisonment. Ill-treatment covers both deliberate acts of ill-treatment and also those acts which are reckless which results in ill-treatment. Wilful neglect requires a serious departure from the required standards of treatment and usually means that a person has deliberately failed to carry out an act that they knew they were under a duty to perform.

**14.50.** Abuse by an attorney or deputy: If someone has concerns about the actions of an attorney acting under a registered Enduring Power of Attorney (EPA) or Lasting Power of Attorney (LPA), or a Deputy appointed by the Court of Protection, they should contact the Office of the Public Guardian (OPG). The OPG can investigate the actions of a Deputy or Attorney and can also refer concerns to other relevant agencies. When it makes a referral, the OPG will make sure that the relevant agency keeps it informed of the action it takes. The OPG can also make an application to the Court of Protection if it needs to take possible action against the attorney or deputy. Whilst the OPG primarily investigates financial abuse, it is important to note that it also has a duty to investigate concerns about the actions of an attorney acting under a health and welfare Lasting Power of Attorney or a personal welfare deputy. The OPG can investigate concerns about an attorney acting under a registered Enduring or Lasting Power of Attorney, regardless of the adult's capacity to make decisions. process and where there is no other suitable person to represent and support them (see chapter 7).



## Multi-agency safeguarding role

### Preventing abuse and neglect

**14.51.** Local authorities must cooperate with each of their relevant partners, as described in section 6(7) of the Care Act, and those partners must also cooperate with the local authority, in the exercise of their functions relevant to care and support including those to protect adults (see also chapter 15 which sets out general responsibilities in relation to co-operation).

**14.52.** Relevant partners of a local authority include any other local authority with whom they agree it would be appropriate to co-operate (e.g. neighbouring authorities with whom they provide joint shared services) and the following agencies or bodies who operate within the local authority's area including:

- NHS England;
- Clinical Commissioning Groups (CCGs);
- NHS trusts and NHS Foundation Trusts;
- Department for Work and Pensions;
- the Police;
- Prisons; and
- Probation services;

**14.53.** Local authorities must also co-operate with such other agencies or bodies as it considers appropriate in the exercise of its adult safeguarding functions, including (but not limited to) those listed in section 6(3):

- General Practitioners;
- dentists;
- pharmacists;
- NHS hospitals; and
- housing, health and care providers.

**14.54.** Agencies should stress the need for preventing abuse and neglect wherever possible. Observant professionals and other staff making early, positive interventions with individuals and families can make a huge difference to their lives, preventing the deterioration of a situation or breakdown of a support network. It is often when people become increasingly isolated and cut off from families and friends that they become extremely vulnerable to abuse and neglect. Agencies should implement robust risk management processes in order to prevent concerns escalating to a crisis point and requiring intervention under safeguarding adult procedures.

**14.55.** Partners should ensure that they have the mechanisms in place that enable early identification and assessment of risk through timely information sharing and targeted multiagency intervention. Multi-agency safeguarding hubs may be one model to support this but are not the only one. Policies and strategies for safeguarding adults should include measures to minimise the circumstances, including isolation, which make adults vulnerable to abuse.

Miss P's mental health social worker became concerned when she had received reports that two of Marissa's associates were visiting more regularly and sometimes staying over at her flat. Miss P was being coerced into prostitution and reportedly being physically assaulted by one of the men visiting her flat. There was also concern that she was being financially exploited. Miss P's vulnerability was exacerbated by her mental health needs and consequent inability to set safe boundaries with the people she was associating with.

The social worker recognised that the most appropriate way to enable Miss P to manage the risk of harm was to involve Miss P's family, to which she agreed to, and other professionals to develop and coordinate a plan which would enable her to continue living independently but provide a safety net for when the risk of harm became heightened. Guided initially by Miss P's wish for the two men to stay away from her, the social worker initiated a planning meeting between supportive family members and other professionals such as the police, domestic violence workers, support workers and housing officers. Although Miss P herself felt unable to attend the planning meeting, her social worker ensured that her views were included and helped guide the plan. The meeting allowed family and professionals to work in partnership, to openly share information about the risks and to plan what support Miss P needed to safely maintain her independence.

Tasks were divided between the police, family members and specialist support workers. The social worker had a role in ensuring that the plan was coordinated properly and that Miss P was fully aware of everyone's role. Miss P's family were crucial to the success of the plan as they had always supported her and were able to advocate for her needs. They also had a trusting relationship with her and were able to notify the police and other professionals if they thought that the risk to Miss P was increasing. The police played an active role in monitoring and preventing criminal activity towards Miss P and ensured that they kept all of the other professionals and family up to date with what was happening.

Miss P is working with a domestic violence specialist to help her develop personal strategies to keep safer and her support worker is helping her to build resilience through community support and activities.

## Responding to abuse and neglect in a regulated care setting

**14.56.** It is important that all partners are clear where responsibility lies where abuse or neglect is carried out by employees or in a regulated setting, such as a care home, hospital, or college. The first responsibility to act must be with the employing organisation as provider of the service. However, social workers or counsellors may need to be involved in order to support the adult to recover.

**14.57.** When an employer is aware of abuse or neglect in their organisation, then they are under a duty to correct this and protect the adult from harm as soon as possible and inform the local authority, CQC and CCG where the latter is the commissioner. Where a local authority has reasonable cause to suspect that an adult may be experiencing or at risk of

abuse or neglect, then it is still under a duty to make (or cause to be made) whatever enquiries it thinks necessary to decide what if any action needs to be taken and by whom. The local authority may well be reassured by the employer's response so that no further action is

required. However, a local authority would have to satisfy itself that an employer's response has been sufficient to deal with the safeguarding issue and, if not, to undertake any enquiry of its own and any appropriate follow up action (e.g. referral to CQC, professional regulators).

**14.58.** The employer should investigate any concern (and provide any additional support that the adult may need) unless there is compelling reason why it is inappropriate or unsafe to do this. For example, this could be a serious conflict of interest on the part of the employer, concerns having been raised about non-effective past enquiries or serious, multiple concerns, or a matter that requires investigation by the police.

**14.59.** An example of a conflict of interest where it is better for an external person to be appointed to investigate may be the case of a family-run business where institutional abuse is alleged, or where the manager or owner of the service is implicated. The circumstances where an external person would be required should be set out in the local multi-agency procedures. All those carrying out such enquiries should have received appropriate training.

**14.60.** There should be a clear understanding between partners at a local level when other agencies such as the local authority, CQC or CCG need to be notified or involved and what role they have. ADASS, CQC, LGA, ACPO and NHS England have jointly produced a high level guide on these roles and responsibilities. The focus should be on promoting the wellbeing of those adults at risk. It may be that additional training or supervision will be the appropriate response, but the impact of this needs to be assessed. Commissioners of care or other professionals should only use safeguarding procedures in a way that reflects the principles above not as a means of intimidating providers or families. Transparency, open-mindedness and timeliness are important features of fair and effective safeguarding enquiries. CQC and commissioners have alternative means of raising standards of service, including support for staff training, contract compliance and, in the case of CQC, enforcement powers.

**14.61.** Commissioners should encourage an open culture around safeguarding, working in partnership with providers to ensure the best outcome for the adult. A disciplinary investigation, and potentially a hearing, may result in the employer taking informal or formal measures which may include dismissal and possibly referral to the Disclosure and Barring Service.

**14.62.** If someone is removed by being either dismissed or redeployed to a non-regulated activity, from their role providing regulated activity following a safeguarding incident, or a person leaves their role (resignation, retirement) to avoid a disciplinary hearing following a safeguarding incident and the employer/volunteer organisation feels they would have dismissed the person based on the information they hold, the regulated activity provider has a has provided the person, then the legal duty sits with that agency.<sup>191</sup> In circumstances where these actions are not undertaken then the local authority can make such a referral.

## Local authority's role in carrying out enquiries

**14.63.** Local authorities must make enquiries, or cause others to do so, if they reasonably suspect an adult who meets the criteria at paragraph 14.2 is, or is at risk of, being abused or neglected.

**14.64.** An enquiry is the action taken or instigated by the local authority in response to a concern that abuse or neglect may be taking place. An enquiry could range from a conversation with the adult, or if they lack capacity, or have substantial difficulty in understanding the enquiry their representative or advocate, prior to initiating a formal enquiry under section 42, right through to a much more formal multi-agency plan or course of action. Whatever the course of subsequent action, the professional concerned should record the concern, the adult's views and wishes, any immediate action has taken and the reasons for those actions.

**14.65.** The purpose of the enquiry is to decide whether or not the local authority or another organisation, or person, should do something to help and protect the adult. If the local authority decides that another organisation should make the enquiry, for example a care provider, then the local authority should be clear about timescales, the need to know the outcomes of the enquiry and what action will follow if this is not done.

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

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

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

For example, where abuse or neglect is suspected within a family or informal relationship it is likely that a social worker will be the most appropriate lead. Personal and family relationships within community settings can prove both difficult and complex to assess and intervene in. The dynamics of personal relationships can be extremely difficult to judge and rebalance. For example, an adult may make a choice to be in a relationship that causes them emotional distress which outweighs, for them, the unhappiness of not maintaining the relationship.

14.69. Whilst work with the adult may frequently require the input of a social worker, other aspects of enquiries may be best undertaken by others with more appropriate skills and knowledge. For example, health professionals should undertake enquiries and treatment plans relating to medicines management or pressure sores.

## Criminal offences and adult safeguarding

14.70. Everyone is entitled to the protection of the law and access to justice. Behaviour which amounts to abuse and neglect, for example physical or sexual assault or rape, psychological abuse or hate crime, wilful neglect, unlawful imprisonment, theft and fraud and certain forms of discrimination also often constitute specific criminal offences under various pieces of legislation. Although the local authority has the lead role in making enquiries, where criminal activity is suspected, then the early involvement of the police is likely to have benefits in many cases.

Miss Y is a young woman with a learning disability with limited support from her family and was not engaged with health and social care services. Miss Y was befriended by an individual who took her to parties where she was given drugs and alcohol and forced to have sex with different men. Sometimes she would be given money or gifts in return for having sex with the men. Miss Y disclosed this to a social worker and it was discovered that there were a number of young people and vulnerable adults who were being sexually exploited by multiple perpetrators. Miss Y lacked mental capacity in order to be able to consent to having sex, as well as in relation to her accommodation, finances or personal safety. The perpetrators sought out Miss Y and others because of their vulnerability – whether that was because of their age, disability, mental illness, or their previous history as a victim of abuse. The process to safeguard Miss Y involved a coordinated response between the police, social care, health and voluntary and community sector organisations. This included the police investigating the perpetrators for rape, sexual assault, trafficking and drug offences. The Court of Protection and Deprivation of Liberty Safeguards were also used initially to safeguard Miss Y.

14.71. For the purpose of court proceedings, a witness is competent if they can understand the questions and respond in a way that the court can understand. Police have a duty under legislation to assist those witnesses who are vulnerable and intimidated. A range of special measures are available to facilitate the gathering and giving of evidence by vulnerable and intimidated witnesses. Consideration of special measures should occur from the onset of a police investigation. In particular:

- immediate referral or consultation with the police will enable the police to establish whether a criminal act has been committed and this will give an opportunity of determining if, and at what stage, the police need to become involved further and undertake a criminal investigation;
- the police have powers to initiate specific protective actions which may apply, such as Domestic Violence Protection Orders (DVPO);
- a higher standard of proof is required in criminal proceedings (“beyond reasonable doubt”) than in disciplinary or regulatory proceedings (where the test is the balance

of probabilities) and so early contact with police may assist in obtaining and securing evidence and witness statements;

- early involvement of the police will help ensure that forensic evidence is not lost or contaminated;
- police officers need to have considerable skill in investigating and interviewing adults with a range of disabilities and communication needs if early involvement is to prevent the adult being interviewed unnecessarily on subsequent occasions. Research<sup>193</sup> has found that sometimes evidence from victims and witnesses with learning disabilities is discounted. This may also be true of others such as people with dementia. It is crucial that reasonable adjustments are made and appropriate support given, so people can get equal access to justice;
- police investigations should be coordinated with health and social care enquiries but they may take priority;
- guidance should include reference to support relating to criminal justice matters which is available locally from such organisations as Victim Support and court preparation schemes;
- some witnesses will need protection; and
- the police may be able to get victim support in place.

