

# **Adult Sexual Exploitation (ASE)**

## **Hampshire Multi-agency**

### **Practice Guidance**

This document has been developed with input from key safeguarding partners within Hampshire including the Hampshire Constabulary, Hampshire Clinical Commissioning Groups (CCGs), Hampshire County Council Adults' Health and Care Department, the Southern Health Foundation NHS Foundation Trust, Inclusion Hampshire and service users working within the independent sector. It was signed off by the key agencies in early spring 2018.

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## **Introduction and purpose of this guidance**

The guidance provides advice and information to support multi-agency working with adults who are experiencing or at risk of experiencing Adult Sexual Exploitation (ASE). It has been signed off by the key statutory agencies involved in its development. It is intended to support good practice across all agencies within Hampshire. This guidance should where appropriate also be read in conjunction with the Hampshire Safeguarding Adults Board (HSAB) Safeguarding Adults Procedure and Policy and the HSAB ASE strategy.

### **1. What is Adult Sexual Exploitation?**

There are key aspects of sexual exploitation that are common whether the exploitation is of children or of adults at risk of abuse. Sexual exploitation involves someone taking advantage of the child or adult sexually, for their own benefit through threats, bribes, violence, and humiliation. The perpetrator uses their power to get the child or adult to do sexual things for the perpetrator's own or other people's benefit or enjoyment.

The definition of child sexual exploitation provided by the Department of Health is:

“Child sexual exploitation is a form of child sexual abuse. It occurs where an individual or group takes advantage of an imbalance of power to coerce, manipulate or deceive a child or young person under the age of 18 into sexual activity (a) in exchange for something the victim needs or wants, and/or (b) for the financial advantage or increased status of the perpetrator or facilitator. The victim may have been sexually exploited even if the sexual activity appears consensual. Child sexual exploitation does not always involve physical contact; it can also occur through the use of technology”<sup>1</sup>.

In relation to adults who are at risk of sexual exploitation there is a spectrum of seriousness of exploitation. Less serious instances might include a one off exploitative situation between a couple while at the other end of the spectrum there may be instances of organised crimes where adults are trafficked and sexually exploited on a large scale.

### **2. Recognising and understanding ASE**

Behaviours that are likely to be associated with ASE include:

- Being missing regularly, appearing with unexplained gifts
- Being vulnerable to being manipulated or coerced into sexual relations
- Being socially isolated
- Having previous experience of being sexually abused or exploited
- Sexually transmitted infections;

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<sup>1</sup> Department of Health “Child Sexual Exploitation, Definition and a guide for practitioners” (2017) p.5 [Child sexual exploitation: definition and guide for practitioners - GOV.UK](#)

- Mood swings or changes in emotional wellbeing;
- Drug and alcohol misuse
- Displaying inappropriate sexualised behaviour
- Having a low self-image, low self-esteem, self-harming behaviour including cutting, overdosing, eating disorder, promiscuity;
- Disengagement from employment or daytime services;
- Significantly older boyfriend;
- Being frequently missing, staying out overnight or returning late with no plausible explanation;
- Entering or leaving vehicles driven by unknown people;
- Going missing and being found in areas where they have no known links; and/or
- Possible inappropriate use of the internet and forming on-line relationships.
- Having physical symptoms (bruising indicating either physical or sexual assault);
- Phone calls or letters from adults outside the usual range of social contacts.

There are many possible reasons why an 'adult at risk' is going 'missing' from their usual accommodation, most of which are likely to be perfectly harmless, however in some cases where a pattern has emerged, this could be an indicator that the 'adult at risk' is being sexually exploited. Adults who may be less able to protect themselves from exploitation because of their disability, and are going 'missing' on a regular basis could become vulnerable to being groomed and sexually exploited.

If an adult at risk's whereabouts cannot be established and the circumstances are out of character, or the context suggests the person may be the subject of crime, or they may be a risk themselves or others, concerns should be raised.

These issues may appear together in day to day practice, as there is often an overlap and interaction between them. The sexual exploitation of adults is rarely likely to be perpetrated by strangers. More often the person or people who are organising or benefitting from the exploitation will be known by the adult at risk, and a period of grooming is likely to have occurred. The perpetrator may even be regarded by the adult as a friend. Apparent collusion with the perpetrator can add to confusion when attempting to identify an adult at risk as a victim of trafficking or exploitation. Disclosure from the adult can take time, especially where if they are within the control of the perpetrator, and relies on a relationship of trust and safety being established.

### **Exploitation, going missing and human trafficking – the potential linkage between these different crimes**

Within the work of Child Protection there are three areas of potential criminal acts against children which are commonly linked – going missing, being exploited and being trafficked. This trio of concerns are commonly referred to as 'Missing, Exploited and Trafficked' (MET). These crimes do not all necessarily involve sexually harm; they may involve children being exploited in other ways such as being made to work with little or no payment, they may involve physical harm and/or emotional harm. However the data available suggests that there is a strong link between each of these issues and the risk of children being sexually harmed.

Additional signs that suggest an adult may be at risk of human trafficking

- Being required to earn a minimum amount of money every day;
- Working in various locations;
- Having limited freedom of movement;
- Known to beg for money;
- Performs excessive housework chores and rarely leaves the residence;
- Being excessively afraid of being deported.



Similarly within adult safeguarding it is important for professionals to consider the possibility of sexual exploitation and/or human trafficking if an adult goes unexpectedly missing and particularly if a pattern of going missing emerges. While many instances of an adult at risk going missing may have an 'innocent' explanation, and be resolved quite quickly, if a pattern develops, then exploitation and or trafficking should be considered.

### **3. Mental capacity in relation to sexual relationships**

Practitioners face the challenge of balancing the promotion of the rights and needs of the adult (which include their right to a sexual life) with the need to support the adult to manage and reduce their risk of sexual harm. Adults should be supported to make their own decisions wherever possible, however in cases where there are questions about decision-making and risk of harm, assessment of the adult's mental capacity to make decisions about their safety is key. Sexual acts with an adult who lacks the mental capacity to consent are sexual assault and are a criminal offence under Sexual Offences Act 2003.

#### **Assessing capacity to consent**

- The assessment should be undertaken by a practitioner who knows the adult. It does not need to be undertaken by a doctor, psychiatrist or psychologist, unless there is a particular

reason that would be required (e.g. if the adult had a particularly complex mental health issue that was effecting their understanding about sexual relationships).

