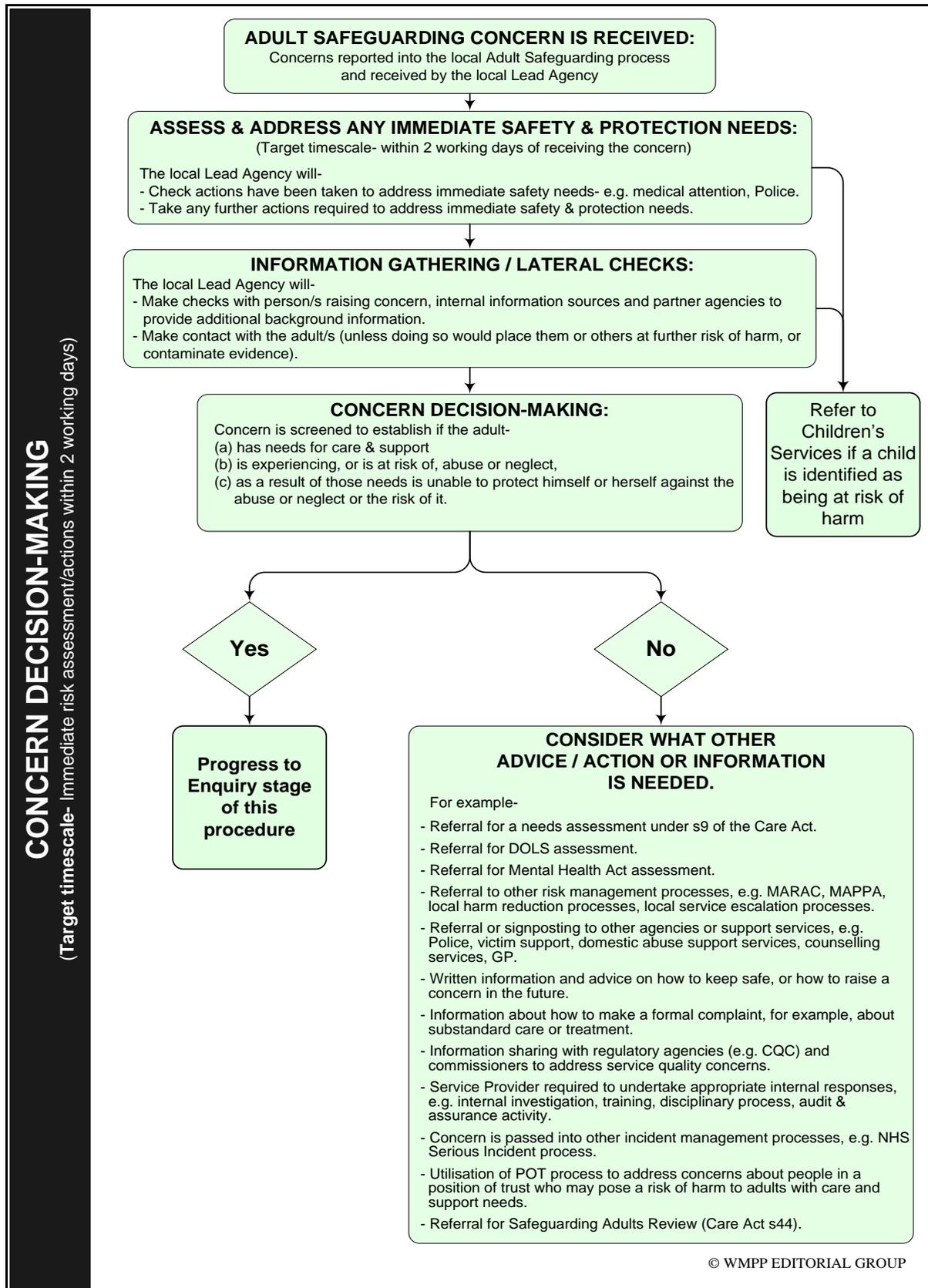


9. Adult Safeguarding Concerns: Decision Making-



9.1 Definition

The “concern decision-making” stage refers to the actions taken by the lead agency, and the decision whether the concern meets the criteria for progression to a statutory Care Act s42 Enquiry, or whether other types of action, or provision of information & advice, are required to respond to the concern.

9.2 Purpose

When receiving a referral relating to an Adult Safeguarding Concern, the local Lead Agency will-

- Check actions have been taken to address immediate safety needs- e.g. medical attention, Police. If necessary, take action to address safety needs.
- Make checks with person raising the concern, internal information sources and partner agencies to provide additional background information.
- Make contact with the adult referred to understand their views and wishes about the concern (unless doing so would place them or others at further risk of harm, or contaminate evidence).



Wherever it is safe to do so, I am spoken to and asked my views.