**14.72.** Special Measures were introduced through legislation in the Youth Justice and Criminal Evidence Act 1999 (YJCEA) and include a range of measures to support witnesses to give their best evidence and to help reduce some of the anxiety when attending court. Measures in place include the use of screens around the witness box, the use of live-link or recorded evidence-in-chief and the use of an intermediary to help witnesses understand the questions they are being asked and to give their answers accurately.

**14.73. Vulnerable adult Witnesses** (S.16 YJCEA) have a

- mental disorder
- learning disability, or
- physical disability

These witnesses are only eligible for special measures if the quality of evidence that is given by them is likely to be diminished by reason of the disorder or disability.

**14.74. Intimidated Witnesses** (S17 YJCEA 99): Intimidated witnesses are defined by Section 17 of the Act as those whose quality of evidence is likely to be diminished by reason of fear or distress. In determining whether a witness falls into this category the court takes account of:

- the nature and alleged circumstances of the offence;
- the age of the witness;
- the social and cultural background and ethnic origins of the witness;
- the domestic and employment circumstances of the witness;
- any religious beliefs or political opinions of the witness;
- any behaviour towards the witness by the accused or third party. Also falling into this category are:

- complainants in cases of sexual assault;
- witnesses to specified gun and knife offences;
- victims of and witnesses to domestic violence, racially motivated crime, crime motivated by reasons relating to religion, homophobic crime, gang related violence and repeat victimisation;
- those who are older and frail; and,
- the families of homicide victims.

Registered Intermediaries (RIs) have been facilitating communication with vulnerable witnesses in the criminal justice system in England and Wales since 2004.

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

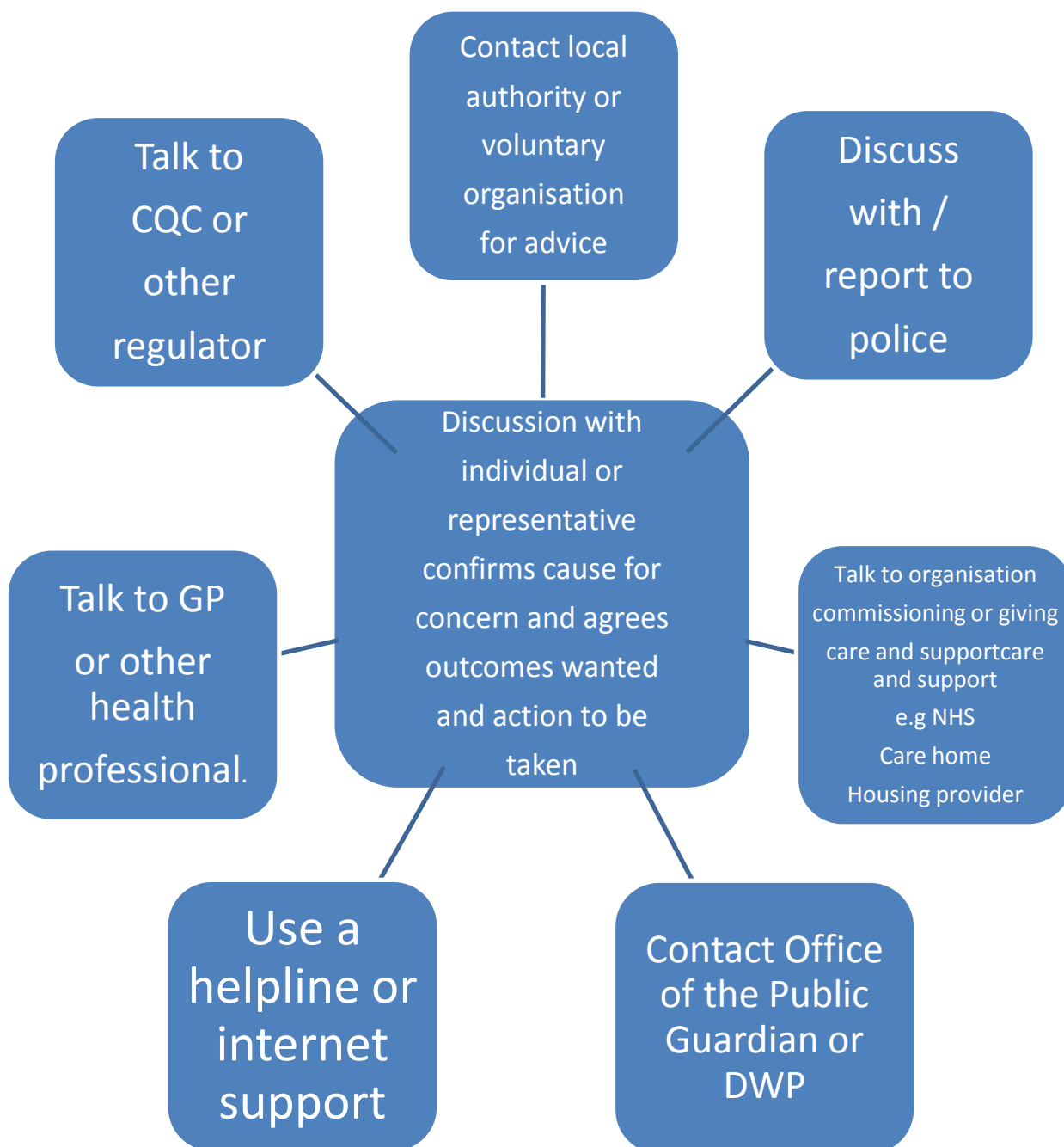
and requires continued risk assessment to ensure the outcome is in their interests and enhances their wellbeing.

**14.76.** If the adult has the mental capacity to make informed decisions about their safety and they do not want any action to be taken, this does not preclude the sharing of information with relevant professional colleagues. This is to enable professionals to assess the risk of harm and to be confident that the adult is not being unduly influenced, coerced or intimidated and is aware of all the options. This will also enable professionals to check the safety and validity of decisions made. It is good practice to inform the adult that this action is being taken unless doing so would increase the risk of harm.

Mr P has mild learning disabilities. The safeguarding concern was financial and other abuse and neglect by his brother, with whom he lived. His support worker had noticed that Mr P had begun to appear agitated and anxious, that he looked increasingly unkempt and that he was often without money; then he suddenly stopped attending his day centre. When the support worker and the safeguarding officer followed up, Mr P told them that at times he was not allowed out at all by his brother and was confined to his bedroom. He was only allowed to use the bathroom when his brother said he could, and often didn't get enough to eat. He was also very worried because his bank card no longer worked, and he had no money, so couldn't buy food for himself.

Mr P consented to move to temporary accommodation, and a case conference was held, which he attended with an advocate. At his request a move to a supported living flat was arranged and his belongings were retrieved from his brother's property. His bank account had been emptied by his brother, so he has made new arrangements for his money. The police are investigating both the financial abuse and the harm Mr P suffered at his brother's hands. He has begun to talk about his experiences and is gradually regaining his confidence.

Diagram 1A  
Information gathering



If the issue cannot be resolved through these means or the adult remains at risk of abuse or neglect (real or suspected) then the local authority's enquiry duty under section 42 continues until it decides what action is necessary to protect the adult and by whom and ensures itself that this action has been taken.



## Procedures for responding in individual cases

### When should an enquiry take place?

14.77. Local authorities must make enquiries, or cause another agency to do so, whenever abuse or neglect are suspected in relation to an adult and the local authority thinks it necessary to enable it to decide what (if any) action is needed to help and protect the adult. The scope of that enquiry, who leads it and its nature, and how long it takes, will depend on the particular circumstances. It will usually start with asking the adult their view and wishes which will often determine what next steps to take. Everyone involved in an enquiry must focus on improving the adult's well-being and work together to that shared aim. At this stage, the local authority also has a duty to consider whether the adult requires an independent advocate to represent and support the adult in the enquiry. The decision making tree at (see annex) highlights appropriate pauses for reflection, consideration and professional judgment and reflects the different routes and actions that might be taken.

### Objectives of an enquiry

14.78. The objectives of an enquiry into abuse or neglect are to:

- establish facts;
- ascertain the adult's views and wishes;
- assess the needs of the adult for protection, support and redress and how they might be met;
- protect from the abuse and neglect, in accordance with the wishes of the adult;
- make decisions as to what follow-up action should be taken with regard to the person or organisation responsible for the abuse or neglect; and
- enable the adult to achieve resolution and recovery.

14.79. The first priority should always be to ensure the safety and well-being of the adult. The adult should experience the safeguarding process as empowering and supportive. Practitioners should wherever practicable seek the consent of the adult before taking action. However, there may be circumstances when consent cannot be obtained because the adult lacks the capacity to give it, but it is in their best interests to undertake an enquiry. Whether or not the adult has capacity to give consent, action may need to be taken if others are or will be put at risk if nothing is done or where it is in the public interest to take action because a criminal offence has occurred. It is the responsibility of all staff and members of the public to act on any suspicion or evidence of abuse or neglect and to pass on their concerns to a responsible person or agency.

#### BMA Adult safeguarding toolkit:

"...where a competent adult explicitly refuses any supporting intervention, this should normally be respected. Exceptions to this may be where a criminal offence may have taken place or where there may be a significant risk of harm to a third party. If, for example, there may be an abusive adult in a position of authority in relation to other vulnerable adults [sic], it may be appropriate to breach confidentiality and disclose information to an appropriate authority. Where a criminal offence is suspected it may also be necessary to take legal advice. Ongoing support should also be offered. Because an adult initially refuses the offer of assistance he or she should not therefore be lost to or abandoned by relevant services.

The situation should be monitored and the individual informed that she or he can take up the offer of assistance at any time.”

### What should an enquiry take into account?

**14.80.** The wishes of the adult are very important, particularly where they have capacity to make decisions about their safeguarding. The wishes of those that lack capacity are of equal importance. Wishes need to be balanced alongside wider considerations such as the level of risk or risk to others including any children affected. All adults at risk, regardless of whether they have capacity or not may want highly intrusive help, such as the barring of a person from their home, or a person to be brought to justice or they may wish to be helped in less intrusive ways, such as through the provision of advice as to the various options available to them and the risks and advantages of these various options.

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

**14.82.** Any intervention in family or personal relationships needs to be carefully considered. While abusive relationships never contribute to the wellbeing of an adult, interventions which remove all contact with family members may also be experienced as abusive interventions and risk breaching the adult’s right to family life if not justified or proportionate. Safeguarding needs to recognise that the right to safety needs to be balanced with other rights, such as rights to liberty and autonomy, and rights to family life. Action might be primarily supportive or therapeutic, or it might involve the application of civil orders, sanctions, suspension, regulatory activity or criminal prosecution, disciplinary action or de-registration from a professional body.

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

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

## Who can carry out an enquiry?

**14.84.** Although the local authority is the lead agency for making enquiries, it may require others to undertake them. The specific circumstances will often determine who is the right person to begin an enquiry. In many cases a professional who already knows the adult will be the best person. They may be a social worker, a housing support worker, a GP or other health worker such as a community nurse. The local authority retains the responsibility for ensuring that the enquiry is referred to the right place and is acted upon. The local authority, in its lead and coordinating role, should assure itself that the enquiry satisfies its duty under section 42 to decide what action (if any) is necessary to help and protect the adult and by whom and to ensure that such action is taken when necessary. In this role if the local authority has asked someone else to make enquiries, it is able to challenge the body making the enquiry if it considers that the process and/or outcome is unsatisfactory.