- However the adult may need specialist input to the assessment such as an IMCA.
- The courts (and relevant case law) regard the choice to form a sexual relationship or consent to sexual acts as a fundamental need and right. (See Case Study MM on [page ?](#)). The adult being assessed should not be expected to approach decisions about sex with a greater level of reflection and rational analysis than other adults generally demonstrate.
- The ability to use or weigh relevant information must form part of the evaluation of capacity to consent to sex, alongside the ability to understand and retain information and to communicate a decision once made, but courts have confirmed that it was “unlikely to loom large”.
- A number of assessments may be required, as it is important to distinguish which specific decisions the adult has or has not got capacity for (e.g. they may have capacity to decide on frequency of contact with a sexual partner but lack capacity to decide whether they should live with their sexual partner).
- Identify a number of meaningful options, choices and plans with the user for him/her to consider as a part of the assessment process. The choices should be sufficiently detailed and realistic.
- Unwise decisions are not necessarily in themselves evidence that the adult lacks capacity in relation to sexual relationships.
- Have all reasonable steps been taken to support decision making - how has the person been supported to weigh up risks and benefits? The assessment of whether a person has the capacity to consent to sexual relations is an assessment that looks at their general capacity to consent to sex (the ability to decide to have sexual activity), rather than being specific to any particular person (partner) or any particular occasion (*the ability to decide to have sexual activity with X*).<sup>2</sup>
- As with any assessment of capacity, it is essential not to conflate ‘best interests’ considerations and questions of capacity at the stage of assessment capacity. Sections 2 and 3 of the Act govern the assessment of whether a person has capacity in relation to any class of decisions
- A person is unable to make a decision for themselves to consent to having sexual relations if they are unable to understand the information relevant to the decision, retain the information, to use or weigh that information as part of the process of making the decisions, or to communicate their decision (whether by talking, using sign language, or any other means)

The court has considered the test for capacity to consent (or not to consent) to sexual relations in a number of cases. The information relevant to the decision has been held in those cases to be:

- A basic understanding of<sup>3</sup> the mechanics of the act<sup>4</sup>

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<sup>2</sup> PC v City of York Council (2013) EWCA Civ 478, (2013) MHLO 61

<sup>3</sup> Court of Protection - Mr Justice Mostyn (D v AB, 2011)

<sup>4</sup> An understanding of basic mechanics is required not a scientific knowledge, to the level of the ‘man in the street’. This should not be overly demanding or “divorced from the actual decision-making process carried out in that regard on a daily basis by persons of full capacity“, which “is largely visceral rather than cerebral, owing more to instinct and emotion than to analysis.

- That there are health risks involved (e.g. STIs)
- That sex between a man and a woman may result in the woman becoming pregnant;

For the avoidance of doubt, consent is not part of the ‘information’ test within section 3 as to the nature of the act or its foreseeable consequences. It goes to the root of capacity itself. The ability to understand the concept of and the necessity of one’s own consent is fundamental to having capacity; in other words that the person knows that she/he has a choice and can refuse<sup>5</sup>.

### **When might we need to consider an application to the Court of Protection?**

While the Mental Capacity Act 2005 allows for the *assessment* of an individual’s capacity to make decisions about sexual activity, the Act does not permit a person to make a decision on another’s behalf about sexual relations (s.27(1)(b) MCA 2005). A person who lacks capacity in regard to sexual activity **cannot** consent.

It follows that no ‘best interests’ questions can arise if there is a finding that the person lacks capacity to consent to sexual relations. In those circumstances, it would be a criminal offence for a person to have sexual intercourse with the person and safeguarding duties would arise which in all likelihood would mean that steps would have to be taken to protect the person which may amount to a deprivation of their liberty.

If a protection plan includes such significant restrictions as restricting access to the adult’s chosen sexual partner then it is likely that an application to the Court of Protection will be required in order to determine whether that restriction is appropriate and valid, given the potential breach of article 8 (Human Rights Act) right to family life. The Local Authority does not have any legal authority to restrict contact between adults. Even though an individual may lack capacity to consent to many other decisions in their lives, the court may find that they do have the ability to consent to sex.

Adults who lack the mental capacity to consent to having a sexual relationship are highly vulnerable to being exploited. If they are involved in a sexual relationship, this is a criminal sexual assault unless an appropriate protection plan and legal framework has been agreed via the Court of Protection.

### **When an individual has mental capacity but is being coerced into a sexual relationship**

Victims may be subject to threats and will not always recognise what they are being subjected to is abuse. They may even think of their abuser as a friend, partner or someone they are having a consensual sexual relationship with. The nature of the needs and vulnerabilities of the adults involved may not always be immediately obvious. Careful consideration needs to be given to whether there is a level of coercion or duress involved in the sexual relationship. Additionally even if they do recognise that the relationship or situation is abusive, they might make choices to continue in the abusive relationship because of powerful psychological reasons and/ or because they have been coerced or threatened that they must remain in the relationship.

Adults with mental capacity to make decisions about their sexual relationships may still be at risk of being manipulated or sexually exploited and their situation may still meet the safeguarding criteria.

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<sup>5</sup> LB of Southwark v KA (Capacity to Marry) [2016] EWHC 661 (fam)

Section 42 safeguarding processes or other appropriate risk management frameworks and protection planning in partnership with the adult should work towards the adult finding ways to decrease the risks they face. The police should be contacted for advice where crimes are suspected. Although the Mental Capacity Act would not be applicable, in some cases the power of Inherent Jurisdiction can allow the courts (the High Court) to issue directions or orders to support the adult who has capacity but is being coerced or controlled and where undue fear impacts their ability to give genuine and informed consent. There is further information about Inherent Jurisdiction in the legal section of this guidance.

#### **4. Positive risk taking and protection plans**

Safeguarding interventions should “enhance involvement, choice and control as well as improving quality of life, wellbeing and safety”<sup>6</sup>. In some situations it can be difficult to know what kind of approach to take in order to balance the rights of the individual adult (who may want to have a sexual relationship but be at risk of sexual exploitation) with appropriate risk management. The ‘common law duty of care’ requires that we respect people’s right to make choices while taking reasonable steps to identify and reduce risk (Dept of Health 2011). Please refer to the Hampshire multi-agency Assessment Conversation Tool (ACT) which can be used to support sensitive conversations with adults about risks (at Appendix 10.1).