The purpose of making checks and gathering more information at this stage is (i) to assess/address any immediate safety & protection needs, and to gain the views of the adult, and (ii) to ascertain if the concern meets the criteria for a statutory enquiry under s42 of the Care Act, or if other action is required to respond to the concern.

The Local Authority statutory duty of enquiry applies where it has reasonable cause to suspect that an adult, aged 18 or over, in its area-

- (i) has **needs for care & support** (whether or not the authority is meeting any of those needs),
- (ii) is **experiencing, or is at risk of, abuse or neglect**, and
- (iii) as a result of those needs **is unable to protect himself or herself** against the abuse or neglect or the risk of it.

9.3 Roles and responsibilities

The relevant local process for reporting adult safeguarding concerns should be followed. The local “Lead Agency” will be responsible for undertaking the necessary checks and making a decision about the adult safeguarding concern. In most circumstances, the Local Authority is the “Lead Agency” and will receive and deal with Adult Safeguarding concerns directly. In some circumstances the Local Authority may have arrangements where it asks other agencies to undertake the Concern Decision Making checks and actions on its behalf, e.g. Mental Health services or Care Trusts.

9.4 Timeliness & risk

Managing immediate risks- Some adult safeguarding concerns will require an immediate response to safeguard the adult. As a target, an assessment of immediate risks and action needed should be undertaken by the lead agency within 2 working days of receiving the adult safeguarding concern.

Making the decision- This procedure does not outline any specified target timescale to complete checks and make the decision about how the concern should be responded to. However, as with all adult safeguarding work, responses should be timely. Local guidance may outline specific timescales.

REMEMBER- It is important to respond at the pace that is right for the adult, and puts them in greatest control of what happens in their life.

9.5 Process

In some cases, the referral information may indicate clearly that immediate risks are managed, and that the criteria are met for a formal s42 enquiry. If so, the concern decision making stage will consist only of reviewing the referral information. However, in most cases a level of additional information gathering will be required in order to assess whether the criteria for s42 enquiry are met.

9.5.1. *Check actions have been taken to address immediate safety needs*

- Where appropriate, call 999 for emergency services if there is a medical emergency, other danger to life or risk of imminent injury, or if a crime is in progress.
- Summon urgent medical assistance from the GP, or other primary healthcare service if there is a concern about the adult's need for medical assistance or advice.

Good Practice Guide – Medical treatment and examination

In some cases of abuse (e.g. physical or sexual) it may be unclear whether injuries have been caused by abuse or some other means (e.g. accidentally). Medical or specialist advice should be sought immediately.

- If medical treatment is needed, an immediate referral should be made to the person's GP, A&E or a relevant specialist health team.
- If forensic evidence needs to be collected, the Police should always be contacted. They will normally arrange for a police surgeon (forensic medical examiner) to be involved.
- Consent of the adult should be sought. Where the person does not have capacity to consent to a medical examination, a decision should be made on the basis of whether it is in the person's best interests for a possibly intrusive medical examination to be conducted.
- Should it be necessary to arrange for a medical examination, the following points should be considered:
 - the rights of the adult
 - issues of consent and ability to consent
 - the need to preserve forensic evidence
 - the involvement of any family members or carers
 - who should accompany the adult and provide support & reassurance.

9.5.2. *Make checks with person raising the concern, internal information sources and partner agencies*

- Clarify basic facts, including who is involved in the concern. Practitioners must be aware that this is not a formal s42 enquiry, but that facts are being collected and/or clarified to enable decisions to be made about the level of risk, whether the s42 enquiry criteria are met, and the process to be followed.
- If the concern relates to a potential crime there should be early liaison with the police to agree next steps, and to avoid contamination of evidence.
- Previous contacts and history should be checked for both the adult and the person alleged to have caused harm, including any information about possible risks to workers visiting.

REMEMBER – involvement & engagement with the adult throughout is key to promoting personalised approaches to adult safeguarding. Speak to the adult and get their views as early in the process as it is possible and safe to do so.

Once you have clarified the issues with the person raising the concern, it is good practice to speak to the adult and gain the adult's consent before speaking to other agencies and individuals.

9.5.3. *Make contact with the adult referred*

9.5.3.1. From the very first stages of concerns being identified, the views of the adult should be gained. This will enable the person to give their perspectives about the potential abuse or neglect concerns that have been raised, and what outcomes they would like to achieve. These views should directly inform what happens next.



I am asked my views and this directly informs what happens next.

9.5.3.2. There will be occasions where speaking to the adult could put them at further or increased risk of harm. This could be, for example, due to retaliation, or a risk of fleeing or removal of the adult from the local area, or an increase in threatening or controlling behaviour if the person causing the risk of harm were to know that the adult had told someone about the abuse or neglect, or that someone else was aware of it.