**14.85.** Where a crime is suspected and referred to the police, then the police must lead the criminal investigations, with the local authority's support where appropriate, for example by providing information and assistance. The local authority has an ongoing duty to promote the wellbeing of the adult in these circumstances.

Mr A is 24 and has autism and a mild learning disability. He is a very friendly and sociable young man who is prone to waving and talking to most people he comes across, seeing everyone as a potential friend. However, due to his disabilities, he struggles to read the intentions of others and is easily led astray and manipulated. He lives next door to a pub, where he knows the staff and the regulars. He also lives close to his GP, and is able to access his most frequently visited places. He does, however, like to walk into town to talk to people he meets out and about. On such occasions he has been repeatedly tricked into stealing items from a newsagent by a group of teenagers and given large amounts of money away to strangers he strikes up conversations with.

Due to his previous experiences, Mr A was identified during a needs assessment as being at risk of abuse and neglect. A safeguarding enquiry was triggered. The council found that, although Mr A was not currently experiencing abuse or neglect, he remained highly vulnerable to abuse due to his disabilities. To assure his safety in the future, a safeguarding plan was agreed between Mr A and a social worker. This focused on developing his social skills and understanding of relationships and boundaries and the social worker worked with Mr A to consider various support options such as having a buddy or circle of support. The social worker put Mr A in touch with an autism social group which provided sessions on skills for staying safe. As the group was based in town,

Mr A's plan also included a support worker to accompany him. After the first 5 sessions Mr A was able to attend himself but continued to meet with his support worker on a monthly basis as part of the risk management strategy set out in his safeguarding plan.

**14.86.** Employers must ensure that staff, including volunteers, are trained in recognising the symptoms of abuse or neglect, how to respond and where to go for advice and assistance.

These are best written down in shared policy documents that can be easily understood and used by all the key organisations.

14.87. Employers must also ensure all staff keep accurate records, stating what the facts are and what are the known opinions of professionals and others and differentiating between fact and opinion. It is vital that the views of the adult are sought and recorded. These should include the outcomes that the adult wants, such as feeling safe at home, access to community facilities, restricted or no contact with certain individuals or pursuing the matter through the criminal justice system.

## What happens after an enquiry?

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

14.89. That action could take a number of courses: it could include disciplinary, complaints or criminal investigations or work by contracts managers and CQC to improve care standards. Those discussions should enable the adult to understand what their options might be and how their wishes might best be realised. Social workers must be able to set out both the civil and criminal justice approaches that are open and other approaches that might help to promote their wellbeing, such as therapeutic or family work, mediation and conflict resolution, peer or circles of support. In complex domestic circumstances, it may take the adult some time to gain the confidence and self-esteem to protect themselves and take action and their wishes may change. The police, health service and others may need to be involved to help ensure these wishes are realised.

## Safeguarding plans

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

14.91. The local authority **must** determine what further action is necessary. Where the local authority determines that it should itself take further action (e.g. a protection plan), then the authority would be under a duty to do so.

14.92. The MCA is clear that local authorities **must** presume that an adult has the capacity to make a decision until there is a reason to suspect that capacity is in some way compromised; the adult is best placed to make choices about their wellbeing which may involve taking certain risks. Of course, where the adult may lack capacity to make decisions

about arrangements for enquiries or managing any abusive situation, then their capacity must always be assessed and any decision made in their best interests. If the adult has the capacity to make decisions in this area of their life and declines assistance, this can limit the intervention that organisations can make. The focus should therefore be, on harm reduction. It should not however limit the action that may be required to protect others who are at risk of harm. The potential for 'undue influence' will need to be considered if relevant. If the adult is thought to be refusing intervention on the grounds of duress then action must be taken.

**14.93.** In order to make sound decisions, the adult's emotional, physical, intellectual and mental capacity in relation to self-determination and consent and any intimidation, misuse of authority or undue influence will have to be assessed.

### Taking action

**14.94.** Once enquiries are completed, the outcome should be notified to the local authority which should then determine with the adult what, if any, further action is necessary and acceptable. It is for the local authority to determine the appropriateness of the outcome of the enquiry. One outcome of the enquiry may be the formulation of agreed action for the adult which should be recorded on their care plan. This will be the responsibility of the relevant agencies to implement.

**14.95.** In relation to the adult this should set out:

- what steps are to be taken to assure their safety in future;
- the provision of any support, treatment or therapy including on-going advocacy;
- any modifications needed in the way services are provided (e.g. same gender care or placement; appointment of an OPG deputy);
- how best to support the adult through any action they take to seek justice or redress;
- any on-going risk management strategy as appropriate; and,
- any action to be taken in relation to the person or organisation that has caused the concern.

### Person alleged to be responsible for abuse or neglect

**14.96.** When a complaint or allegation has been made against a member of staff, including people employed by the adult, they should be made aware of their rights under employment legislation and any internal disciplinary procedures.

**14.97.** Where the person who is alleged to have carried out the abuse themselves has care and support needs and is unable to understand the significance of questions put to them or their replies, they should be assured of their right to the support of an 'appropriate' adult if they are questioned in relation to a suspected crime by the police under the Police and Criminal Evidence Act 1984 (PACE). Victims of crime and witnesses may also require the support of an 'appropriate' adult.

**14.98.** Under the MCA, people who lack capacity and are alleged to be responsible for abuse, are entitled to the help of an Independent Mental Capacity Advocate, to support and

represent them in the enquiries that are taking place. This is separate from the decision whether or not to provide the victim of abuse with an independent advocate under the Care Act.

**14.99.** The Police and Crown Prosecution Service (CPS) should agree procedures with the local authority, care providers, housing providers, and the NHS/CCG to cover the following situations:

action pending the outcome of the police and the employer's investigations;

- action following a decision to prosecute an individual;
- action following a decision not to prosecute;
- action pending trial; and
- responses to both acquittal and conviction.

**14.100.** Employers who are also providers or commissioners of care and support not only have a duty to the adult, but also a responsibility to take action in relation to the employee when allegations of abuse are made against them. Employers should ensure that their disciplinary procedures are compatible with the responsibility to protect adults at risk of abuse or neglect.

**14.101.** With regard to abuse, neglect and misconduct within a professional relationship, codes of professional conduct and/or employment contracts should be followed and should determine the action that can be taken. Robust employment practices, with checkable references and recent DBS checks are important. Reports of abuse, neglect and misconduct should be investigated and evidence collected.

**14.102.** Where appropriate, employers should report workers to the statutory and other bodies responsible for professional regulation such as the General Medical Council and the Nursing and Midwifery Council. If someone is removed from their role providing regulated activity following a safeguarding incident the regulated activity provider (or if the person has been provided by an agency or personnel supplier, the legal duty sits with them) has a legal duty to refer to the Disclosure and Barring Service. The legal duty to refer to the Disclosure and Barring Service also applies where a person leaves their role to avoid a disciplinary hearing following a safeguarding incident and the employer/volunteer organisation feels they would have dismissed the person based on the information they hold.

**14.103.** The standard of proof for prosecution is 'beyond reasonable doubt'. The standard of proof for internal disciplinary procedures and for discretionary barring consideration by the Disclosure and Barring Service (DBS) and the Vetting and Barring Board is usually the civil standard of 'on the balance of probabilities'. This means that when criminal procedures are concluded without action being taken this does not automatically mean that regulatory or disciplinary procedures should cease or not be considered. In any event there is a legal duty to make a safeguarding referral to DBS if a person is dismissed or removed from their role due to harm to a child or a vulnerable adult.

## Safeguarding Adults Boards

**14.104.** Each local authority must set up a Safeguarding Adults Board (SAB). The main objective of a SAB is to assure itself that local safeguarding arrangements and partners act to help and protect adults in its area who meet the criteria set out at paragraph 14.2.

**14.105.** The SAB has a strategic role that is greater than the sum of the operational duties of the core partners. It oversees and leads adult safeguarding across the locality and will be interested in a range of matters that contribute to the prevention of abuse and neglect. These will include the safety of patients in its local health services, quality of local care and support services, effectiveness of prisons and approved premises in safeguarding offenders and awareness and responsiveness of further education services. It is important that SAB partners

feel able to challenge each other and other organisations where it believes that their actions or inactions are increasing the risk of abuse or neglect. This will include commissioners, as well as providers of services.

**14.106.** The SAB can be an important source of advice and assistance, for example in helping others improve their safeguarding mechanisms. It is important that the SAB has effective links with other key partnerships in the locality and share relevant information and work plans. They should consciously cooperate to reduce any duplication and maximise any efficiency, particularly as objectives and membership is likely to overlap.

**14.107.** A SAB has three core duties:

- It must publish a strategic plan for each financial year that sets how it will meet its main objective and what the members will do to achieve this. The plan must be developed with local community involvement, and the SAB must consult the local Healthwatch organisation. The plan should be evidence based and make use of all available evidence and intelligence from partners to form and develop its plan.
- It must publish an annual report detailing what the SAB has done during the year to achieve its main objective and implement its strategic plan, and what each member has done to implement the strategy as well as detailing the findings of any Safeguarding Adults Reviews and subsequent action.
- It must conduct any Safeguarding Adults Review in accordance with Section 44 of the Act.

**14.108.** Safeguarding requires collaboration between partners in order to create a framework of inter-agency arrangements. Local authorities and their relevant partners must collaborate and work together as set out in the co-operation duties in the Care Act and, in doing so, must, where appropriate, also consider the wishes and feelings of the adult on whose behalf they are working.

**14.109.** Local authorities may cooperate with any other body they consider appropriate where it is relevant to their care and support functions. The lead agency with responsibility for coordinating adult safeguarding arrangements is the local authority, but all the members

of the SAB should designate a lead officer. Other agencies should also consider the benefits of having a lead for adult safeguarding.

**14.110.** Each Safeguarding Adults Board should:

- identify the role, responsibility, authority and accountability with regard to the action each agency and professional group should take to ensure the protection of adults;
- establish ways of analysing and interrogating data on safeguarding notifications that increase the SAB's understanding of prevalence of abuse and neglect locally that builds up a picture over time;
- establish how it will hold partners to account and gain assurance of the effectiveness of its arrangements;
- determine its arrangements for peer review and self-audit;
- establish mechanisms for developing policies and strategies for protecting adults which should be formulated, not only in collaboration and consultation with all relevant agencies but also take account of the views of adults who have needs for care and support, their families, advocates and carer representatives;
- develop preventative strategies that aim to reduce instances of abuse and neglect in its area;
- identify types of circumstances giving grounds for concern and when they should be considered as a referral to the local authority as an enquiry;
- formulate guidance about the arrangements for managing adult safeguarding, and dealing with complaints, grievances and professional and administrative malpractice in relation to safeguarding adults;
- develop strategies to deal with the impact of issues of race, ethnicity, religion, gender and gender orientation, sexual orientation, age, disadvantage and disability on abuse and neglect;
- balance the requirements of confidentiality with the consideration that, to protect adults, it may be necessary to share information on a 'need-to-know basis';
- identify mechanisms for monitoring and reviewing the implementation and impact of policy and training;
- carry out safeguarding adult reviews;
- produce a Strategic Plan and an Annual Report;
- evidence how SAB members have challenged one another and held other boards to account; and,
- promote multi-agency training and consider any specialist training that may be required. Consider any scope to jointly commission some training with other partnerships, such as the Community Safety Partnership.

**14.111.** Strategies for the prevention of abuse and neglect is a core responsibility of a SAB and it should have an overview of how this is taking place in the area and how this work ties in with the Health and Wellbeing Board's, Quality Surveillance Group's (QSG), Community Safety Partnership's and CQC's stated approach and practice. This could be about commissioners and the regulator, together with providers, acting to address poor quality care and the intelligence that indicates there is risk that care may be deteriorating and becoming abusive or neglectful. It could also be about addressing hate crime or anti-social behaviour in a particular neighbourhood. The SAB will need to have effective links and communication across a number of networks in order to make this work effectively.



