

5. Roles and responsibilities.

5.1 Introduction

This section describes the roles and responsibility for all agencies and individuals within the adult safeguarding context, specific duties and responsibilities under section 42 of the Care Act, and the different roles and functions key agencies and individuals can play in the Enquiry process.

5.2. General roles and responsibilities within the wider context of adult safeguarding

Adult safeguarding is everyone's business. The Care and Support statutory guidance states that Adult Safeguarding in its wider sense 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 and neglect, while at the same time making sure that the adult's wellbeing is promoted including, where appropriate, having regard to their views, wishes, feeling and beliefs in deciding on any action".¹

All agencies and individuals who work with or support adults with care and support needs have a role to play within this wider context of adult safeguarding. Seen in this way, effective "safeguarding" – supporting the adult to live safely, promoting wellbeing and preventing the risk of abuse or neglect – takes place within the core duties and responsibilities of health, social care, and criminal justice agencies; for example;

- adults can be supported to live safely through good quality assessment and support planning.
- adults' right to live free from crime can be supported through Police interventions, and to recover from the experience of crime through victim support services.
- adults' health & wellbeing, and experience of safe services, can be promoted through patient safety approaches in the NHS and good quality responses under Clinical Governance processes.

As a minimum, agencies and individuals who work with adults with care and support needs in the West Midlands should-

- Be alert to the possibility of abuse or neglect, and know how to respond to and report abuse or neglect concerns in line with the procedure outlined in this document; and;
- Ensure that individual and agency practice and policy contributes to promoting adults' right to live in safety, and does not cause or contribute to the experience of abuse or neglect.

5.3. Roles and responsibilities in Care Act section 42 Adult Safeguarding Enquiries

Section 42 of the Care Act gives Local Authorities the primary duty to make, or cause to be made, whatever enquiries are necessary to enable the Local Authority to decide whether any action should be taken in the adult's case, and if so, what and by whom.

When "causing" enquiries to be made, the Local Authority may request other agencies or individuals undertake all or part of the enquiries needed in the adults case. Relevant partners (as described under Section 6 of the Care Act) have a legal duty to cooperate

¹ Care and Support Statutory Guidance: Issued under the Care Act 2014 (DoH, 2016), s14.7

with such requests under Section 7 of the Care Act, unless that agency or individual considers that doing so would be incompatible with their own duties, or would otherwise have an adverse effect on the exercise of their functions. If an agency or individual feels these exceptions apply, they are required under the Care Act to provide the reasons for refusal in writing to the Local Authority making the request.

5.4. Adult(s) with care and support needs

Adults with care and support needs who are at risk of or are experiencing abuse or neglect should always be involved in activities being taken to safeguard them unless there are exceptional circumstances that would increase the risk of abuse. This includes knowing a concern is being raised, being offered the opportunity to raise the concern themselves, being central to all decisions including how they view the risk, and their opinions and desired outcomes from the Enquiry must be sought. They must be included throughout the process, invited to meetings as appropriate, recognising that in some exceptional circumstances the level of involvement could increase the risks and at the conclusion a check must be made to establish whether their desired outcomes from the Enquiry have been met.

If an adult has substantial difficulty in being involved, and where there is no suitable person to support them, then the local authority must arrange for an independent advocate to represent them for the purpose of facilitating their involvement.

5.5 'Carers' - Family and friends

The Care Act recognises the key role of informal carers in relation to adult safeguarding. Informal carers may witness or report abuse or neglect, experience intentional or unintentional harm from the adult they are trying to support, or an informal carer may (unintentionally or intentionally) harm or neglect the adult they support.

'Carers', relatives and friends are frequently helpful in supporting an adult with care and support needs to participate in the adult safeguarding process when dealing with difficult and distressing issues.

Relatives or friends may have a range of roles depending on the circumstances and the wishes of the adult with care and support needs.

Relatives and friends have a role in:

- Supporting the adult to tell us what their wishes are and to make sure they are heard, or speak on their behalf in their best interest if they do not have mental capacity;
- Supporting them through difficult meetings and interviews about distressing experiences;
- Sharing information and knowledge about the risks their relative/friend is experiencing and their support needs;
- Supporting an assessment of needs, sometimes this may include their needs as a carer;
- Contributing to the Safeguarding Plan to prevent the abuse or reduce the possibility for further abuse.