The safety of the adult and the potential for increasing the risk should always be considered when planning to speak to the person. Any such situations where there is the potential for endangering safety or increasing risk should be assessed carefully and advice taken from your management, or from an external agency as appropriate.

9.5.3.3. Where access to the adult is being denied for any reason (for example, as a result of a third party denying access to premises, or access to premises can be gained but a third party is insisting on being present and the adult cannot be spoken to alone), you should seek urgent line management advice, and legal advice where appropriate. Consider liaison with the Police, and consider the best practice guidance on [Gaining access to an adult suspected to be at risk of abuse or neglect](#) (SCIE, 2014).

REMEMBER- follow good practice under the Mental Capacity Act when speaking to the adult. Assume the adult has capacity unless proven otherwise. If the person is proven to lack capacity, speak to the person's representative/s and always act in best interests.

Good Practice Guide – Information gathering

What information do I need to gather?

As a guide, the following sorts of information may be needed to enable effective decision-making-

Details of the person raising the concern / making the referral-

- Name, address and telephone number.
- Relationship to the adult.
- Name of the person raising the concern if different.
- Name of the organisation, if the concern is made from a care setting.
- Anonymous alerts will be accepted and acted on. However, the person raising the concern should be encouraged to give contact details.

Details of the adult

- Name, address and telephone number.
- Date of birth, or age.
- Details of informal carer/s.
- Details of any other members of the household including children.
- Information about the primary care needs of the adult (i.e. disability or illness).
- Funding authority, if relevant.
- Ethnic origin and religion.
- Gender (including transgender and sexuality).
- Communication needs due to sensory or other impairments (including dementia), including any interpreter or communication requirements.
- Whether the adult knows about the referral.
- Whether the adult has consented to the referral and, if not, on what grounds the decision was made to report the concern.
- What is known of the person's mental capacity.
- What are their views about the abuse or neglect.
- What they want done about it (if that is known at this stage).
- Details of how to gain access to the person and who can be contacted if there are difficulties.

Information about the abuse or neglect

- How and when did the concern come to light?
- When did the potential abuse or neglect occur?
- Where did the potential abuse or neglect take place?
- What are the details of the potential abuse or neglect ?
- What impact is this having on the adult?
- What is the adult saying about the abuse or neglect?
- Are there details of any witnesses?
- Is there any potential risk to anyone visiting the adult?
- Is a child (under 18 years) at risk?

Details of the person alleged to have caused the harm (if known)

- Name, age and gender.
- What is their relationship to the adult?
- Are they the adult's main carer?
- Are they living with the adult?
- Are they a member of staff, paid carer or volunteer?
- What is their role?
- Are they employed through a Personal Budget / Direct Payment?
- Which organisation are they employed by?
- Are there other people at risk from the person causing the harm?

Any immediate actions that have been taken

- Were emergency services contacted? If so, which?
- What action was taken?
- What is the crime number if a report has been made to the police?
- Details of any immediate plan that has been put in place to protect the adult with care and support needs from further harm.
- Have children's services been informed if a child (under 18 years) is a risk?

9.5.4. Dealing with historic allegations of abuse or where the adult is no longer at risk.

9.5.4.1. One of the criteria for undertaking statutory enquiry under the Care Act s42 duty is that the adult is "experiencing, or is at risk of, abuse or neglect". Therefore, the duty to make enquiry under the Care Act relates to abuse or neglect, or a risk of abuse or neglect, that is current. Concerns relating to historic abuse or neglect where the person is no longer at risk will not be the subject of statutory enquiry under these procedures, but further action under different processes may be needed.

9.5.4.2. All such historic concerns will be considered to determine whether they demonstrate a potential current risk of harm to other adults and also whether they require criminal or other enquiry through parallel processes (e.g. complaints, inquests, regulatory, commissioning, health and safety investigations).

9.5.4.3. Where an adult safeguarding concern is received for an adult who has died the same considerations will apply and an enquiry will only be made where there is a clear belief that other identifiable adults are experiencing, or are at risk of, abuse or neglect.

9.5.4.4. In cases where an adult has died or suffered serious abuse or neglect, and where there is concern that agencies should have worked more effectively to safeguard the adult, there is a statutory requirement for the Safeguarding Adults Board to undertake a Safeguarding Adults Review under section 44 of the Care Act.

9.5.5. *Making a decision*

9.5.5.1. Once all relevant information has been gathered- including the views of the adult in all circumstances where it is possible and safe to ask- the local Lead Agency should be in a position to make a decision about how the concern should be addressed and whether the criteria for statutory s42 duty of enquiry is met- i.e. where the Local Authority has reasonable cause to suspect that an adult aged 18 or over in its area-

- (i) has **needs for care & support** (whether or not the authority is meeting any of those needs),
- (ii) is **experiencing, or is at risk of, abuse or neglect**, and
- (iii) as a result of those needs **is unable to protect himself or herself** against the abuse or neglect or the risk of it.