14.112. Within the context of the duties set out at paragraph 14.2, safeguarding partnerships can be a positive means of addressing issues of self-neglect. The SAB is a multi-agency group that is the appropriate forum where strategic discussions can take place on dealing with what are often complex and challenging situations for practitioners and managers as well as communities more broadly.

Recent research has identified ways of working that can have positive outcomes for those who self-neglect.

Mr M, in his 70s, lives in an upper-floor council flat, and had hoarded over many years: his own possessions, items inherited from his family home, and materials he had collected from skips and building sites in case they came in useful. The material

was piled from floor to ceiling in every room, and Mr M lived in a burrow tunnelled through the middle, with no lighting or heating, apart from a gas stove. Finally, after years of hiding in privacy, Mr M had realised that work being carried out on the building would lead to his living conditions being discovered. Mr M himself recounted how hard it had been for him to invite access to his home, how ashamed and scared he was, and how important his hoard was to him, having learnt as a child of the war never to waste anything.

Through working closely together, Mr M, his support worker and experienced contractors have been able gradually to remove from his flat a very large volume of hoarded material and bring improvements to his home environment. It has taken time and patience, courage and faith, and a strong relationship based on trust. The worker has not judged Mr M, and has worked at his pace, positively affirming his progress. Both Mr M and his support worker acknowledge his low self-esteem, and have connected with his doctor and mental health services. The worker has recognised the need to replace what Mr M is giving up, and has encouraged activities that reflect his interests. Mr M has valued the worker's honesty, kindness and sensitivity, his ability to listen, and the respect and reciprocity within their relationship.

14.113. Members of a SAB are expected to consider what assistance they can provide in supporting the Board in its work. This might be through payment to the local authority or to a joint fund established by the local authority to provide, for example, secretariat functions for the Board. Members might also support the work of the SAB by providing administrative help, premises for meetings or holding training sessions. It is in all core partners' interests to have an effective SAB that is resourced adequately to carry out its functions.

14.114. Local SABs decide how they operate but they **must** ensure that their arrangements will be able to deliver the duties and functions under Schedule 2 of the Care Act.

14.115. The arrangements that the SAB needs to create include for example, how often it meets, the appointment of the Chair, any sub-groups to it and other practical arrangements.

It also needs to be clear about how it will seek feedback from the local community, particularly those adults who have been involved in a safeguarding enquiry.

### Membership of Safeguarding Adults Boards

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

- the local authority which set it up;
- the CCGs in the local authority's area; and
- the chief officer of police in the local authority's area.

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

- ambulance and fire services;
- representatives of providers of health and social care services, including independent providers;
- Department for Work and Pensions;
- representatives of housing providers, housing support providers, probation and prison services;
- General Practitioners;
- representatives of further education colleges;
- members of user, advocacy and carer groups;
- local Healthwatch;
- Care Quality Commission;
- representatives of children's safeguarding boards; and
- Trading Standards.

14.118. This is not a definitive list, but SABs should assure themselves that the Board has the involvement of all partners necessary to effectively carry out its duties. Additionally, there may also be effective links that can be made with related partnerships to maximise impact and minimise duplication and which would reflect the reality and interconnectivities local partnerships. There are strong synergies between the work of many of these bodies, particularly when looking at a broader family agenda as well as opportunities for efficiencies in taking forward work. The following example illustrates a safeguarding children's board and the domestic abuse board work collaboratively to commission and deliver training.

A SAB has worked with the domestic abuse Board to develop a Multi-Agency Risk Assessment Conference (MARAC) e-learning package and to commission training in line with the domestic abuse training standards, such as: domestic abuse basic awareness; domestic abuse enhanced awareness; Domestic Abuse, Stalking and Harassment (DASH) and; MARAC awareness.

14.119. Partnerships may include:

- Community Safety Partnerships;
- Local Children Safeguarding Boards;
- Health and Wellbeing Boards;
- Quality Surveillance Groups;
- Clinical Commissioning Group Boards; and
- Health Overview and Scrutiny Committees (OSCs).

14.120. The local authority which establishes the SAB must ensure that between them, all members of the SAB have the requisite skills and experience necessary for the SAB to act effectively and efficiently to safeguard adults in its area. For example, a social worker's ability to understand the individual within complex social networks and other systems makes social work input a vital component in SAB arrangements; but the SAB will also require access to medical, nursing and legal expertise. Members who attend in a professional and managerial capacity should be:

- able to present issues clearly in writing and in person;
- experienced in the work of their organisation;
- knowledgeable about the local area and population;
- able to explain their organisation's priorities;
- able to promote the aims of the SAB;
- able to commit their organisation to agreed actions;
- have a thorough understanding of abuse and neglect and its impact; and
- understand the pressures facing front line practitioners.

14.121 Although it is not a requirement, the local authority should consider appointing an independent chair to the SAB who is not an employee or a member of an agency that is a member of the SAB. The Chair has a critical role to lead collaboratively, give advice, support and encouragement but also to offer constructive challenge and hold main partner agencies to account and ensure that interfaces with other strategic functions are effective whilst also acting as a spokesperson for the SAB. An independent chair can provide additional reassurance that the Board has some independence from the local authority and other partners. The Chair will be accountable to the Chief Executive of the local authority as the lead body responsible for establishing the SAB but should be appointed by the local authority in the name of the SAB having consulted all its statutory partners. There is a clear expectation that chairs will keep up to date with, and promote, good practice, developments in case law and research and any other relevant material.

14.122. The SAB must develop clear policies and processes that have been agreed with other interested parties, and that reflect the local service arrangements, roles and responsibilities. It will promote multi-agency training that ensures a common understanding of abuse and neglect, appropriate responses and agree how to work together. Policies will state what organisations and individuals are expected to do where they suspect abuse or neglect. The SAB should also consider any specialist training that is required. A key part of the SAB's role will be to develop preventative strategies and aiming to reduce instances of abuse and neglect in its area. Members of the SAB should also be clear about how they will

contribute the financial and human resources of their organisation to both preventing and responding to abuse and neglect.

### SAB strategic plans

**14.123.** The SAB must publish its strategic plan each financial year. This plan should address both short and longer-term actions and it must set out how it will help adults in its area and what actions each member of the SAB will take to deliver the strategic plan and protect better. This plan could cover 3-5 years in order to enable the Board to plan ahead as long as it is reviewed and updated annually.

**14.124.** When it is preparing the plan, the SAB must consult the local Healthwatch and involve the local community. The local community has a role to play in the recognition and prevention of abuse and neglect but active and on-going work with the community is needed to tap into this source of support.

**14.125.** SABs must understand the many and potentially different concerns of the various groups that make up its local community. These might include such things as scams targeted at older householders, bullying and harassment of disabled people, hate crime directed at those with mental health problems, cyber bullying and the sexual exploitation of people who may lack the capacity to understand that they have the right to say no. In order to make

the plan understood as widely as possible, it should be free from jargon and written in plain English with an easy read version available.

### SAB annual reports

**14.126.** After the end of each financial year, the SAB **must** publish an annual report that must clearly state what both the SAB and its members have done to carry out and deliver the objectives and other content of its strategic plan. Specifically, the annual report must provide information about any Safeguarding Adults Reviews (SARs) that the SAB has arranged which are ongoing or have reported in the

year (regardless whether they commenced in that year). The report **must** state what the SAB has done to act on the findings of completed SARs or, where it has decided not to act on a finding, why not.

**14.128.** The annual report **must** set out how the SAB is monitoring progress against its policies and intentions to deliver its strategic plan. The SAB should consider the following in coming to its conclusions:

- evidence of community awareness of adult abuse and neglect and how to respond;
- analysis of safeguarding data to better understand the reasons that lie behind local data returns and use the information to improve the strategic plan and operational arrangements;

- what adults who have experienced the process say and the extent to which the outcomes they wanted (their wishes) have been realised;
- what front line practitioners say about outcomes for adults and about their ability to work in a personalised way with those adults;
- better reporting of abuse and neglect;
- evidence of success of strategies to prevent abuse or neglect;
- feedback from local Healthwatch, adults who use care and support services and carers, community groups, advocates, service providers and other partners;
- how successful adult safeguarding is at linking with other parts of the system, for example children's safeguarding, domestic violence, community safety;
- the impact of training carried out in this area and analysis of future need; and
- how well agencies are co-operating and collaborating.

14.129. Safeguarding forms one of the domains in the Adult Social Care Outcomes Framework (ASCOF). The 2014/15 publication announced the development of a national measure on safeguarding outcomes – one of the first to focus on those who have been through an adult safeguarding enquiry and their views on how the enquiry was dealt with. A set of questions has been developed and cognitively tested in preparation for a pilot survey undertaken by volunteer local authorities in summer 2014. This testing has successfully created a number of questions which can be used in a face to face interview, with confidence by local authorities, to seek the views of adults, or relatives/friends/carers or IMCAs where appropriate. Findings from this work highlighted how pleased adults were to be asked about their experiences. The questionnaires and all survey documentation can be found on the HSCIC's website.<sup>197</sup>

14.130. Using these questions would enable local authorities to better understand the experience of those going through the safeguarding process in their locality but would also facilitate the comparison to other local authorities.

14.131. The report is meant to be a document that can be read and understood by anyone. Most SABs are likely to publish these reports on their websites. SABs should consider making the report available in a variety of media. SABs will need to establish ways of publicising the report and actively seeking feedback from communities.

14.132. Every SAB **must** send a copy of its report to:

- the Chief Executive and leader of the local authority;
- the Police and Crime Commissioner and the Chief Constable;
- the local Healthwatch; and
- the Chair of the Health and Wellbeing Board.

It is expected that those organisations will fully consider the contents of the report and how they can improve their contributions to both safeguarding throughout their own organisation and to the joint work of the Board.

## Safeguarding adults reviews (SARs)

14.133. SABs **must** arrange a SAR when an adult in its area dies as a result of abuse or neglect, whether known or suspected, and there is concern that partner agencies could have worked more effectively to protect the adult.

14.134. SABs **must** also arrange a SAR if an adult in its area has not died, but the SAB knows or suspects that the adult has experienced serious abuse or neglect. In the context of SARs, something can be considered serious abuse or neglect where, for example the individual would have been likely to have died but for an intervention, or has suffered permanent harm or has reduced capacity or quality of life (whether because of physical or psychological effects) as a result of the abuse or neglect. SABs are free to arrange for a SAR in any other situations involving an adult in its area with needs for care and support.

14.135. The SAB should be primarily concerned with weighing up what type of 'review' process will promote effective learning and improvement action to prevent future deaths or serious harm occurring again. This may be where a case can provide useful insights into the way organisations are working together to prevent and reduce abuse and neglect of adults.

SARs may also be used to explore examples of good practice where this is likely to identify lessons that can be applied to future cases.

At the age of 72 years old, although registered disabled, Ms W was an active member in her community often seen helping at community events and visiting the local shops and swimming pool. Ms W had a fall in her home which left her lacking in confidence and fearful that she would fall again. As the winter approached, Ms W spent more time alone at home only venturing to the corner shop to buy groceries. As time passed her house came in disrepair and unhygienic as local youths began throw rubbish, including dog faeces into her front garden.

Within a five month period Ms W made seven complaints to the police about anti-social behaviour in her local area, and on two occasions was the victim of criminal damage to the front of her house, where her wheelchair accessibility ramp has been painted by graffiti. The police made a referral to social services. As a result, Ms W was placed on a waiting list for a support service.

Four weeks after she was last seen Ms W committed suicide. A Serious Case Review (SCR) was convened according to the local policy that stated 'the purpose of an SCR is not to reinvestigate or to apportion blame, but to establish whether there are lessons to be learnt from the circumstances of the case about the way in which local professionals and agencies work together to safeguard vulnerable adults. The published report and recommendations which followed demonstrated the lessons from this case. The resultant action plan included:

- Strengthened relationships and information sharing between police officers, health and the local authority.