It is important to view the situation holistically and look at the safety and well-being of both. The Act makes it clear throughout, there is a need for preventing abuse and

neglect wherever possible. Observant professionals and other staff making early, positive interventions with individuals and families can make a huge difference to their lives, preventing the deterioration of a situation or breakdown of a support network.

Further guidance about Carers and adult safeguarding can be found in an ADASS paper; Carers and Safeguarding Adults; Working Together to Improve Outcomes.

5.6 Advocates

Local authorities must involve people in decisions made about them and where there is to be a safeguarding enquiry. The local authority must help people to understand how they can be involved, how they can contribute and take part and sometimes lead or direct the process. People should be active partners in any enquiries in relation to abuse or neglect. No matter how complex a person's needs, local authorities are required to involve people, to help them express their wishes and feelings, to support them to weigh up options, and to make their own decisions.

Safeguarding situations can be distressing and difficult and safeguarding meetings can be complex and daunting to people who would not normally experience them, advocacy can help people to be involved and in control.

Advocacy services help people – particularly those who are most vulnerable in society – to:

- access information and services
- be involved in decisions about their lives
- explore choices and options
- defend and promote their rights and responsibilities.

The Care Act 2014 requires local authorities to support people to be involved. Where someone has difficulties then the local authority must make reasonable adjustments and provide support.

Where someone has substantial difficulties in being involved the local authority will look to see if there is an 'suitable person' – for example, an informal carer or relative who is willing and able to represent the adult. This person must be able to understand the adult safeguarding process, so they can support and represent their relative/friend and help their involvement in the processes. They must not voice or express their own opinions. It is not sufficient for the person to know the adult well; the role is to actively support their participation in the process.

If there is no 'suitable person' then the local authority has a duty to arrange for an independent advocate. Sometimes having a relative or friend to act as the advocate is difficult, for example, perhaps because the adult does not wish to discuss the nature of the abuse with them, then the local authority can help and provide an independent advocate.

There are also times when an independent advocate should be provided even where the adult's family or others are involved. These are:

- when it is suspected that the family member or other person is causing the harm;
- where there is a disagreement, relating to the individual, between the local authority and the suitable person whose role it would be to facilitate the individual's involvement, and the local authority and the suitable person agree that the involvement of an independent advocate would be beneficial to the individual.

The advocate cannot be someone who is already providing care and treatment in a professional capacity or on a paid basis (regardless of who employs or pays them). That means it cannot be, for example, a GP, or a nurse, a key worker or a care and support worker involved in the adults care or support.

5.7 Local Authorities

The Care Act sets out the local authority's responsibility for protecting adults with care and support needs from abuse or neglect for the first time in primary legislation. Local authorities must make enquiries, or cause another agency to do so, whenever abuse or neglect are suspected in relation to an adult and the local authority thinks it necessary to enable it to decide what (if any) action is needed to help and protect the adult.

The local authority retains the responsibility for ensuring that the Enquiry is referred to the right place and is acted upon. The local authority, in its lead and coordinating role, should assure itself that the Enquiry satisfies its duty under section 42 to decide what action (if any) is necessary to help and protect the adult and by whom and to ensure that such action is taken when necessary. In this role if the local authority has asked someone else to make enquiries, it is able to challenge the body making the Enquiry if it considers that the process and/or outcome is unsatisfactory.

5.7.1 Safeguarding Adult Boards

Section 43 of the Care Act 2014 requires each local authority to set up a Safeguarding Adults Board (SAB). The main objective of a SAB is to assure itself that local safeguarding arrangements and partners act to help and protect adults in its area who have a need for care and support (whether or not the local authority is meeting any of those needs) and is experiencing, or at risk of, abuse or neglect; and as a result of those care and support needs is unable to protect themselves from either the risk of, or the experience of abuse or neglect.

The SAB has a strategic role to oversee and lead adult safeguarding across the locality and will be interested in a range of matters that contribute to the prevention of abuse and neglect. The SAB can be an important source of advice and assistance, for example in helping others improve their safeguarding mechanisms. It is important that the SAB has effective links with other key partnerships in the locality.