9.5.5.2. Where the above criteria are met, the case will progress to the Enquiry stage of this procedure.

9.5.5.3. Where the above criteria for statutory enquiry are not met, for example in circumstances where...

- The adult is at risk of abuse or neglect but does not have care & support needs,
- The adult has care & support needs, may have experienced abuse or neglect in the past, but is no longer experiencing or is at risk of abuse or neglect,
- The adult has care & support needs, is at risk of abuse or neglect, but is able to protect themselves from abuse or neglect should they choose to,

...the Lead Agency will consider what other action, or provision of advice/information, is required to respond to the concern.

REMEMBER- 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

Viewed in this way, even when the criteria for statutory Adult Safeguarding Enquiry under section 42 of the Care Act is not met, effective “safeguarding” can happen within other different processes and services, for example:

- people can be supported to live safely through good quality assessment and support planning.
- people’s right to live free from crime can be supported through Police interventions, and to recover from the experience of crime through victim support services.
- people’s 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.

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

9.5.5.4. If the criteria for statutory enquiry are not met, when deciding what other action is required, the Lead Agency should work in partnership with the adult affected, and the agreed actions should reflect the views and wishes of the adult wherever possible.



Decisions about me
are made with me

Good Practice Guide – other types of advice / action or information.

Where the criteria for statutory enquiry are not met, other types of action, or provision of advice/information, could be, for example-

- Referral for a needs assessment under s9 of the Care Act.
- Referral for DOLS assessment.
- Referral for Mental Health Act assessment.
- Referral to other risk management processes, e.g. MARAC, MAPPA, local harm reduction processes.
- Referral or signposting to other agencies or support services, e.g. Police, victim support, domestic abuse support services, counselling services, GP.
- Written information and advice on how to keep safe, or how to raise a concern in the future.
- Information about how to make a formal complaint, for example, about substandard care or treatment.
- Information sharing with regulatory agencies (e.g. CQC) and commissioners to address service quality concerns.
- Service Provider to undertake appropriate internal responses, e.g. internal investigation, training, disciplinary process, audit & assurance activity.
- Concern is passed into other incident management processes, e.g. NHS Serious Incident process.
- Utilisation of the POT process to address concerns about people in a position of trust who may pose a risk of harm to adults with care and support needs.
- Referral for Safeguarding Adults Review (Care Act s44).

Actions taken, or information and advice provided, should aim to promote the adult's wellbeing, prevent harm and reduce the risk of abuse or neglect, and promote an approach that concentrates on improving life for the adults concerned, including enabling the adult to achieve resolution and recovery.

9.5.5.5. When deciding what other advice/action or information is required, the Lead Agency has a responsibility to ensure the actions decided are appropriate, and are satisfied that actions will be taken. For example, ensuring other agencies agree to & accept any referrals made, that the person has the ability and means to contact other sources of support if giving signposting advice, or that other agencies or provider services are willing and able to address concerns appropriately through their internal processes. If the Lead Agency has concerns that the issue will not be dealt with appropriately, internal management and local inter-agency escalation processes should be followed.

9.5.6. *Notifications / information sharing with other agencies -*

The Lead Agency will consider what feedback and information needs to be shared with other agencies. General information sharing principles apply – consent of the adult involved should be gained; if information is to be shared without consent, the adult should be informed what information will be shared, with whom, and why.

- In cases involving service quality concerns in regulated and/or commissioned services, information about the quality concern must be shared with the CQC and relevant commissioners of services (e.g. Local Authority, CCG's, NHS England).
- In cases where a crime has been committed or may be committed, the Police should be informed.
- The person or agency who raised the concern should be notified of the decision and outcome wherever appropriate and safe to do so.

9.5.7. *Recording –*

The decision, and the rationale for the decision, should be recorded by the Lead Agency in each individual case.

9.5.8. *Supporting an adult who makes repeated allegations*

An adult who makes repeated allegations that have been looked into and are unfounded should be treated *without prejudice*.

- Each allegation must be risk assessed and reviewed to establish if there is new information that requires action under these procedures.
- A risk assessment must be undertaken and measures taken to protect staff and others, where appropriate.
- Each incident must be recorded.
- Organisations should have procedures for responding to such allegations that respect the rights of the individual, while protecting staff from the risk of unfounded allegations.

9.5.9 *Responding to family members, friends and neighbours who make repeated allegations*

Allegations of abuse or neglect made by family members, friends or neighbours should be responded to *without prejudice*. However, where repeated allegations are made and there is no foundation to them and further enquiries are not in the best interests of the adult, then local procedures apply for dealing with multiple, unfounded complaints.