



Safeguarding Adults Concerns

A Brief Guide for Referrers

Purpose of Guidance

This guide sets out key information for organisations and professionals who work with Adults at Risk, about how and when Safeguarding referrals should be considered and made. This guidance references the framework [Understanding what constitutes a safeguarding concern and how to support effective outcomes](#)

What are the Statutory Safeguarding Duties of the Local Authority?

The Care Act 2014 s42 duty states:

- (1) Where a local authority has reasonable cause to suspect that an adult in its area (whether 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.

A referrer has only to consider that there is reasonable cause to suspect that (a) and (b) apply, to raise a safeguarding concern to the local authority.

Defining needs for care and support

'Safeguarding duties apply regardless of whether a person's care and support needs are being met, whether by the local authority or anyone else. They also apply to people who pay for their own care and support services. An adult with care and support needs may be:

- an older person
- a person with a physical disability, a learning difficulty or a sensory impairment
- someone with mental health needs, including dementia or a personality disorder
- a person with a long-term health condition
- someone who misuses substances or alcohol to the extent that it affects their ability to manage day-to-day living.' (Adult Safeguarding Practice Questions, SCIE, July 2018)

Consideration of this need for care and support must be person-centred (for example, not all older people will be in need of care and support but those who are 'frail due to ill health, physical disability or cognitive impairment' may be). The above is not an exhaustive list and it must be considered alongside the impact of needs on the individual's wellbeing

What do referrers need to consider before deciding to refer an adult safeguarding concern?

Where there is uncertainty referrers should always consult with the MASH. If this is not possible, they should not be discouraged from making a referral, 'if in doubt refer'. The following areas could be considered when deciding whether to make a referral.

1. Am I concerned about the adult's welfare, or about risk of or actual abuse or neglect?

Concerns about the adult's welfare can be referred separately to adult social care for an offer to the person of a needs assessment.

2. Does the adult appear to me to meet the definition of being an adult with care and support needs?

If they do not, but I am still concerned that they are being harmed, who will I contact to engage with the adult and/or support me to help to problem solve? Options may include the police, their GP, local housing provider, trading standards or any agency/group specified in local guidance. If they do not appear to meet the definition but I am still concerned I may wish to discuss this with the MASH for further problem solving.

3. How does the adult want to participate in raising the concern?

You will need to explain your concerns to the adult, unless doing so will increase the risk to them. Do they want to raise the safeguarding concern themselves? If not, do they want you to support them to raise the concern? If not, do they want you to raise the concern on their behalf?

4. Having explained your concerns, does the adult consent to a concern being raised?

If the person does not consent to you making a referral there are further questions you can ask to help you clarify whether or not you should override their wishes and make a referral without their consent. Are the person's 'vital interests' at stake, is their life at risk? Are they being subject to inhuman and degrading treatment which is having a serious impact on their wellbeing? Legislation supports information sharing when an adult meets the criteria for the s42 duty or when their vital interests are at risk. If other adults or children are at risk of being abused there is likely to be a public interest in preventing that abuse, and the adults right to respect for private life may also be over-ridden.

Safeguarding is everyone's business

Take action to refer as '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'. You may need to seek advice from a Manager or the Safeguarding Adults Lead in your organisation.

Making Safeguarding Personal, gaining the view and outcomes wanted by the Adult

Making Safeguarding Personal tells us that the Adult is placed at the centre of the Safeguarding process. All practitioners have the duty to develop an understanding of what the Adult being safeguarded wishes to achieve. This includes obtaining their desired outcomes and goals. Practitioners should also record the Adult's views and wishes. They should work with the Adult and

their representative or advocate how best to achieve those outcomes. This includes consideration of circumstances where the adult does not want action taken, but where it is considered that the concern needs to be raised because of an overriding public interest. See below in the ‘Sharing of Information’ section. The wishes of the adult are fundamental to the safeguarding process. The adult’s views should be sought and obtained. Advise the Adult that you need to make a referral and ask what outcomes he/she wishes for. Remember “No decision about me without me.”

What needs to be included in a referral and in discussions about a concern?

In order to understand the situation and represent the views of the adult and referrer well the following details should be included in the referral (in addition to more generic details required in the referral):

- What is working well in supporting the adult’s wellbeing, what are the strengths in their life?
- What are you concerned about? Why are you referring now? What is the current impact on the adult and/or others in the situation? Including on their wellbeing?
- What does the adult want to happen?
- Does the adult have care and support needs? Are they experiencing or at risk of abuse/neglect?
- What are the complicating factors? For example, is the adult experiencing duress, are they being controlled?
- What is your perception of risk and level of risk – to the person, children, others? What are the perceptions of the adult or others in the situation?
- What actions have been taken so far?
- Any relevant historical information.
- Any reasonable adjustments (eg to support effective communication) or additional support/advocacy input that might be needed to enable the adult to understand and be involved in the safeguarding enquiry

Mental Capacity

Consideration of ‘capacity’ and ‘consent’ are central to adult safeguarding. The Mental Capacity Act, its principles and guidance should be applied throughout everyday Safeguarding practice.

There should always be a presumption that the adult has capacity to make decisions unless there is evidence to suggest otherwise.

However, there are some circumstances when it may be necessary to consider the protection and rights of others and to override the withholding of consent to ensure the protection of the Adult and/or others. An adult has the right to choose to remain in a situation where they risk being harmed or where they choose to take risks.

The five statutory principles form the basis of an assessment of mental capacity:

- A person must be assumed to have capacity unless it is established that they lack capacity.
- A person is not to be treated as unable to make a decision unless all practicable steps to help him to do so have been taken without success.
- A person is not to be treated as unable to make a decision merely because he makes an unwise decision.
- An act done, or decision made, under this Act for or on behalf of a person who lacks capacity must be done, or made, in his best interests.
- Before the act is done, or the decision is made, regard must be had to whether the purpose for which it is needed can be as effectively achieved in a way that is less restrictive of the person’s rights and freedom of action.

If an adult lacks capacity to understand the risk of harm and to make a decision about how this should be managed, then their advocate/ representative(s)/Lasting Power of Attorney should be consulted in order to make a best interest decision.

It is important to remember that the Local Authority has a duty under S11 of the Care Act 2014 to still respond to safeguarding concerns where there is reasonable cause to think that the adult lacks capacity to make a decision about a referral to the LA or where there are concerns that the adult is at risk of or experiencing abuse or neglect. The referrer needs to consider, where the adult is not wanting action to be taken, or where the adult may lack capacity to make that decision whether a referral is in their best interests. The possibility of coercion or undue influence towards the Adult should also be considered.

Sharing Information

The Data Protection Act 2018 and the General Data Protection Regulations of 2018 permit information to be shared in a situation of 'vital interest', where it is critical to prevent serious harm or distress or where someone's life is threatened. However, if the only adult who would suffer if the information is not shared is the subject of that information, and they have mental capacity to make a decision about it, then sharing it may not be justified.

If someone's decision is having a harmful impact on their own safety and wellbeing, you should discuss this with a colleague, manager or your organisations safeguarding lead and seek advice about what options may be available. The referrer needs to consider, where the adult is not wanting action to be taken, or where the adult may lack capacity to make that decision whether a referral is in their best interests.

In an emergency

In all situations when a crime has been or is about to be committed, the person raising the concern should call 999 or the local police.

In Wiltshire safeguarding concerns should be reported to the Adult MASH

Telephone: 0300 456 0111

Textphone: 01225 712501

Email: adviceandcontact@wiltshire.gov.uk