Also see: SCIE Resources. SCIE has developed the following resources to help social workers, local authority staff and their partners, chairs and members of Safeguarding Adults Boards, to meet their new safeguarding duties under the Care Act 2014.

5.7.2 Directors of Adult Social Services

The Director of Adult Social Services (DASS) has a particularly important leadership and challenge role to play in adult safeguarding. The DASS is also responsible for promoting prevention, early intervention and partnership working, critical roles in the development of effective safeguarding.

Taking a personalised approach to adult safeguarding requires a DASS to promote a culture that is person-centred, supports choice & control and aims to tackle inequalities

5.7.3 Councillors and Lead Member

The Local Government Association identifies there are crucial roles for councillors in examining how safeguarding is experienced by local people, how people were consulted and involved in developing policies and monitoring services, and how they were involved in their own safeguarding plans and procedures.

Councillors as community leaders, championing the wellbeing of their constituents, are in a key position to raise awareness of adult safeguarding. They may also become aware of individual cases of abuse through their work with constituents and so have a duty to report it.

As part of their governance role, holding council executives and their partners to account, and accounting to their constituents for what has been done, all councillors have a responsibility to ask questions of the executive and other partner organisations about the safety of adults in their area, and about the outcomes of adult safeguarding. Portfolio holders. The lead member in councils with social services responsibilities has responsibility for the political leadership, accountability and direction of the council's services for adults. The portfolio holder has a role in ensuring that the various departments within a council work together to promote wellbeing, prevent social exclusion and to protect adults from abuse.

Members of Overview and Scrutiny Committee (OSC). Councillors in OSC have a crucial role in ensuring that the system works through holding leaders to account. OSC members need to review the work of safeguarding in the local authority, and to consider the annual report of the Safeguarding Board to find out:

- how abuse is being prevented through good multiagency work and assuring quality care
- how well services work to improve outcomes for people who have experienced harm and abuse
- how far care and protection plans are keeping people safe from abuse
- how agencies are ensuring that people's human rights are respected
- how agencies are enabling people to make decisions about their lives
- how agencies are ensuring that people who lack capacity are able to have their best interests represented
- how services uphold the right to justice for people who have experienced harm or abuse
- how well services address what happens to the people who have harmed or abused others.

Councillors in other relevant roles.

Councillors who are members of bodies which have a safeguarding remit such as Health and Wellbeing Boards, Crime and Disorder Partnerships, Hate Crime or Domestic Violence Partnerships, Community Safety Partnerships, Community Cohesion bodies, and NHS Trusts will need some knowledge of adult safeguarding in order to fulfil their responsibilities and know what questions to ask. Many of these bodies may be represented on SABs.

Councillors who are portfolio holders for children's services will need to be aware of the links with adult safeguarding. There may be specific examples where the crossover is particularly clear, for example, the period of transition from children's to adult services or when an adult may be a risk to children.

Also see: Local Government Association (LGA) Councillors briefing 2015 - Safeguarding adults

5.7.4 Managing officers

This is a generic term used to describe the individual responsible for the lead coordinating role in safeguarding cases.

The managing officer has overall responsibility to ensure that:

- the action being taken by organisations is co-ordinated and monitored
- the adult with care and support needs is involved in all decisions that affect their daily life as far as possible
- those who need to know are kept informed
- consultation with relevant people and agencies takes place
- the West Midlands Adult Safeguarding procedure is followed specific to the individual and their situation
- the response of the organisations involved is co-ordinated and information is shared in line with legislation
- if required a safeguarding plan is agreed with the adult if they have mental capacity to participate in this, or in the best interests of the person if they have been assessed not to have mental capacity
- all safeguarding documentation is completed including monitoring information.

5.7.5 Out of hours services and emergency duty teams

Local out of hours teams (social services and health) and emergency duty teams operate out of normal working hours, at weekends and over statutory holidays.

If a safeguarding concern is made to the out of hours service which indicates an immediate or urgent risk, the officer receiving the alert will take any steps necessary to protect the adult including arranging emergency medical treatment, contacting the police and taking any other action to ensure that the adult is safe. Out of hours staff must also be aware that, if responding to emergency, other adults may also be at risk.

