



**DRAFT FOR CONSULTATION PURPOSES
ONLY**

Kent and Medway Safeguarding Adults Board

**Multi-Agency Safeguarding Adults Policy, Procedures
and Practitioner Guidance for Kent and Medway**

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INTRODUCTION

The Care Act 2014 sets responsibility for adult safeguarding in primary legislation, endorsing the principle of wellbeing, placing safeguarding adult's duties on a statutory basis. The Statutory Guidance to the Care Act 2014 supports the Act, and Section 14 clearly states that safeguarding is defined 'as protecting an adult's right to live in safety, free from abuse and neglect'. There is a clear duty for Board members and providers to co-operate in order to prevent abuse and neglect, whilst strongly promoting an adult's well-being. It is part of the Section 42 responsibility to establish the outcomes that an adult at risk may require, and it is important to obtain the views and wishes of the adult when deciding how, if and what action, should be taken.

This Multi-Agency Safeguarding Adults Policy, Protocols and Guidance for Kent and Medway hopes to de-mystify the above, guiding you through legal responsibilities, how organisations work together, and general guidance on how to recognise and react to abuse or suspected abuse against adults at risk.

This document has been written to be used by everyone from members of the public, to the Chief Executives of the main partners, and different sections and information will be applicable to different people using the document, depending upon need. The index has been formatted so you can move to sections direct from the line in the index.

As with all Kent and Medway Safeguarding Adults Board's Policy and procedures, this is a live document. It is reviewed and updated annually by the Practice, Policy and Procedures Working Group. If you have any comments or suggestions for improvement, please contact the KMSAB Manager by emailing Victoria.widden@kent.gov.uk. Throughout the document, the links to local and national policies and procedures have been provided for ease of reference.

This document is divided into three parts:

Part 1 - Policy (P)

The Policy sections deals with legal responsibilities that everyone has under the Care Act 2014 and other associated legislation with regards to safeguarding adults at risk.

Part 2 – Protocols (Pr)

The Protocols section deals with how organisations and people work together to achieve the best outcomes for safeguarding adults at risk. When organisations fail to work together is also covered in relations to escalation protocols.

Part 3 - Guidance (G)

The Guidance section provides guidance from the very start of recognising abuse, through to concluding safeguarding Enquiries and post abuse work. It is the more practical section that explains what safeguarding is and how we all work to reduce and prevent abuse against adults at risk.

POLICY SECTION

P1. Aims of Adult Safeguarding

[The Care Act](#) (2014), primarily sections 42-47, established a legislative framework for Adult Safeguarding. The requirements are further detailed in the supporting statutory guidance to the Care Act, specifically [Chapter 14](#) which provides additional information and clarity in relation to safeguarding.

The aims of adult safeguarding are:

- prevent harm and reduce the risk of abuse or neglect to adults with care and support needs;
- stop abuse or neglect wherever possible;
- 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.

The statutory guidance sets out a number of steps that the Local Authority should take to achieve the aims. They should:

- Ensure that everyone that works with adults who have Care and Support needs (either directly or indirectly) is clear about their safeguarding role and responsibilities;
- Create strong multi-agency partnerships that are able to provide effective and timely responses to abuse, and also work effectively and proactively to prevent abuse and neglect from occurring;
- Support a positive learning development culture across all agencies involved so they are able to move away from risk adverse practices and also recognise wider factors that lead to abuse and neglect (rather than always looking to blame one individual person or factor);
- Enable access to mainstream community resources that can reduce social and physical isolation (two factors known to contribute to the risk of abuse and neglect); and
- Have a clear response to concerns that are raised about poor quality or inadequacy of service provision.

Role of the Kent and Medway Safeguarding Adults Board

The Kent and Medway Safeguarding Adults Board (KMSAB) is a statutory multi-agency partnership which assures that adult safeguarding arrangements in Kent and Medway are in place and are effective. It oversees how agencies co-ordinate services and work together to help keep Kent's and Medway's adults safe from harm, promote wellbeing, prevent abuse and protect the rights of citizens.

[Section 43 and 44](#) of the Care Act set out the duties of a Safeguarding Adults Board, which are as follows:

Safeguarding Adults Boards

(1) Each local authority must establish a Safeguarding Adults Board (a "SAB") for its area.

- (2) The objective of a 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 a SAB must seek to achieve its objective is by co-ordinating and ensuring the effectiveness of what each of its members does.
- (4) A 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 a SAB) has effect.
- (6) Where two or more local authorities exercise their respective duties under subsection (1) by establishing a 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.

More information on the Board is available [here](#).

P2. Section 42 Enquiries

[Section 42](#) of the Care Act 2014 sets out the statutory eligibility criteria for adult safeguarding enquiries:

‘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
- c) as a result of those needs is unable to protect himself or herself against the abuse or neglect or the risk of it.

Then the Local Authority must make (or cause to be made) whatever enquiries it thinks necessary to enable it to decide whether any action should be taken in the adult's case (whether under this Part or otherwise) and, if so, what should happen and by whom. This then constitutes a statutory Section 42 enquiry’.

[The Care and Support \(Eligibility Criteria\) Regulations 2014](#) define care and support needs as arising “from or are related to a physical or mental impairment or illness”.

“This includes if the adult has a condition as a result of physical, mental, sensory, learning or cognitive disabilities or illnesses, substance misuse or brain injury”. (<https://www.scie.org.uk/care-act-2014/assessment-and-eligibility/eligibility/criteria-adults-care.asp>)

The statutory threshold for S.42 Care Act does not require the adult to have a particular degree of care and support need but does require that there is a link between the abuse/risk of abuse and the care and support need which impacts on the adult's ability to take actions to protect themselves. This can include situations where the care and support needs are a factor in the adult being targeted

by abusers. Thus, threshold decisions must be based on full consideration of the adult's social and family circumstances.

Chapter 14.77 of the [Care and Support Statutory Guidance](#) defines an enquiry as:

"... 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".

P3. The Legal Duty of Promoting Wellbeing

[Section 1](#) of the Care Act 2014 places a general duty on the Local Authority to promote an individual's wellbeing when exercising its functions under the Act. Wellbeing is defined as:

- (a) personal dignity (including treatment of the individual with respect);
- (b) physical and mental health and emotional well-being;
- (c) protection from abuse and neglect;
- (d) control by the individual over day-to-day life (including over care and support, or support, provided to the individual and the way in which it is provided);
- (e) participation in work, education, training or recreation;
- (f) social and economic well-being;
- (g) domestic, family and personal relationships;
- (h) suitability of living accommodation;
- (i) the individual's contribution to society.

Chapter 14(8) of the [Care and Support Statutory Guidance](#) states:

"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."

Local Authorities must also consider the following duties under the Care Act when planning enquiries and taking actions to safeguard the adult at risk:

- [Section 2.](#) To prevent or delay the development of care and support needs
- [Section 4.](#) To provide information and support
- [Section 6.](#) Co-operating generally
- [Section 7.](#) Co-operating in specific cases
- [Section 9.](#) Assess the adults need for Care and Support.
- [Section 10.](#) Assess the needs of carers
- [Section 11.](#) Refusal of assessment
- [Section 45.](#) Supply of Information

P4. The Six Principles of Adult Safeguarding

The six key principles that underpin all adult safeguarding work are:

Empowerment

Personalisation and the presumption of person-led 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."

By deploying these principles this multi-agency policy will achieve its aims.

P5. Making Safeguarding Personal

Making Safeguarding Personal (MSP) is a health and care sector led initiative which aims to develop an outcome focus to safeguarding work, and a range of responses to support people to improve or resolve their circumstances. It is about engaging with people about the outcomes they want at the beginning, working with them, and then finding out to what extent those outcomes were realised at the end. Chapter 14.8 of the [Care and support statutory guidance](#) reinforces the person centred safeguarding approach:

"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" (Care and support statutory guidance 26.10.18)

MSP work is supported by Association of Directors of Adult Social Services (ADASS) and the Local Government Authorities including Kent & Medway seeking to achieve:

- A personalised approach that enables safeguarding to be done with, not to, people
- Practice that focuses on achieving meaningful improvement to people's circumstances rather than just on 'enquiry' and 'conclusion'
- An approach that utilises social work skills rather than just 'putting people through a process'
- An approach that enables practitioners, families, teams and Safeguarding Adults Boards to know what difference has been made

At the end of an Enquiry there is a Making Safeguarding Personal questionnaire which the person or their advocate is offered the opportunity to complete.

P6. Statutory Principles of Mental Capacity Act, 2005.

Statutory Principles of the [Mental Capacity Act](#) (MCA) 2005 are underpinned by five key points which explained in the MCA [Code of Practice](#):

- a presumption of capacity - every adult has the right to make his or her own decisions and must be assumed to have capacity to do so unless it is proved otherwise
- the right for individuals to be supported to make their own decisions - people must be given all appropriate help before anyone concludes that they cannot make their own decisions
- that individuals must retain the right to make what might be seen as eccentric or unwise decisions
- best interests - anything done for or on behalf of people without capacity must be in their best interests
- least restrictive intervention - anything done for or on behalf of people without capacity should be an option that is less restrictive of their basic - as long as it is still in their best interests.

P7. Independent Advocacy

[Section 68](#) of the Care Act 2014 and Chapter 7 of the [Care and support statutory guidance](#) requires that the Local Authority must arrange for an independent advocate to represent and support an adult who is the subject of a safeguarding enquiry or Safeguarding Adults Review where the adult has 'substantial difficulty' in being involved in the process and where there is no other 'appropriate person' to represent and facilitate their involvement.

Substantial difficulty is assessed in relation to the adult's ability to understand, retain, use and weigh and communicate their views wishes and feelings about the safeguarding concerns. The test for substantial difficulty is a lesser threshold than lacking mental capacity under the MCA, and may include factors in addition to mental impairment, such as the adult's social and family circumstances impinging on their ability to make decisions.

Where a person is assessed under the Mental Capacity Act to lack the capacity to understand or make relevant decisions related to the safeguarding, the authority must appoint an Independent Mental Capacity Advocate (IMCA). The IMCAs role is to support with best interest decision making during the safeguarding process.

If a safeguarding enquiry needs to start urgently then it can begin before an advocate is appointed but one must be appointed as soon as possible. All agencies need to know how the services of an

independent advocate can be accessed and what their role is. It is important to note that a carer, in certain circumstances, may be entitled to advocacy under the care act provisions

This duty applies in all settings, including for people living in the community, care homes, and hospitals but excluded from prisons and approved premises where prison governors and National Offender Management Service (NOMS) are responsible for safeguarding adults in custody. Where an individual is eligible for NHS Continuing Health Care the Local Authority will continue to have a role in relation to safeguarding responsibilities, and therefore the duty to instruct an advocate, if they meet the eligibility criteria.

P8. Legal Duty to Co-operate

[Section 6](#) of the Care Act (2014) states that the local authority must co-operate with each of its relevant partners and each relevant partner must co-operate with the authority, in protecting adults with needs for care and support who are experiencing, or are at risk of, abuse or neglect. The [Care and support statutory guidance](#) at section 14.4 states “The safeguarding duties have a legal effect in relation to organisations other than the local authority...”. The [Kent and Medway Safeguarding Adults Board](#) works with multi-agency statutory partners to achieve this aim.

Section 14.64 and 14.65 of the Care and support statutory guidance states that:

“Relevant partners of a local authority include any other local authority with whom they agree it would be appropriate to co-operate (for example, 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
- CCGs
- NHS trusts and NHS foundation trusts
- Department for Work and Pensions
- the police
- prisons
- probation services

14.65 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
- housing, health and care providers”

For the KMSAB to fulfil its responsibilities and duties effectively, other agencies will need to be involved in its work. The local authority, having consulted with the other core members of the Safeguarding Adults Board (SAB), should invite those agencies and forums it identifies to be key partners.

Partner organisations will contribute to effective inter-agency working, multi-disciplinary assessments and joint working partnerships in order to provide the most effective means of safeguarding adults. Action taken under this policy does not affect the obligations on partner organisations to comply with their statutory responsibilities.

Partner agencies will have additional statutory responsibilities, including:

- 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.

P9. Information Sharing

The Care Act s45 'supply of information' duty covers the responsibilities of others to comply with requests for information from the Safeguarding Adults Board. Sharing information between organisations as part of day-to-day safeguarding practice is already covered in the common law duty of confidentiality, the Data Protection Act, the Human Rights Act and the Crime and Disorder Act. The Mental Capacity Act is also relevant as all those coming into contact with adults with care and support needs should be able to assess whether someone has the mental capacity to make a decision concerning risk, safety or sharing information.

All agencies are bound by a duty to protect the confidentiality of shared material. The General Data Protection Regulation (GDPR) and Data Protection Act 2018 (DPA 2018) provide a legal framework for lawful information sharing. Any decision made to share confidential information must have a lawful basis, be necessary and justified and proportionate with regard to the Human Rights Act (1998) (JAPAN principles *Justified, Authorised, Proportionate, Auditable and Necessary*). The Police will use the following acronym: PLAN – *Proportionate, Legal, Accountable and Necessary*.

All agencies will use shared material only for the purposes for which it is disclosed and not for secondary reasons.

It is important that adults at risk understand the agreement they are entering into and that you revisit the agreement. You need to explain the reasons why their information might be shared and how the service will treat the sensitive and personal data it is given. Explain that every case is individual but, in general, the service does not need consent to share information where the adult or their children are at high risk of serious harm.

Kent County Council Adult Safeguarding Privacy notice is available [here](#).

Medway Council's Adult Social Care Privacy Notice is available [here](#).

P10. Non-Statutory Safeguarding Enquiry. Including Legal Duties to Carers

The statutory threshold for undertaking an enquiry under S.42 of the Care Act 2014 is relatively low and will apply to adults who would not usually receive interventions from adult social care teams. There may, however, be circumstances where the adult at risk does not meet the statutory criteria to trigger an enquiry but it is decided that undertaking a safeguarding enquiry is warranted. In these circumstances a non-statutory safeguarding enquiry may be instigated.

The circumstances where this might occur are likely to be where there are other factors, not related to care and support needs, which contribute to the abuse/risk of abuse and prevent the adult from taking actions to protect themselves. This could arise with respect to vulnerable young adults leaving

care or situations where the adult's social circumstances are severely impacting on their health and wellbeing.

A common circumstance in which this will apply is with respect to carers, over the age of 18, who are experiencing, or at risk of, abuse from the person they care for. Carers may be unable or unwilling to take actions to protect themselves from abuse for many reasons, often due to the nature of their relationship to the person they care for, who may be a close family member or friend. Thus, a sense of duty, loyalty, fear of getting the cared for person in trouble, fear of making the situation worse and lack of trust in services can be among the reasons which prevent carers being able to protect themselves from abuse.