Practitioners should ensure that supported decision making is undertaken with the individual to maximise the possibility that they can make an informed decision and develop a protection plan that balances reduced risk with the adult’s right to have a sexual life. Consider what safe measures can be put in place to reduce any risks – ‘all reasonable steps’ must be taken in line with the positive risk taking approach, the Mental Capacity Act principles<sup>7</sup> and the Code of Practice. The wishes and views of user are central to any protection plan whether they have capacity or not.

Research supports the benefits of positive risk taking which emphasises the need for opportunities to develop social and sexual relationships (Kennedy 2003). Measured risk taking is found to have enhanced independence of adults with learning disabilities (Heyman and Davies 2006).

Ability to consent to marriage is separate to the ability to consent to sex, and requires a separate assessment of mental capacity. Several separate assessments of capacity may be required in order to put together a protection plan. Some elements of a protection plan should be made using Best Interest decisions if the adult lacks capacity for that specific decision/element of the plan. The House of Lords Scrutiny Committee (2014) highlighted the need for practitioners to avoid being risk averse and misunderstanding the Best Interest decision making process which “has too often been the vehicle for poor decision making” Dr Claud Regnard.<sup>8</sup>

#### **5. How to respond if an adult may be at risk of ASE**

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<sup>6</sup> The Care Act 2014 statutory guidance 14.15

<sup>7</sup> The 5 principles - assume capacity, assisted decisions, unwise decisions, BI, least restrictive Unwise decision-making need not indicate reduced capacity.

<sup>8</sup> <http://www.parliament.uk/business/committees/committees-a-z/lords-select/mental-capacity-act-22005/news/mca-press-release---13-march-2014/>



## **The Hampshire Multi-Agency Assessment Conversation Tool (ACT)**

The Hampshire Children's Safeguarding Board has adopted a Sexual Exploitation Risk Assessment Framework (SERAF), which was developed by Barnardo's for use with children by a wide range of practitioners. A shortened Child Sexual Exploitation Risk Questionnaire (CSERQ4) has also been developed for use by agencies that have 'time limited' contact with children, including GPs, pharmacists and paramedics/ambulance staff, in order to help them quickly identify children at risk of sexual exploitation.

However in relation to adults, the legal framework which defines what situations are regarded as abuse, is quite different. It would not be appropriate for a screening tool for adults to be used in such a broad way. For that reason it needs to be focussed on the specific groups of adults who are receiving support and care services (within the meaning of the Care Act 2014) where the nature of their needs mean that they are less able to protect themselves from being abused or exploited. The adult's tool is intended for use by practitioners across agencies to provide an early screening tool for use with adults who may be at risk of or experiencing sexual exploitation. The questions support the sensitive conversations that need to take place around sexual risk to inform risk assessment. The tool will also be used by practitioners at the Hampshire Multi-agency Safeguarding Hub (MASH) to assist in determining when referrals meet the safeguarding criteria and what level of risk is present. The tool enables safeguarding actions to be linked to evidence of risk, providing the opportunity to identify those at potential or actual risk and prompt professionals to consider preventative actions or interventions.

### **Using the multiagency assessment conversation tool**

a) By front line staff working in the community who are concerned that a service user may be experiencing or at risk of ASE

The tool can be used by staff in any agency in Hampshire (including the statutory and independent sector). Where ASE or trafficking, or the risk of it, is suspected or disclosed, it will usually be most appropriate to contact the Local Authority (via Hantsdirect on :0300 555 1386 or Email: [Adult.Services@hants.gov.uk](mailto:Adult.Services@hants.gov.uk)) or the Police in more urgent situations where a crime is suspected.

**Adult shows some signs which suggest they may be vulnerable to or experiencing ASE**

**Practitioner discusses case with their manager**

**Practitioner talks with the adult at risk about their concerns**

**Practitioner completes the screening tool with the adult, if adult consents to this**

**Practitioner makes referral by raising a safeguarding concern to the Hampshire MASH**

**or Practitioner supports the adult to raise a safeguarding concern to the MASH (or direct to the police)**

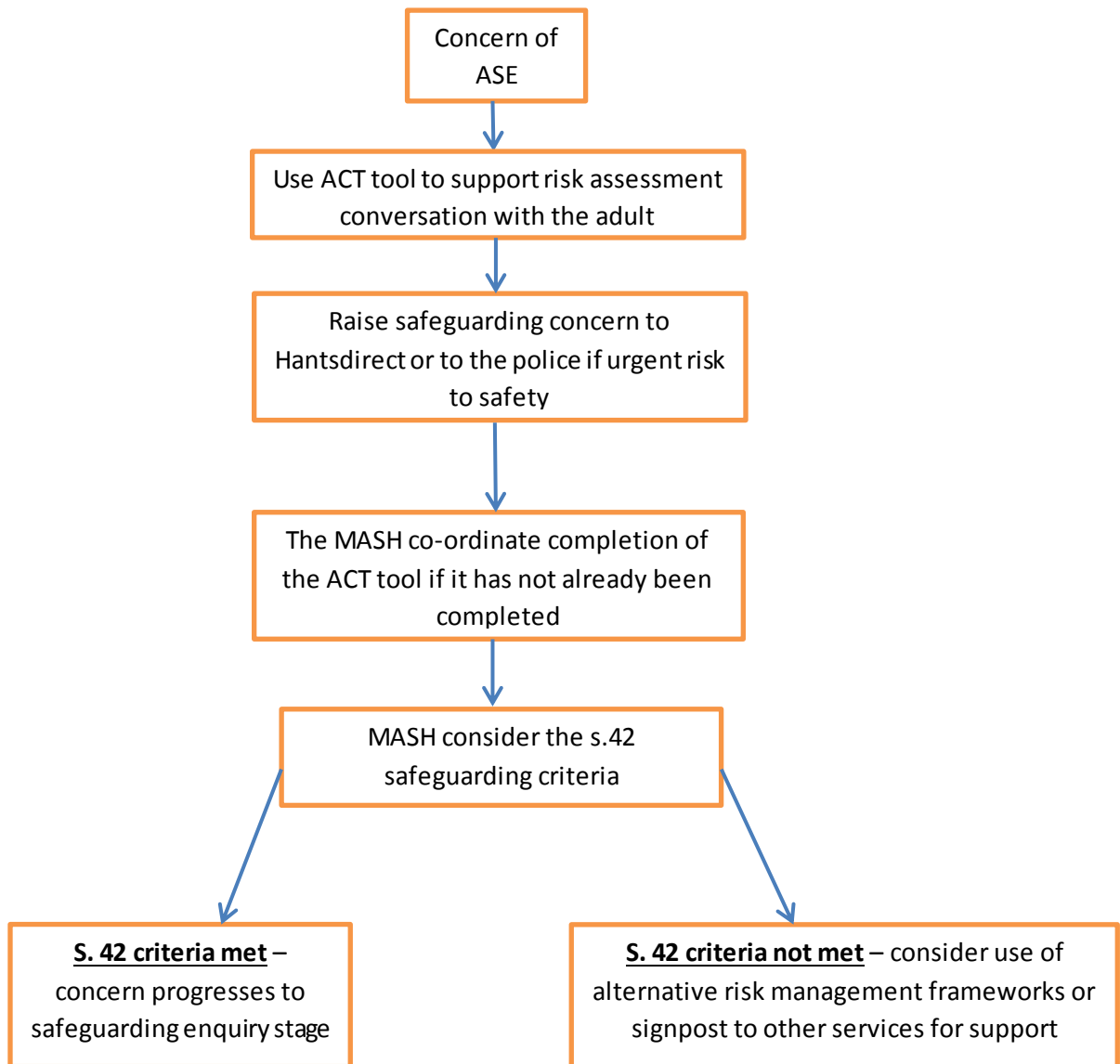
b) By members of the MASH and staff on duty in local community teams