A member of the out of hours service would not usually be responsible for an Adult Safeguarding enquiry but it may be necessary to make enquiries or take immediate action where:

- the allegation is serious that is, life-threatening or likely to result in serious injury (in which case action would be co-ordinated with the police to ensure any evidence is preserved),
- the detail of the concern is unclear,
- there is a need to interview the adult to ensure they can be safeguarded against further abuse if necessary (if appropriate this would need to be co-ordinated with the police to ensure the preservation of evidence).

Whether or not any immediate action is necessary the out of hours worker or emergency duty officer will record the facts concerning the alleged abuse or neglect and pass all relevant information to the appropriate safeguarding team, duty team in adult social care or to a mental health team on the next working day. If the case is already allocated the out of hours worker will notify the allocated worker.

In a situation where staff who work for other organisations, including health services and those who work out of hours, become aware that an adult is being abused or neglected, they should call the emergency services if the adult is at serious risk of immediate harm, and the local authority emergency duty team or emergency out of hours service if an immediate safeguarding plan needs to be put in place. If this action

has been taken, the emergency duty team or out of hours service will then deal with the concern as above.

If the situation does not indicate an immediate risk of harm, staff working out of hours will refer to the appropriate local authority point of contact the next working day. They will also pass the information to the appropriate point in their own organisation.

5.8 Commissioners

Health and Social Care commissioners of services should set out clear expectations for provider agencies and monitor compliance. Commissioners have a responsibility to:

- ensure that people who commission their own care are given the right information and support to do so from providers who engage with Adult Safeguarding principles and protocols
- ensure that agencies from whom services are commissioned know about and adhere to relevant registration requirements and guidance
- ensure that all documents such as service specifications, invitations to tender, service contracts and service-level agreements adhere to the West Midlands Adult Safeguarding Policy and Procedures.
- ensure that managers are clear about their leadership role in Adult Safeguarding in ensuring the quality of the service, the supervision and support of staff, and responding to and investigating a concern about an adult with care and support needs
- commission a workforce with the right skills to understand and implement Adult Safeguarding principles
- ensure staff have received induction and training appropriate to their levels of responsibility
- liaise with the local SAB and regulatory bodies and make regular assessments of the ability of service providers to effectively safeguard service users
- ensure that services routinely provide service users with information in an accessible form about how to make a complaint and how complaints will be dealt with
- ensure that commissioners (and regulators) regularly audit reports of risk of harm and require providers to address any issues identified.

5.9 Complaints officers

Local authorities and other bodies including NHS providers have statutory complaints procedures. If a complaint received by a complaints officer indicates safeguarding concerns that meet the conditions stated in this procedure, the officer will consider raising a safeguarding concern to the relevant agency.

If a complaint is made to the local authority that leads to an Adult Safeguarding Enquiry, the local authority can decide not to commence the complaints investigation if this would compromise the Enquiry. The complainant would be informed of this course of action and the reason for it. In other circumstances, the complaint may form all or part of the Adult Safeguarding Enquiry.

5.10 Police and judicial system

5.10.1. Police

The Care Act reinforces the fact that the police play a critical role in safeguarding adults who are at risk of abuse or neglect. The Act places a requirement (schedule 2) upon the local chief officer of police as a statutory core member of the SAB. The police can take direct action to protect adults and bring perpetrators to justice. They also have a role in researching their systems and sharing information about those identified in a safeguarding concern, in order to inform the assessment of risk posed to an adult, and to allow swift and effective single or multi-agency safeguarding action to take place that will protect vulnerable people from harm.

Within the hierarchy of enquiries a criminal investigation will take precedence. It is the responsibility of the police to lead investigations where criminal offences are suspected, although the Local Authority will need to ensure steps are taken to safeguard and support the adult concerned. In conducting an investigation the police will secure and preserve evidence at the earliest opportunity and where necessary will interview the victim (who may well need support), witnesses and suspects. There will be occasions where other enquiries can proceed alongside a criminal investigation to ensure minimum delays.