Section 10 of the Care Act places a duty on Local Authorities to assess the support needs of carers and provide services where those support needs meet eligibility criteria. The Care Act Regulations (eligibility criteria) define a support need as arising... "as a consequence of providing necessary care for an adult". The Local Authority also has a duty to promote the wellbeing of carers.

[Care and support statutory guidance](#) at 14.45 states that one of the circumstances in which an adult safeguarding enquiry may involve a carer is where:

"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."

The legal duty to offer the support of an Independent Advocate also applies with respect to carers.

P11. Criminal Offences and Adult Safeguarding

If a crime is suspected, the police must be informed and they will then be under a duty to investigate. The police have a responsibility to:

- Record and investigate reports of criminal offences against adults at risk;
- Conduct joint investigations with partners
- Refer any suspicion, report or disclosure that a vulnerable adult is suffering and likely to suffer significant harm to Kent Adult Social Care (KASC) or Medway Council's Adult Social Care (ASC);
- Refer all concerns to KASC/ASC.

Four key processes underpin the police role in vulnerable adult abuse investigations, each of which needs to be carried out effectively in order to achieve improvements in the lives of adults at risk. They are:

- 1) Alert.
- 2) Referral.
- 3) Assessment.
- 4) Investigation.

P12. Deprivation of Liberty Safeguards and Safeguarding Adults' Processes in Care Home and Hospitals

Deprivation of Liberty Safeguards (DoLS) is an additional legal framework to the Mental Capacity Act 2005 and was introduced as an amendment in relation to people who lack capacity about their care and treatment arrangement and is an independent review of the levels of restriction in place. The

assessment acts as a safeguard for the person as it seeks to weigh up whether the restrictions inherent in the care arrangement are both a proportionate response to potential risks of harm and in their best interests. The DoLS assessment requires the inclusion of the views of the person, those close to them as well as the views of professionals involved. DoLS arrangements legally authorise proportionate restrictions for the person and crucially they include a legal right for the person to challenge their DoLS as well as the requirement to appoint a relevant person's representative to represent their views. The Best Interests Assessor [BIA] may also set some conditions to the authorisation which must be followed by the Managing Authority both which includes both care homes and hospitals.

If a person remains in their own home or supported living accommodation the *Re X and others (Deprivation of Liberty)*¹ procedure for a DoLS applies.

What is a Deprivation?

The Supreme Court ruling in March 2014 defined when a person is deprived of their liberty and is known as the 'acid test'.

The Acid Test is met if "the person is under complete and continuous supervision and control and is not free to leave."

All Managing Authorities [MAs] who believe a person in their care is both over 18 years old and lacks capacity to agree to their care arrangements are required to apply the acid test criteria. If appropriate, they should make an application to the Supervisory Authority [Local Authority] for a Deprivation of Liberty assessment to authorise the persons restriction and any other method of restraint in place.

The Court of Protection can also make an Order authorising a deprivation of liberty in domestic settings such as the adult's own home and supported living arrangements or for people under 16. In cases where there is no legal authorisation for the deprivation of liberty, then it becomes a situation of unlawful deprivation of liberty and potential safeguarding concern. When this happens, the relevant Supervisory Body (SB) authoriser is immediately alerted by the DoLS office so that they are aware of the seriousness of the unlawful situation. The DoLS office will also immediately inform the Managing Authority (MA) that DoLS authorisation is not granted and the relevant person is now being unlawfully deprived of their liberty.

The responsibility then falls on the individual SB to contact the MA and agree to take things forward as appropriate, so that action is taken to end the unlawful deprivation of liberty as swiftly as possible and safeguarding enquiries may be raised where appropriate.

The Mental Capacity (Amendment) Act 2019 received Royal Assent on 16 May 2019. The new act will cause the Deprivation of Liberty Safeguards (DoLS) contained in the Mental Capacity Act 2005 (MCA) to be repealed, and a new scheme called the Liberty Protection Safeguards (LPS) is to be put in its place. <https://services.parliament.uk/Bills/2017-19/mentalcapacityamendment.html>

LPS is likely to be introduced in 2020 and for a year will run alongside DoLS to allow for a managed transfer of people's arrangements to take place. LPS will differ from DoLS in that it will not only apply on Hospitals and care homes but also to community settings such as daycentres and supported living. In addition, the relevant age for LPS will be 16 rather than 18 and the notion of the Supervisory Body will be replaced by the responsible Body which will be the agency who oversees the arrangement for the where a person's deprivation of liberty is occurring.

¹ *Re X and others (Deprivation of Liberty)* [2014] EWCOP 25

P13. Allegations Management

Allegations of concern about a person, who potentially poses a risk to adults or children in a paid or non-paid work capacity, may come under the Local Authority Designated Officer (LADO) service in your area. If the concern does not relate directly to the abuse of an adult, then a referral using Adult Safeguarding Procedures may not be appropriate. Examples of when to refer to the LADO service might include when you believe a person has broken the law, committed domestic abuse at home, or neglect of their children etc., but that adult also works with adults at risk, or children, in any capacity. The LADO would then ensure that the employer is aware of the allegation and performs appropriate risk management to assure themselves that the person is safe to continue to work, or otherwise, in their capacity.

If you want to have a consultation before making a full referral, then contact your local authority and ask to speak to the LADO who will advise if a Safeguarding Adult (KASAF / SAF) referral or LADO referral is appropriate.

To make a referral to the LADO service use the [Allegation Management Referral Form](#) for KCC or the [Adult LADO Referral Form](#) for Medway and send to the Central Referral Unit (CRU) for Kent, or the Adult LADO email box for Medway, where it will be recorded and passed to the appropriate LADO for adult or children's services. The LADO will be responsible for addressing any reported concerns raised. **However, if a crime is believed to have been committed, the Police must be contacted immediately and you should then complete a LADO referral.**

P14. Escalation of Concerns Regarding Interagency Working

Occasionally situations arise when workers within one agency feel that the actions, inaction or decisions of another agency do not adequately safeguard an adult at risk.

Effective safeguarding adults work depends upon the duty of candour, an open approach and honest relationships between agencies and services. All practitioners have a duty to act assertively and proactively to ensure that an adult's welfare is the focus of safeguarding activity. All practitioners must challenge the practice of other practitioners where they are concerned that this practice is placing an adult(s) at risk of harm.

Where a practitioner disagrees with a decision or response from any agency or service regarding a safeguarding or welfare concern, they must firstly consult with their line manager to clarify thinking and the desired outcome. Initial attempts should be made to resolve the matter practitioner to practitioner.

If the practitioners are unable to resolve differences through discussion and/or meeting within a time scale, which is acceptable to both of them, their disagreement must be addressed by more experienced / more senior staff using the formal Escalation Policy (see link below).

[Kent and Medway Multi Agency Escalation Policy for Adult Safeguarding](#)

PROTOCOL SECTION

Pr1. Priority for Raising Concerns and Making Decisions

All agencies in Kent and Medway are committed to ensuring the safety and care of adults and children. Staff and volunteers have a professional and moral duty to immediately report any witnessed or suspected abuse to their line manager, appropriate senior and in accordance with their organisations safeguarding policy. Internal processes should not delay the timely reporting of concerns to the Local Authority.

Acting in an emergency

In a situation where there is immediate risk of harm or need for treatment, all staff in all agencies should call the police and/or ambulance service without referring to a manager, if not doing so would cause unnecessary delay in protecting the adult or others from crime or injury. In fact, not making urgent contact may later be construed as negligent or failing in the duty of care. Staff need to be made aware of this and should be aware they would not be subject to any consequent sanctions or to disciplinary action, unless there was malicious intent.

Pre-referral consultation process

If you are uncertain whether or not to refer a matter to the Local Authority, you can consult with professionals, who are there to help. This consultation may be anonymous with regard to the identity of the caller and any other people involved.

For Kent phone 03000 41 61 61, for Medway phone 01634 334466 and state that you want to consult about an adult safeguarding concern. The timeframe for a consultation should ideally not exceed 24 hours.

If it becomes clear during the consultation with the Local Authority, that an adult(s) with care and support needs have or may have been abused or is at risk of abuse or neglect a referral to the local authority must be made.

It is essential that following consultation, clarity exists regarding the Local Authority decision to make enquiries or not and that this decision is recorded according to local policy. Good practice would be to confidentially share the record of the consultation with the person who made the request.

Recording outcomes of a consultation

The information provided to the Local Authority will be recorded in the duty recording system together with a note of any advice given along with the recommendation(s) for any further actions and or referrals that may be necessary.

Staff from other organisations should ensure that accurate records are made of the identified concerns and of all consultations made, recording details of the people consulted, decisions made, and recommendations given.

Making a safeguarding referral

Anyone may report concerns regarding actual, alleged or suspected abuse or neglect directly to the Local Authority. Members of the public can make referrals by phone; e-mail or in writing. Service providers should use appropriate reporting documents (KASAF for Kent and SAF Medway).

If concerns are raised out of hours, the Out of Hours Team will take any immediate protective action and pass the concern to the appropriate team. [Kent and Medway Out of Hours number is 03000 416161](#)

Further information can be found in the Guidance Section [G3](#) and a flowchart of the process in [Appendix one](#)

The relevant forms are:

Kent Social Services [KASAF document](#)

Medway Council [SAF document](#)

All organisational procedures should reflect statutory duties set out within the [Care Act](#) 2014 which detail the duty to co-operate and to report safeguarding concerns. In regulated services such as care homes or domiciliary care services, the [Care Standards Act](#) (2000) places the requirement to report to the Care Quality Commission regarding death, illness or other serious events occurring within the service and includes:

- any serious injury to any person receiving services from the organisation
- any event which affects the well-being or safety of any service user
- any allegation of abuse of an adult at risk by the registered person or any person who works for the organisation.

Internal procedures will usually expect that if staff have concerns, then they should report these to a senior manager. All staff should also be made aware that they can approach the regulatory bodies, the Local Authority or the police, independently, to discuss any worries they have about abusive acts or services and that they should do so if:

- they have concerns that their manager or proprietor may be implicated
- they have grounds for thinking that the manager or proprietor will not take the matter seriously and/or act appropriately to protect service users.
- they fear intimidation and/or have immediate concerns for their own or for a service user's safety.

This is known as 'whistleblowing' and information should be readily made available about how staff can access support and protect their own interests. For more information, please see your organisations' whistleblowing policy.

Anonymous reports will also be taken into account and treated seriously, however anonymity can be respected but is not always guaranteed, particularly if information becomes part of any subsequent legal proceedings

Every reported case must be assessed by adult social care as a matter of urgency to determine an appropriate course of action. This will involve gathering information and initial consultations and it is so that a decision can be reached to launch a statutory Section 42 Enquiry or other pathway.

The role of the Kent Central Referral Unit (CRU)

The central referral unit (CRU) is a multi-disciplinary social care, health and police hub. All adult safeguarding cases not currently known to social care will be triaged and safeguarding enquiries instigated until a key team is identified. The alert will then be passed to that team to continue the safeguarding process.

CRU staff do not triage open cases. If CRU staff receive information relating to a case which is already open to social care, they will forward the information to the relevant team to undertake enquiries.

Alerts should be sent to CRU in the first instance, if you are unsure whether a case is open or where the alert should be sent to.

Possible responses

There may be a number of possible responses when an adult safeguarding concern is discussed with the Local Authority (see Guidance section [G6](#)) at any stage in the process from initial consultation to raising a statutory Section 42 response, it may be determined that:

- a) It is not adult abuse, or it is discounted following evaluation/assessment or Information received
- b) It is abuse but the adult is not in need of care and support and a referral to a more appropriate service may be suggested e.g. housing services
- c) Where the person experiencing, or at risk of, harm does not appear to have care and support needs, but the safeguarding issues need to be addressed, a non-statutory enquiry must be considered
- d) The concerns relate to general poor standards of care in a regulated setting and referral to CQC (regulatory authority) is more appropriate.

Lead Responsibility

The Local Authority is the lead agency for initiating a Section 42 enquiry. A Designated Senior Officer (DSO) is responsible for the management of individual adult safeguarding cases within the Local Authority. The DSO will be an appropriate experienced practitioner in the local authority.

The ultimate responsibility for statutory decision making in adult safeguarding cases remains with the Assistant Director of the local authority.

The DSO may allocate the task of making or causing enquiries to an experienced practitioner who has relevant experience and knowledge and has received an appropriate level of training. This person is referred to as the Inquiry officer or IO. The IO reports back to the DSO and where the nominated IO is not a representative of Local Authority, the coordination of the Enquiry will be the responsibility of the DSO. The DSO or the IO will work with those charged with carrying out aspects of the Enquiry to meet the terms of reference agreed.

While a DSO takes overall managerial responsibility and always retains oversight of the case. Signing off a Section 42 enquiry will rest with a senior manager as agreed by the authorities.

When safeguarding adult concerns are raised in respect of a young adult who is being supported by the Leaving Care Team the lead responsibility for managing the safeguarding case rests with the relevant adult social care team. The Leaving Care Team will assist with carrying out the enquiries necessary to address the concerns. They will be supported by the DSO for the case and/or the safeguarding adults' coordinator

Sharing confidential information – Including Duty of Candour

Whether or not planning a response to an adult safeguarding concern is through informal consultation or a formal meeting, you are likely to be sharing information that would normally be considered confidential. Information from the Social Care Institute for Excellence (SCIE) is available [here](#).

Each agency holds information which, in the normal course of events, is regarded as confidential and will have their own safeguards and procedures for sharing this with other related agencies. The Care Act has set out the legal duty to co-operate amongst agencies where there is a duty to safeguard. Other laws also apply to information sharing, dependent on circumstances. General Data Protection Regulation (GDPR) brought in 25 May 2018 is vital in outlining how to ensure people's personal information is handled safely.

Under [Section 115](#) Crime and Disorder Act (1998) a worker has the power (not a duty) to share information if they think a crime has been or could be committed in the future. In addition, the Public Interest Disclosure Act (1998), [section 43b](#) provides protection for the worker sharing information with the police about a suspected crime.

All Agencies who have signed up to the Kent and Medway Safeguarding Adults Policy, Protocols and Practice Guidance are required to report to the police where they suspect a crime has been committed. The views and wishes of the adult at risk will be considered with regard to any further action that may be taken. This information may be shared with personnel from Local Authorities, Health Trusts, Police and Probation.