- Clear lines of reporting and joint working arrangements with the Community Safety Partnerships.
- A robust multi-agency training plan.
- A targeted community programme to address anti-social behaviour.
- The development of a 'People's Panel' as a sub group to the Safeguarding Adults Board which includes people who access services, carers and voluntary groups.
- The development of a 'stay safe' programme involving local shops where adults at risk of abuse may report their concerns to a trusted member if their community.

**14.136.** Early discussions need to take place with the adult, family and friends to agree how they wish to be involved. The adult who is the subject of any SAR need not have been in receipt of care and support services for the SAB to arrange a review in relation to them.

**14.137.** SARs should reflect the six safeguarding principles. SABs should agree Terms of Reference for any SAR they arrange and these should be published and openly available. When undertaking SARs the records should either be anonymised through redaction or consent should be sought.

**14.138.** The following principles should be applied by SABs and their partner organisations to all reviews:

- there should be a culture of continuous learning and improvement across the organisations that work together to safeguard and promote the wellbeing and empowerment of adults, identifying opportunities to draw on what works and promote good practice;
- the approach taken to reviews should be proportionate according to the scale and level of complexity of the issues being examined;
- reviews of serious cases should be led by individuals who are independent of the case under review and of the organisations whose actions are being reviewed;
- professionals should be involved fully in reviews and invited to contribute their perspectives without fear of being blamed for actions they took in good faith; and
- families should be invited to contribute to reviews. They should understand how they are going to be involved and their expectations should be managed appropriately and sensitively.

**14.139.** SARs should seek to determine what the relevant agencies and individuals involved in the case might have done differently that could have prevented harm or death. This is so that lessons can be learned from the case and those lessons applied to future cases to prevent similar harm occurring again. Its purpose is not to hold any individual or organisation to account. Other processes exist for that, including criminal proceedings, disciplinary procedures, employment law and systems of service and professional regulation, such as CQC and the Nursing and Midwifery Council, the Health and Care Professions Council, and the General Medical Council.

**14.140.** It is vital, if individuals and organisations are to be able to learn lessons from the past, that reviews are trusted and safe experiences that encourage honesty, transparency

and sharing of information to obtain maximum benefit from them. If individuals and their organisations are fearful of SARs their response will be defensive and their participation guarded and partial.

**14.141.** The process for undertaking SARs should be determined locally according to the specific circumstances of individual circumstances. No one model will be applicable for all cases. The focus must be on what needs to happen to achieve understanding, remedial action and, very often, answers for families and friends of adults who have died or been seriously abused or neglected. The recommendations and action plans from a SAR need to be followed through by the SAB.

**14.142.** The SAB should ensure that there is appropriate involvement in the review process of professionals and organisations who were involved with the adult. The SAR should also communicate with the adult and, or, their family. In some cases it may be helpful to communicate with the person who caused the abuse or neglect.

**14.143.** It is expected that those undertaking a SAR will have appropriate skills and experience which should include:

- strong leadership and ability to motivate others;
- expert facilitation skills and ability to handle multiple perspectives and potentially sensitive expert facilitation skills and ability to handle multiple perspectives and potentially sensitive and complex group dynamics;
- collaborative problem solving experience and knowledge of participative approaches; good analytic skills and ability to manage qualitative data; safeguarding knowledge;
- inclined to promote an open, reflective learning culture.

**14.144.** The SAB should aim for completion of a SAR within a reasonable period of time and in any event within six months of initiating it, unless there are good reasons for a longer period being required; for example, because of potential prejudice to related court proceedings. Every effort should be made while the SAR is in progress to capture points from the case about improvements needed; and to take corrective action.

#### [Links with other reviews](#)

**14.145.** When victims of domestic homicide are aged between 16 and 18, there are separate requirements in statutory guidance for both a child Serious Case Review (SCR) and a Domestic Homicide Review (DHR). Where such reviews may be relevant to SAR (e.g. because they concern the same perpetrator), consideration should be given to how SARs, DHRs and SCRs can be managed in parallel in the most effective manner possible so that organisations and professionals can learn from the case. For example, considering whether some aspects of the reviews can be commissioned jointly so as to reduce duplication of work for the organisations involved.



14.146. In setting up a SAR the SAB should also consider how the process can dovetail with any other relevant investigations that are running parallel, such as a child SCR or DHR, a criminal investigation or an inquest.

14.147. It may be helpful when running a SAR and DHR or child SCR in parallel to establish at the outset all the relevant areas that need to be addressed, to reduce potential for duplication for families and staff. Any SAR will need to take account of a coroner's inquiry, and, or, any criminal investigation related to the case, including disclosure issues, to ensure that relevant information can be shared without incurring significant delay in the review process. It will be the responsibility of the manager of the SAR to ensure contact is made with the Chair of any parallel process in order to minimise avoidable duplication.

### Findings from SARs

14.148. The SAB should include the findings from any SAR in its Annual Report and what actions it has taken, or intends to take in relation to those findings. Where the SAB decides not to implement an action then it must state the reason for that decision in the Annual Report. All documentation the SAB receives from registered providers which is relevant to CQC's regulatory functions will be given to the CQC on CQC's request.

14.149. SAR reports should:

- provide a sound analysis of what happened, why and what action needs to be taken to prevent a reoccurrence, if possible;
- be written in plain English; and

contain findings of practical value to organisations and professionals

## Information sharing

### Record-keeping

14.150. Good record keeping is a vital component of professional practice. Whenever a complaint or allegation of abuse is made, all agencies should keep clear and accurate records and each agency should identify procedures for incorporating, on receipt of a complaint or allegation, all relevant records into a file to record all action taken. When abuse or neglect is raised managers need to look for past incidents, concerns, risks and patterns. We know that in many situations, abuse and neglect arise from a range of incidents over a period of time. In the case of providers registered with CQC, records of these should be available to service commissioners and the CQC so they can take the necessary action.

14.151. Staff should be given clear direction as to what information should be recorded and in what format. The following questions are a guide:

- What information do staff need to know in order to provide a high quality response to the adult concerned?

- What information do staff need to know in order to keep adults safe under the service's duty to protect people from harm?
- What information is not necessary?
- What is the basis for any decision to share (or not) information with a third party?

14.152. Records should be kept in such a way that the information can easily be collated for local use and national data collections.

14.153. All agencies should identify arrangements, consistent with principles and rules of fairness, confidentiality and data protection for making records available to those adults affected by, and subject to, an enquiry. If the alleged abuser is using care and support themselves, then information about their involvement in an adult safeguarding enquiry, including the outcome, should be included in their case record. If it is assessed that the individual continues to pose a threat to other people then this should be included in any information that is passed on to service providers or other people who need to know.

14.154. In order to carry out its functions, SABs will need access to information that a wide number of people or other organisations may hold. Some of these may be SAB members, such as the NHS and the police. Others will not be, such as private health and care providers or housing providers/housing support providers or education providers.

14.155. In the past, there have been instances where the withholding of information has prevented organisations being fully able to understand what "went wrong" and so has hindered them identifying, to the best of their ability, the lessons to be applied to prevent or reduce the risks of such cases reoccurring. If someone knows that abuse or neglect is happening they must act upon that knowledge, not wait to be asked for information.

14.156. An SAB may request a person to supply information to it or to another person. The person who receives the request **must** provide the information provided to the SAB if:

- the request is made in order to enable or assist the SAB to do its job;
- the request is made of a person who is likely to have relevant information and then either: the information requested relates to the person to whom the request is made and their functions or activities or; ii. the information requested has already been supplied to another person subject to an SAB request for information.

## Confidentiality

14.157. Agencies should draw up a common agreement relating to confidentiality and setting out the principles governing the sharing of information, based on the welfare of the adult or of other potentially affected adults. Any agreement should be consistent with the principles set out in the Caldicott Review published 2013 ensuring that:

- information will only be shared on a 'need to know' basis when it is in the interests of the adult;
- confidentiality must not be confused with secrecy;

- informed consent should be obtained but, if this is not possible and other adults are at risk of abuse or neglect, it may be necessary to override the requirement; and
- it is inappropriate for agencies to give assurances of absolute confidentiality in cases where there are concerns about abuse, particularly in those situations when other adults may be at risk.

14.158. Where an adult has refused to consent to information being disclosed for these purposes, then practitioners **must** consider whether there is an overriding public interest that would justify information sharing (e.g. because there is a risk that others are at risk of serious harm) and wherever possible, the appropriate Caldicott Guardian should be involved.

14.159. Decisions about who needs to know and what needs to be known should be taken on a case by case basis, within agency policies and the constraints of the legal framework.

14.160. Principles of confidentiality designed to safeguard and promote the interests of an adult should not be confused with those designed to protect the management interests of an organisation. These have a legitimate role but **must** never be allowed to conflict with the welfare of an adult. If it appears to an employee or person in a similar role that such confidentiality rules may be operating against the interests of the adult then a duty arises to make full disclosure in the public interest.

14.161. In certain circumstances, it will be necessary to exchange or disclose personal information which will need to be in accordance with the law on confidentiality and the Data Protection Act 1998 where this applies. The Home Office and the Office of the Information Commissioner have issued general guidance on the preparation and use of information sharing protocols.

#### Information for staff, people who use care and support, carers and the general public

14.162. Information in a range of media should be produced in different, user-friendly formats for people with care and support needs and their carers. These should explain clearly what abuse is and also how to express concern and make a complaint. Adults with care and support needs and carers should be informed that their concern or complaint will be taken seriously, be dealt with independently and that they will be kept involved in the process to the degree that they wish to be. They should be reassured that they will receive help and support in taking action on their own behalf. They should also be advised that they can nominate an advocate or representative to speak and act on their behalf if they wish.

14.163. If an adult has no appropriate person to support them and has substantial difficulty in being involved in the local authority processes, they **must** be informed of their right to an independent advocate. Where appropriate local authorities should provide information on access to appropriate services such as how to obtain independent legal advice or counselling services for example. The involvement of adults at risk in developing such communication is sensible.

14.164. A number of local SABs or multi-agency safeguarding hubs (MASHs) have developed helpful and accessible information aimed at adults in order that they can protect themselves from abuse, such as the London Borough of Barnet's "Say NO to Abuse" booklet. Barnet has also produced a booklet "What happens after you report abuse".

14.165. All commissioners or providers of services in the public, voluntary or private sectors should disseminate information about the multi-agency policy and procedures. Staff should be made aware through internal guidelines of what to do when they suspect or encounter abuse of adults in vulnerable situations. This should be incorporated in staff manuals or handbooks detailing terms and conditions of appointment and other employment procedures so that individual staff members will be aware of their responsibilities in relation to safeguarding adults.

Camden has developed a leaflet for carers about the harm they may experience when caring for a relative or friend and the harm they may cause. This was developed in partnership with carers' organisations and carers themselves, and remains a partnership owned publication.

14.166. This information should emphasise that all those who express concern will be treated seriously and will receive a positive response from managers.

## Local roles and responsibilities

14.167. Roles and responsibilities<sup>200</sup> should be clear and collaboration should take place at all the following levels:

- operational;
- supervisory line management;
- Designated Adult Safeguarding Managers (DASMs);
- senior management staff;
- corporate/cross authority;
- Chief officers/chief executives; local authority members and local police and crime commissioners;
- commissioners;
- providers of services;
- voluntary organisations, and;
- regulated professionals.

### Front line

14.168. Operational front line staff are responsible for identifying and responding to allegations of abuse and substandard practice. Staff at operational level need to share a common view of what types of behaviour may be abuse or neglect and what to do as an initial response to a suspicion or allegation that it is or has occurred. This includes GPs. It is employers' and commissioners' duty to set these out clearly and reinforce regularly.

14.169. It is not for front line staff to second-guess the outcome of an enquiry in deciding whether or not to share their concerns. There should be effective and well-publicised ways of escalating concerns where immediate line managers do not take action in response to a concern being raised.

14.170. Concerns about abuse or neglect must be reported whatever the source of harm is. It is imperative that poor or neglectful care is brought to the immediate attention of managers and workplace support should be available.