As the lead investigating agency, the police should work with the local authority and other partner agencies to ensure that all relevant information is identified and shared, and a risk management or safeguarding plan is agreed at an early stage. In cases where criminal proceedings are deemed inappropriate, the police should agree a course of action with partner agencies to protect the adult/s concerned.

Police Officers and Staff leading adult safeguarding police investigations must be up to date with their legal powers and duties, including their responsibilities in relation to the Mental Capacity Act and Mental Health Act. They must also take into consideration that the adult may have difficulty in engaging due to learning difficulties or other disabilities as well as cultural, language or other communication difficulties.

Not every case with a criminal offence will result in a full police investigation. Each case will be considered individually and, as part of multi-agency discussions that take into account the needs and wishes of the adult concerned, it may be agreed that an alternative course of action is the most appropriate way to protect them from harm. Such cases are likely to be few in number and relate to only the least serious offences, but it is important to recognise that in some circumstances the best course of action for the adult concerned may be an alternative to pursuing a formal criminal prosecution.

5.10.2 Witness support and special measures

If there is a police investigation, the police will ensure that any interviews with the adult at risk are conducted in accordance with Achieving Best Evidence (ABE) guidance. This includes consideration of the use of an appropriate Intermediary where necessary.

Intermediaries play an important role in improving access to justice for some of the most vulnerable people in society, giving them a voice within the criminal justice process. They help children and adults who have communication difficulties to understand the questions that are put to them and to have their answers understood, enabling them to deliver their best evidence for the police and the courts.

In all cases 'special measures', as specified in the Youth Justice and Criminal Evidence Act 1999, must be considered by the police and Crown Prosecution Service. These measures can be used to assist eligible witnesses during the judicial process and can include the use of screens in court proceedings, the removal of wigs and gowns, the sharing of visually recorded evidence-in-chief (the evidence given by a witness for the party who called him or her), directions about cross-examination and re-examination, and the use of intermediaries and other aids to communication within the court.

Adults should be supported to access relevant national and local services to support them through the judicial process. This includes access to the Witness Service, which is free and independent of the police or courts and provides practical and emotional support to victims and witnesses (either for the defence or the prosecution). The support from the Witness Service is available before, during and after a court case to enable the witness, their family and friends to have information about the court proceedings, and can include arrangements to visit the court in advance of the trial.

5.10.3 Victim support

Victim support is a free service for anyone who has been a victim of any crime or have been affected by a crime committed against someone they know, and can help people to find the strength to deal with what they have been through. It is available whether or not the crime has been reported and regardless of when it happened. Victim support can provide emotional support, practical help and information.

5.10.4 Crown Prosecution Service

The Crown Prosecution Service (CPS) is the principal public prosecuting authority for England and Wales and is headed by the Director of Public Prosecutions. The CPS has produced a policy on prosecuting crimes against older people which is equally applicable other adults with care and support needs, who may also be vulnerable witnesses. They also have a policy on prosecuting disability hate crime.

Support is available within the judicial system for those at risk to enable them to bring cases to court and to give the best evidence. If a person has been the victim of abuse that is also a crime, their support needs can be identified by the police, the CPS and others who have contact with the adult at risk. Witness Care Units exist in all judicial areas and are run jointly by the CPS and the police.

The CPS has a key role to play in making sure that special measures are put in place to support vulnerable or intimidated witnesses. Special measures were introduced by the Youth Justice and Criminal Evidence Act (YJCEA) 1999 and are available in both Crown and the magistrates' courts. They include the use of screens, trained intermediaries to help with communication and arrangements for evidence and cross-examination to be given by video link.

5.11 The NHS

In July 2015 National Health Service England (NHSE) published Safeguarding Vulnerable People in the NHS – Accountability and Assurance Framework-

<https://www.england.nhs.uk/wp-content/uploads/2015/07/safeguarding-accountability-assurance-framework.pdf>

The main purpose of this document was to set out clearly the safeguarding roles, duties and responsibilities of all organisations commissioning NHS and social care whilst particularly recognising the new responsibilities set out in the Care Act 2014. The following section draws directly from this document in explaining the roles and responsibilities of NHSE, Clinical Commissioning Groups, NHS provider organisations and others working from the NHS.