If representatives from other non-statutory agencies are involved, for example in a planning meeting, then a Chair may ask them to leave whilst confidential information is appropriately shared. The minutes will be shared by confidential email. Alternatively, it can frequently make sense to hold a meeting in parts, if confidential information can only be shared with some, as opposed to all, invitees. This methodology also protects information from being circulated inappropriately as those who attended the particular part of the meeting are the only people who are able to access the minutes to that part.

[The Public Interest Disclosure Act \(1998\)](#) also sets out the parameters for sharing information when it is in the public interest to do so, such as whistleblowing about a crime, abuse and/or neglect.

Making decisions about sharing confidential information

Concern about abuse or neglect of an adult provides sufficient grounds to warrant sharing information on a 'need to know' basis and/or 'in the public interest or vital interest' and unnecessary delays in sharing that information should be avoided. Whenever possible an adult must be made aware about the information being shared in relation to the safeguarding. In accordance with GDPR,

each agency should provide a privacy notice, either verbally or in writing, depending on agency procedures and consideration of risk factors.

If a crime has been committed the police will be informed. The level of risk to the adult or to other adults or children will inform any actions taken by the police.

The principles that should govern the sharing of information include:

- a) confidentiality must not be confused with secrecy
- b) information will only be shared on a 'need to know basis' when it is in the best interests of the adult
- c) it is inappropriate for agencies to give assurances of absolute confidentiality in cases where there are concerns about abuse or neglect, particularly in situations where others may be at risk.

Most agencies in Kent and Medway are signed up to the Kent and Medway Information sharing agreement. More information is available [here](#).

Statements of confidentiality and equal opportunities should be read out at the beginning of all adult safeguarding meetings and both should be placed at the top of the attendance sheet for meetings and on the first page of the minutes. These can be found in [Appendix Two](#).

If any agency has concerns in regard to information that is shared or a decision that has been made the [escalation process](#) should be followed

Pr2. Local Authority. Initial Information Gathering and Planning

Local Authority response to an allegation of abuse and/or neglect

Adult safeguarding is a complex and multi-layered process. Wherever abuse is reported it is essential to undertake an evaluation of the information received, talk to the adult at risk (if doing so would not place them at further risk), ascertain their desired outcomes, gather information to establish the facts and record the information.

Safeguarding consultations will take into account a range of factors to determine next steps which include:

- a) a decision regarding the case reaches the criteria for a Statutory s42 enquiry
- b) reliability/credibility of the information received need for any emergency or other protective action
- c) possibility that the alleged abuse is a criminal offence
- d) impact of the alleged abuse on the adult(s)
- e) capacity of the adult(s) in relation to decisions regarding the safeguarding
- f) consideration of advocacy at earliest possible point (refer to section 7 of the policy)
- g) vulnerability of the adult(s)
- h) extent of the abuse to this or other adults or children

- i) length of time it has been occurring
- j) risk of repeated or escalating acts involving this or other adults or children
- k) information about the person(s) alleged to be responsible for abuse or neglect

Initial decisions and discussions will need to be taken by a qualified and experienced person known as the Designated Senior Officer (DSO) as to whether the allegation/s meet the criteria for a Section 42 enquiry. This will require a planning discussion that may involve several partners, and this may be carried out virtually or if complex or very serious may well require a strategy/planning meeting.

In all cases the receiving officer will engage with referrers or consulters to determine whether the concerns raised constitute the need to make a statutory or non-statutory enquiry.

Decision to proceed

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

- a) needs for care and support (met or unmet by the Local Authority)
- b) is experiencing, or is at risk of, abuse or neglect, and
- c) as a result of those needs is unable to protect himself or herself against the abuse or neglect or the risk of it;

then the Local Authority must make (or cause to be made) whatever enquiries it thinks necessary to enable it to decide whether any action should be taken and, if so, what should happen and by whom. This then constitutes a statutory Section 42 enquiry.

The [ADASS safeguarding adults out of area protocol](#) will be used to determine which Local Authority should lead the safeguarding process and which clarifies respective roles and responsibilities of host and placing authorities e.g. host authorities convene and manage the overall safeguarding process whereas placing authorities undertake specific activities aimed at safeguarding the individual such as review, assessment, protection planning and monitoring of care.

Decision not to proceed

If a decision is made at that point not to proceed in line with the adult safeguarding policy and protocols, the referrer will normally be advised and the rationale for the decision must be documented. If there is any disagreement with this decision that cannot be resolved between the local authority decision maker and a professional referrer, the [Escalation Policy](#) should be followed. If the referrer is a member of the public or a family member, they should be advised to use the Complaints Procedure for the relevant local authority.

If the adult does not wish for the Safeguarding to proceed to Enquiry and has the capacity to make the decision this should be respected, unless they or others are at serious risk of harm or a crime has been committed or is suspected to have been committed.

If the decision not to proceed is made, the Local Authority must consider other powers and duties, including:

- providing information and support
- delaying and preventing eligible social care needs
- duty to undertake care and support assessment

- referring for a mental health or mental capacity assessment
- undertaking a carers assessment
- it may be deemed appropriate to undertake a non-statutory enquiry, see [policy section P10](#).

Please note the list above is not exhaustive.

Section 14.9 of the [Care and Support Statutory Guidance](#) states that “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
- the core duties of the police to prevent and detect crime and protect life and property”

What if the adult does not want any action taken?

In some instances, adults may express that they do not want any action taken with respect to the abuse they have experienced. Making Safeguarding Personal requires that the adult at risks views, preferences and desired outcomes are central to the conduct of adult safeguarding and this is supported by the Statutory guidance to the Care Act 2014 (14.14-14.15). This recognises that working with adults at risk can be complex and requires skilled and careful engagement with the adult and their social and family systems. Decisions not to proceed with a safeguarding enquiry must therefore be made after careful consideration of the risks and needs of the individual.

A decision not to proceed is therefore a significant decision and should be made in consultation with the Local Authority.

Safeguarding actions must be taken in cases where:

- **The adult at risk may lack capacity with respect to decisions concerning the abuse or risk of abuse.**
- **Other vulnerable adults or children may be at risk due to the abuse concerns**
- **A crime may have been committed.**
- **The adult at risk is subject to coercive control or undue influence from the abuse or others which may be affecting their decisions. ([see G.4](#))**

Record keeping and safeguarding

The [Care and Support Statutory Guidance](#) is clear on the need to keep clear records in safeguarding enquiries, from planning to conclusion. It states: “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.”

Staff should be given clear direction as to what information should be recorded and in what format. Records should be kept in such a way that the information can easily be collated for local use and national data collections.

Pr3. Levels of Risk and Response

Risk assessment

At the initial planning/strategy discussion, following receipt of the safeguarding referral, a risk assessment is completed by the allocated worker. This will identify the level of risk present in the situation and guide the subsequent response. Risk is evaluated in the following 4 Categories: [see guidance section G6 for more detail](#):

1. Low risk –no indication of harm or abuse and no indicators of harm occurring. Adult not likely to have a high level of care and support need and will have supportive social and family networks.
2. Moderate risk – Some indicators of harm or abuse occurring but likely to be minor in nature. Adult may have some care and support needs and has some support from social and family networks.
3. Substantial risk – indicators of serious harm and abuse occurring or likely to occur and may involve criminal offences. Adult will have a higher level of care and support need and limited social and family networks.
4. Critical risk – very serious harm or abuse occurring or likely to occur which will include life changing or life threatening harm. Very likely to involve criminal offences. Adult will generally have a more significant level of care and support need and little support from social and family networks.

Level of Response

Based on the initial risk assessment and the nature of the safeguarding enquiries required to address the abuse concerns, a level of response is decided at the conclusion of the initial planning/strategy discussion. The response levels are:

Level 1 – Concerns relates to a relatively minor incident occurring within a regulated/commissioned setting. Will usually be a one-off incident where only minor harm has occurred and no criminal offence is indicated. Service providers will be asked to complete the safeguarding enquiry on the basis of terms of reference set by the DSO, using the Level One Service Provider Enquiry Report form.

Level 2 – Where the safeguarding concern is less complex and a single agency enquiry (usually the Local Authority) is sufficient to address this concern.

Level 3 – These are more complex safeguarding concerns that will likely require a multi-agency response to undertaking the necessary enquiries. Alerts involving criminal offences will be evaluated as level 3. More serious and complex abuse occurring in regulated/commissioned services will also require a level 3 response.

Level 4 – These are cases that occur within regulated/commissioned services where serious abuse concerns have been identified and where there are multiple numbers of adults experiencing or at risk of abuse have been identified. The abuse will involve significant institutional/organisational factors.

Level of response and degree and nature of risks are likely to change during the safeguarding enquiry so should be re-visited at key points to ensure actions and responses are robust and proportionate. Please see table of levels of response in section [G5](#) for further details.

Pr4. Section 42 Enquiry Process, Roles and Responsibilities

Following the decision to proceed to a statutory or non-statutory safeguarding enquiry a Designated Senior Officer (DSO) will be allocated (ref to earlier protocol). The DSO is the LA's representative with respect to their statutory duties under S.42 Care Act 2014 to: "make (or cause to be made)" safeguarding enquiries and, "whether any action should be taken in the adult's case and, if so, what should happen and by whom".

The DSO will set the terms of reference/action plan for the enquiry and provide management and oversight for the enquiry process. This will include facilitating multi-agency cooperation and coordinating all the strands of the enquiry, as well as holding all involved agencies/partners to account with respect to agreed actions and timescales. The DSO may convene multi-agency meetings in order to facilitate sharing of information and formulating action plans.

The DSO will ensure that a suitably trained and experienced professional is allocated to act as Inquiry Officer (IO). The IO will undertake the enquiry tasks set out in the terms of reference and work collaboratively with other agencies involved in undertaking parts of the enquiry. In most cases the IO is likely to be a professional within the adult social care team but may come from other partner agencies such as the NHS.

The DSO and IO are jointly responsible for ensuring that the adult's views, wishes and desired outcomes are central to the safeguarding process.

Pr5. Protocols between Police and the Local Authority

All referrals and information sharing will be facilitated via the Central Referral Unit (CRU), or the safeguarding co-ordinators within the local VIT.

The Vulnerable Adult Officers within the Vulnerability Investigation Team (VIT) will take primary responsibility for investigating crimes against adults at risk pertaining to, as a minimum, assaults, neglect, sexual offences and financial abuse where the crime:

- requires joint /enquiry investigation with KASS/ASC;
- has been committed by family or extended family;
- is against an adult at risk who is in care, residential care or any institutional setting;
- involves "service users" (Service User v Service User) in a care setting where there are safeguarding concerns;
- is against an adult at risk cared for by any person (voluntary or professional) entrusted with their care at the time of an alleged offence e.g. adult education teacher, health care professional;
- is one where the allegation is by an adult at risk against an adult visiting the adult's household regularly, e.g. family friend, neighbour;
- is against a vulnerable adult by a registered sex offender;
- involves computer crime and identifiable vulnerable adults are at risk;
- is historic by nature but matches any of the above criteria.

The VIT VA team will provide advice, when requested, in the following investigations:

- All Homicides or unexplained deaths of adults at risk;
- Domestic abuse involving adults at risk;
- Missing persons enquiries;

- Investigations of crimes committed by an adult at risk where welfare concerns arise about that adult;
- Professional Standards Department investigations relating to Kent Police officers or employees suspected of committing offences involving an adult at risk.

The role of the VIT VA team should be to give advice and, in appropriate cases, direction about the substantive investigation and any safeguarding issues relating to other adults at risk affected by the investigation.

VIT VA officers will not routinely investigate all offences against adults at risk and when this is the case the VIT Safeguarding Co-ordinators will facilitate liaison with the officers leading the investigation.

Immediate Threat, Risk and Harm Considerations

Where the adult at risk is at high risk of serious harm or death, the police will immediately consider how to reduce this risk, whilst having regard for the wishes and capacity of the individual.

Once the risk has been reduced and the adult has been safeguarded an investigative mind-set will be adopted and evidence gathered expeditiously.

Pr6. Adult Safeguarding within regulated/Commissioned Services

Commissioning Responsibilities

As part of this Protocol, there is an expectation that commissioners will have in place a range of processes to ensure service users receive good quality and safe care. They must assure themselves that a provider is capable and competent in responding to allegations of abuse or neglect, including having robust processes in place to investigate the actions of members of staff.

Commissioners should encourage an open culture around safeguarding, working in partnership with providers to ensure the best outcome for the adult. Commissioners will be transparent and proportionate in any decisions and actions taken to safeguard service users and specifically it will:

- Place service users' well-being, quality of life and safety at the centre of all commissioning activity.
- Regularly assuring themselves of the safety and effectiveness of the services commissioned.
- Respond promptly and robustly to concerns about possible abuse or neglect arising in regulated care and support settings, adopting a person-led and outcome-focused approach.
- Make available a continuum of responses in order to ensure responses are proportionate to the nature and level of concerns raised and that these are undertaken by the appropriate body or organisation.
- Inform providers at the onset about the nature of any concerns and share minutes of meetings as appropriate.
- Request the provider to lead a section 42 enquiry when the concern relates to the actions or conduct of staff (a level one response). However, the local authority will have to satisfy itself that the provider's response has been sufficient to deal with the safeguarding issue and, if

not, to undertake an enquiry of its own and any appropriate follow up action (e.g. referral to CQC, professional regulators). There may be circumstances when it is inappropriate or unsafe for the provider to lead a section 42 enquiry. 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.

- Work in partnership with care providers ensuring responses are proportionate and based on a clear assessment and evidence of risk.
- Focus on service development and the achievement of sustained improvement within services.
- Maintain up to date, accurate information on all safeguarding adults concerns arising in regulated care settings to ensure informed decision making and risk assessment.
- Clearly document any actions or decisions taken under safeguarding adults arrangements. Local authority and NHS commissioning organisations, other funding organisations and partner agencies will work in partnership with each other regarding appropriate sharing of information as appropriate.
- Work in partnership with CCGs in respect of its commissioner functions and its overview of the health economy.
- Inform CQC of safeguarding activity and progress so as to inform the regulatory process
- Make decisions to suspend and/ or terminate a placement(s) independently of any enforcement action CQC may be taking and/ or criminal justice action that may be in progress. Ensuring that appropriate processes are in place to respond swiftly and appropriately in the event of a home closure.
- Adhere to legal requirements in relation to information sharing and where it is appropriate sign up to the Kent and Medway Information sharing agreement.