There will be some cases which come to the attention of the MASH where it is not apparent to the referrer that ASE may be a risk that is present. The practitioners in the MASH will remain alert to the possibility of ASE being a factor in safeguarding concerns that they receive. Where they feel this is a possibility the MASH practitioner will use the screening tool to provide an initial check on the possible risks or may ask the referrer to use the tool to talk directly with the adult in order to gain a clearer understanding of the risks.

**Additional risks that are raised when a practitioner becomes aware of the situation**

Adults who are being exploited in this way may well be at enhanced risk following the recognition that they are being exploited if the perpetrator becomes aware. Very careful consideration is required in the handling of this initial stage to reduce the possibility that the adult is put at increased risk of harm or disengaging from the services.

### ASE Referral Flowchart



### Cases where the adult's situation meets the safeguarding criteria

The Care Act 2014 identifies safeguarding criteria which the local authority uses to confirm whether or not an adult 'at risk' requires a safeguarding response under section 42 of the Care Act. The safeguarding '3 point test' criteria are that the adult:

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

Cases which are being investigated using a Section 42 Safeguarding Enquiry are guided by the 'Making Safeguarding Personal' ethos in line with the Care Act statutory guidance and the HSAB safeguarding policy and procedure. It is essential to ensure the service user's views and wishes remain central to the enquiry as far as possible.

Adults who are already being abused or are at risk of becoming victims of sexual exploitation may not recognise themselves as such, so it is essential that professionals are aware of possible signs of ASE and what to do in response. Early signs of ASE should be flagged up so that safeguarding partners including the police are able to spot possible criminal offences and emerging patterns such as organised crime and exploitation rings.

In some cases it will be clear that the adult has care and support needs which mean they are unable to protect themselves from abuse. Cases that are already open will be responded to by the relevant community team, and concerns about adults who are not open cases will be responded to by the Multi Agency Safeguarding Hub (MASH) to determine if they meet the statutory safeguarding eligibility criteria.

### **Managing risk in cases where it is less clear whether the adult's situation meets the safeguarding criteria**

In these cases careful assessment will be required to explore whether the adult should be referred to and /or accepted within the section 42 safeguarding process.

- Cases when adults who are at risk of harm and have conditions and corresponding needs which fluctuate (e.g. people with certain mental health conditions, people who are addicted to substances). The adult may be able to protect themselves at certain times or
- Cases where the person's needs are not significant or severe enough to meet the threshold for care and support services (e.g. an adult with a learning difficulty or mild learning disability or an adult with a low level mental health problem).
- Cases where the adult is felt to have mental capacity in relation to key decisions and the risk situation is a chronic one (e.g. some cases of domestic abuse). These circumstances are not ideally suited to the short term 'shape' of a section 42 safeguarding enquiry which is better suited to exploring and responding to individual specific incidents of abuse.

Where the circumstances do not meet or are not well suited to the section 42 safeguarding criteria but there are concerns about the adult's vulnerability to exploitation and harm, consider the use of a multi-agency framework that will support shared risk assessment and shared risk management, such as the Care Programme Approach (where appropriate). Health and protective advice should be given to the adult and where a crime has been committed they should be advised and supported to contact the police.

For complex cases involving risks where safeguarding is not appropriate, the Hampshire Safeguarding Adults Board has introduced the HSAB Multi-agency Risk Management Framework which supports the facilitation of multi-agency risk management meetings to be held. Details of the principles that underpin the framework can be found at:

<http://www.hampshiresab.org.uk/wp-content/uploads/Multi-Agency-Risk-Management-Framework-16-02-16.pdf>

Each agency involved in the risk framework process allocates a lead worker to agree actions and make operational decisions about the case. The multi-agency forum identifies someone to act as the lead coordinating professional for the process. The multi-agency risk management plan that is developed must be proportionate and focussed on the prevention, reduction or elimination of future risk of harm. This plan will be jointly owned by the adult and the professionals working with them.

## **6. Children and young adults in transition**

### **Child Sexual Exploitation (CSE)**

Social workers working with adults where there are also children in the household should be aware if there are signs of sexual exploitation exhibited by the children and/or the adults in the household. Where there are concerns that children may be at risk of sexual exploitation early contact should be made with the Children's Multi Agency Safeguarding Hub (MASH) via Hantsdirect on: 0300 555 1386, and should also follow the guidance in the Hampshire, Isle of Wight, Portsmouth & Southampton 4 Local Safeguarding Children Board (4LSCB) Missing, Exploited and Trafficked Children Protocol which can be found at:

<http://www.hampshiresafeguardingchildrenboard.org.uk/wp-content/uploads/2016/11/HSCB-MET-Strategy-May-2016-Web-Version.pdf>

### **Transition – young adults**

Sexual exploitation does have some similar aspects whether the victim is a child or an adult. Children who have already been sexually exploited may be particularly vulnerable to that abuse continuing after they become 18. At that point the legal framework around them changes radically, however their risks of being sexually exploited may not necessarily decrease. There are three distinct groups of young adults that are more likely to remain vulnerable to sexual exploitation:

Reference document: “Unprotected Overprotected (2015)”.