5.11.1 NHS England

NHS England leads the National Health Service. It works under its mandate from the Government to improve the quality of NHS care and health outcomes, reduce health inequalities, empower patients and the public and promote innovation. Its key responsibilities include:

- Authorisation and oversight of Clinical Commissioning Groups and support for their on-going development
- The direct commissioning of specialised health services, prison healthcare and some public health services (including, for a transitional period, health visiting and family nurse partnerships)
- Developing and sustaining effective partnerships across the health and care system.
- Setting the priorities and direction of the NHS.
- Encourage and inform the national debate to improve health and care.

NHS England's regional and local area teams will each have a Director of Nursing who is responsible for supporting and providing assurance on the safeguarding of children and adults at risk of abuse or neglect.

5.11.2 Clinical Commissioning Groups (CCGs)

CCGs are statutory NHS bodies with a range of statutory duties, including safeguarding adults and children. They are membership organisations that bring together general practices to commission services for their registered populations and for unregistered patients who live in their area. CCGs are responsible for commissioning most hospital and community healthcare services.

CCGs as commissioners of local health services need to assure themselves that the organisations from which they commission have effective safeguarding arrangements in place. CCGs are responsible for securing the expertise of Designated Professionals on behalf of the local health system.

Safeguarding forms part of the NHS standard contract (service condition 32) and commissioners will need to agree with their providers, through local negotiation, what contract monitoring processes are used to demonstrate compliance with safeguarding duties.

CCGs must gain assurance from all commissioned services, both NHS and independent healthcare providers, to ensure continuous improvement.

CCGs are also required to demonstrate that they have appropriate systems in place for discharging their statutory duties in terms of safeguarding.

5.11.3 General Practitioners

GPs have a significant role in Safeguarding Adults. They have a responsibility to ensure they have robust systems in place for adult safeguarding within their practices and that all of their staff have received adequate training and supervision. They must work in partnership with the local authority and other agencies where there is a section 42 enquiry.

This includes:

- Raising safeguarding concern should they suspect or know of abuse;
- Playing an active role in Enquiry Discussions or Meetings and Safeguarding Plan Meetings;
- Undertaking relevant Enquiries where the Local Authority requests these are made;
- Providing professional evaluation of health information about an adult with care and support needs where appropriate.

GP's should make sure that effective training and reporting systems are in place to support GPs and GP practices in this work.

5.11.4 Patient Advice and Liaison Service (PALS)

The Patient Advice and Liaison Service (PALS) offers confidential advice, support and information on health-related matters. They provide a point of contact for patients, their families and their carers.

PALS provides help in many ways. For example, it can:

- help with health-related questions
- help resolve concerns or problems when using the NHS
- tell people how to get more involved in their own healthcare

PALS can give information about:

- the NHS
- the NHS complaints procedure, including how to get independent help if a person wants to make a complaint
- support groups outside the NHS.

5.11.5 Ambulance services

There are a number of ways in which Ambulance staff may receive information or make observations, which suggest that an adult with care and support needs is experiencing, or is at risk of, abuse or neglect. Ambulance staff will often be the first professionals on the scene and their actions and recording of information may be crucial to subsequent enquiries. Ambulance staff have the responsibility to ensure any information taken and recorded is factually accurate, is based on fact not assumption, and that, wherever possible, concerns are discussed at the time with the relevant people.

It is also the responsibility of ambulance staff to talk to the adult if they think a safeguarding concern needs to be raised, unless their medical condition prevents this or raising the concern will increase the risk to the adult.

If the patient is conveyed to hospital, the ambulance staff should inform a senior member of the Accident & Emergency staff, or nursing staff if conveying to another department, of their concerns about possible abuse or the risk of harm.

Ambulance staff will follow local procedures for contacting the Single Point of Referral and raising Adult Safeguarding concerns.

5.12 Public Health

Under the health reforms there are significant changes to arrangements for the provision and commissioning of public health services. At a national level, Public Health England (PHE) supports people to make healthier choices and provides expertise, information and intelligence to public health teams based in local authorities and the NHS. PHE also provides national leadership to support delivery of the public health outcomes framework. This includes tackling health inequalities, health improvement and the delivery of health protection services, including emergency planning and resilience. It also includes the development of national programmes and cross-government and international leadership.