14.171. There should be clear arrangements in place about what each agency should contribute at this level. These will cover approaches to enquiries and subsequent courses of action. The local authority is responsible for ensuring effective co-ordination at this level.

A resident at a local care home told the district nurse that staff members spoke disrespectfully to her and that there were episodes of her waiting a long time for the call bell to be answered when wanting to use the commode. The resident wished to leave the home as she was very unhappy with the treatment she was receiving, and was regularly distressed and tearful.

The resident was reluctant for a formal safeguarding enquiry to take place, but did agree that the issues could be discussed with the manager. The district nurse negotiated some actions with the manager to promote good practice and address the issues that had been raised. When the district nurse reviewed the situation; the manager at the care home had dealt with the issues appropriately and devised an action plan. The resident stated that she was now happy at the care home – staff ‘couldn’t be more helpful’ and she no longer wanted to move.

### Line managers’ supervision

14.172. Skilled and knowledgeable supervision focused on outcomes for adults is critical in safeguarding work. Managers have a central role in ensuring high standards of practice and that practitioners are properly equipped and supported. It is important to recognise that dealing with situations involving abuse and neglect can be stressful and distressing for staff and workplace support should be available.

14.173. Managers need to develop good working relationships with their counterparts

14.173. Managers need to develop good working relationships with their counterparts in other agencies to improve cooperation locally and swiftly address any differences or difficulties that arise between front line staff or managers.

14.174. They should have access to legal advice on when proposed interventions, such as the proposed stopping of contact between family members, require applications to the Court of Protection.

### Designated Adult Safeguarding Manager

14.175. Each SAB should establish and agree a framework and process for any organisation under the umbrella of the SAB to respond to allegations and issues of concern that are raised about a person who may have harmed or who may pose a risk to adults. The framework should have clear recording and information-sharing guidance and explicit timescales for action and be mindful of the need to preserve evidence. This will be whether the allegation or concern is current or historical.

14.176. Each member of the SAB should have a Designated Adult Safeguarding Manager (DASM) responsible for the management and oversight of individual complex cases and coordination where allegations are made or concerns raised about a person, whether an employee, volunteer or student, paid or unpaid. DASMs should keep in regular contact with their counterparts in partner organisations. They should also have a role in highlighting the extent to which their own organisation prevents abuse and neglect taking place.

14.177. The DASM should provide advice and guidance within their organisation, liaising with other agencies as necessary. The DASM should monitor the progress of cases to ensure that they are dealt with as quickly as possible, consistent with a thorough and fair process.

14.178. The DASMs will work with care and support providers and other service providers e.g. housing and NHS trusts to ensure that referral of individual employees to the DBS and, or, Regulatory Bodies (e.g. CQC, HCPC, GMC, NMC) are made promptly and appropriately and that any supporting evidence required is made available.

14.179. The DASMs will ensure that systems are in place to provide the employee with support and regular updates in respect of the adult safeguarding investigation. Particular care must be taken to not breach the right to a fair trial in Article Six of the European Convention on Human Rights as incorporated by the Human Rights Act 1998.

14.180. DASMs should ensure that appropriate recording systems are in place that provide clear audit trails about decision-making and recommendations in all processes relating to the management of adult safeguarding allegations against the person alleged to have caused the harm or risk of harm and ensure the control of information in respect of individual cases is in accordance with accepted Data Protection and Confidentiality requirements.

14.181. The local authority DASM will need to work closely with the children's services Local Authority Designated Officer (LADO) and other DASMs and LADOs for both adults and children in the region or nationally to ensure sharing of information and development of

best practice. and responded to swiftly, including ensuring immediate safety and well-being of the adult. Where the source of abuse or neglect is a member of staff it is for the employer to take immediate action and record what they have done and why (similarly for volunteers and or students).

**14.182.** There may be times when a person is working with adults and their behaviour towards a child or children may impact on their suitability to work with or continue to work with adults at risk. This may be referred to the DASM from a LADO, if it is not, then information should be shared with the LADO. Each situation will be risk assessed individually.

**14.183.** There may also be times when a person's conduct towards an adult may impact on their suitability to work with or continue to work with children. All these situations must be referred to the LADO.

**14.184.** Unless it puts the adult at risk or child in danger, the individual should be informed that the information regarding the allegation against them will be shared. Responsibility lies with the person receiving the information to obtain the consent of the individual to share information. The person with the allegation against them should be offered a right to reply, wherever possible seek their consent to share, and be informed what information will be shared, how and who with. Each case must be assessed individually as there may be rare cases where informing the person about details of the allegations may increase the risks to the adult or child.

**14.185.** Decisions on sharing information must be justifiable and proportionate, based on the potential or actual harm to adults or children at risk and the rationale for decision-making should always be recorded.

**14.186.** When sharing information about adults, children and young people at risk between agencies it should only be shared:

- where relevant and necessary, not simply all the information held;
- with the relevant people who need all or some of the information; and
- when there is a specific need for the information to be shared at that time.

### Senior managers

**14.187.** Each agency should identify a senior manager to take a lead role in the organisational and in inter-agency arrangements, including the SAB. In order for the Board to be an effective decision-making body providing leadership and accountability, members need to be sufficiently senior and have the authority to commit resources and make strategic decisions. To achieve effective working relationships, based on trust and transparency, the members will need to understand the contexts and restraints within which their counterparts work.

## Corporate/cross authority roles

14.188. To ensure effective partnership working, each organisation must recognise and accept its role and functions in relation to adult safeguarding. These should be set out in the SAB's strategic plan as well as its own communication channels. They should also have protocols for mediation and family group conferences and for various forms of dispute resolution.

## Chief Officers and Chief Executives

14.189. As chief officer for the leading adult safeguarding agency, the Director of Adult Social Services (DASS) has a particularly important leadership and challenge role to play in adult safeguarding. she no longer wanted to move.

## Line managers' supervision

14.172. Skilled and knowledgeable supervision focused on outcomes for adults is critical in safeguarding work. Managers have a central role in ensuring high standards of practice and that practitioners are properly equipped and supported. It is important to recognise that Responsible for promoting prevention, early intervention and partnership working is a key part of a DASS's role and also critical in the development of effective safeguarding. Taking a personalised approach to adult safeguarding requires a DASS promoting a culture that is person-centred, supports choice and control and aims to tackle inequalities.

14.191. However, all officers, including the Chief Executive of the local authority, NHS and police chief officers and executives should lead and promote the development of initiatives to improve the prevention, identification and response to abuse and neglect. They need to be aware of and able to respond to national developments and ask searching questions within their own organisations to assure themselves that their systems and practices are effective in recognising and preventing abuse and neglect. The Chief Officers must sign off their organisation's contributions to the Strategic Plan and Annual Reports.

14.192. Chief Officers should receive regular briefings of case law from the Court of Protection and the High Courts.

## Local authority member level

14.193. Local authority members need to have a good understanding of the range of abuse and neglect issues that can affect adults and of the importance of balancing safeguarding with empowerment. Local authority members need to understand prevention, proportionate interventions, and the dangers of risk adverse practice and the importance of upholding human rights. Some SABs include elected members and this is one way of increasing awareness of members and ownership at a political level. Others take the view that members are more able to hold their officers to account if they have not been party to Board decision making, though they should always be aware of the work of the SAB. Managers must ensure that members are aware of any critical local issues, whether of an individual nature, matters affecting a service or a particular part of the community.



**14.194.** In addition, Local Authority Health Scrutiny Functions, such as the Council's Health Overview and Scrutiny Committee, Health and Wellbeing Boards (HWBs) and Community Safety Partnerships can play a valuable role in assuring local safeguarding measures, and ensuring that SABs are accountable to local communities. Similarly, local Health and Wellbeing Boards provide leadership to the local health and wellbeing system; ensure strong partnership working between local government and the local NHS; and ensure that the needs and views of local communities are represented. HWBs can therefore play a key role in assurance and accountability of SABs and local safeguarding measures. Equally SABs may on occasion challenge the decisions of HWBs from that perspective.

### Commissioners

**14.195.** Commissioners from the local authority, NHS and CCGs are all vital to promoting adult safeguarding. Commissioners have a responsibility to assure themselves of the quality and safety of the organisations they place contracts with and ensure that those contracts have explicit clauses that holds the providers to account for preventing and dealing promptly and appropriately with any example of abuse and neglect.

### Providers of services

**14.196.** All service providers, including housing and housing support providers, should have clear operational policies and procedures that reflect the framework set by the SABs in consultation with them. This should include what circumstances would lead to the need to report outside their own chain of line management, including outside their organisation to the local authority. They need to share information with relevant partners such as the local authority even where they are taking action themselves. Providers should be informed of any allegation against them or their staff and treated with courtesy and openness at all times. It is of critical importance that allegations are handled sensitively and in a timely way both to stop any abuse and neglect but also to ensure a fair and transparent process. It is in no-one's interests to unnecessarily prolong enquiries. However some complex issues may take time to resolve.

### Voluntary organisations

**14.197.** Voluntary organisations need to work with commissioners and the SAB to agree how their role fits alongside the statutory agencies and how they should work together. This will be of particular importance where they are offering information and advice, independent advocacy, and support or counselling services in safeguarding situations. This will include telephone or on-line services. Additionally, many voluntary organisations also provide care and support services, including personal care. All voluntary organisations that work with adults need to have safeguarding procedures and lead officers.

### Regulated professionals

**14.198.** Staff governed by professional regulation (for example, social workers, doctors, allied health professionals and nurses) should understand how their professional standards and requirements underpin their organisational roles to prevent, recognise and respond to abuse and neglect.<sup>201</sup>

## Recruitment and training for staff and volunteers

14.199. The SAB should ensure that relevant partners provide training for staff and volunteers on the policy, procedures and professional practices that are in place locally, which reflects their roles and responsibilities in safeguarding adult arrangements. This should include:

- basic mandatory induction training with respect to awareness that abuse can take place and duty to report;
- more detailed awareness training, including training on recognition of abuse and responsibilities with respect to the procedures in their particular agency;
- specialist training for those who will be undertaking enquiries, and managers; and, training for elected members and others e.g. Healthwatch members; and
- post qualifying or advanced training for those who work with more complex enquiries and responses or who act as their organisation's expert in a particular field, for example in relation to legal or social work, those who provide medical or nursing advice to the organisation or the Board.

14.200. Training should take place at all levels in an organisation and be updated regularly to reflect best practice. To ensure that practice is consistent - no staff group should be excluded. Training should include issues relating to staff safety within a Health and Safety framework and also include volunteers. In a context of personalisation, boards should seek assurances that directly employed staff (e.g. Personal Assistants) have access to training and advice on safeguarding.

14.201. Training is a continuing responsibility and should be provided as a rolling programme. Whilst training may be undertaken on a joint basis and the SAB has an overview of standards and content, it is the responsibility of each organisation to train its own staff.

14.202. Regular face-to-face supervision from skilled managers and reflective practice is essential to enable staff to work confidently and competently with difficult and sensitive situations.

### Rigorous recruitment practices relevant to safeguarding

14.203. There are three levels of a Disclosure and Barring Service (DBS) check. Each contains different information and the eligibility for each check is set out in law. They are:

- **Standard check:** This allows employers to access the criminal record history of people working, or seeking to work, in certain positions, especially those that involve working with children or adults in specific situations. A standard check discloses details of an individual's convictions, cautions, reprimands and warnings recorded on police systems and includes both 'spent' and 'unspent' convictions.
- **Enhanced checks:** This discloses the same information provided on a Standard certificate, together with any local police information that the police believe is relevant and ought to be disclosed.

- **Enhanced with barred list checks:** This check includes the same level of disclosure as the enhanced check, plus a check of the appropriate barred lists. An individual may only be checked against the children's and adults' barred lists if their job falls within the definition of 'regulated activity' with children and/or adults under the Safeguarding Vulnerable Groups Act 2006, as amended by the Protection of Freedoms Act 2012. It should be noted that in 'signing off' or agreeing a personal budget or personal health budget a local authority may add conditions such as a DBS check as part of its risk assessment of safeguarding in specific cases. The local authority may also require personal budget holders using Direct Payments to specify whom they are employing to the local authority.