Also: [http://lx.iriss.org.uk/sites/default/files/resources/behind\\_closed\\_doors.pdf](http://lx.iriss.org.uk/sites/default/files/resources/behind_closed_doors.pdf)

**a) Services for young people with disabilities who are due to transition into Adult's Health and Care** are provided by the Hampshire County Council Independent Futures Team (IFT). The IFT assess young people across care groups for eligibility for adult social care, and work with young people 14-25, but mostly 16-19 young people who have mental health problems, physical disabilities and/or learning disabilities and with care leavers.

**b) Children and young adults who have been missing, exploited or trafficked** - these young people may have already been victims of CSE and may be emotionally struggling, isolated or have mild learning disabilities. They are vulnerable to being targeted by perpetrators of sexual exploitation as they move into adulthood. They are supported by the multi-agency Willow Team which is structured under a Child Exploitation heading with 4 sub groups – CSE, Trafficking, County lines and Modern Day Slavery.

**c) Young adults who do not meet the eligibility threshold for adult social care** – The Children Act provides some legal protection for children post 18 who were previously ‘looked after’ children, and Childrens Services offer on-going support to them potentially up to the age of 25. However there is a cohort of young people moving into adulthood are at risk of ASE but may not meet the eligibility criteria for support or safeguarding responses from adult’s social care, it is important to signpost them to other support services that are available. A quarterly liaison meeting is now held between Willow Team and MASH to discuss the needs of these young adults who are in the final year of support from the Willow Team, so that early consideration can be given to whether they meet adult safeguarding and service criteria, and to ensure signposting is provided if they are not eligible for statutory support.

## **7. Support and signposting for victims of ASE**

Adults may need to be supported and enabled to express their wishes and feelings to make sense of their particular circumstances and contribute to or be supported to take decisions that affect them. They may have been groomed or intimidated, be afraid and/or dependent on the exploiter/s’ provision of money, gifts, drugs or alcohol. They may therefore reject offers of help and support; interventions need to be designed to address this.

**Victim support, rape crisis services** (click on blue links for further details or go to the ‘Connect to Support’ website at <https://www.connecttosupporthampshire.org.uk/> )

Sexual Assault Referral Centre – offers crisis healthcare and emotional support to people who have been raped or sexually assaulted together with a forensic medical examination and interview with the Police should the person wish to report the incident Rape Crisis telephone helpline and counselling services – are available to adults in different locations across Hampshire and are provided by Basingstoke Rape and Sexual Abuse Crisis Centre [BRASACC](#), Portsmouth Abuse and Rape Counselling Service [PARCS](#) , Winchester Rape and Sexual Abuse Counselling Service [Winchester RASAC](#) and [Yellow Door](#)

Independent Sexual Violence Advisor/Advocate - offers practical support and advice to people who have experienced rape or sexual violence at any point in their lives. This includes supporting people to report a crime and throughout the criminal justice process. [Yellow Door](#)

### **Hampshire Integrated Sexual & Reproductive Health Services**

Hampshire County council and Hampshire Clinical Commissioning Groups currently commission Solent NHS Trust to provide a comprehensive range of integrated sexual health services, in addition to the contraceptive and sexual health services which are also provided in General Practice.

All of these services are free and confidential and include services for:

- Sexually Transmitted Infection (STI) Testing and Treatment, including online STI testing by post
- Contraception, including Long Acting Reversible Contraception (LARC)
- Emergency Contraception
- Termination of Pregnancy
- Vasectomy
- Condoms by Post
- 1:1 Sexual Health Promotion & Behaviour Change Support
- Psychosexual Counselling
- Domiciliary & Outreach Services for people who are unable to attend clinics

For details of local clinics and opening times please visit [www.hants.gov.uk/getiton](http://www.hants.gov.uk/getiton) or [www.letstalkaboutit.nhs.uk](http://www.letstalkaboutit.nhs.uk)

Details of specialist clinics can be found at <https://www.letstalkaboutit.nhs.uk/specialist-clinics/>

#### **Universal services that provide support and advice**

**Domestic abuse :** [Domestic abuse support](#) - A confidential help service for women, men, children and young people experiencing domestic abuse in Hampshire. Helpline: 03300 165 112. 24-hour National Domestic Violence Helpline 0808 2000 247.

**Rape Crisis :** Rape Crisis national free phone helpline on 0808 802 9999 (12-2.30pm and 7-9.30pm every day of the year)

## **8. Appendices**

### **8.1 Appendix 1 - Hampshire multi-agency assessment tool**

#### **Hampshire Multi-Agency Assessment Conversation Tool (ACT)**

##### **Purposes**

- a) The tool can be used by practitioners from any agency to support sensitive conversations with adults they think may be experiencing or at risk of adult sexual exploitation (ASE).
- b) The tool can be used by practitioners in the Hampshire Multi-agency Safeguarding Hub (MASH) to assist with the risk assessment of referrals.

If you are talking with the adult who may be at risk, you may like to open the assessment with the following introductory statement: "I would like to ask you some questions to check that you are safe and no one is harming you or pressurising you to have sex. This conversation will remain confidential however if you tell me something that makes me think that you or somebody else that you mention is at risk of being hurt then I will need to speak to somebody else about it".

	<b>Questions</b>	<b>Yes</b>	<b>No</b>
1.	Have you had sex with anybody recently? (check understanding of sex, including touching/kissing)		
2.	Has that person ever made you feel scared or unhappy or told you to keep it a secret?		
3	Has anyone ever given you something for you to have sex with them? (The gift might include mobile phones, drugs, alcohol or protection)		
4	Has anyone you have had sex with stopped you from doing the things you want to do?		
5.	Do you feel able to say no to sex or anyone you are having sex with?		
6.	Would you like to talk to somebody about sex & relationships? (assess need for contraception/condoms/STI testing/sexual health promotion)		

##### **Risk assessment**

A 'yes' to questions 2-5 may indicate that the adult is at increased risk of sexual exploitation.



### **Next steps:**

- If you suspect that the adult is at risk of or experiencing ASE you should advise them that the concerns need to be shared with a social worker.
- Be aware that if the adult is being groomed or exploited, if the perpetrator becomes aware that they are seeking help, they may be at increased risk of being harmed.
- If the adult would like to talk with a social worker, support them to contact Hampshire County Council Hantsdirect (:0300 555 1386) to raise a safeguarding concern to the MASH.
- If the adult is unable or reluctant to discuss the concerns, the practitioner should contact Hantsdirect to discuss the risks and get advice on what next steps are appropriate and in line with statutory safeguarding requirements. Even in cases where the individual adult at risk is reluctant (or unable) to raise a safeguarding concern, it may still be necessary to share the information as other adults at risk of harm may be being exploited.
- If a crime has been committed then the police should be informed.