At the local level, public health is now the responsibility of local government, which provides local leadership to health and wellbeing boards, leads the development of the Joint Strategic Needs Assessment and commissions a range of services – including the 5 to 19 Healthy Child Programme (0 to 19 from 2015), school health services, drugs and alcohol services and sexual health services. Public health teams in local authorities will also provide public health advice to CCGs locally.

5.13 Housing

Housing commissioners and providers have a key role in adult safeguarding, particularly as their staff may be in the best position to spot signs of abuse or neglect at an early stage, especially where other services are not involved. While the Supporting People Programme regulates providers and builds safeguarding standards into its contracts, there are many other landlords outside these regulations who house adults with care and support needs.

5.14 Care Quality Commission (CQC)

The Care Quality Commission (CQC) roles and responsibilities for safeguarding children and adults are 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 intelligence 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 concerns 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.

- 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 inspection reports, and awarding services an overall rating within the 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 enquiries regarding safeguarding children and adults. They do this by co-operating with them and sharing information where appropriate from their regulatory and monitoring activity. CQC will also 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 how their role fits with those of partner organisations.

Health and Safety Executive (HSE) responsibilities for service users injured in regulated services now falls to the CQC. Examples include scalding, someone falling from a window, serious injury as a result of neglect. For more information refer to Memorandum of Understanding between the Care Quality Commission, the HSE and Local authorities in England.

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

See Care Quality Commission website – www.cqc.org.uk

5.15 Court of Protection

The Court of Protection deals with decisions and orders affecting people who lack capacity. The Court can make major decisions about health and welfare, as well as property and financial affairs. The Court has powers to:

- decide whether a person has capacity to make a particular decision for themselves,
- make declarations, decisions or orders on financial and welfare matters affecting people who lack capacity to make such decisions,
- appoint deputies to make decisions for people lacking capacity,
- decide whether a lasting power of attorney or an enduring power of attorney is valid,
- remove deputies or attorneys who fail to carry out their duties.

5.16 Office of the Public Guardian (OPG)

The Public Guardian has a statutory duty to safeguard:

- any person who has a deputy appointed by the Court of Protection
- the donor of any registered enduring power of attorney (EPA) or lasting power of attorney (LPA)
- anyone for whom the Court of Protection has authorised someone else to carry out a transaction on their behalf, under s16 (2) of the Mental Capacity Act 2005 (single orders).

This includes some children and young people where the Court of Protection has appointed a deputy because the child or young person is likely to still lack capacity to make financial decisions when he or she turns 18.

Their areas of responsibility are:

- To ensure their policy that relates to all forms of abuse and is up to date.
- Where allegations of abuse relate to a child or young person, OPG will raise the issue with the police and/or the local authority children's services department. Most of OPG's clients are adults. Allegations of abuse of vulnerable children (or young people aged up to 21 in some circumstances) will usually be dealt with by local authority children's services.
- To also raise concerns and allegations about people who are not covered by their policy to the police, local authorities and/or children's services.

See also: Office of the Public Guardian – Safeguarding Policy 2015

5.17 The Coroner

Coroners are independent judicial officers who are responsible for investigating violent, unnatural deaths, sudden deaths of unknown cause and deaths in custody, which must be reported to them. The coroner may have specific questions arising from the death of an adult with care and support needs. These are likely to fall within one of the following categories:

- where there is an obvious and serious failing by one or more organisations
- where there are no obvious failings, but the actions taken by organisations require further exploration/explanation
- where a death has occurred and there are concerns for others in the same household or other setting (such as a care home)
- where a death falls outside the requirement to hold an inquest but follow-up enquiries/actions are identified by the coroner or his or her officers

In the above situations the local SAB should give serious consideration to instigating an SAR (Safeguarding Adults Review) where an adult with care and support needs is involved, and the review procedure should be agreed with the coroner.

5.18 Healthwatch

Healthwatch is the national consumer champion in health and care with significant statutory powers to ensure the voice of the consumer is strengthened and heard by those who commission, deliver and regulate health and care services.

Healthwatch has potentially a central role to play, not least in empowering people to speak out on their own behalf and wherever they see signs that others' right to safety and protection are being breached. Healthwatch organisations have "Enter and View" powers in accordance with regulations so they can observe matters in relation to health and social care services.