CQC responsibilities

CQC's role is to monitor, inspect and regulate services to make sure they meet the fundamental standards of quality and safety. For safeguarding, they will do this by:

- Checking that care providers have effective systems and processes to help keep children and adults safe from abuse and neglect.
- Using Intelligent Monitoring of information they receive about safeguarding (intelligence, information and indicators) to assess risks to adults and children using services and to make sure the right people act at the right time to help keep them safe.
- Acting promptly on safeguarding issues they discover during inspections, raising them with the provider and, if necessary, referring safeguarding alerts to the local authority – who have the local legal responsibility for safeguarding – and the police, where appropriate, to make sure action is taken to keep children and adults safe.
- Speaking with people using services, their carers and families as a key part of their inspections so they can understand what their experience of care is like and to identify any safeguarding issues. They also speak with staff and managers in care services to understand what they do to keep people safe.

- By holding providers to account by taking regulatory action to ensure that they rectify any shortfalls in their arrangements to safeguard children and adults, and that they maintain improvements. Regulatory action includes carrying out comprehensive and follow-up inspections, requiring providers to produce action plans, taking enforcement action to remedy breaches of fundamental standards, and taking action against unregistered providers.
- Publishing their findings about safeguarding in their inspection reports, and awarding services an overall rating within their key question 'Is the service safe?' which reflects their findings about the safety and quality of the care provided.
- Supporting the local authority's lead role in conducting inquiries or investigations regarding safeguarding children and adults. They do this by co-operating with them and sharing information where appropriate from their regulatory and monitoring activity. They will assist the police in a similar way.
- Explaining their role in safeguarding to the public, providers and other partners so that there is clarity about what they are responsible for and their role fits with those of partner organisations.

Although CQC do not have a formal role on Safeguarding Adults Boards they work closely with them, sharing information and intelligence where appropriate to help them identify risks to children and adults.

For more information on the role of CQC and safeguarding : <https://www.cqc.org.uk/what-we-do/how-we-do-our-job/safeguarding-people>

Provider responsibilities

There is an expectation that commissioned and grants funded services must have in place a range of processes to enable them to meet their duty of care to safeguard their service users. In addition to providing high quality and safe care, service providers are expected to:

- a) Have an up-to-date clear internal adult safeguarding policy and procedure consistent with the local Multi Agency Safeguarding Adults Policy and ensure all staff are aware of, and can act on, concerns and allegations in accordance with the policy.
- b) Have clear governance arrangements in place to prevent abuse or neglect.
- c) Have robust reporting mechanisms from the point of care to the senior management/ Board and from the management/ Board to the point of care to proactively monitor the risk of abuse and neglect in the care setting.
- d) Adopt robust recruitment and employment practices, with checkable references, checkable ID, and appropriate DBS checks in place at the commencement of employment.
- e) Ensure all staff receive training on the nature of abuse and neglect, recognising the signs and how to report concerns.
- f) Ensure all staff have training in the Mental Capacity Act, Deprivation of Liberty Safeguards, and the Prevent Agenda commensurate with their roles and responsibilities.
- g) Have a whistle blowing policy to enable staff to raise concerns outside their own chain of line management, including outside their organisation to the local authority where necessary.

- h) Have robust mechanisms for service users, relatives and visitors to raise concerns including how to make a complaint and the contact number for the local safeguarding adults' team
- i) Ensure where necessary, all service users are supported by an advocate.
- j) Ensure staff governed by professional regulation, understand how their professional standards and requirements underpin their organisational roles to prevent, recognise and respond to abuse and neglect.
- k) Ensure all Job Descriptions include a clear statement on the responsibility to prevent abuse and neglect and to report concerns. This statement must be commensurate with the responsibilities of the post.
- l) Ensure that disciplinary procedures are compatible with the responsibility to protect adults at risk of abuse or neglect.
- m) Correct abuse or neglect in their organisation and protect the adult from further harm as soon as possible. The local authority must be informed as well as the CQC and also the CCG where the latter is the commissioner.
- n) Respond to allegations of abuse, neglect or misconduct, including having robust processes in place to investigate the actions of members of staff.
- o) Lead (at the request of the local authority) a section 42 enquiry providing any additional support the adult may need. This may be when the safeguarding enquiry relates to the conduct or actions of a staff member. Information relating to the action taken and what the outcome is must be made available to the local authority in line with s67 or s68 Care Act 2014.
- p) Fully cooperate with section 42 safeguarding enquiries being made by or on behalf of the local authority and to provide access to premises, staff and service users and relatives (including people funding their own care). Records should also be made available any independent advocate supporting the adult.
- q) Report allegations against staff to the Safeguarding Adults Lead in their organisation i.e. named nurse for statutory health organisations.
- r) Ensure that the person who is alleged to have caused harm is appropriately informed and supported during the process and that information, advice and support is provided to the adult(s) harmed or their representative.
- s) Recognise transition between children and adult services in relation to safeguarding.

GUIDANCE SECTION

G1. Creating the right environment for better outcomes

Since 2010, Making Safeguarding Personal has promoted practice which has enhanced involvement, choice and control for people involved in the safeguarding process. It sees the person as the expert and aims to adopt practice which works alongside them to reach a better resolution of their circumstances. The [Care Act 2014 Statutory Guidance](#) states the best way to respond to a safeguarding is in a way that 'enhances involvement, choice and control as well as improving quality of life, wellbeing and safety'.

The emphasis on ensuring better outcomes for people in Adult Safeguarding requires a focus on the persons stated desired outcomes and a mechanism for fully involving the person at the centre of the concern or enquiry. Practical consideration may be required in terms of methods of communication both in appropriate language provision, format and as easy read versions, the pace of the enquiry, advocacy and information and advice. The provision of relevant information assists a person to consider and weigh up their options.

The [Mental Capacity Act](#) will inform the Safeguarding process acting as a method of empowerment for the person ensuring capacity is initially assumed and that the necessary support is in place for the person being safeguarded to participate in decision making process.

The use of support and interventions which focuses upon building a person's self-esteem. A 'strengths' perspective to the interview may assist and is where a person's own words are used, they are believed, involved jointly with professionals and blame is avoided. This strengths approach involves person centred planning, decision making and the involvement of families and social networks to improve the person's wellbeing and achieve positive outcomes, with positive risk taking.

Other considerations include:

- You may plan in advance any meetings and discussions.
- Also, check if the morning or afternoon is the best time to meet with the person to encourage their involvement and participation in discussions?
- How does the person communicate? Do they need any aids, an interpreter or someone to sign for them in order to fully participate in the discussion or assessment?
- Consider where is it best to speak with the person is it at their home, day unit, care home or hospital.
- Ask in advance if the person wants someone present at the meeting for reassurance and support? If so who?
- Think about how you will conduct the assessment, meeting or ask the questions? Perhaps use simple, short sentences, use the persons language to discuss issues. You may need to repeat the question or ask it in a different way if it is not understood.

Safeguarding D/deaf and Deafblind adults:

When a referral is made which concerns an adult who is D/deaf or Deafblind (please see [appendix three](#)) it is important to understand that specialist workers who understand the very particular communication needs of these adults will need to be involved.

Department of Health policy/Guidance on working with Deafblind people can be found [here](#).

G2. Types, Patterns and Signs of Abuse

Abuse and neglect can take many forms and every case should always be considered on its own merit with due consideration given to individual circumstances. The following categories of abuse are not mutually exclusive, and an adult may be subject to more than one type of abuse at the same time, whatever the setting.

It is important to recognise that some adults may reveal abuse themselves by talking about or drawing attention to physical signs or displaying certain actions/gestures. This may be their only means of communication. It is important for carers to be alert to these signs and to consider what they might mean.

Abuse or neglect may be deliberate, or the result of negligence or ignorance. Unintentional abuse or neglect may occur owing to life pressures or resulting from challenging behaviour which is not being properly addressed. It is the intent of the abuse or neglect which is therefore likely to inform the type of response.

Abuse can happen anywhere: for example, in someone's home, in a public place, in hospital, in a care home or in a college. It can happen when someone lives alone or with others. It is important to understand the circumstances of abuse, including the wider context such as whether others may be at risk of abuse, whether others have witnessed abuse, the role of family members and paid staff or professionals.

Types of Abuse

Below is a list of types of abuse and examples, this list is not exhaustive

Physical abuse

- a) hitting, slapping, scratching, burning, scolding
- b) pushing or rough handling
- c) assault and battery
- d) restraining without justifiable reasons
- e) inappropriate and unauthorised use of medication
- f) using medication as a chemical form of restraint
- g) inappropriate sanctions including deprivation of food, clothing, warmth and health care needs
- h) illegal, unauthorised, surgical acts and mutilation.

Sexual abuse

- a) sexual activity which an adult cannot or has not consented to or has been pressured into
- b) sexual activity which takes place when the adult is unaware of the consequences or risks involved
- c) rape or attempted rape

- d) sexual assault or harassment
- e) Non-contact abuse e.g. voyeurism, pornography

Psychological abuse

- a) Emotional abuse.
- b) Verbal abuse.
- c) Humiliation and ridicule.
- d) Threats of punishment, abandonment, intimidation or exclusion from services and social contact.
- e) Isolation or withdrawal from services or supportive networks.
- f) Deliberate denial of religious or cultural needs
- h) Failure to provide access to appropriate social skills and educational development training
- i) Faith abuse

Financial or Material abuse

- a) having money misused or stolen
- b) having property stolen
- c) being defrauded
- d) being put under pressure in relation to money or property
- e) having money or property misused
- f) finance or property mismanagement by a person with a Registered Enduring Power of Attorney or Lasting Power of Attorney for Finance and Property or a Deputy appointed by the Court of Protection.

Neglect and acts of omission

- a) Ignoring medical or physical care needs
- b) Failure to access care or equipment for functional independence
- c) Failure to give prescribed medication
- d) Failure to provide access to appropriate health, social care or educational services
- e) Neglect of accommodation, heating, lighting etc.
- f) Failure to give privacy and dignity
- g) Organisational neglect

- h) Failure by a Donee of a Registered Last Power of Attorney for Health and Welfare to act in the best interests of the Donor of that Lasting Power of Attorney, when the Donor has lost capacity to make the relevant decision(s) for themselves.

Self-Neglect

The [Kent and Medway Multi-Agency Policy and Procedures to Support People that Self-Neglect or Demonstrate Hoarding Behaviour](#) define self-neglect as:

- a) either unable, or unwilling to provide adequate care for themselves
- b) not engaging with a network of support
- c) unable to or unwilling to obtain necessary care to meet their needs
- d) unable to make reasonable, informed or mentally capacitated decisions due to mental disorder (including hoarding behaviours), illness or an acquired brain injury
- e) unable to protect themselves adequately against potential exploitation or abuse
- f) refusing essential support without which their health and safety needs cannot be met, and the individual lacks the insight to recognise this

Section 14.17 of the [Care and Support Statutory Guidance](#) states: “It should be noted that self-neglect may not prompt a section 42 enquiry. An assessment should be made on a case by case basis. A decision on whether a response is required under safeguarding will depend on the adult’s ability to protect themselves by controlling their own behaviour. There may come a point when they are no longer able to do this, without external support.”

Patterns of abuse and the circumstances in which they might take place

An individual or a group of individuals can carry out abuse or neglect. Patterns of harm may emerge and may include multiple forms of abuse, which can occur in an ongoing relationship, or in a service setting, or to people within their communities. Patterns can be motivated by many factors such as personal gain, organised crime and discrimination and cultural factors. Patterns should be recorded and professionally shared. Examples include:

Modern slavery and Human trafficking

According to the International Organization for Migration ([IOM](#)), millions of people, primarily women and children, are subjected to human trafficking and this is a violation of human rights and dignity. This is described by the UK [National Crime Agency](#) as:

“Modern Slavery is the term used within the UK and is defined within the Modern Slavery Act 2015. The Act categorises offences of Slavery, Servitude and Forced or Compulsory Labour and Human Trafficking (the definitions of which comes from the Palermo Protocol). These crimes include holding a person in a position of slavery, servitude forced or compulsory labour, or facilitating their travel with the intention of exploiting them soon after. Although human trafficking often involves an international cross-border element, it is also possible to be a victim of modern slavery within your own country. It is possible to be a victim even if consent has been given to be moved.”

There are three main elements:

- a) The movement–recruitment, transportation, transfer, harbouring or receipt of people

b) The control–threat, use of force, coercion, abduction, fraud, deception, abuse of power or vulnerability, or giving of payments or benefits to a person in control of the victim

c) The purpose–exploitation of a person, which includes prostitution and other sexual exploitation, forced labour, slavery or similar practices, and the removal of organs.

In the first instance the point of contact for all human trafficking crimes should be the local police force. If you have information about human trafficking or hold urgent information that requires an immediate response dial 999. If you hold information that could lead to the identification, discovery and recovery of victims in the UK, you can also contact the charity Crime stoppers anonymously on 0800 555 111.

Full details on how to make a referral can be found within the [Kent and Medway Protocols](#) for Adults who are at risk of Sexual Exploitation, Modern Slavery and Human Trafficking.

Child Sexual Exploitation (CSE)

This is a form of child abuse which involves receiving something in exchange for sexual activity. Local Safeguarding Children Boards (LSCBs) are responsible for ensuring that appropriate local procedures are in place and all frontline practitioners must be aware of the procedures and how they relate to their own area of responsibility. The Kent and Medway Safeguarding Children [Procedures](#) provide further information.

CSE may present in adult safeguarding when an adult discloses that they experienced CSE. The disclosure could be part of an existing Safeguarding Enquiry or may result in a new alert being raised.

Radicalisation

Refers to the process by which a person comes to support terrorism and forms of extremism leading to terrorism. This includes all forms of extremism including Islamic and the far right. This can be by an individual (radicaliser) or group that encourages others to develop or adopt beliefs and views supportive of terrorism and forms of extremism leading to terrorism. This can occur in a variety of locations, both in person and online through exposure to materials such as literature and videos that are used by radicalisers to encourage or reinforce individuals to adopt a violent ideology. Some of this material may explicitly encourage violence. Other materials may take no avowed position on violence but make claims to which violence is subsequently presented as the only solution. (taken from [Prevent Strategy](#) Home Office 2011).

Where there are concerns that an adult at risk is being subject to radicalisation then the person or agency identifying these concerns should make a referral to the Channel multi-agency process. The purpose of Channel is to identify and provide support to individuals at risk of being drawn into terrorism through the Prevent strategy. Prevent has 3 key components:

Prevent has three key objectives:

- Respond to the ideological challenge of terrorism
- Support vulnerable people and prevent people from being drawn into terrorism
- Work with key sectors and institutions to address the risks

Further information on reporting radicalisation and extremism is available [here](#).