14.204. Skills for Care has produced a recruitment and retention toolkit for the adult care and support sector. 'Finders Keepers'<sup>203</sup> is designed to help care providers, particularly smaller organisations, to improve the ways they recruit staff and retain them.

#### Internal guidelines for all staff

14.205. Provider agencies should produce for their staff a set of internal guidelines which relate clearly to the multiagency policy and which set out the responsibilities of all staff to operate within it. These should include guidance on:

- identifying adults who are particularly at risk; •• recognising risk from different sources and in different situations and recognising abusive or neglectful behaviour from other service users, colleagues, and family members;
- routes for making a referral and channels of communication within and beyond the agency;
- organisational and individual responsibilities for whistle blowing;
- assurances of protection for whistle blowers;
- working within best practice as specified in contracts;
- working within and co-operating with regulatory mechanisms; and,
- working within agreed operational guidelines to maintain best practice in relation to:
  - challenging or distressing behaviour;
  - personal and intimate care;
  - control and restraint;
  - gender identity and sexual orientation;
  - medication;
  - handling of people's money; and
  - risk assessment and management.

14.206. Internal guidelines should also explain the rights of staff and how employers will respond where abuse is alleged against them within either a criminal or disciplinary context

## Appendix 1

### The Care Act 2014 Section 42-47 & 68

#### *Safeguarding adults at risk of abuse or neglect*

##### **42 Enquiry by local authority**

- (1) This section applies where a local authority has reasonable cause to suspect that an adult in its area (whether or not ordinarily resident there)—
  - (a) has needs for care and support (whether or not the authority is meeting any of those needs),
  - (b) is experiencing, or is at risk of, abuse or neglect, and
  - (c) as a result of those needs is unable to protect himself or herself against the abuse or neglect or the risk of it.
- (2) 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.
- (3) "Abuse" includes financial abuse; and for that purpose "financial abuse" includes—
  - (a) having money or other property stolen,
  - (b) being defrauded,
  - (c) being put under pressure in relation to money or other property, and
  - (d) having money or other property misused

##### **43 Safeguarding Adults Boards**

- (1) Each local authority must establish a Safeguarding Adults Board (an "SAB") for its area.
- (2) The objective of an SAB is to help and protect adults in its area in cases of the kind described in section 42(1).
- (3) The way in which an SAB must seek to achieve its objective is by co-ordinating and ensuring the effectiveness of what each of its members does.
- (4) An SAB may do anything which appears to it to be necessary or desirable for the purpose of achieving its objective.
- (5) Schedule 2 (which includes provision about the membership, funding and other resources, strategy and annual report of an SAB) has effect.
- (6) Where two or more local authorities exercise their respective duties under subsection (1) by establishing an SAB for their combined area—
  - (a) a reference in this section, section 44 or Schedule 2 to the authority establishing the SAB is to be read as a reference to the authorities establishing it, and
  - (b) a reference in this section, that section or that Schedule to the SAB's area is to be read as a reference to the combined area.

##### **44 Safeguarding adults reviews**

- (1) An SAB must arrange for there to be a review of a case involving an adult in its area with needs for care and support (whether or not the local authority has been meeting any of those needs) if—
  - (a) there is reasonable cause for concern about how the SAB, members of it or other persons with relevant functions worked together to safeguard the adult, and
  - (b) condition 1 or 2 is met.
- (2) Condition 1 is met if—
  - (a) the adult has died, and
  - (b) the SAB knows or suspects that the death resulted from abuse or neglect (whether or not it knew about or suspected the abuse or neglect before the adult died).
- (3) Condition 2 is met if—
  - (a) the adult is still alive, and
  - (b) the SAB knows or suspects that the adult has experienced serious abuse or neglect.
- (4) An SAB may arrange for there to be a review of any other case involving an adult in its area with needs for care and support (whether or not the local authority has been meeting any of those needs).

- (5) Each member of the SAB must co-operate in and contribute to the carrying out of a review under this section with a view to—
  - (a) identifying the lessons to be learnt from the adult's case, and
  - (b) applying those lessons to future cases.

**45 Supply of information**

- (1) If an SAB requests a person to supply information to it, or to some other person specified in the request, the person to whom the request is made must comply with the request if—
  - (a) conditions 1 and 2 are met, and
  - (b) condition 3 or 4 is met.
- (2) Condition 1 is that the request is made for the purpose of enabling or assisting the SAB to exercise its functions.
- (3) Condition 2 is that the request is made to a person whose functions or activities the SAB considers to be such that the person is likely to have information relevant to the exercise of a function by the SAB.
- (4) Condition 3 is that the information relates to—
  - (a) the person to whom the request is made,
  - (b) a function or activity of that person, or
  - (c) a person in respect of whom that person exercises a function or engages in an activity.
- (5) Condition 4 is that the information
  - (a) is information requested by the SAB from a person to whom information was supplied in compliance with another request under this section, and
  - (b) is the same as, or is derived from, information so supplied.
- (6) Information may be used by the SAB, or other person to whom it is supplied under subsection (1), only for the purpose of enabling or assisting the SAB to exercise its functions.

**46 Abolition of local authority's power to remove persons in need of care**

Section 47 of the National Assistance Act 1948 (which gives a local authority power to remove a person in need of care from home) ceases to apply to persons in England.

**47 Protecting property of adults being cared for away from home**

- (1) This section applies where—
  - (a) an adult is having needs for care and support met under section 18 or 19 in a way that involves the provision of accommodation, or is admitted to hospital (or both), and
  - (b) it appears to a local authority that there is a danger of loss or damage to movable property of the adult's in the authority's area because—
    - (i) the adult is unable (whether permanently or temporarily) to protect or deal with the property, and
    - (ii) no suitable arrangements have been or are being made.
- (2) The local authority must take reasonable steps to prevent or mitigate the loss or damage.
- (3) For the purpose of performing that duty, the local authority—
  - (a) may at all reasonable times and on reasonable notice enter any premises which the adult was living in immediately before being provided with accommodation or admitted to hospital, and
  - (b) may deal with any of the adult's movable property in any way which is reasonably necessary for preventing or mitigating loss or damage.
- (4) A local authority may not exercise the power under subsection (3)(a) unless—
  - (a) it has obtained the consent of the adult concerned or, where the adult lacks capacity to give consent, the consent of a person authorised under the Mental Capacity Act 2005 to give it on the adult's behalf, or
  - (b) where the adult lacks capacity to give consent and there is no person so authorised, the local authority is satisfied that exercising the power would be in the adult's best interests.
- (5) Where a local authority is proposing to exercise the power under subsection (3) (a), the officer it authorises to do so must, if required, produce valid documentation setting out the authorisation to do so.
- (6) A person who, without reasonable excuse, obstructs the exercise of the power under subsection (3)(a)—

- (a) commits an offence, and
  - (b) is liable on summary conviction to a fine not exceeding level 4 on the standard scale.
- (7) A local authority may recover from an adult whatever reasonable expenses the authority incurs under this section in the adult's case.

**68 Safeguarding enquiries and reviews**

- (1) This section applies where there is to be—
- (a) an enquiry under section 42(2),
  - (b) a review under section 44(1) of a case in which condition 2 in section 44(3) is met or a review under section 44(4).
- (2) The relevant local authority must, if the condition in subsection (3) is met, arrange for a person who is independent of the authority (an “independent advocate”) to be available to represent and support the adult to whose case the enquiry or review relates for the purpose of facilitating his or her involvement in the enquiry or review; but see subsections (4) and (6).
- (3) The condition is that the local authority considers that, were an independent advocate not to be available, the individual would experience substantial difficulty in doing one or more of the following—
- (a) understanding relevant information;
  - (b) retaining that information;
  - (c) using or weighing that information as part of the process of being involved;
  - (d) communicating the individual's views, wishes or feelings (whether by talking, using sign language or any other means).
- (4) The duty under subsection (2) does not apply if the local authority is satisfied that there is a person—
- (a) who would be an appropriate person to represent and support the adult for the purpose of facilitating the adult's involvement, and
  - (b) who is not engaged in providing care or treatment for the adult in a professional capacity or for remuneration.
- (5) For the purposes of subsection (4), a person is not to be regarded as an appropriate person unless—
- (a) where the adult has capacity to consent to being represented and supported by that person, the adult does so consent, or
  - (b) where the adult lacks capacity so to consent, the local authority is satisfied that being represented and supported by that person would be in the adult's best interests.
- (6) If the enquiry or review needs to begin as a matter of urgency, it may do so even if the authority has not yet been able to comply with the duty under subsection (2) (and the authority continues to be subject to the duty).
- (7) “Relevant local authority” means—
- (a) in a case within subsection (1)(a), the authority making the enquiry or causing it to be made;
  - (b) in a case within subsection (1)(b), the authority which established the SAB arranging the review.

## SCHEDULE 2

### Safeguarding Adults Boards

#### *Membership, etc.*

- 1 (1) The members of an SAB are—
  - (a) the local authority which established it, a clinical commissioning group the whole or part of whose area is in the local authority's area,
  - (b) the chief officer of police for a police area the whole or part of which is in the local authority's area, and.
  - (c) such persons, or persons of such description, as may be specified in regulations.
- (2) The membership of an SAB may also include such other persons as the local authority which established it, having consulted the other members listed in sub-paragraph (1), considers appropriate.
- (3) A local authority, having consulted the other members of its SAB, must appoint as the chair a person whom the authority considers to have the required skills and experience.
- (4) Each member of an SAB must appoint a person to represent it on the SAB; and the representative must be a person whom the member considers to have the required skills and experience
- (5) Where more than one clinical commissioning group or more than one chief officer of police comes within sub-paragraph (1), a person may represent more than one of the clinical commissioning groups or chief officers of police.
- (6) The members of an SAB (other than the local authority which established it) must, in acting as such, have regard to such guidance as the Secretary of State may issue.
- (7) Guidance for the local authority on acting as a member of the SAB is to be included in the guidance issued for the purposes of section 78(1).
- (8) An SAB may regulate its own procedure.

#### *Funding and other resources.*

- 2 (1) A member of an SAB listed in paragraph 1(1) may make payments towards expenditure incurred by, or for purposes connected with, the SAB—
  - (a) by making the payments directly, or
  - (b) by contributing to a fund out of which the payments may be made.
- (2) A member of an SAB listed in paragraph 1(1) may provide staff, goods, services, accommodation or other resources for purposes connected with the SAB.

#### *Strategic plan*

- 3 (1) An SAB must publish for each financial year a plan (its "strategic plan") which sets out—
  - (a) its strategy for achieving its objective (see section 43), and
  - (b) what each member is to do to implement that strategy
- (2) In preparing its strategic plan, the SAB must—
  - (a) consult the Local Healthwatch organisation for its area, and
  - (b) involve the community in its area
- (3) In this paragraph and paragraph 4, "financial year", in relation to an SAB,

includes the period—

- (a) beginning with the day on which the SAB is established, and
- (b) ending with the following 31 March or, if the period ending with that date is 3 months or less, ending with the 31 March following that date.