They are active members of Safeguarding Adult Boards and have to receive copies of Board Annual reports and have to be consulted in relation to the Boards Strategic Plan.

5.19 Fire and Rescue Service

Fire Service personnel visit people in their homes when carrying out home fire safety visits. In cases where they have a concern about an adult they will inform their line manager who will then take appropriate action, which may involve referral to another agency.

The Fire Service has officers who are trained to recognise, report and respond to concerns that an adult may be at risk of harm, in line with the local Adult Safeguarding procedures and their powers.

5.20 Probation

In 2013 the Government transformed Probation services resulting in the majority of it work transferring into the private sector. High risk Cases are now managed by the National Probation Service (statutory criminal justice service) and low and medium risk cases are managed by the Community Rehabilitation Company (CRC) (private company).

The National Probation Service is responsible for court work, MAPPA and deciding which cases go to the CRC.

The Community Rehabilitation Company (CRC) is responsible for the Community Payback Programme and from 1st May 2015 the Re-settlement Service.

The Probation Services should be included in improving safeguarding locally. They work in partnership with other agencies through the Multi-Agency Public Protection Arrangements (MAPPA). They have a remit to be involved with victims of serious sexual and other violent crimes and are in a position to identify and help offenders who are at risk of abuse. They aim to reduce the re-offending behaviour of sexual and violent offenders in order to protect the public and previous victims from serious harm.

5.21 Prisons

Prisons and approved premises have their own safeguarding duties to prisoners with needs for care and support. The National Offender Management Service is working with a range of bodies in developing improved safeguarding arrangements that will offer equivalent protection to other adults with care and support needs. Prison Governors, or their senior representatives, are able to attend SABs with the agreement of the core partners. They are able to seek and share information to improve adult safeguarding when required. Additionally, prison staff may request help or advice from the local authority in a particular situation where they feel the need for more expertise or a different perspective.

Local Authorities' section 42 duties to make enquiries and section 44 duties (to carry out a SAR) do not apply to prisons and approved premises.

5.22 Community and faith groups

It is expected that these groups have in place safeguarding systems, guidance and policies that are proportionate to the scale and nature of their organisation.

5.23 Providers of Health and Social Care Services (including the voluntary sector and educational establishments)

Where any user of the service is at risk of abuse or neglect, the first responsibility to act is with the employing organisation as provider of the service. When a provider/employer is aware of abuse or neglect in their organisation, then they are under a duty to correct this and protect the adult from harm as soon as possible, and

may need to inform the local authority, the regulator, and the CCG where the latter is the commissioner.

All providers should expect that a local authority may cause them to undertake an enquiry in line with the West Midlands Policy and Procedure. Providers should ensure that there are appropriate arrangements in place to be able to respond to the requirement to undertake adult safeguarding enquiries, and that staff have the right levels of knowledge and skills to undertake enquiries.

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

An example of a conflict of interest where it is better for an external person to be appointed to investigate may be the case of a family-run business where organisational abuse is alleged, or where the manager or owner of the service is implicated. All those carrying out such enquiries should have received appropriate training.

If someone is removed by being either dismissed or redeployed to a non-regulated activity, from their role providing regulated activity (as defined by the Disclosure and Barring Service) for harming or posing a risk of harm, satisfied the harm test; or received a caution or conviction for a relevant offence for example following a safeguarding incident, or a person leaves their role (resignation, retirement) to avoid a disciplinary hearing following a safeguarding incident and the employer/volunteer organisation feels they would have dismissed the person based on the information they hold, the regulated activity provider has a legal duty to refer to the Disclosure and Barring Service.

Employers must ensure that staff, including volunteers, are trained in recognising the symptoms of abuse or neglect, how to respond and where to go for advice and assistance. These are best written down in shared policy documents that can be easily understood and used by all the key organisations.

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

It is considered best practice for employers/providers to record their rationale when not raising an adult safeguarding concern. This should include a summary of discussions with the adult and/or their representative about what has happened to them, an outline what has been done to make the adult safe (including care plan and risk management changes if relevant) and an explanation of why it is felt the abuse will not continue.