Gang related abuse and cuckooing

The activities of gangs dealing drugs is having an increasingly significant impact on young people and adults with care and support needs due to the expansion of gang activity from metropolitan areas into locations across the country (county lines). The National Crime Agency states:

“‘County Lines’ is a national issue involving the use of mobile phone ‘lines’ by groups to extend their drug dealing business into new locations outside of their home areas. This issue affects the majority of forces. A ‘county lines’ enterprise almost always involves exploitation of vulnerable persons; this can involve both children and adults who require safeguarding. The assessment has identified the need for a multi-agency approach at a national, regional and local level.” (NCA [Intelligence Assessment](#), county lines, gangs and safeguarding, 2015)

Gangs will seek to obtain a base from which to deal drugs from in the locality where they are operating from. Establishing these bases is achieved in a number of ways, most commonly by exploiting local drug users. This is achieved either by paying them in drugs, by building up a drug debt or by using threats and/or violence to coerce them; this practice is commonly known as ‘cuckooing’. In other cases, group members have entered into relationships with vulnerable females to use their properties. (NCA 2015).

[Home Office Guidance: Criminal Exploitation of Children and Adults: County Lines Guidance](#)

Mate crime

Mate Crime occurs when someone ‘makes friends’ with a person and goes on to abuse or exploit that relationship. The founding intention of the relationship is likely to be criminal. The relationship is likely to be of some duration and, if unchecked, may lead to a repeat and worsening abuse. Mate crime can happen to anyone, but it is most commonly associated with children and adults with learning disabilities.

Discrimination and Hate crime

- a) Discrimination demonstrated on any grounds based on protected characteristics.
- b) Bullying, harassment and slurs which are degrading
- c) Institutional discrimination

Hate crime can be any criminal offence against the person or property. Hate Crime hurts and it can be motivated by the offender’s hatred of people who are seen as being different.

Organisational abuse

Organisational abuse refers to abusive and poor care and/or clinical practices that may develop when an adult is living or staying in a care setting, hospital or is receiving care and support from a service provider. This can be especially so when care standards and practices fall below an acceptable level as detailed in contractual specifications or fall below the Fundamental Standards for Quality and Care, as set out under the Care Act 2000.

Domestic abuse

The definition of domestic abuse is:

“a pattern of incidents of controlling, coercive or threatening behaviour, violence or abuse between those aged 16 or over who are or have been intimate partners or family members regardless of gender or sexuality”. (Home Office)

This can encompass but is not limited to the following types of abuse:

- a) emotional/psychological, including coercion and control
- b) physical
- c) sexual
- d) financial
- e) stalking and harassment
- f) honour-based abuse
- g) forced marriage

Coercion and control - since the introduction of the Serious Crime Act (2015) coercive and controlling behaviours within an intimate or family relationship has become an imprisonable offence under S.76 of this Act.

The Government definition from its guidance published in 2012 states:

- Coercive behaviour is an act or a pattern of acts of assault, threats, humiliation and intimidation or other abuse that is used to harm, punish, or frighten their victim
- Controlling behaviour is a range of acts designed to make a person subordinate and/or dependent by isolating them from sources of support, exploiting their resources and capacities for personal gain, depriving them of the means needed for independence, resistance and escape and regulating their everyday behaviour

<https://www.cps.gov.uk/legal-guidance/controlling-or-coercive-behaviour-intimate-or-family-relationship#a02>

The Kent and Medway Multi Agency Protocol for Dealing with Cases of Domestic Abuse to Safeguard Adults with Care and Support Needs is available [here](#).

Further details of the services available in Kent and Medway are available [here](#).

Culturally motivated abuse

There are certain types and patterns of abuse that occur within some minority cultures which require a response from specialist agencies. The principle examples are:

Female Genital Mutilation (FGM)

The World Health Organisation (2003) defines Female Genital Mutilation (FGM) as the partial or total removal of external female genitalia for non-medical reasons. FGM is also known as female circumcision, cutting or Sunna. Sometimes, religious, social or cultural reasons are put forward for this happening, but it is abuse and a criminal offence, to a woman or child. The term covers all harmful procedures to the female genitalia for non-medical purposes. FGM ranges from pricking or cauterising the genital area, through partial or total removal of the clitoris, cutting the lips (the labia) and narrowing the vaginal opening. Changes to the FGM legislation now describes tattooing and genital piercing to the genitalia as a form of FGM. It is also a criminal offence to arrange or travel to perform FGM acts.

Forced marriage

Forced marriage is when physical (e.g. threats, violence or sexual violence), emotional and or psychological pressure or coercive control (e.g. person is made to feel like they are bringing shame on the family) is brought to bear to make one person marry another.

Forced marriage is illegal in England and Wales and this includes:

- taking someone overseas to force them to marry (whether the forced marriage takes place)
- marrying someone who lacks the mental capacity to consent to the marriage (whether they're pressured to or not)

Forcing someone to marry can result in a prison sentence.

Contact the **Forced Marriage Unit (FMU)** if you are trying to stop a forced marriage or a person needs help leaving a marriage that they have been forced into. Trained professionals provide free advice on what to do next and can help with finding a safe place to stay or stopping a UK visa if a person has been forced to sponsor someone.

The FMU should also be contacted if you think a person is about to be taken abroad or has been taken abroad to get married against their will. If they are already abroad, provide details regarding

i. where the person has gone

ii. when they were due back

iii. when they were last heard of or from

The FMU will contact the relevant embassy. If they are a British national, the embassy will try to contact the person and help them get back to the UK if that's what they want.

Honour-based abuse

Honour based abuse is not about religion, it's about culture. It's to do with beliefs and customs and an expectation that people should behave in a certain way. Not doing so can be seen as bringing 'shame' or 'dishonour' on individuals, a family or a community.

It might be committed against someone who:

- has a boyfriend or girlfriend from a different culture
- wears 'inappropriate' make-up or dress
- does things that aren't considered 'traditional'
- has been unfaithful to their spouse/partner
- is gay
- refuses to agree to an arranged marriage
- has been raped

The abuse can be psychological, such as written or verbal threats, abusive phone calls, emails or messages. (<https://www.kent.police.uk/advice/honour-based-abuse/> Police)

If honour-based abuse is suspected it must be reported to the police

Online Safeguarding:

Online Safeguarding is not just an IT issue; it is about safeguarding young people and adults in the digital world as part of our safeguarding responsibilities. The focus should be on building resilience to online risk for people to feel safe and confident using online services. This often requires professionals, carers, advocates etc., to build their own understanding of today's digital world.

The Kent Safeguarding Children Board has an [Online Safeguarding](#) page on their website which provides guidance to enable multi-agency staff to consider online safety within their safeguarding responsibilities and develop and implement a single and multi-agency approach to online safety. It also highlights very useful websites to help gain a greater understanding in this area of work. Further work is being carried out by the Kent and Medway Children and Adults Online Safeguarding Group to address the emerging issues raised around online safety.

G3. Actions to take if you suspect or hear of abuse

Anyone can and should report concerns regarding actual, alleged or suspected abuse or neglect directly to the local authority. Please see [Appendix one](#) for a related flowchart.

Guidelines to report Adult Safeguarding concerns to the Local Authorities in Kent and Medway

a) To consult or make a referral (members of the public)

These guidelines are designed to assist anyone who has a concern about an adult at risk of abuse. Adult Safeguarding is now a statutory responsibility and if you are not sure if your concerns constitute adult abuse, then you must contact the local authority for consultation and advice. Raising a concern begins the process of gathering information to decide if it is appropriate to deal with this as a statutory Section 42 adult safeguarding enquiry or not. For a consultation or to raise an alert about concerns, contact either:

Kent Social Services: 03000 41 61 61 (08.30 – 17.00 hours)

Medway Social Services: 01634 334466 (08.30 – 17.00 hours)

Out of Hours Service (Kent and Medway): 03000 41 91 91

b) To consult or make a referral (statutory organisations and providers)

[Consultations](#) can be made on the telephone numbers above.

- To make a safeguarding referral to **Kent** County Council use the [KASAF document](#) on the Kent website
or
- To make a safeguarding referral to **Medway Council** use the [SAF document](#) on the Medway website

In a care setting, internal procedures will guide staff who have concerns to report these to a senior manager immediately. All staff should also be made aware that they can approach the regulatory bodies, the local authority or the police, independently, to discuss any worries they have about abusive acts or services and that they should do so if:

- a) they have concerns that their manager or proprietor may be implicated
- b) they have grounds for thinking that the manager or proprietor will not take the matter seriously and/or act appropriately to protect service users.

- c) they fear intimidation and/or have immediate concerns for their own or for a service user's safety.

This is known as 'whistleblowing' and information should be readily made available about how staff can access support and protect their own interests.

Anonymous reports will also be taken into account and treated seriously, however anonymity can be respected but is not always guaranteed, particularly if information becomes part of any subsequent legal proceedings. In addition, the Data Protection legislation removes blanket confidentiality from third party information. In addition, your agency policy should be followed in regard to the referencing of relevant third-party information recorded on your systems.

G4. Responding to initial disclosure

Although staff are encouraged to be alert to the signs and signals which may indicate that someone is being abused, many incidents will only come to light because the person discloses this themselves. Bear in mind that a disclosure may take place many years after a traumatic event or when someone is afraid, and this should not cast doubt on the person's truthfulness.

The person to whom a disclosure is made may not necessarily be the person to take an enquiry forward, especially in a care setting. So, if you are told about abuse, you must respond sensitively and professionally and pass the information on to your line manager/senior manager as soon as possible but within 24 hours - unless you suspect that they themselves may be implicated.

If someone discloses abuse to you, you should:

- a) stay calm and try not to show shock or disbelief
- b) listen carefully to what they are saying
- c) be sympathetic ('I am sorry that this has happened to you')
- d) be aware of the possibility that medical evidence might be needed

Tell the person that:

- e) they did the right thing to tell you
- f) you are treating the information seriously
- g) the alleged abuse was not their fault
- h) you have to inform the appropriate person
- i) you/the service will take steps to protect and support them
- j) report to your line/senior manager, if appropriate,
- k) as soon as possible, record factually what was said, use exact wording and phrases, not your opinion
- l) describe the circumstances in which the disclosure came about
- m) note the setting and anyone else who was there at the time
- n) Be aware that your report may be required later as part of a legal action or disciplinary procedure

You must not:

- a) start an enquiry/investigation on your own – it is vital not to tamper with a potential police enquiry
- b) press the person for more details
- c) interrupt when a person is freely recalling significant events; (e.g. don't say '*Hold on we'll come back to that later*') as they may not say it again

- d) ask leading questions that could be interpreted as putting words or suggestions forward (for example *'Did you mean....?'*)
- e) promise to keep secrets because this information cannot be kept a secret but can be managed confidentially
- f) make promises you cannot keep (such as: *'This will never happen to you again'*)
- g) contact or confront an alleged abuser
- h) be judgmental (for example *'Why didn't you run away?'*)
- i) pass on the information to anyone other than those with a legitimate 'need to know,' such as your line manager or other appropriate person

The Line Manager's responsibility when initially advised of a disclosure

If you think, from the information you have received, that that an allegation of abuse exists, you **must** contact the local authority to discuss and report the concerns (see section [G3](#)). Ensure the listed advice above has been followed.

Factors affecting decision-making in adult at risk of abuse

The principles of making safeguarding personal (MSP) must be integrated throughout the adult safeguarding process, including at the point of initial disclosure. Where it appears an adult, who has capacity has experienced, or is at risk of, abuse or neglect but declines any safeguarding interventions, the full circumstances of that decision need to be considered and understood. The Statutory principles state:

"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." Ch.14.07

Factors which may contribute or determine an adult's decision include:

- coercive control – including explicit or implied threats, emotional blackmail, belittling, humiliation
- Undue influence – pressurised persuasion
- Fear of loss of close relationships or getting others into trouble
- Fear of repercussions from those responsible for the abuse or those close to them
- Fear of other consequences such as having to move to a different care setting or loss of control.

Criminal offences

Many instances of abuse will constitute a criminal offence, whenever complaints about alleged abuse suggest that a criminal offence has been committed, the police **must** be contacted first. Where the crime also meets the criteria for a safeguarding enquiry a consultation/referral to the local authority must also be made, in accordance with G3.

Consultation with the police is imperative to ensure police investigations are not hampered and evidence not contaminated. If an adult at risk reports a crime, they should be advised that the police will be informed. If they are not prepared to support police action or believe that involving the police

will put them at further risk, the police will be advised of this. The police will use the principles of safe enquiry which is core to all its work with victims in domestic abuse case work. Appropriate intervention must take into account that this may lead to criminal proceedings. Alleged criminal offences differ from all other non-criminal forms of abuse in that the responsibility for initiating investigative action rests with the Police and decisions regarding prosecution are the responsibility of the Crown Prosecution Service.

For additional guidance on when people with care and support needs abuse each other, see:
https://www.kent.gov.uk/_data/assets/pdf_file/0011/66557/Adult-support-needs-guidance.pdf

G5. Enquiry Process

Safeguarding Concerns

A safeguarding concern is defined as the first contact between a person concerned about the abuse or neglect and the Local Authority.

Safeguarding Enquiry

This refers to any enquiries made or instigated by the Local Authority AFTER receiving a safeguarding concern.

There are two types of safeguarding enquiries. If the adult fits the criteria outlined in Section 42 of the Care Act, then the Local Authority is required by law to conduct enquiries or ensure that enquiries are made. These will be referred to as 'Statutory Safeguarding Enquiries' ([see Policy Section 2](#)).

Local Authorities will sometimes decide to make safeguarding enquiries for adults who do not fit the Section 42 criteria. These enquiries are not required by law and therefore will be referred to as 'Non-Statutory Enquiries' ([see Policy Section 10](#)).

Planning an Enquiry

Decision Making

The local authority is the lead agency for all Section 42 Enquiries and a legal duty exists to establish the outcomes of the work of an Enquiry to assess if safeguarding practice has been effective and if the adult's outcomes have been met. This must be completed before a case is closed to decide if the Section 42 duty has been satisfied.

If the adult at risk who has care and support needs is likely to have difficulty in engaging with the safeguarding process and they do not have an appropriate representative, then an independent advocate must be offered (see [Policy Section 7](#)).

The designated senior officer will need to decide if a formal planning/strategy meeting is required. They should take account of the following:

1. That they have sufficient information via consultations with various people/agencies to proceed directly to an enquiry. If this is the case, they will plan how this is to be carried out. They will establish the terms of reference for the enquiry; who will be involved in this work and who will be responsible for each aspect. This must take into account the desired outcome/s of the adult at risk. A timescale will be agreed for the completion of the work and the results to be reported back to the DSO. It will be DSO's responsibility to determine the

need for a case conference or an alternate way to feedback information about the outcomes to other key participants. These may include the adult or their representative, the person believed to have been responsible for the abuse/neglect, the referrer, carers and service providers.