## **8.2 Appendix 2 – Psychological theories and conditions that are relevant to adults who have experienced ASE +**

### **Understanding the psychological dynamics that can affect adults who are being sexually abused and/or suffering physical violence**

There is a growing body of research which helps us to understand the complex and powerful psychological interactions that are likely to be present between the adult being exploited and the perpetrator of the abuse, and the reasons why victims of exploitation and abuse are likely to struggle to escape their situation. For more detail on why and how the psychological conditions occur please refer to Appendix 1.

### **Post traumatic stress disorder (PTSD)**

Some victims of abusive violence and exploitation can develop PTSD, a specific anxiety disorder that occurs as a response to a traumatic event or period of victimization in a person's life. It involves long-term intense fear, re-experiencing the traumatic event (e.g. nightmares, flashbacks), avoidance of reminders of the event, and being highly reactive (e.g. easily enraged or startled, hypervigilance). It may include feeling detached from other people, guilt, and difficulty sleeping. Individuals with PTSD may experience a number of symptoms similar to those experienced in both anxiety and depression.

### **Drug and alcohol mis-use**

Drug and alcohol use associated with victimization is sometimes explained as a form of self-medication, or an attempt to alleviate other psychological symptoms resulting from the trauma. Sexual abuse in particular has been identified as one significant precursor to serious alcohol use among women. Connections have also been established between victimization and the use of other

drugs. Drugs or alcohol may have been given to the victim as part of the grooming process and continued exploitation.

### Support for adults who are trapped in abusive relationships

Adults will often have strong feelings of shame. Counselling or psychotherapy can help the adult to realize that their actions (in staying with the abuser) and feelings were due to normal human survival instincts, and to help them develop ways of functioning that are not linked to fear and survival.

#### Further reading

Psychoanalyst Zoe Lodrick (February 2013) "Psychological consequences of sexual assault". There are different defensive fear responses:<sup>9</sup>

- **friend** e.g. if possible try to befriend the person who presents the danger to avoid attack
- **fight** e.g. scream, push or hit the attacker
- **flight** e.g. run to escape from the situation

However if none of these are possible or likely to be effective and the adult senses they will be silenced or restrained then other responses will be used to try to limit the potential injury:

- **freeze** e.g. stay silent and still – a passive defence
- **flop** e.g. yield to the sexual or physical impact and dissociate yourself mentally.

### 'Stockholm Syndrome'

In 1973 an escaped convict held four employees of the bank captive for six days. During that time he tortured them with nooses and dynamite. When they were released, none of them would testify against their captor in court; instead they began raising money for his defense.

'Stockholm Syndrome' is a psychological condition that was first recognized in some hostages who develop sympathetic sentiments towards their captors, sharing their opinions and acquiring romantic feelings for them as a survival strategy during captivity. The feelings seem irrational in light of the danger or risk endured by the victims, but can be understood as an unconscious coping strategy or survival response to trauma. They include having positive feelings towards abusers, supporting the reasons and behaviours of the abuser, having negative feelings toward rescuers and an inability to engage in behaviours that will assist release or detachment from abuse.

More recently psychologists have considered how the responses noted in Stockholm Syndrome can help to understand the behaviour and psychological state of adults who are trapped in abusive relationships and how the experience of childhood abuse can effect adult survivors. When an individual experiences repeated threats of or actual violence, 'trauma bonds' can develop as a coping mechanism.

### What are the longer term impacts on the adult

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<sup>9</sup> Taken from a presentation by psychologist Zoe Lodrick

Human beings have basic survival instincts which kick in when they are faced with immediate danger. The part of the brain that will take over in this situation is the Amygdala, which is located within the temporal lobes of the brain. The Amygdala reacts to find ways to enable the adult to survive and escape whatever is presenting the immediate danger.

If the response avoids immediate serious injury/death then if the threat of harm re-occurs the Amygdala will prompt the adult to take the same action again to survive. When the immediate threat has passed and when the cortex kicks back in, the adult cannot understand why they reacted in that way. They feel guilty and ashamed that they did not speak out. They need help to work through the feelings of guilt.

### **8. 3 Appendix 3 - Sexual Exploitation Research Studies**

#### **Child Sexual Abuse, Links to Later Sexual Exploitation/ High-Risk Sexual Behaviour, and Prevention/ Treatment Programs**

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[http://arrow.dit.ie/cgi/viewcontent.cgi?article=1054&context=aaschsslarts&sei-redir=1&referer=http%3A%2F%2Fscholar.google.co.uk%2Fscholar%3Fstart%3D0%26q%3Dsubstance%2Bmisuse%2Band%2Badult%2Bsexual%2Bexploitation%2Buk%2Barticles%26hl%3Den%26as\\_sdt%3D0%2C5%26as\\_vis%3D1#search=%22substance%20misuse%20adult%20sexual%20exploitation%20uk%20articles%22](http://arrow.dit.ie/cgi/viewcontent.cgi?article=1054&context=aaschsslarts&sei-redir=1&referer=http%3A%2F%2Fscholar.google.co.uk%2Fscholar%3Fstart%3D0%26q%3Dsubstance%2Bmisuse%2Band%2Badult%2Bsexual%2Bexploitation%2Buk%2Barticles%26hl%3Den%26as_sdt%3D0%2C5%26as_vis%3D1#search=%22substance%20misuse%20adult%20sexual%20exploitation%20uk%20articles%22)

#### **Research about risks to adults with Learning Disabilities**

- They may be less able to distinguish between abusive and consenting relationships (Murphy & O’Callaghan, 2004). Users may not understand when sexualised behaviour is appropriate (Fyson 2009). They may have capacity to consent but lack insight into partner’s motives. Cognitive impairments may affect decision making, and there may be a higher prevalence of sexual abuse in LD care group (Murphy et al 2004).
- Historically there has been an over-focus on the risks to adults at risk of sexual exploitation, with adults with LD being seen as vulnerable to exploitation – seen as ‘eternal children’. Alternatively there has been a tendency by society to associate adults with LD with deviant sexual behaviour. The Joint Committee on Human Rights (2008) acknowledged that people with LD are particularly vulnerable to infringement of their right to sexual expression.
- Research shows that users with limited understanding of sex and their rights (Murphy & O’Callaghan, 2004, Drummond 2006, O’Callaghan and Murphy 2007) have increased risk. Education reduces risk of abuse and exploitation (Kennedy 2003). Consider supporting access to mainstream sexual education, support and sexual health.
- Provide information in different formats – not just written information.

