

## Section 2: Reporting abuse and neglect - General guide to raising concerns

### Overview

This section provides guidance on when and how to raise a safeguarding concern. It includes specific reference to:

- Acting to protect the adult and other people; meet immediate needs;
- Reporting to internal management;
- Taking management action in response to concerns;
- Whistleblowing and confidentiality for people raising a concern;
- Members of the public who wish to make anonymous referrals;
- Speaking to the adult before raising the concern;
- Consent and mental capacity;
- Recording;
- Reporting adult safeguarding concerns;
- People causing harm who are in Positions of Trust (PoT);
- Providing support pending a safeguarding decision.

### General guide

2.1 A safeguarding concern may be raised by anyone, including service users and informal carers when they believe that an adult:

- has needs 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 and neglect.

The Care Act 2014<sup>vi</sup> defines ten categories of abuse:

Physical	Sexual
Financial	Discriminatory
Neglect	Self-neglect
Emotional abuse	Organisational abuse
Domestic abuse	Modern slavery

Examples and potential indicators of each type of abuse can be found at <https://www.ssaspb.org.uk/Reporting-Abuse/What-is-abuse.aspx>

- 2.2 Self-neglect is now seen as a classification of ‘abuse’ and therefore should be referred in the same way as abuse by others. Where there is concern that an individual is not meeting their own care needs the first action should be to ensure a care needs assessment has been undertaken. Self-neglect should not be taken to include a general refusal to consent to a specific form of care or treatment or behaviour arising from personal or cultural choices other than when this is connected with a serious risk of harm arising from a refusal of assessments and services. Deliberate self harm is not considered to be a form of self neglect and would not, in isolation from other factors relating to abuse, be grounds for raising a safeguarding concerns. Further guidance in relation to self-neglect can be found on pages 28 and 49.
- 2.3 The primary responsibility of anyone who becomes aware of any abuse is to seek to make the situation as safe as possible for the adult and to take steps to prevent any imminent abuse.
- 2.4 It is always important that paid staff apply appropriate professional judgement in deciding whether a referral should be made and this includes checking of basic facts that might inform a concern. By raising a concern staff are stating that they believe that abuse may be taking place or that there is a high and demonstrable risk that it will occur.
- 2.5 Where a concern needs to be raised it should be done by the person who believes that abuse may be occurring and the raising of the concern should not be delegated to another person, body or agency.
- 2.6 People raising a concern may become aware of possible abuse when they:
- a. witness an abusive act;
  - b. are told about abuse by someone else;
  - c. are told about abuse by the service user;
  - d. find evidence of abuse;
  - e. recognise several of the risk indicators and become concerned that there is a high risk of abuse.
- 2.7 Safeguarding concerns and processes should not be used as a substitute for:
- Providers’ responsibilities to provide safe and high quality care and support;
  - Commissioners regularly assuring themselves of the safety and effectiveness of commissioned services;
  - The Care Quality Commission (CQC)<sup>vii</sup> ensuring that regulated providers comply with the fundamental standards of care or by taking enforcement action;

- The core duties of the police to prevent and protect life and property.
- 2.8 Safeguarding procedures should not be invoked as a means to escalate or resolve professional disagreements or interpersonal issues unless a risk to the adult is clearly indicated.
- 2.9 There is no requirement for care providers to raise a safeguarding concern in relation to single instances of poor practice where no lasting harm or distress has occurred and where there is a plan for protecting the adult from the risk of harm. The expectation is that providers will undertake their own internal investigations and take the appropriate disciplinary or remedial actions, as well as reporting significant incidents to the relevant regulators in line with regulations and legislation. If there is doubt as to whether a concern should be raised then this should be clarified with the relevant Local Authority.
- 2.10 Care providers should clearly record their rationale as to why they did or did not raise a concern and this should be consistent with the Safeguarding Principles, especially proportionality and accountability.