2. That they can move straight to risk assessment, care/action plan because there is enough information at this stage on which to base a decision. In this case the DSO will ensure that a post abuse care plan is drawn up to safeguard any adults at risk, in consultation with them and their carers where appropriate. They will also ensure that an appropriate action plan is completed in relation to the person and/or service held responsible. The plans should specify a time for review and any indicators or circumstances that should trigger further action. Appropriate feedback should be given to the referrer at this stage.
3. Where the enquiry is complicated and requires a number of actions that may be taken by others to support the outcome, it may be appropriate for a round table discussion or formal planning meeting. Action should never be put on hold because of the logistics of arranging meetings. Proportionality should be the guiding principle. A formal multi-agency planning meeting will be managed and recorded in the same way as a formal case conference.
4. If the adult at risk wishes to participate in meetings with relevant partners, such a meeting should be convened. However, actions should not be 'on hold' until meetings can be arranged. If the adult at risk does not have the capacity to attend, a representative or an advocate should represent their views.

In complex cases there may be a need for more than one meeting during the enquiry process.

Strands of an Enquiry

An Enquiry will have five main strands, they include:

- a) to establish the adult's (or their representative's) desired outcomes
- b) to establish matters of fact about one or more incident(s) in which abuse or neglect is alleged or concerns have been raised.
- c) to assess the support and protection needs of any adult(s)/and children still at risk. If there are children at risk a referral to children's services needs to be made.
- d) to meet the adult's desired outcomes, where possible, aid their recovery, reduce risk and prevent future abuse
- e) to review the management of the any service which has increased risk and any improvements required or sanctions to be recommended.

G6. Levels of Risk and Response

Responsibilities and accountabilities

The local authority must be clear in planning and communicating the enquiry roles, responsibilities and timeframes. Interviews with relevant people must be documented and be carried out with the support of appropriate staff.

The following table outlines the level of response required dependent upon the nature and severity of the risk:

Levels of Response:

RESPONSE	PRESENTING INFORMATION	ACTION & OUTCOMES
Level 1 – Service provider enquiry		
<ul style="list-style-type: none"> Concern reported to LA by provider Alert form completed Discussion with DSO Discussion with Adult at risk or representative Adult's expressed outcomes recorded. MSP is a priority Decision by DSO if S42 criteria met Consideration of independent advocate /IMCA appointment. DSO decides/agrees if provider can carry out enquiries, sends SP enquiry form with terms of reference to include time frame. Service provider produces enquiry report to DSO in time frame DSO can challenge report if insufficient to enable s42 duty to be satisfied Monitoring format agreed 	<ul style="list-style-type: none"> 'one-off', isolated incident that has not adversely affected the physical, psychological or emotional well-being of the Adult at risk no previous history of similar incidents recorded for the Adult at risk no previous history of similar incidents recorded for the service provider no previous history of abuse by the person alleged to be responsible not part of an apparent pattern of abuse no clear criminal offence described in referral there is not a clear intent to harm or exploit the Adult at risk 	<ul style="list-style-type: none"> Service provider must recognise and record concern under their AP procedures Action taken by Service Provider to address 'presenting concerns' AND report outcomes to care manager/social worker May lead to minor alterations in the way service is provided to an Adult at risk and/or alterations to the way staff or other resources are deployed in the delivery of health and social care No on-going risk to the Adult at risk or other people or children at risk
RESPONSE	PRESENTING INFORMATION	ACTION & OUTCOMES
Level 2 – Social Care Enquiry		
<ul style="list-style-type: none"> Concern reported to LA, alert form completed Discussion with DSO/ Senior manager 	<ul style="list-style-type: none"> The physical, psychological or emotional well-being of the Adult at risk may be being adversely affected 	<ul style="list-style-type: none"> The 'needs' of the Adult at risk and if appropriate the Adult at risk who is alleged to be responsible are formally

<ul style="list-style-type: none"> • Discussion with Adult at risk or representative • Adult's expressed outcomes recorded and MSP is priority • Consideration of advocate appointment • Decision by DSO re S.42 eligibility • DSO allocates to IO to review • if a criminal offence may have been committed or if health involvement required, consider if level 3 response more appropriate 	<ul style="list-style-type: none"> • The concerns reflect difficulties and tension in the way health and/or social care services are provided to the Adult at risk (e.g. some perceived inadequacy in the services being provided) • The concerns reflect difficulties and tensions within the network of informal support provided to the Adult at risk (e.g. some perceived difficulties between the Adult at risk family/friends) • Concerns have occurred in the past, but at lengthy and infrequent intervals 	<p>assessed or reviewed by a care manager/social worker/health care professional</p> <ul style="list-style-type: none"> • Determine if abuse occurred • If abuse confirmed or there was insufficient information for a determination to be made a post enquiry support plan may include: • Possible adjustments to the way health and social care services are provided to the Adult at risk or person alleged to be responsible, to ameliorate presenting concerns • Support may be provided to enable the Adult at risk to explore and negotiate relationships with 'significant others' in their support network e.g. Family group conferencing • Carers assessment and support where indicated • Current and future risks of harm or exploitation are significantly reduced or eradicated by changes to a 'Health and Social care plan'
RESPONSE	PRESENTING INFORMATION	ACTION & OUTCOMES
Level 3 – Multi-Agency response		
<ul style="list-style-type: none"> • Adult safeguarding concern reported to local authority • Alert form completed • Discussion with DSO/ Senior manager • Discussion with Adult(s) at risk or representative(s) • MSP outcomes recorded • Consideration of independent advocate or IMCA appointment • Decision by DSO re S.42 eligibility • DSO allocates to IO to undertake multi- agency consultation/enquiry including police if a criminal offence may have 	<ul style="list-style-type: none"> • The physical, psychological or emotional well-being of the adult has been adversely affected by the alleged incident(s) • Criminal offence(s) may have been committed • There is a possible breach of regulations under the Care Standards Act (2000) • Possible breach of Professional Codes of Conduct • There is an actual or potential risk of harm or exploitation to other Adults at risk • There appears to be a deliberate intent to exploit or harm an Adult at risk • There is a significant breach in an implied or actual 'duty of care' between the Adult at risk and the 	<ul style="list-style-type: none"> • Multi-agency planning discussion/meeting held to agree an 'Enquiry Plan' • Enquiry Plan implemented with further Adult Safeguarding review discussions/meetings, if appropriate • Evaluation of Enquiry activity and evidence obtained • Report to be completed by inquiry officer(s) to enable the case conference to determine the status of the allegations • Case conference to agree a Post enquiry support plan that prevents or reduces risk of further abuse • Agree Post enquiry support plan • Agree review time scales for

<ul style="list-style-type: none"> • been committed • Notify commissioners and regulators 	<ul style="list-style-type: none"> • person alleged to be responsible • There are clear inequalities of power and/or authority between the Adult at risk and the person alleged to be responsible • The concerns form part of a pattern of abuse either, against a particular individual, by a particular individual or by a health or social care service 	<ul style="list-style-type: none"> • protection plan and allocate to named people • Agree circumstances where re-evaluation of the situation will be required
RESPONSE	PRESENTING INFORMATION	ACTION & OUTCOMES
Level 4 – Multiple adults at risk of harm		
<ul style="list-style-type: none"> • Complex adult safeguarding enquiries / assessments undertaken with multiple service users /adults at risk of harm • Adult Safeguarding enquiry/Referral form to be completed for all clients assessed /reviewed in relation to the alleged abuse • Decision by DSO re S.42 eligibility • MSP outcomes recorded for any suspected adults at risk of harm • Consideration of advocate appointment • IO's allocated to work with partner agencies to carry out enquiries in line with agreed terms of reference • Consult with police, if crime possible refer issues to police including S.44 MCA (ill treatment or neglect) • Notify commissioners and regulators 	<ul style="list-style-type: none"> • Enquiry into initial concerns for one service user identifies serious concerns for others • Institutional abuse • Number of Adults at risk adversely affected • Criminal offences may have been committed • Possible multiple breach of Care Standards Act 	<ul style="list-style-type: none"> • Notify senior managers • Allocate resources to undertake, and co-ordinate Enquiry/assessment • Planning/strategy meeting held to agree an Enquiry/assessment Plan. • Enquiry / assessment plan implemented with further review meetings, if appropriate • Evaluation of Enquiry /assessment activity and evidence obtained • Report completed by Inquiries Officer(s) • Determine if harm has occurred. Case conference to agree a Post enquiry support plan that prevents or reduces risk of further harm • Agree Post enquiry support plan • Agree review time scales for support plan and allocate to named people • Agree circumstances where re-evaluation of the situation will be required • Establishment case conference/review meeting • Agree action plan for the service • Monitoring and review of action plan for service provider

The DSO role involves co-ordinating the sharing of information, planning any agreed joint interviews to avoid people having to repeat their story. It is also important to draw up a timetable, which acknowledges the different timeframes involved in taking these disparate forms of action.

Following the allocation of the case by the DSO, the Inquiries Officer (IO) should start the statutory enquiry process within 48 hours, in conjunction with the other professionals.

Working with the Police

Early Involvement

Police investigations should proceed as a part of a Section 42 Enquiry and their early involvement may have benefits such as:

- a) ensuring any possible evidence is not lost or contaminated
- b) assisting them to establish if a criminal act has been committed
- c) in investigating and interviewing
- d) in preventing duplication of interviews

A higher standard of proof is required in criminal proceedings i.e. where the test is 'beyond reasonable doubt', compared to disciplinary, regulatory proceedings to statutory enquiries where outcomes are based on the 'balance of probability' and the most serious offences can often emerge from uncertain and unclear circumstances. Sometimes gathering reliable evidence can require swift unannounced action. Safeguarding options can increase in proportion to the availability of reliable evidence and information.

G7. Planning and Managing Complex Multi-Agency Enquiries.

Safeguarding enquiries will often involve complex circumstances where there may be multiple adults at risk of abuse and/or the involvement of several different agencies and parties. Complex safeguarding cases can trigger different enquiry and investigation processes such as criminal, disciplinary, serious incident and those undertaken by regulatory, commissioning and professional registration authorities. The vital role of adult safeguarding, and particularly the Designated Senior Officer (DSO) in complex multi-agency enquiries is to provide coordination and oversight, ensuring actions are completed in a timely manner, facilitating the appropriate sharing of information and appropriate recording standards are maintained. The DSO must also ensure that the adult/s are at the centre of the process and that all agencies and parties involved keep the needs, views, wishes and interests of the adult/s at the forefront everything they do. This will involve the DSO ensuring that prior to the meeting attendees will be made fully aware of the purpose, process and procedure of the case conference.

Case conferences

In most cases complex multi-agency safeguarding enquiries will require one or more case conferences. It is the responsibility of the DSO to convene this meeting and decide on who should be invited. The DSO will generally chair the meeting. The case conference should provide a forum for:

- a) establishing and recording the facts; discussion and joint decision making about findings and the circumstances surrounding the alleged abuse
- b) deciding if the adult's outcomes have been met

- c) agreeing measures to be taken to assure the future protection of the adult, prevention and risk management.
- d) identifying and supporting sanctions or other interventions to be taken in relation to the person deemed responsible
- e) specifying actions to be recommended in relation to the service or provider agency
- f) ensuring that full consideration is given to the possibility that other adults may be at risk and agreeing action to reduce or eliminate that risk
- g) agreeing appropriate feedback to the adult at risk, agencies and services on a 'need to know basis', including the referrer.
- h) ensuring that, where ongoing concerns exist appropriate monitoring and governance arrangements are established.

If there is any disagreement with the recommendations and outcomes of the case conference, these should be formally expressed and recorded in the minutes. Should an appeal regarding this need to be made then at the earliest opportunity, the Chair must refer the matter to a senior manager. If an agreement still cannot be reached, then the escalation process should be used. Please see: [Kent and Medway Resolving Practitioner Differences; Escalation Policy](#)

The DSO will need to consider carefully who will need to be invited and whether the agencies and parties involved attend all or only part of the meeting. For example, where the safeguarding relates to poor or negligent practices in a registered setting, representatives from that setting might only attend the last half of a meeting after the agencies involved have had an opportunity to share information and concerns. Minutes should only be distributed to attendees for the part of the meeting that they attended. The DSO must ensure that strict confidentiality is maintained regarding information shared with attendees in accordance with Data Protection/GDPR requirements, for example, any documents provided to assist attendees with the discussions should be collected at the end of the meeting.

Involving the Adult/s at risk

The default position is that the adult will be invited to attend the meeting. Full consideration must be given to ensuring the adult is properly supported and briefed about how the meeting will be conducted and who will be in attendance. The adult must be offered the support of an advocate if they do not have an appropriate representative and they are likely to have substantial difficulty in engaging in a case conference. The adult's views, wishes and desired outcomes must form the basis for the objectives of the case conference.

There will be circumstances where it is either not appropriate or possible for the adult/s to be able to attend a case conference. This may be where the abuse involves multiple adults at risk, where the adult declines to attend or it is detrimental to the adult's health and wellbeing. The DSO must ensure that the adult/s needs, views and wishes are central to the discussion in the meeting and the formulation of action plans.

G8. Multi Agency or Single Agency Procedures following a death or serious incident which may be safeguarding.

At this time sensitive communication with family and friends is important to communicate what processes, enquiries and investigations are being undertaken and by what agency. Agencies are encouraged to clarify this with the family and friends as more than one enquiry/investigation may be underway into an incident and agency key workers should endeavour to identify this and agree how this is reported back to the family or friends of the deceased person. The following processes are a non-exhaustive list of methods of investigation. These processes may be concurrent:

The Care Act, Section 42 Enquiry

A section 42 enquiry should not be opened for a person who is already deceased. There are other mechanisms, detailed below, that will be used to look into the lessons to be learned following their death. If the section 42 enquiry has already commenced in the deceased name, then it is appropriate for it to continue in the deceased's name until the enquiry is concluded. However, it is likely that the Terms of Reference for the enquiry/investigation (including the wishes and preference of the, now, deceased) will now need to be revisited. Significant relatives and/or advocates of the deceased should be kept informed if the enquiry continues to progress and may be consulted/interviewed as part of the enquiry if it is considered appropriate. If appropriate other processes will be take place in parallel. However, the scope and terms of reference of the Section 42 Enquiry should be clearly defined.

Police Investigation

Where there are concerns surrounding the death of a person, the death must be reported to the police immediately. When the police receive any referral from an outside agency where neglect of abuse is believed to be a contributory factor to the persons death, they will decide whether to notify the Coroner (or the Coroner will contact the police if the notification of death comes to them first). Deaths are usually reported to the Coroner by the Police, or by a Doctor called to the death if it is sudden or unexplained.