## **Working Girls: Abuse or Choice in Street-Level Sex Work? A Study of Homeless Women in Nottingham**

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[https://www.researchgate.net/profile/Rachel\\_Harding5/publication/30932370\\_Working\\_Girls\\_Abus\\_e\\_or\\_Choice\\_in\\_Street-Level\\_Sex\\_Work\\_A\\_Study\\_of\\_Homeless\\_Women\\_in\\_Nottingham/links/56150bc008aed47facef9428.pdf](https://www.researchgate.net/profile/Rachel_Harding5/publication/30932370_Working_Girls_Abus_e_or_Choice_in_Street-Level_Sex_Work_A_Study_of_Homeless_Women_in_Nottingham/links/56150bc008aed47facef9428.pdf)

## **Human trafficking and health: A conceptual model to inform policy, intervention and research**

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“Forced or coerced use of drugs or alcohol

Forced or coerced use of drugs and alcohol” is not uncommon among individuals trafficked for forced sex work (Cwikel, Ilan, & Chudakov, 2003). Little is known about coerced drug use for other groups of trafficked persons. Drug or alcohol addiction can be used as a means of controlling individuals. Coerced alcohol use is a particular feature of women trafficked to Japan and Kosovo, where women are obliged to encourage men to buy them drinks (IOM, 2002). Women in our European study reported drinking to keep themselves warm on the streets in winter, for example. Drug and alcohol use are sometimes negative coping behaviours during or following a trafficking experience. Research in Eastern Africa noted that up to one-fifth of the participants reported substance abuse (Fleisher et al., 2008).”

<http://www.mensenhandelweb.nl/system/files/documents/15%20apr%202014/Zimmerman%202003.pdf>

## **8.4 - Appendix 4. The Legal Framework**

In law there is no specific criminal offence of sexual exploitation (Berelowitz, et al., 2012) rather there are a number of pieces of legislation that can provide a protective legal framework around victims of adult sexual exploitation.

### **The Care Act 2014**

The primary legal framework that should always be considered in suspected cases of sexual exploitation of adults at risk includes the safeguarding duties outlined in the Care Act 2014. Section 42 requires the Local Authority to cause or make an enquiry into the abuse of an adult, who is

unable to protect themselves because of their care and support needs. Given the coercive nature of exploitative relationships it is likely that the adult at risk's ability to protect themselves from their exploitation (which they may not be aware of as exploitation) would be compromised; a safeguarding concern should be raised

### The Sexual Offences Act 2003

The Sexual Offences Act 2003 is the key piece of legislation for sexual offences, including rape, offences against a person with a mental disorder, care workers offences concerning people with a mental disorder, and trafficking for sexual exploitation. Protective remedies, such as Sexual Offences Prevention Orders, also form a part of the Sexual Offences Act 2003.

Under the Sexual Offences Act 2003 consent is defined as follows: "a person consents if he agrees by choice, and has the freedom and capacity to make that choice" (s.74 Sexual Offences Act 2003). In many situations of adult sexual exploitation a judgement should be made as to whether a person has the freedom to make a choice. It can be argued that valid consent is always questionable in the context of exploitative relationships – the nature of these relationships, characterised by misuse of power and control, is that victims do not have the freedom to choose. This follows the principle in Safeguarding Children that 'a child cannot consent to their own exploitation'. This will involve a determination of whether the person was subject to undue influence or duress.

It should be noted that for some sexual offences 'consent' is not always a factor in whether an offence has taken place.

### The Mental Capacity Act 2005

The key legal framework governing an individual's ability to make a decision is the Mental Capacity Act 2005 (MCA 2005). The Mental Capacity Act standardises the way in which mental capacity is assessed and how individuals should be supported to make decisions. The Mental Capacity Act applies to all individuals over the age of sixteen, who should be presumed to have the mental capacity to make decisions (s.1 MCA 2005).

A person may be found to lack capacity if they are unable to make a decision because of an impairment or disturbance in the functioning of their mind or brain. They will be unable to make a decision if they cannot *understand, retain, weigh-up* the relevant information, or *communicate* their decision as a result of that impairment or disturbance of mind.

Within the context of sexual activity a number of cases have been before the Court of Protection and criminal courts where an individual's capacity has been questioned. The criminal courts have viewed capacity as being 'person and situation-specific', and the Court of Protection has determined that a person's capacity is act and time specific. The assessment of capacity should be based upon their ability to understand, retain, and weigh-up the following information:

- the mechanics of the act
- that there are health risks involved, particularly the acquisition of sexually transmitted and sexually transmissible infections

- that sex between a man and a woman may result in the woman becoming pregnant; however, not all criteria will apply to every type of sexual activity

It is important to note that mental capacity in relation to sexual activity is act-specific (*the ability to decide to have sexual activity*) and not person-specific (*the ability to decide to have sexual activity with X*).<sup>10</sup>

While the Mental Capacity Act 2005 allows for the *assessment* of an individual's capacity to make decisions about sexual activity, the Act does not permit a person to make a decision on another's behalf about sexual relations (s.27 (1)(b) MCA 2005). A person who lacks capacity in regard to sexual activity **cannot** consent.

### The Inherent Jurisdiction of the Court

Since its inception in 2007 the Court of Protection has authority to make key decisions (under the Mental Capacity Act 2005) on behalf of people who are deemed to lack mental capacity to make those decisions, but it has no legal powers to make decisions on behalf of people who retain mental capacity to make them.

'Inherent Jurisdiction' is a term used to describe powers of the High Court (found in common law not in legislation) to intervene in relation to 'vulnerable adults' when there is no specific legislation to rely on. Because the remit of inherent jurisdiction is not set out in legislation, it is still being tested out by case law, and for that reason the nature of this authority and the way it can be used is not set in stone and is not entirely predictable. Nevertheless a growing body of case law is providing an increasing understanding of how it might be applied and when it would be appropriate to apply to the High Court for them to considering using those powers.

The criteria for the use of inherent jurisdiction requires that an individual has mental capacity but their decision making or ability to express genuine consent is being affected by constraints they are under such as coercion or undue pressure. The High Court may exercise its power under the inherent jurisdiction to support a plan where the proposed intervention is felt to be necessary and proportionate.

