

Safeguarding procedures 2019

Adult Social Care

Contents

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| Responding to individual safeguarding concerns   * What is a safeguarding concern? * Where it is unclear if the adult is covered by the criteria in the Care Act * Responses to a safeguarding concern * Deciding what action the local authority needs to take at this point * When information should not be treated as a safeguarding concern * The nature and circumstances of abuse or neglect the adult may be experiencing | 4-6 |
| What is an Enquiry?   * Role of the safeguarding lead * Role of the enquiries worker | 6-7 |
| A person centred approach   * Who can carry out an enquiry? * Timescales for undertaking and concluding enquiries | 7-8 |
| Where the adult remains at risk of abuse or neglect through their own choice   * Where the adult does not wish to pursue enquiries and does not want the person or service thought to be the cause of the risk contacted | 8 |
| Where further enquiries are needed | 8 |
| Concluding an enquiry   * Recording actions on the adult’s protection plan | 9 |
| Checklist for completed enquiries | 10 |

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| --- | --- |
| Document owner: | Les Marshall |
| Document number: | 1 |
| Document category: |  |
| Document location: |  |
| Issued by: | Sarah Sudell |
| Last edited: | 18.01.2018  31.01.2019 |

Record of Amendments:

|  |  |  |  |
| --- | --- | --- | --- |
| Date | Version | Amended by | Description of changes |
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Approved By:

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| Name | Title | Signature | Date |
| Les Marshall |  |  |  |
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Every response should be underpinned by the six principles outlined in the Care Act, and a Making Safeguarding Personal (MSP) approach.

* **Empowerment**  
  People being supported and encouraged to make their own decisions and informed consent.
* **Prevention**  
  It is better to take action before harm occurs.
* **Proportionality**  
  The least intrusive response appropriate to the risk presented.
* **Protection**  
  Support and representation for those in greatest need.
* **Partnership**  
  Local solutions through services working with their communities. Communities have a part to play in preventing, detecting and reporting neglect and abuse.
* **Accountability**  
  Accountability and transparency in safeguarding practice.

The local authority has a duty to undertake enquiries or cause an enquiry to be made where the three key tests are met. These are:

* An adult who has needs for care and support (whether or not any of those needs are being met); and
* May be experiencing, or at risk of, abuse or neglect; and
* As a result of those care and support needs is unable to protect themselves from either the risk of, or the experience of, abuse or neglect.

**Responding to individual safeguarding concerns (enquiries under Section 42 of the Care Act)**

**What is a ‘safeguarding concern’?**

A ‘safeguarding concern’ is when any person has a reasonable cause to think an adult with care and support needs, who is unable to protect themselves because of those needs, is experiencing, or is at risk of, abuse or neglect.

Local authority staff receiving or identifying information that could indicate there is a ‘safeguarding concern’ will undertake basic checks with reference to any pre-existing relevant information, as they would for any other information or referral received.

If the information received and/or identified through this initial basic checks stage appears to indicate the adult affected meets the three key tests then the information should be treated as a Safeguarding Concern.

**Where it is unclear if the adult is covered by the criteria in the Care Act**

Local authorities may choose to undertake safeguarding enquiries for people where there is not a section 42 enquiry duty, if the local authority believes it is proportionate to do so, and it will enable the local authority to promote the person’s wellbeing and support to preventative agenda. (14.44 Care and Support Statutory Guidance March 2016).

If the local authority decides it is appropriate to undertake an enquiry but it is unclear whether the adult meets the criteria for an enquiry under the Care Act, it should be assumed that the adult meets the criteria until further information is available to inform this decision, or until the safeguarding concern is addressed.

**Responses to a safeguarding concern**

The actions to this information should include:

* Gather relevant information to determine whether the Concern does meet Section 42 Criteria.
* A conversation with the adult or their representative to obtain their views and desired outcomes (which should always happen at the earliest opportunity that it is safe to do so).
* Establish their capacity and consent to proceed. Consider an advocate where appropriate.
* Assess immediate risk to the adult or others. If the person is in immediate danger or needs urgent medical attention or a crime has been committed contact emergency services.
* Consider and refer to the Safeguarding Threshold Matrix.

**Deciding what action the local authority needs to take at this point**

The local authority will take account of the information it already has, or requires, in order to determine the most appropriate response to the safeguarding concern.