### **Acting to protect the adult and other people; meeting immediate needs**

- 2.11 Make an immediate evaluation of the risk and take steps to ensure that the adult is in no immediate danger. Where appropriate, call 999 for emergency services if there is a medical emergency, other risk to life or risk of imminent injury, or if a crime is in progress.
- 2.12 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. You can call the (National Health Service) NHS 111 service for urgent medical help or advice when it is not a life-threatening situation.
- 2.13 Consider if there are other adults or children with care & support needs, or if there are any children (including unborn children), who are at risk of harm, and take appropriate steps to safeguard them.
- 2.14 Support and encourage the adult to consider contacting the police if a crime has been or may have been committed. The adult must also be made aware that any professional responsibility has a duty to report a crime in the interests of their safety, even if the adult does not wish this to occur.
- 2.15 Take steps to preserve any physical evidence if a crime may have been committed, and preserve evidence through recording.

## **Reporting to internal management**

*For people who work in a paid and/or unpaid role within organisations:*

- 2.16 If you are concerned that a member of staff in your organisation has abused or neglected an adult with care & support needs, you have a duty to report these concerns. You *must* inform your line manager immediately.
- 2.17 In situations where informing a manager will involve delay in a high-risk situation you should report the concern to external agencies immediately.
- 2.18 If you are concerned that your line manager has abused or neglected an adult with care & support needs, you must inform a senior manager, or another Adult Safeguarding Lead, in your organisation. In exceptional circumstances where you do not feel safe or comfortable reporting the matter within your own organisation, or if you have already raised concerns with your managers but no action has been taken, you can report the concern to the Local Authority in your area.

## **Taking management action in response to concerns**

- 2.19 The line manager or the Adult Safeguarding Lead within the organisation identifying the concern should then decide on the most appropriate course of action without delay. This should include:
- Check & review actions already taken and decisions made;
  - If not already done so:
    - Make an evaluation of the risk to the adult;
    - Wherever it is safe, speak to (or decide who is the best placed person to speak to) the adult to gain their views about the concern and what they would like to happen next;
    - Take reasonable and practical steps to safeguard the adult;
    - Consider referring to the police if the suspected abuse appears to be a crime;
    - If the matter is to be referred to the police, discuss risk management and any potential forensic considerations with the police;
  - Arrange any necessary emergency medical treatment. Note that offences of a sexual nature will require expert advice from the police;
  - If the person alleged to have caused the harm is also an adult with care & support needs, arrange for a member of staff to attend to their needs;

- Make sure that other people are not at risk;
- Take action in line with the organisation's disciplinary procedures, as appropriate, if a member of staff is alleged to have caused harm. Inform your Adult Safeguarding Lead;
- Ensure that records are made of any concerns, and that decisions are clearly recorded with the rationale;
- Raise a safeguarding concern if necessary.

2.20 Organisations should ensure that they have procedures in place to provide appropriate line manager cover to respond to such concerns, despite leave or where services operate extended or 24-hour cover.

2.21 National Health Service (NHS) staff will need to refer to their trust's procedures on clinical governance and adult safeguarding, as well as these Staffordshire and Stoke-on-Trent Adult Safeguarding Enquiry Procedures. In line with these procedures NHS staff will raise appropriate safeguarding concerns to the Local Authority for the area where any alleged abuse occurs.

### **Whistleblowing and confidentiality for people raising a concern**

2.22 All agencies should have a clear policy on whistleblowing, which highlights how employees can raise concerns about abusive or neglectful acts of colleagues or employing organisations if they feel unable to raise these through their line management. Whistleblowing policies should be consistent with the legal requirements of the Public Interest Disclosure Act 1998<sup>viii</sup>.

2.23 In most cases staff will raise concerns without recourse to whistleblowing procedures and it is important that the use of whistleblowing is not used as a means of seeking anonymity where there would be no genuine fear of repercussions. While every effort will be made to protect the identity of workers who are raising concerns, anonymity cannot be guaranteed throughout the process.