Serious Incident (SI)

Where a serious incident or death has occurred in an NHS Establishment the Serious Incident Protocol will be used which is part of the [National Framework](#) for Reporting and Learning from Serious Inquiries Requiring Investigation and this may run alongside a Section 42 Enquiry as an incident or event may meet the necessary criteria for both.

A Serious Incident (SI) is defined as an incident that occurred in relation NHS-funded services and care in England. This includes services provided by: • NHS Trusts • Foundation Trusts • Clinical Commissioning Groups (CCGs) • Independent healthcare provider organisations • Independent practitioners including general practitioners [GPs] • Community pharmacists • Community optometrists • General dental practitioners (GDPs) • Prison healthcare services • Integrated services and Care Trusts to NHS-funded services and care resulting in one of the following:

- Unexpected or avoidable death of one or more patients, staff, visitors or members of the public;
- Serious harm to one or more patients, staff, visitors or members of the public or where the outcome requires life-saving intervention, major surgical/medical intervention, permanent harm or will shorten life expectancy or result in prolonged pain or psychological harm.
- A scenario that prevents or threatens to prevent a provider organisation's ability to continue to deliver healthcare services

- Allegations of abuse
- Adverse media coverage or public concern about the organisation or the wider NHS
- One of the core set of 'Never Events'

The NHS has a responsibility to ensure that when a serious incident does happen, there are systematic measures in place for:

- safeguarding people, property, the service's resources and its reputation
- understanding why the event occurred,
- ensuring that steps are taken to reduce the chance of a similar incident happening again,
- reporting to other bodies where necessary, and sharing the learning with other NHS organisations and providers of NHS-funded care.

The Governance system includes an agreed reporting scheme and a requirement for the establishment of a local risk management system. As part of the process the Commission for Quality in Care, CCG's and NHS England will be informed of the results of the investigation.

The National Mortality Case Record Review (NMCRR)

The programme contract was awarded to the Royal College of Physicians (RCP) in February 2016 and is funded by NHS Improvement and commissioned by the Healthcare Quality Improvement partnership (HQIP).

<https://www.rcplondon.ac.uk/projects/national-mortality-case-record-review-programme>

The programme aims to develop and implement a standardised methodology for reviewing the case records of adults who have died in acute hospitals across England and Scotland. The programme also aims to improve understanding and learning about problems and processes in healthcare that are associated with mortality, and to share best practice.

The Learning Disability Mortality Review (LeDeR programme)

Whilst not always related to a Safeguarding the Learning Disabilities Mortality Review (LeDeR) may be carried out alongside other agency investigations. The Programme was set up as a result of one of the key recommendations of the Confidential Inquiry into premature deaths of people with learning disabilities (CIPOLD). CIPOLD reported that people with learning disabilities three times more likely to die from causes of death amenable to good quality healthcare than people in the general population. The [LeDeR Programme](#) is run by the University of Bristol and commissioned by the Healthcare Quality Improvement Partnership (HQIP) on behalf of NHS England.

It aims to make improvements in the quality of health and social care for people with learning disabilities, and to reduce premature deaths in this population. There are two main Programme activities:

1. To support local reviews of deaths of people with learning disabilities throughout England.
2. To undertake a number of other related projects to help us find out how many people with learning disabilities die each year in England and why.

Safeguarding Adults Reviews

Kent and Medway Safeguarding Adults Board (KMSAB) 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.

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).

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.

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.

The KMSAB procedure for safeguarding adults reviews is available [here](#).

KMSAB reviews are available [here](#).

Domestic Homicide Reviews

A Domestic Homicide Review (DHR) is a multi-agency review of the circumstances in which the death of a person aged 16 or over has, or appears to have, resulted from violence, abuse or neglect by a person to whom they were related or with whom they were, or had been, in an intimate personal relationship, or a member of the same household as themselves. Since 13 April 2011 there has been a statutory requirement, under Section 9 of the Domestic Violence, Crime and Victims Act (2004), for local areas to conduct a DHR following a domestic homicide that meets the criteria.

Further information is available [here](#).

The purpose of a DHR is to:

- Establish what lessons are to be learned from the domestic homicide regarding the way in which local professionals and organisations work individually and together to safeguard victims;
- Identify clearly what those lessons are both within and between agencies, how and within what timescales that they will be acted on, and what is expected to change as a result;
- Apply these lessons to service responses including changes to inform national and local policies and procedures as appropriate; for all domestic abuse victims and their children through intra and inter-agency working;

- Prevent domestic violence and homicide and improve service responses for all domestic violence and abuse victims and their children by developing a co-ordinated multi-agency approach to ensure that domestic abuse is identified and responded to effectively at the earliest opportunity;
- Contribute to a better understanding of the nature of domestic violence and abuse;
- Highlight good practice.

Kent and Medway review documents are available [here](#)

G9. DoLS

Deprivation of Liberty Safeguards [DoLS] came into force in 2009 and are embedded within the Mental Capacity Act 2005. A DoLS is used by Managing Authorities [MA which includes care homes and hospitals] to legally authorise restrictive situations where people may lack capacity to consent to them. The definition of what constitutes deprivation of liberty is known as the 'acid test' – resulting from the Supreme Court Judgement in March 2014. The judgement recognised that an adult may only be deprived of their liberty if certain criteria applies.

According to the 'acid test' an adult may only be deprived of their liberty when the following criteria applies;

- a) they are aged over 18
- b) they experience a mental disorder
- c) it is their best interests to protect them from harm
- d) it is a proportionate response to the likelihood and seriousness of the harm
- e) there is no less restrictive alternative
- f) they lack capacity to give consent to the arrangements made for their care or treatment in a care home, hospital or community setting under public or private arrangement
- g) that detention under the Mental Health Act 1983 is not appropriate for the person at that time

The 'acid test' is fulfilled if the following three aspects are present: the person is subject to continuous supervision and control and are they are not free to leave i.e. staff would try to bring the person back. In all cases, the following are irrelevant to the application of the test: the person's compliance or lack of objection; the relative normality of the placement and the reason or purpose for the placement having been made.

The assessment acts as a safeguard for the person as it seeks to weigh up whether the restrictions inherent in the care arrangement are both a proportionate response to potential risks of harm and in their best interests. Crucially a DoLS includes a legal right for the person to challenge their DoLS as well as the requirement to appoint a relevant person's representative [RPR] to represent their views.

The Best Interests Assessor [BIA] may also set some conditions to the authorisation which must be followed by the Managing Authority [both care homes and hospitals.] The period of a DoLS is set by the BIA at the time of the assessment and is a maximum of one year and may be less. The MA should seek complete a reapplication to the Supervisory Authority within 28 days of the end of the authorisation period.

During the period of authorisation a review may be requested to the Supervisory Authority by the Managing Authority or RPR if circumstances such as the level of restriction have increased. The condition of the DoLS will be reviewed may amended by the BIA if appropriate.

Central government are currently reviewing the statutory obligations of local authorities under the DoLS and are looking to replace the DoLS legislation with a scheme called the Liberty Protection Safeguards [LPS] based on proposals issued by the Law Commission. The new safeguards are aimed to lessen the burden on local authorities by permitting the NHS to authorise deprivations of liberty in its settings and by ensuring that restrictions on people's care or living arrangements are considered as part of their wider care planning, rather than as a separate process. The new safeguards may apply to people aged 16 and above and would be a single process of application regardless of where the person was living. The progression of the new legislation is continuing however there is no date yet for the LPS to be in place.

The Mental Capacity Act 2005 and DoLS encourages a person-centred view of the restrictions in place for an adult. The 5 principles of the Mental Capacity Act 2005 (MCA) apply in relation to the DoLS assessment. DoLS provide a safeguard for individuals and they must be part of a best interests care plan. Adults who are identified as being potentially deprived of their liberty must be considered on a case-by-case basis and all appropriate steps taken to reduce risk of a deprivation of liberty where possible, with a continuous emphasis on their involvement and those around them in any decision making.

<https://www.kent.gov.uk/social-care-and-health/information-for-professionals/mental-capacity-act>

The DoLS assessment is an independent assessment and review of the level of restriction in place for the person. The MA submits an application to the Supervisory Body [local authority] where they feel the necessary criteria is met for a DoLS. The DoLS assessment is then completed by a Best Interests Assessor and a Mental Health Assessor [Doctor].

If a person is deprived of their liberty in other locations such as supported living, extra care or in their own home an application to the court of protection by the local authority is needed. This route is also available for complex cases in hospital and/or care home settings. Any concerns regarding a person's level of restriction should be discussed with the local authority.

Before considering a deprivation of liberty, supporting documentation, including mental capacity assessments, risk assessments and best interests decision making, must be completed and they may be considered as part of the assessment. Where a potential deprivation of liberty is identified, an exploration of the alternative ways of providing the care and/or treatment should be undertaken, in order to identify any less restrictive ways of providing that care and/or treatment which will avoid a deprivation of liberty. Where the lack of capacity is confirmed and formally assessed, the acid test should be applied. If it is not possible to avoid the person being deprivation of liberty, you may need to seek further advice.

Restraint/restriction of liberty

This is the use or threat of force to help carry out an act that the person resists, and it may only be used where it is necessary to protect the person from harm and is proportionate to the risk of harm. Proportionate response is one that represents the minimum force necessary to the shortest time possible.

Practical steps to reduce the risk of deprivation of liberty occurring

There should be consideration to minimise the restrictions imposed on people and ensure that decisions are taken with the involvement of the relevant person and their representative, family, friends and or carers.

- a) make sure that all decisions are taken and reviewed in a structured way and reasons for decisions are recorded
- b) follow established good practice for care planning
- c) make a proper assessment of whether the adult lacks capacity to decide whether or not to accept the care or treatment proposed, in line with the principles of the Mental Capacity Act
- d) before admitting a person to hospital or residential care in circumstances that may amount to a deprivation of liberty, consider whether the person's needs could be met in a less restrictive way
- e) any restrictions placed on the person while in hospital, in a care home or in their own home, must be kept to the minimum necessary and should be in place for the shortest possible time
- f) take proper steps to help the adult stay in contact with their representative, family, friends and or carers (if advocacy services are available, their involvement should be encouraged to support the person and their family, friends and carers)
- g) review the care plan on an ongoing basis
- h) consider contributions to care planning and review from advocates and representatives

The link between DoLS and safeguarding adults processes

Where a Best Interests Assessor (BIA) concludes that deprivation of liberty is not occurring, a DoLS authorisation would not be granted. In cases where authorisation is not granted because the best interest's assessment fails for other reasons, e.g. the deprivation is not considered to be in the relevant person's best interests, or mental capacity assessment fails because the person is assessed to have capacity, then it may become a situation of unlawful deprivation of liberty and a potential safeguarding concern.

When this happens, the relevant Supervisory Body (SB) authoriser is immediately alerted by the DoLS office so that they are aware of the seriousness of the unlawful situation. The DoLS office will also immediately inform the Managing Authority (MA) that DoLS authorisation is not granted and the relevant person is now being unlawfully deprived of their liberty. The responsibility then falls on the individual SB to contact the MA and agree to take things forward as appropriate, so that action is taken to end the unlawful deprivation of liberty as swiftly as possible and ensure safeguarding and/or criminal concerns are raised where appropriate.

Responsibilities of a registered Power of Attorney or Deputy

The Office of the Public Guardian

The Office of the Public Guardian (OPG) supports and promotes decision making for those who lack capacity, within the framework of the MCA (2005). Established in October 2007, the OPG supports the Public Guardian in registering and supervising Enduring Powers of Attorney (EPA) and Lasting Powers of Attorney (LPA), and supervising Court of Protection (CoP) appointed Deputies.

Whilst they should be consulted, the Next of Kin has very limited rights with regard to legal decision making. The Next of Kin: Understanding decision making authorities booklet by The National Centre for Post-Qualifying Social Work and Professional Practice, Bournemouth University is a useful resource for both practitioners and people we work with and their families.

<http://www.ncpqsw.com/>

Powers of Attorney

People who lack mental capacity may require someone else to manage their financial, social and health affairs. The Mental Capacity Act 2005 made provision for people to choose someone to manage not only their finances and property should they lose capacity but also to make health and welfare decisions on their behalf. They can apply to do this through a Lasting Power of Attorney (LPA). Property and Affairs LPAs which replaced Enduring Powers of Attorney (EPAs) in 2007. Please note that EPAs registered before 2007 are still valid (dependent on restrictions contained within the document).

Practitioners must always ensure they receive and view valid documents and save a copy on file.

Please see below a link to a form which can be used to find out if someone has a registered attorney or deputy:

<https://www.gov.uk/government/publications/search-public-guardian-registers>

Enduring Power of Attorney

An Enduring Power of Attorney was a legal process in which a person (the Donor) hands over to someone else (the Attorney) the power to decide what is done with their financial affairs and property. They were replaced in October 2007 by Property and Affairs Lasting Powers of Attorney. A registered EPA only covers decisions relating to a Donor's financial and property affairs, when they lose capacity.

Lasting Powers of Attorney (LPA)

An LPA is a legal process in which a person (the Donor) chooses someone else (the Attorney) that they trust to make decisions on their behalf at a time in the future when they either lack the mental capacity or no longer wish to make those decisions themselves. The Attorney is legally required to have regard to the Mental Capacity Code of Practice when acting or making decisions on behalf of someone who lacks capacity to make a decision for themselves. There are two types of LPA. The decisions could be about the Donor's property and financial affairs or about their health and welfare, or both.

Property and Financial Affairs LPA

A Property and Financial Affairs LPA allows the Donor to appoint an Attorney to manage their finances and property whilst they still have capacity to make decisions for themselves.

For example, it may be easier for them to give someone the power to carry out tasks such as paying their bills or collecting their benefits or other income. So, a registered Property and Financial Affairs LPA could act on behalf of the Donor in this way, if the Donor chooses so, before the Donor loses capacity. Alternatively, the Donor may include a restriction that the LPA can only be used at a time in the future when they lack the capacity to make decisions for themselves – for example, due to the onset of dementia in later life or as a result of a brain injury. It is important to note a Property and

Financial Affairs LPA cannot make any Health and Welfare decisions about the donor, unless they have been granted a Health and Welfare LPA.

Health and Welfare LPA

A Health and Welfare LPA allows the Donor to appoint an Attorney to make decisions on their behalf about their health and welfare. A registered Health and Welfare LPA can only be used in relation to the specific decisions for which the Donor has given authority for, when the Donor lacks the capacity to make these decisions for themselves. A Health and Welfare LPA cannot make any Property and Affairs decisions about the donor, unless they have been granted a Property and Affairs LPA.