The Care Act guidance confirms that "the potential for 'undue influence' will need to be considered if relevant. "If the adult is thought to be refusing intervention on the grounds of duress then action must be taken" (Care Act statutory guidance 14.92).

### The Human Rights Act

Local Authorities have a positive obligation to protect citizens from abuse or breaches of Human Rights. Sexual exploitation engages the European Convention on Human Rights (enshrined in the Human Rights Act 1998) through the following provisions:

- Article 3, the prohibition of torture, inhuman or degrading treatment or punishment
- Article 4, the prohibition of slavery and forced labour

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<sup>10</sup> PC v City of York Council (2013) EWCA Civ 478, (2013) MHLO 61

- Article 8, the right to respect for private and family life.

#### The Modern Slavery Act 2015:

The Modern Slavery Act 2015 (MSA 2015) introduces a number of offences linked to the trafficking or holding of a person in circumstances that amount to slavery or servitude, or where a person is forced to perform forced or compulsory labour in such circumstances. Exploitation can be a key feature of offences under the Modern Slavery Act and as with the Sexual Offences Act 2003, the obtaining of a person's consent does not preclude certain offences from having taken place (s.1(5) MSA 2015).

The Modern Slavery Act 2015 also makes particular mention of individuals who may be targeted and used because they are children, or who are 'mentally or physically ill or disabled, or have a family relationship with a person' and where 'an adult, or a person without the illness, disability, or family relationship, would be likely to refuse to be used for that purpose' (s.2 (6) MSA 2015).

What does the Modern Slavery Act say about Trafficking? "Trafficking in persons shall mean the recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation. Exploitation shall include, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or removal of organs."

Trafficking should be distinguished from smuggling – facilitation of entry to the UK either secretly or by deception. The immigrants concerned are normally complicit in the offence so that they can remain in the UK illegally.

Criminal Justice and Courts Act 2015 This legislation now recognises Revenge Pornography as a crime which can be prosecuted in its own right

### **8.5 Appendix 5 :Working with service users who may perpetrate sexual harm**

Many perpetrators of sexual exploitation will have multiple offence-related problems. The pathway into offending for these people appears likely in many cases to be both sexually motivated and related to an anti-social/hostile orientation. This is a judgement based on:

1) The emerging picture that most, if not all, of the (mainly) men who are involved in perpetrating sexual exploitation probably do so at least partially because of problems in the sexual interests domain. This assumption is made based on consistent victim accounts of children who describe being sexually abused by the perpetrators prior to or during further exploitation (Berelowitz, 2013, Smeaton, 2013).

2) Research also indicates that perpetrators of sexual harm show a lack of concern about victims, and tend to use fear and violence to achieve their aims (Beckett 2011). Issues of power and control and grievance thinking are also significant (Berelowitz, 2013). This suggests a more general anti-social orientation in addition to sexual needs. Consequently the starting point for the appropriate response to perpetrators is one of the existing sex offender programmes, where they have been convicted of a sexual offence or an offence with an underlying sexual motive.

## **8.6 - Appendix 6: Case Studies**

### **MM (2007) Court of Protection case**

MM was a 39 year old woman with LD and schizophrenia. Her long term partner was abusive and controlling. She had a history of rapid relapse if stressed. Her IQ was 56, she had no verbal recall, and was unable to read or write. She had experienced a chaotic and abusive childhood, had been sexually abused by brother, and was taken into care age 13. MM and her partner of 15 years met in homeless hostel. He had diagnosis of psychopathic personality disorder and alcohol mis use and has been physically abusive to MM and allegedly also financial abusive, and was hostile to professionals. Their life has been nomadic which meant she had also dis-engaged with services so her mental health deteriorated and she had slept rough. However she looked forward to seeing him.

The Local Authority proposed to restrict contact to half hour (supervised)/month, and applied to the COP for a declaration on her capacity to decide her residence, sexual relationships and contact.

#### **The ruling by Justice Munby:**

- The judge concluded that MM lacked capacity in relation to decisions about marriage and residence, so BI decisions were required for those aspects however he ruled that MM had the capacity to decide about sexual relations, so the Local Authority had to make arrangements to allow MM to continue to have a sexual relationship.
- Justice Munby advised that “all life involves risk ... we must avoid the temptation always to put the physical health and safety of the elderly and vulnerable before everything else .... Safety can sometimes be bought at too high a price .... be willing to tolerate manageable or acceptable risks to achieve the vital good of the vulnerable person’s happiness ... ?” ‘What good is it making someone safer if it merely makes them miserable?’
- The Local Authority approach appeared paternalistic, and the judge was critical of that. He stressed the decision specific focus of capacity and put emphasis on the entitlement to sexual relationships even with risks (Article 8, Human Rights Act). Local Authorities therefore need to consider what arrangements can be put in place to support decision-making by adults who do have capacity to make decisions about sex in this way, but who would nonetheless be vulnerable to exploitation and abuse.



### Isle of Wight case (2014)

A case of ASE that occurred on the Isle of Wight was recently reviewed in order to understand what had happened and why and to see what could be learned about working with these complex and demanding cases. In this case the adult Miss T was addicted to drugs and was being repeatedly sexually exploited as a way of trying to repay her debts. There were considerable difficulties for the statutory services that worked with her including issues of mental capacity and seeking the correct legal powers to try to reduce the risks. Miss T retained capacity in relation to key decisions about her safety much of the time, although there were other points when she lost or had fluctuating capacity. A safeguarding framework was used to work with Miss T for a considerable period but despite that there were on-going challenges for the practitioners and managers. It proved to be very difficult to effectively minimise the risks to Miss T, who was reluctant to distance herself from the men who were exploiting her. Miss T sadly died of a drug related heart attack.

#### Learning Messages from the case review:

- There is a need to involve the police in safeguarding enquiries at an early point where a crime is suspected.
- The Local Authority has a duty to actively consider the wellbeing of an adult during a section 42 safeguarding enquiry, even where the police are taking a lead on the criminal investigation.
- It is important to involve the adult as actively as possible within the safeguarding process, including at meetings and decision making points
- Staff need good supervision to support them in managing emotionally demanding cases such as those involving ASE and on-going risk

Details of the full review can be found on the Isle of Wight SAB website at:

<https://www.iwight.com/azservices/documents/2880-Miss-T-final-report-for-publication-22.09-v9.pdf>