2.24 It is important to remember:

- In cases where the police are pursuing a criminal prosecution, workers or other witnesses may be required to give evidence in court;
- Information from any Safeguarding Enquiry under Section 42 of the Care Act 2014 and Disciplinary Investigation will be shared with the person

identified as the source of risk if a referral to the Disclosure and Barring Scheme (DBS)<sup>ix</sup> is made;

- There is a possibility that a worker maybe asked to give evidence at an employment tribunal;
- Anyone can be requested to give evidence when the employer has referred a member of staff to a professional body (e.g. Nursing and Midwifery Council (NMC)<sup>x</sup>, Health and Care Professions Council (HCPC)<sup>xi</sup>, General Medical Council (GMC)<sup>xii</sup>);
- The adult or the potential source of risk may request to see information held about them under the Data Protection Act (DPA) 1998<sup>xiii</sup>.

### **Members of the public who wish to make anonymous referrals**

2.25 It is preferable to know who is raising a concern; however a member of the public cannot be forced to give their personal details.

If the identity of the person raising the concern has been withheld, the process will proceed in the usual way. This will include information being recorded onto the Adults Safeguarding Form (AS1) as found on page 105.

### **Speaking to the adult who is experiencing, or is at risk of, abuse or neglect before raising the concern**

2.26 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.

2.27 There will be situations where speaking to the adult could put them at further or increased risk of harm. Examples include: retaliation, the 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.

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

2.29 When speaking to the adult -

- Speak to the adult in a private and safe place and inform them of the concerns. The person alleged to be the source of the risk should not be present in all but the most exceptional of circumstances;
- Get the adult's views on the concern and what they want done about it;
- Give the adult information about the adult safeguarding process and how this could help to make them safer;
- Explain confidentiality issues, how they will be kept informed and how they will be supported;
- Identify communication needs, personal care arrangements and access requests;
- Discuss what could be done to make them safer.

### **Consent and Mental Capacity**

2.30 Anyone who acts for, or on behalf of, a person who may lack capacity to make relevant decisions has a duty to understand and work in compliance with the Mental Capacity Act 2005(MCA), its principles and the MCA Code of Practice<sup>xiv</sup>. Any decision that the adult may not fully understand or is unable to make will necessitate an assessment of the adult's mental capacity and, where the adult does not have capacity to make the decision, others will need to make a decision that is in the adult's best interests.

2.31 All adults have the right to choice and control in their own lives. As a general principle, no action should be taken for, or on behalf of, an adult without obtaining their consent. There is however a tension between the duty of confidentiality and the need to prevent abuse.

2.32 At the concern stage, the most common capacity & consent issues to consider will usually be:

- whether the adult has the mental capacity to understand & make decisions about the abuse or neglect related risks, & any immediate safety actions necessary;
- whether the adult consents to immediate safety actions being taken;
- whether the adult consents to information being referred / shared with other agencies.

- 2.33 If it is felt that the adult may not have the mental capacity to understand the relevant issues and to make a decision, it should be explained to them as far as possible, given the person's communication needs. They should also be given the opportunity to express their wishes and feelings.
- 2.34 It is important to establish whether the adult has the mental capacity to make decisions. This may require the assistance of other professionals. In the event of the adult not having capacity, relevant decisions and/or actions must be taken in the person's best interests. The identity of the appropriate decision-maker will depend on the decision to be made and should be clearly recorded.
- 2.35 If there is an overriding public interest or vital interest, or if gaining consent would put the adult at further risk, the concern must be reported. This includes situations where:
- there is a risk or harm to the wellbeing and safety of the adult or others;
  - other adults or children could be at risk from the person causing harm;
  - it is necessary to prevent crime or if a crime may have been committed;
  - the person lacks capacity to consent.
- 2.36 The adult would normally be informed of the decision to report and the reasons for this, unless telling them would jeopardise their safety or the safety of others.

The key issues in deciding whether to report a concern without consent will be the harm or risk of harm to the adult, and risks to any other adults who may have contact with the person causing harm or with the same organisation, service or care setting.