For information about applying for a power of attorney and the online application form, please see the link below:

<https://www.gov.uk/power-of-attorney/make-lasting-power>

Court of Protection appointed Deputies

The Court of Protection makes decisions and appoints Deputies to make decisions in the best interests of those who lack capacity. The Deputy order sets out the specific powers in relation to the person who lacks capacity. They will depend on the needs of the person and are ultimately the Court's decision. The powers may apply to any aspect of the person's life, including their finances, personal welfare and consenting to medical treatment and social care interventions.

Private Solicitors

In some cases, family and friends of the Service User may have arranged the LPA/EPA via a private Solicitor. If this is the case, then the family member or friend will need to contact the Solicitor to arrange for the correct documents to be released and maintained on record

Being provided with the name of a Solicitor is not enough to determine whether an LPA/EPA has been awarded, the Practitioner will need to see and keep a copy of the original LPA/EPA in the Service User's case file.

Reporting concerns about Attorneys and Deputies

Concerns about the actions of an Attorney acting under a registered Enduring or Lasting Power of Attorney, or a Deputy appointed by the Court of Protection, can be discussed with the Compliance and Regulation Unit of the Office of the Public Guardian.

If it is believed that a Crime has been, or is being committed, you must also contact the Police especially if urgent protective actions are required.

For reporting a concern to the Office of the Public Guardian

<https://www.gov.uk/report-concern-about-attorney-deputy>

Further information on Next of Kin Decision Making can be found at:

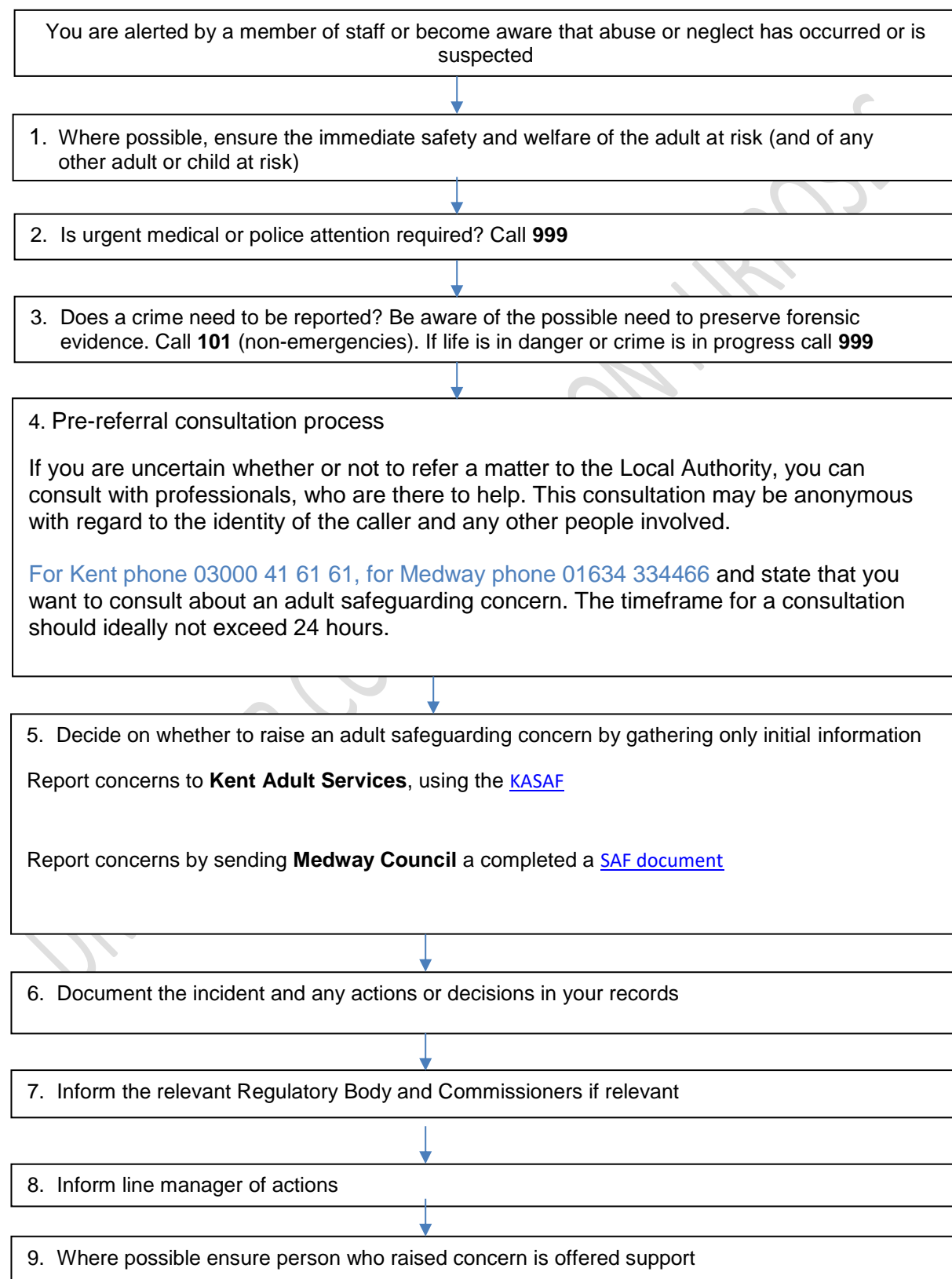
Medway - <http://www.medway.gov.uk/carehealthandsupport/adults/sga-professionalspage/thementalcapacityact2005/deprivationofliberty.aspx>

G10. Transitional Safeguarding

The idea of 'transitional safeguarding' is new and represents a challenge to the established approach of separate children's and adults safeguarding managed as distinct processes. Research suggests the establishment of links between children's and adults' services may provide more effective outcomes for young adults at risk in recognition that situational or environmental factors do not necessarily reduce for people on becoming an adult. A collaborative approach should be adopted to incorporate learning and develop more effective working practice and the become part of ongoing development of transitional safeguarding.

APPENDIX ONE: Flowchart for Abuse, Witnessed or Suspected, that has Occurred in Kent or Medway

An alert begins a process of gathering facts, assessment of the concern and adult's needs; and a risk assessment to decide if a statutory or non-statutory enquiry should take place and within any organisation, an employee or volunteer must alert their line manager or designated officer to any safeguarding adult concerns or allegations:



APPENDIX TWO: Statement of Confidentiality and Equal Opportunities Statement

Statement of Confidentiality

This meeting/conference is held under the multi-agency adult protection policy and protocols and Guidance for Kent and Medway. The matters raised are confidential to the members of the meeting/conference and the agencies that they represent and will only be shared in the best interests of the adult, and with their consent where it is appropriate to obtain it.

The minutes of adult safeguarding meetings are not a verbatim record of the discussions, but they are a summary of the discussions and a record of the actions identified to be completed by whom and when. Minutes of the meeting/conference are distributed in the strict understanding that they will be kept confidential and in a secure place.

The information you have provided will be held and used by Kent / Medway authorities for the purpose of this adult safeguarding enquiry. This process may require us to share this information with partner organisations and other local authorities or agencies to support the protection of adults at risk or children.

In certain circumstances it may be necessary to make this information and/or the minutes of this meeting available to solicitors, the civil and criminal courts, the Disclosure and Barring Service in relation, psychiatrists, professional staff employed by other local authorities or other professionals involved in the welfare of adult(s) at risk or children. Any such disclosure must be recorded. Information may also be disclosed under strict controls in relation to a Freedom of Information Act 2000.

Equal Opportunities Statement

The Kent and Medway adult safeguarding policy and protocols recognise that certain people are the subject of discrimination and disadvantage. Comments that contribute to this discrimination are not acceptable and will be challenged by the chair and other meeting/conference members.

APPENDIX THREE: Guidance for Safeguarding D/deaf Adults

The aim of this guidance is to ensure that all agencies and their staff understand how to obtain appropriate expertise and communication support services for d/Deaf and Deafblind adults, when concerns about abuse are raised.

The guidance covers the following

- Definition of d/Deaf and deafblindness
- Legal requirement – equality act 2010
- Addressing safeguarding concerns with Deaf and deafblind people
- The role of Sensory service team
- Criminal enquires
- Communication needs
- Types of communication support
- How to book communication support

d/Deaf

Deaf people who consider themselves members of a cultural and linguistic minority group and who use British Sign Language (BSL) as their first and preferred language are usually described as Deaf (with a capital D). All other deaf people (i.e. people who are hard of hearing. Partially deaf or deafened) are usually described as deaf (with a small d). Therefore, the term d/Deaf is used to describe both/all types of deafness and all communication methods.

Deafblindness

Deafblindness is a combination of sight and hearing impairment which results in difficulties in communication, mobility and accessing information. This includes people who are born deafblind and those acquire sight and/or hearing impairments, including older people. Deafblind people use a range of communication methods.

Legal requirement

The Equality Act 2010 makes it unlawful to discriminate against disabled people and other protected groups in the provision of services. Public services must make reasonable adjustments to ensure that disabled people are not placed at a substantial disadvantage in the access to and provision of services.

Human Rights Act 1998 and the UN Conventions on the Rights of the Child and Rights of Persons with a Disability to promote their needs to participate as full members of society and be protected from abuse.

Sensory Services Team

The Sensory Services Team work with d/Deaf and deafblind adults in adult social care. The practitioners are all skilled and trained to work with this client group. They are all trained to be able to communicate in British Sign Language and for some it is their first language. They also have knowledge of working with the Deaf community. The team also have specialist workers in deafblindness and they are skilled in understanding the complexity of the communication needs required.

Sensory Services are skilled in undertaking safeguarding enquiries and will carry out the role of IO and DSO on open cases to the team.

Cases open to other social care teams where the primary need is not deafblindness or being deaf, Sensory Services will co work offering specialist advice and an assessment. A practitioner from Sensory Services will be able to give advice on types for communication support required.

Sensory Services staff SHOULD NOT BE ASKED TO BE INTERPRETERS.

Designated Senior Officers (DSO) and Investigating Officer (IO) must obtain full information regarding the person's communication needs at the start of the safeguarding alert. This should be share with all other professionals and agencies who will be involved with the safeguarding enquiries.

When using a BSL interpreter the professional should first meet with the interpreter to explain the nature of the enquiry, aims and plan for the enquiry.

Criminal enquiries

Kent Police have direct access to communication support provision (including sign language) via the "Sign Language Interpreting for Deaf and Deafblind People" contract that is managed by KCC. Special provision is made in the contract to make certain that appropriately qualified and vetted interpreters/communication professionals are available, which may include specialist Deaf Intermediaries. <http://www.intermediaries-for-justice.org/>

Sensory Services practitioners will be able to advice on a person's preferred communication method and what support will be required.

When arranging communication support Kent Police the d/Deaf or Deafblind person's preferred communication method is considered and their cognitive ability. When language needs to be further modified to suit a Deaf adult's understanding, sometimes a Deaf Relay Interpreter may also be required (possibly alongside a BSL interpreter). Police are responsible for arranging and paying for appropriate interpreters and if additional interpreters are required for court proceedings and/or for defence purposes the responsibility for obtaining and paying for these interpreters' lies with the court or the defence respectively.

An Early Special Measures meeting between the Police and the CPS may be required to ensure that appropriate steps are taken to maximise the adult ability to provide evidence.

Deaf and Deafblind communication needs

It is imperative that we understand and address the barriers for communication for Deaf people. Types of communication support for d/Deaf and Deafblind people

The following types of communication support can be arranged for assisting d/Deaf and Deafblind adults:

- a) British Sign Language (BSL)
- b) Sign Supported English (SSE)
- c) Deafblind Manual (visual-frame)
- d) Deafblind Manual (hands-on)
- e) Deaf Relay
- f) Speech-to-text reporting (STTR)
- g) Lip speaking
- h) Note taking.

Deaf and deaf blind communication support

The role of a BSL interpreter

An interpreter facilitates communication between users of British Sign Language (BSL) and users of spoken English. Interpreters will use their skill and knowledge of the two languages, and their understanding of any cultural differences. Sign language interpreters may look very active with their hands, but in fact most of the hard work is going on in their heads. They have to listen carefully to, or watch the message, extract the meaning and then find an appropriate way to express the message in the second language.

Relay Interpreters

The term Relay Interpreting is used when more than one interpreter is needed to assist communication. This is used when Deaf or Deafblind person does not understand the literal interpretation (by a BSL interpreter) or the interpreter has difficulty understanding the voice or the signing of the Deaf or Deafblind person. A second (usually Deaf) interpreter will further modify the conversation to suit the understanding of the Deaf or Deafblind person.

When Relay Interpreting is used, the duration of the meeting/appointment will be significantly increased and it is possible that some information may be lost. Both the interpreter and the other professionals have to be alert and sensitive to help the relay person rephrase questions using simple, more common concepts if the adult user does not seem to understand.

Communication for deafblind people

The communication for Deafblind people is varied and may include sign language (adapted to fit their visual field), tactile sign language, tracking, tactile fingerspelling, print on palm, tadoma, Braille, speech, and speech reading.

How to arrange communication support

Sensory services manage a public partnership for communication for d/Deaf and deafblind people. The partners include Kent Police, Kent Fire and Rescue Service, Kent County Council, Dover District Council, Kent Community Health Foundation Trust and Kent and Medway Social Care Partnership Trust.

For Kent County Council staff who wish to book an interpreter [click here](#)

For partner agencies please refer to your intranet system for further instructions. In case of problems please contact Sensory Services.03000 418100.

When a person uses British Sign Language (BSL) and their primary method of communication a qualified BSL needs to be booked. <https://www.asli.org.uk/working-with-an-interpreter/>

Failure to do this means the person does not get access to the safeguarding principles.

Registered BSL interpreters also have the training and a code of conduct to undertake the role <https://www.nrcpd.org.uk/code-of-conduct>

Re: [Click on me - dept of health policy guidance for deafblind people](#)

APPENDIX FOUR. USEFUL DOCUMENTS AND GUIDANCE TO SUPPORT DECISION MAKING IN RELATION TO THE THRESHOLD FOR SAFEGUARDING IN VARIOUS CIRCUMSTANCES.

East Sussex Falls and Safeguarding Toolkit

<https://www.eastsussexsab.org.uk/information-resources/falls-and-safeguarding-toolkit/>

Pressure ulcers: safeguarding adults protocol

<https://www.gov.uk/government/publications/pressure-ulcers-safeguarding-adults-protocol>

Medication Errors

To be added

Financial Abuse

To be added

Self Neglect