*Annual report*

- 4 (1) As soon as is feasible after the end of each financial year, an SAB must publish a report on—
  - (a) what it has done during that year to achieve its objective,
  - (b) what it has done during that year to implement its strategy,
  - (c) what each member has done during that year to implement the strategy,
  - (d) the findings of the reviews arranged by it under section 44 (safeguarding adults reviews) which have concluded in that year (whether or not they began in that year),
  - (e) the reviews arranged by it under that section which are ongoing at the end of that year (whether or not they began in that year),
  - (f) what it has done during that year to implement the findings of reviews arranged by it under that section, and
  - (g) where it decides during that year not to implement a finding of a review arranged by it under that section, the reasons for its decision
- (2) The SAB must send a copy of the report to—
  - (a) the chief executive and the leader of the local authority which established the SAB,
  - (b) the local policing body the whole or part of whose area is in the local authority's area,
  - (c) the Local Healthwatch organisation for the local authority's area, and
  - (d) the chair of the Health and Wellbeing Board for that area
- (3) "Local policing body" has the meaning given by section 101 of the Police Act 1996



## The Care Act 2014 Section 1

# 1. Promoting wellbeing

*This chapter provides guidance on section 1 of the Care Act 2014.*

### **This chapter covers:**

- Definition of wellbeing;
- Promoting wellbeing;
- Wellbeing throughout the Care Act.

**1.1.** The core purpose of adult care and support is to help people to achieve the outcomes that matter to them in their life. Throughout this guidance document, the different chapters set out how a local authority should go about performing its care and support responsibilities. Underpinning all of these individual “care and support functions” (that is, any process, activity or broader responsibility that the local authority performs) is the need to ensure that doing so focuses on the needs and goals of the person concerned.

**1.2.** Local authorities must promote wellbeing when carrying out any of their care and support functions in respect of a person. This may sometimes be referred to as “the wellbeing principle” because it is a guiding principle that puts wellbeing at the heart of care and support.

**1.3.** The wellbeing principle applies in all cases where a local authority is carrying out a care and support function, or making a decision, in relation to a person. For this reason it is referred to throughout this guidance. It applies equally to adults with care and support needs and their carers.

**1.4.** In some specific circumstances, it also applies to children, their carers and to young carers when they are subject to transition assessments (see chapter 16 on transition to adult care and support).

## Definition of wellbeing

**1.5.** “Wellbeing” is a broad concept, and it is described as relating to the following areas in particular.

- personal dignity (including treatment of the individual with respect);
- physical and mental health and emotional wellbeing;
- protection from abuse and neglect;
- control by the individual over day-to-day life (including over care and support provided and the way it is provided);
- participation in work, education, training or recreation;
- social and economic wellbeing;
- domestic, family and personal;
- suitability of living accommodation;
- the individual’s contribution to society.

1.6. The individual aspects of wellbeing or outcomes above are those which are set out in the Care Act, and are most relevant to people with care and support needs and carers. There is no hierarchy, and all should be considered of equal importance when considering “wellbeing” in the round.

## Promoting wellbeing

1.7. Promoting wellbeing involves actively seeking improvements in the aspects of wellbeing set out above when carrying out a care and support function in relation to an individual at any stage of the process from the provision of information and advice to reviewing a care and support plan. Wellbeing covers an intentionally broad range of the aspects of a person’s life and will encompass a wide variety of specific considerations depending on the individual.

1.8. A local authority can promote a person’s wellbeing in many ways. How this happens will depend on the circumstances, including the person’s needs, goals and wishes, and how these impact on their wellbeing. There is no set approach – a local authority should consider each case on its own merits, consider what the person wants to achieve, and how the action which the local authority is taking may affect the wellbeing of the individual.

1.9. The Act therefore signifies a shift from existing duties on local authorities to provide particular services, to the concept of ‘meeting needs’ (set out in sections 8 and 18-20 of the Act). This is the core legal entitlement for adults to care and support, establishing one clear and consistent set of duties and power for all people who need care and support.

1.10. The concept of ‘meeting needs’ recognises that everyone’s needs are different and personal to them. Local authorities must consider how to meet each person’s specific needs rather than simply considering what service they will fit into. The concept of meeting needs also recognises that modern care and support can be provided in any number of ways, with new models emerging all the time, rather than the previous legislation which focuses primarily on traditional models of residential and domiciliary care.

1.11. Whenever a local authority carries out any care and support functions relating to an individual, it must act to promote wellbeing – and it should consider all of the aspects above in looking at how to meet a person’s needs and support them to achieve their desired outcomes. However, in individual cases, it is likely that some aspects of wellbeing will be more relevant to the person than others. For example, for some people the ability to engage in work or education will be a more important outcome than for others, and in these cases “promoting their wellbeing” effectively may mean taking particular consideration of this aspect. Local authorities should adopt a flexible approach that allows for a focus on which aspects of wellbeing matter most to the individual concerned.

1.12. The principle of promoting wellbeing should be embedded through the local authority care and support system, but how the local authority promotes wellbeing in practice will depend on the particular function being performed. During the assessment process, for instance, the local authority should explicitly consider the most relevant aspects of wellbeing to the individual concerned, and assess how their needs impact on them. Taking this approach will allow for the assessment to identify how care and support, or other services or resources in the local community, could help the person to achieve their outcomes. During care and support planning, when agreeing how needs are to be met,

promoting the person's wellbeing may mean making decisions about particular types or locations of care (for instance, to be closer to family).

1.13. The wellbeing principle applies equally to those who do not have eligible needs but come into contact with the system in some other way (for example, via an assessment that does not lead to ongoing care and support) as it does to those who go on to receive care and support, and have an ongoing relationship with the local authority. It should inform the delivery of universal services which are provided to all people in the local population, as well as being considered when meeting eligible needs. Although the wellbeing principle applies specifically when the local authority performs an activity or task, or makes a decision, in relation to a person, the principle should also be considered by the local authority when it undertakes broader, strategic functions, such as planning, which are not in relation to one individual. As such, "wellbeing" should be seen as the common theme around which care and support is built at local and national level.

1.14. In addition to the general principle of promoting wellbeing, there are a number of other key principles and standards which local authorities must have regard to when carrying out the same activities or functions:

- (a) the importance of beginning with the assumption that the individual is best-placed to judge the individual's wellbeing. Building on the principles of the Mental Capacity Act, the local authority should assume that the person themselves knows best their own outcomes, goals and wellbeing. Local authorities should not make assumptions as to what matters most to the person;
- (b) the individual's views, wishes, feelings and beliefs. Considering the person's views and wishes is critical to a person-centred system. Local authorities should not ignore or downplay the importance of a person's own opinions in relation to their life and their care. Where particular views, feelings or beliefs (including religious beliefs) impact on the choices that a person may wish to make about their care, these should be taken into account. This is especially important where a person has expressed views in the past, but no longer has capacity to make decisions themselves;
- (c) the importance of preventing or delaying the development of needs for care and support and the importance of reducing needs that already exist. At every interaction with a person, a local authority should consider whether or how the person's needs could be reduced or other needs could be delayed from arising. Effective interventions at the right time can stop needs from escalating, and help people maintain their independence for longer (see chapter 2 on prevention);
- (d) the need to ensure that decisions are made having regard to all the individual's circumstances (and are not based only on their age or appearance, any condition they have, or any aspect of their behaviour which might lead others to make unjustified assumptions about their wellbeing). Local authorities should not make judgments based on preconceptions about the person's circumstances, but should in every case work to understand their individual needs and goals;
- (e) the importance of the individual participating as fully as possible in decisions about them and being provided with the information and support necessary to enable the individual to participate. Care and support should be personal, and local authorities should not make decisions from which the person is excluded; (f) the importance of achieving a balance between the individual's wellbeing and that of any friends or relatives who are involved in caring for the individual. People should be considered in the context of their families and support networks, not just as isolated individuals with needs. Local authorities should take into account the impact of an individual's need on

- those who support them, and take steps to help others access information or support;
- (g) the need to protect people from abuse and neglect. In any activity which a local authority undertakes, it should consider how to ensure that the person is and remains protected from abuse or neglect. This is not confined only to safeguarding issues, but should be a general principle applied in every case;
  - (h) the need to ensure that any restriction on the individual's rights or freedom of action that is involved in the exercise of the function is kept to the minimum necessary for achieving the purpose for which the function is being exercised. Where the local authority has to take actions which restrict rights or freedoms, they should ensure that the course followed is the least restrictive necessary.

**1.15.** All of the matters listed above must be considered in relation to every individual, when a local authority carries out a function as described in this guidance. Considering these matters should lead to an approach that looks at a person's life holistically, considering their needs in the context of their skills, ambitions, and priorities – as well as the other people in their life and how they can support the person in meeting the outcomes they want to achieve. The focus should be on supporting people to live as independently as possible for as long as possible.

**1.16.** As with promoting wellbeing, the factors above will vary in their relevance and application to individuals. For some people, spiritual or religious beliefs will be of great significance, and should be taken into particular account. For others, this will not be the case. Local authorities should consider how to apply these further principles on a case-by-case basis. This reflects the fact that every person is different and the matters of most importance to them will accordingly vary widely.

**1.17.** Neither these principles, nor the requirement to promote wellbeing, require the local authority to undertake any particular action. The steps a local authority should take will depend entirely on the circumstances. The principles as a whole are not intended to specify the activities which should take place. Instead, their purpose is to set common expectations for how local authorities should approach and engage with people.

## “Independent living”

**1.18.** Although not mentioned specifically in the way that “wellbeing” is defined, the concept of “independent living” is a core part of the wellbeing principle. Section 1 of the Care Act includes matters such as individual's control of their day-to-day life, suitability of living accommodation, contribution to society – and crucially, requires local authorities to consider each person's views, wishes, feelings and beliefs.

**1.19.** The wellbeing principle is intended to cover the key components of independent living, as expressed in the UN Convention on the Rights of People with Disabilities<sup>1</sup> (in particular, Article 19 of the Convention). Supporting people to live as independently as possible, for as long as possible, is a guiding principle of the Care Act. The language used in the Act is intended to be clearer, and focus on the outcomes that truly matter to people, rather than using the relatively abstract term “independent living”.

## Wellbeing throughout the Care Act

**1.20.** Wellbeing cannot be achieved simply through crisis management; it must include a focus on delaying and preventing care and support needs, and supporting people to live as

independently as possible for as long as possible. (See chapter 2 for more detail on approaches to prevention).

**1.21.** Promoting wellbeing does not mean simply looking at a need that corresponds to a particular service. At the heart of the reformed system will be an assessment and planning process that is a genuine conversation about people's needs for care and support and how meeting these can help them achieve the outcomes most important to them. Where someone is unable to fully participate in these conversations and has no one to help them, local authorities will arrange for an independent advocate. Chapters 6 (Assessment and eligibility), 10 (Care and support planning), and 7 (Independent advocacy) discuss this in more detail.

**1.22.** In order to ensure these conversations look at people holistically, local authorities and their partners must focus on joining up around an individual, making the person the starting point for planning, rather than what services are provided by what particular agency. Chapter 15 (integration and cooperation) sets this out in more detail.

**1.23.** In particular, the Care Act is designed to work in partnership with the Children and Families Act 2014, which applies to 0-25 year old children and young people with SEN and Disabilities. In combination, the two Acts enable areas to prepare children and young people for adulthood from the earliest possible stage, including their transition to adult services. This is considered in more detail at chapter 16.

**1.24.** Promoting wellbeing is not always about local authorities meeting needs directly. It will be just as important for them to put in place a system where people have the information they need to take control of their care and support and choose the options that are right for them. People will have an opportunity to request their local authority support in the form of a direct payment that they can then use to buy their own care and support using this information. Chapters 3 (Information and advice) and 12 (Direct payments) explain this in more detail.

**1.25.** Control also means the ability to move from one area to another or from children's services to the adult system without fear of suddenly losing care and support. The Care Act ensures that people will be able to move to a different area without suddenly losing their care and support and provides clarity about who will be responsible for care and support in different situations. It also includes measures to help young people move to the adult care and support system, ensuring that no one finds themselves suddenly without care on turning 18. Chapters 20 (Continuity of care), 19 (Ordinary residence) and 16 (Transition to adult care and support) set this out in more detail.

**1.26.** It is not possible to promote wellbeing without establishing a basic foundation where people are safe and their care and support is on a secure footing. The Care Act puts in place a new framework for adult safeguarding and includes measures to guard against provider failure to ensure this is managed without disruption to services. Chapters 14 (Safeguarding), and 5 (Managing provider failure) set this out in more detail.