If the action undertaken at this point results in it being established that:

* This is not a safeguarding concern and therefore does not meet the threshhold, or
* The safeguarding concern has been resolved and the adult is no longer at risk of abuse or neglect (real or suspected)

Then the local authority’s duty under Section 42 will have been discharged and the enquiry can be concluded at this point.

**When information should not be treated as a safeguarding concern**

If the initial basic checks undertaken by the local authority at the point of receiving, or identifying, the information do not indicate the adult to whom it relates meets the three key tests then the information should not be treated as a ‘safeguarding concern’ and the local authority’s duty to undertake an enquiry under Section 42 of the Care Act is not triggered.

The local authority will determine the most appropriate response to address the issues involved in the same way as it would for any other contact requesting its action or assistance.

**The nature and circumstances of abuse or neglect the adult may be experiencing**

When a safeguarding concern is identified, the local authority should establish as far as possible the nature of abuse or neglect that the adult appears to be at risk of, or experiencing.

The type and pattern of the abuse or neglect, and the different circumstances in which it may take place, will inform and influence decisions regarding the most appropriate approach and response to the safeguarding concern including: making initial contact with the adult, the assessment of risk for the adult and others, and possible responses that should be considered to support the adult including which, if any, other agencies or organisations might need to be involved.

**What is an enquiry?**

An enquiry is the action taken or instigated by the local authority in response to a concern that abuse or neglect may be or has taken place and meets Section 42.

Other enquiries can be made where a person does not meet Section 42 for example if enquiries are required where the person has died. The reasons for proceeding would need to be explained.

An enquiry:

* Begins when there is any action taken by the local authority following receipt of a safeguarding concern. This could range from:
* An informal conversation with the adult, or
* A more formal multi-agency discussion, or
* If the adult lacks capacity or has substantial difficulty in understanding the enquiry, a conversation with their representative or advocate.
* Should establish whether any action needs to be taken and, if so, by whom.

**Role of the Safeguarding Lead**

When the local authority duty to make enquiries is triggered, i.e. the three key tests are met, a Safeguarding Lead will be appointed by the local authority.

The initial function of the Safeguarding Lead is to determine by information gathering if required that Section 42 is met. They can gather this information themselves or request an Enquiries Worker to gather this information.

Their overall role is to have responsibility for coordinating responses and decision making and to ensure the local authority duty to undertake Section 42 of the Care Act is discharged appropriately. There may also be an Enquiries Worker appointed to support the Safeguarding Lead. The Safeguarding Lead will be responsible for making decisions as to what action should be taken with regard to the person/s or organisation thought to be the cause of risk.

**Role of the Enquiries worker**

The first priority should always be to ensure the safety and well-being of the adult and then:

* Where tasked gather relevant information to help determine if the Concern meets Section 42. Once established the Safeguarding Lead will record the decision whether to proceed with Section 42 or other enquiries.

The Safeguarding Lead will request the areas for the Enquiries Worker to pursue examples below:

* Check/ascertain the adult’s views and wishes by consultation with them or their advocate as appropriate.
* Establish the facts by gathering relevant paper work, speaking or meeting with other professionals, appropriate family members or care providers etc.
* Assess the needs of the adult for protection and support, and how these might be met.
* Provide support to the adult where appropriate to achieve resolution.
* To follow up on any actions agreed as a result of any Enquiries Meetings or discussions.

The adult should experience the safeguarding process as empowering and supportive.

**A person-centred approach**

There is no set process for conducting an enquiry.

An enquiry will always be person-centred, based on the individual circumstances of the adult, the safeguarding concerns affecting them, the outcomes they want to achieve, and actions agreed with them to address the safeguarding concerns.

This will be achieved through conversations with the adult or their representative, and may involve other parties.

**Who can carry out an enquiry?**

Although the local authority is the lead agency for making enquiries, it may require others to undertaken them. The specific circumstances will often determine who the right person to begin an enquiry is.

When the local authority requests another organisation or agency to take action to respond to a safeguarding concern this is known as ‘causing an enquiry to be made’. In many cases a professional who already knows the adult will be the best person. They may be the social worker, a housing support worker, health worker such as a community nurse, etc.