- 2.37 If any person is unsure whether to report, they should contact the relevant Local Authority for advice.
- 2.38 Disclosure without consent needs to be justifiable and the reasons recorded by professionals in each case.
- 2.39 It should be remembered that section 11 of the Care Act 2014 places a duty for an assessment of care and support needs, even if this has been declined in situations where the adult lacks mental capacity or where they are experiencing or at risk of abuse.

## Recording

2.40 As soon as possible on the same day, make a written record of what was seen, has been told or there are concerns about. Try to make sure anyone else who saw or heard anything relating to the concern also makes a written report.

The written report will need to include:

- the date and time when the disclosure was made, or when you were told about / witnessed the incident(s);
- who was involved, any other witnesses including service-users and other staff;
- exactly what happened or what you were told, in the person's own words, keeping it factual and not interpreting what you saw or were told;
- the views and wishes of the adult;
- the appearance and behaviour of the adult and/or the person making the disclosure;
- any injuries observed;
- any actions and decisions taken at this point;
- any other relevant information, e.g. previous incidents that have caused you concern.

Remember to:

- include as much detail as possible;
- make sure the written report is legible, written or printed in black ink, and is of a quality that can be photocopied;
- make sure you have printed your name on the report and that it is signed and dated;
- keep the report factual as far as possible. However, if it contains your opinion or an assessment, it should be clearly stated as such and be backed up by factual evidence. Information from another person should be clearly attributed to them;
- keep the report/s confidential, storing them in a safe and secure place until needed.

## **Reporting Adult Safeguarding concerns**

- 2.41 Refer any safeguarding concern that meets the criteria at Section 2.1 to the Local Authority for the area where the adult is currently living by telephoning the relevant Contact Centre<sup>xv</sup>.
- 2.42 In addition, if a criminal offence has occurred or may occur contact the Police force where the crime has occurred/may occur.
- 2.43 If a crime is in progress or life is at risk, dial emergency - 999.
- 2.44 Secure any physical evidence such as clothing, bed linen etc. that may exist (this is especially relevant to sexual assaults). Items should be individually stored to avoid cross contamination.
- 2.45 You must contact the Local Authority Children's Services<sup>xvi</sup> if a child (including unborn children) is identified as being at risk of harm.
- 2.46 If you are a paid employee, inform your manager. Report the matter internally through your internal agency reporting procedures (e.g. NHS colleagues may still need to report under Clinical Governance or Serious Incident Processes, report to Human Resources (HR) department if an employee is the source of risk).
- 2.47 If your service is registered with the Care Quality Commission (CQC), and the incident constitutes a notifiable event, complete and send a notification to CQC.

## **People causing harm who are employed in Positions of Trust (PoT)**

- 2.48 Where allegations relate to paid staff or others in positions of trust proportionate action should be taken to ensure the immediate protection of the adult(s) with care and support needs. Further guidance can be found in the West Midlands Person in a Position of Trust (PiPoT)<sup>xvii</sup> guidance referenced at the end of this document.
- 2.49 Where the concerns require police involvement, wherever possible liaise with the police prior to speaking to or communicating with the person who works in a Position of Trust.
- 2.50 If the person is a member of staff, HR advice should be sought. An immediate decision may have to be made to take action to protect the adult or other service users against any potential risk of harm (e.g. suspension without prejudice,

supervised working etc.). Actions taken will need to be compliant with employment law and the employee will have a right to know in broad terms that allegations or concerns have been raised about them.

- 2.51 Although any agency may take a view regarding the suitability of a person to work in a Position of Trust, the responsibility for decisions regarding suspension, dismissal and other levels of disciplinary action lie with the employer alone. Commissioners and regulators may take a view about the compliance of a service if they believe that a person in a Position of Trust poses a risk to adults with care and support needs but this cannot override the employer's legal responsibilities to act fairly and proportionately in handling a disciplinary matter.