The local authority should agree the following with the adult and agency or organisation requested to undertake action in response to a safeguarding concern:

* The nature, scope and purpose of the actions or enquiry the agency or organisation is being asked to undertake.
* The outcome the adult is seeking from the actions or enquiry, how the adult will be advised of the progress and the outcome, and who will be the lead professional responsible for communicating with the adult.
* Agree the most appropriate method for feedback and notify of any relevant time scales.

The local authority is responsible for ensuring that the enquiry is referred to the right place and is acted upon. The local authority, in its lead and coordinating role, should assure itself that the enquiry satisfies its duty under Section 42 to decide what action (if any) is necessary to help and protect the adult, and who will undertake any actions. The local authority must also ensure that any actions are taken.

**Timescales for undertaking and concluding enquiries**

Timescales for undertaking and concluding enquiries into safeguarding concerns will be determined on an individual basis based on the circumstances of the adult, the outcomes they wish to achieve, and the risks involved. Progress should be monitored and reviewed regularly to avoid any undue delays.

Wherever possible a safeguarding concern should be resolved at the earliest point through actions agreed with the adult at the start of the enquiry. Where this is possible, the safeguarding concern will be resolved through enquiry actions. All action should be proportionate to the concern and should not be prescriptive, e.g. don’t specify review required, record action as ongoing case work, etc.

**Where the adult remains at risk of abuse or neglect through their own choice**

Where possible, the local authority should agree with the adult how they are going to support them.

Where this is not possible, the local authority and other agencies must agree any ongoing actions relating to the protection plan, underpinned by the Making Safeguarding Personal approach.

**Where the adult does not wish to pursue enquiries and does not want the person or service thought to be the cause of the risk contacted**

* If the adult has capacity to make an informed decision and nobody else is potentially at risk or affected the adult’s wishes must be respected.
* If there is significant risk to the adult themselves consideration needs to be given as to whether their wishes should be overridden. It should be taken into consideration that the individual could be frightened or feel threatened by the alleged perpetrator or any repercussions from pursuing enquiries.
* If it is suspected that an offence may have been committed this needs to be discussed with the Police to agree a way forward even if the adult does not wish to make a statement.
* Where there may be risk to other adults or individuals, while the adult’s wishes should be respected wherever possible, appropriate action should be taken to ensure the rights and safety of others.

Where the person has declined further enquiries the original concern can still be deemed a safeguarding but concluded for this reason.

**Concluding an enquiry**

Once the safeguarding concern is resolved through actions agreed with the adult through the enquiry response, and the adult no longer remains at risk of abuse or neglect (real or suspected), the local authority’s duty of enquiry under Section 42 concludes.

At the conclusion of each enquiry the adult or their representative should be asked if their desired outcomes have been achieved fully, partly or not at all.

When further action is needed because the adult is deemed to be at continuing risk of harm, work will continue with them to develop strategies to reduce or manage the risks they are facing. A range of organisations/professional may need to be included in this.

Once the safeguarding is concluded there may still be outstanding work in relation to disciplinary proceedings or work by CQC to improve care standards. This falls outside the safeguarding process and should be considered as ongoing case work.

**Checklist for completed enquiries**

A section 42 enquiry can be concluded when the local authority is satisfied that the following have taken place:

1. The enquiry has included the views, wishes and best interests of the adult, and has been centred on their desired outcomes.
2. The person or organisation thought to be the cause of risk has had an opportunity to give their views, and respond to the concern wherever possible.
3. Relevant information has been gathered and evaluated to support or discount the concern so that the cause of risk can be identified to prevent future abuse where possible.
4. The enquiry has been thoroughly completed including identifying the category of suspected abuse.
5. Communication has been established with commissioners that have responsibilities towards the adult. Where the service provider is the focus of the concern, the Safeguarding Lead has advised the commissioner or contract teams and the CQC.
6. Information has been shared and minutes circulated where appropriate and as necessary, including any wider actions that are recommended.
7. Any recommended further actions, including referrals to professional bodies such as the Disclosure and Barring Service, have been addressed.
8. Arrangements are in place to ensure that the individual, their representative or other relevant parties receive feedback regarding the findings of the enquiry.

This checklist should also be used by any agency or organisation the local authority has asked to undertake an enquiry under Section 42, to consider if it has concluded its enquiry appropriately, and has covered all the areas required in order to discharge its duty.