### **Providing support pending a safeguarding decision**

- 2.52 In any situation where medical assistance is required then this must be provided as a priority.
- 2.53 Providers will ensure that the adult is protected from any known source of risk as far as the adult is prepared to consent to this and if this is practicable.
- 2.54 All necessary planned care should be provided as usual unless there has been specific advice from the police that this should not occur.
- 2.55 Appropriate emotional support should be provided and the adult should be reassured as far as possible that they will be assisted and supported.
- 2.56 If the provider is unsure as to whether a course of action is appropriate then seek advice from internal management or from the Local Authority Safeguarding Team.
- 2.57 Any necessary disciplinary action can be instigated. Providers to bear in mind the need to consult the Police about interviewing staff where there is a criminal investigation taking place.
- 2.58 Care providers must update the Safeguarding Teams of any significant changes or new information (e.g. hospital admission of adult or death).

### Short Practice guide 1 - How and when to raise a safeguarding concern

<b>Who can raise a safeguarding concern?</b>	Anyone – the adult, Carers, paid staff, volunteers, Inspectors, Police Officers, Health and Safety Officers, etc.
<b>Who decides whether to raise a concern?</b>	<p>The person who believes that abuse may be taking place is the best person to raise the concern and they should take the responsibility for doing so.</p> <p>It is not good practice for that person to delegate this to another agency and this will cause difficulties if that agency has a different view on the incident, especially if they do not themselves believe that abuse has occurred. If the allegation is historic and there is no current safeguarding concern then there is unlikely to be any benefit in raising the matter through these procedures.</p>
<b>How quickly should a concern be raised?</b>	Immediately and always within 24 hours.
<b>Who should be contacted with a concern?</b>	<p>In all cases, concerns will be raised with the Local Authority where the abuse is believed to have taken place:</p> <p><b>Staffordshire County Council, Social Care and Health</b> <b>Tel: 0345 604 2719</b></p> <p><b>Stoke-on-Trent City Council, Adult Social Care</b> <b>Tel: 0800 5610015</b></p> <p>Where a crime has taken place or the adult may be in immediate danger contact should be made with Staffordshire Police. <b>In emergencies using 999 or if less urgent using 101.</b></p>
<b>How is a concern raised?</b>	<p>By telephone to the above numbers.</p> <p>Staff who raise a concern may be asked to provide additional written detail and information. Callers will be given a reference number for their own records and to assist with any follow-up queries.</p>
<b>What information should be included when raising the concern?</b>	<p><b>Personal details</b> of the adult (name, date of birth, address, gender, race, faith, culture and current whereabouts).</p> <p>Name, address, contact number of the person raising the concern, and their relationship to the adult.</p> <p><b>Full description of the abuse</b> that is believed to have taken place including where and when it occurred.</p> <p><b>All known details of the potential source of risk</b> (name, address, date of birth, gender, current whereabouts and relationship to the adult).</p> <p><b>Details of any harm caused to the adult.</b> Perception of continuing risks.</p> <p><b>Immediate action</b> taken or required to protect the adult.</p> <p><b>Details of other people</b> who may be at risk of harm, including children.</p> <p><b>Details of any action already taken</b> (e.g. call to emergency services, crime number, and protection measures.)</p>

	<p><b>Details of agencies involved</b> with the adult.</p> <p><b>Whether the adult is aware</b> of the concern being raised.</p> <p><b>Whether the adult has agreed</b> to the concern being raised.</p> <p><b>Any known views or wishes of the adult</b> regarding possible outcomes.</p> <p><b>The views of the person raising the concern</b> about what needs to happen next.</p> <p><b>Any information that relates to the mental capacity</b> of the adult in relation to their ability to protect themselves from harm.</p> <p><b>Any known language or communication needs</b> (e.g. need for an interpreter or intermediary).</p>
<p><b>What if the adult does not wish for the concern to be raised?</b></p>	<p>Where there is a risk of harm to the wellbeing of the adult or to others, a potential offence or disciplinary issues the concern should be raised but it must be made clear what the adult’s view on this is and that they are aware that information is being recorded and shared.</p>
<p><b>What feedback will be given on concerns that have been raised?</b></p>	<p>People raising a concern should be given information regarding the status of the concern they have raised. The extent of this feedback will depend on various things (e.g. the relationship they have with the victim, confidentiality issues and the risk of compromising an investigation).</p> <p>It should normally be possible to advise people whether their concern has led to a Section 42 Enquiry.</p>

## Short Practice guide 2 - Advice to staff who receive a disclosure of abuse

People who become aware of abuse or the risk of abuse should:	Why is this important for the adult?
Ensure the immediate safety of the adult. If there is an injury appropriate health care should be arranged (e.g. an ambulance, visit to Accident and Emergency Department).	<i>Immediate protection and health care is provided.</i>
If a suspected crime has just occurred or is still occurring then the Police should be informed immediately by ringing 999.	<i>Criminal investigation can begin immediately.</i>
Ensure that any evidence of abuse is kept safe and free from contamination to avoid interference with the investigation. This would especially apply to clothing and bedding where there has been a sexual assault but also to documentary evidence in other situations.	<i>Evidence is secure and the adult will have the option of making a complaint.</i>
Refer the incident / abuse to Social Care.	<i>Social Care support can be offered as part of the investigation.</i>
Record all details of the abuse concerns clearly and factually as soon as possible. When recording any disclosure then record the actual words used by the adult. If there are any visible injuries these should be recorded on a Body Map (See appendix 1)	<i>A clear record exists of the adult's initial comments and injuries. The adult will be able to see what is recorded about them and might have a better understanding of what has occurred.</i>

## What to do when abuse is disclosed by an adult

Do	Don't
Listen carefully, stay calm and make notes of what they say using their own words.	Question, put pressure on the adult for more details, start your own enquiry or take photographs (See section 4.124)
Establish what the adult wants/ does not want to happen	Act in a way that may prevent the adult talking about the abuse in future.
Be aware that medical evidence may be needed.	Promise to keep secrets.
Reassure the adult that the information will be treated seriously.	Make any promises that you may not be able to keep (e.g. 'It won't happen again').
Help the adult to understand that whatever has happened is not their fault.	Question any person who is a potential source of risk.
Explain the referral process and that others may need to be made aware.	Agree not to refer because the adult withholds consent.
Explain that the matter may have to be referred on even if they do not consent but that their wishes will be made clear if this happens.	Wait to discuss with colleagues or gather more information.
Make the referral immediately.	

ii	DoH Safeguarding Principles
iii	MCA 2005
iv	Information Sharing
v	Human Rights Act
vi	Care Act 2014
vii	CQC
viii	Public Interest Disclosure Act 1998
ix	Disclosure and Barring Scheme (DBS)
x	Nursing and Midwifery Council (NMC)
xi	Health and Care Professions Council (HCPC)
xii	General Medical Council (GMC)
xiii	DPA Act
xiv	MCA Code of Practice
xv	Contact Centre
xvi	Local Authority Children's Services
xvii	West Mids PiPoT
xviii	SAR Protocol
xix	Care Act guidance
xx	Mental Health Act
xxi	DoLS
xxii	Police and Criminal Evidence Act 1984 (PACE)
xxiii	MARAC
xxiv	Multi-Agency Public Protection Arrangement (MAPPA)
xxv	SSASPB Escalation Policy
xxvi	NHS England
xxvii	Section 75 of the National Health Service Act 2006)
xxviii	Multi-Agency Safeguarding Hub (MASH)
xxix	ADASS <a href="https://www.adass.org.uk/media/5414/adass-guidance-inter-authority-safeguarding-arrangements-june-2016.pdf">https://www.adass.org.uk/media/5414/adass-guidance-inter-authority-safeguarding-arrangements-june-2016.pdf</a>
xxx	<i>Youth Justice and Criminal Evidence Act 1999</i>
xxxi	One Staffordshire Information Sharing Protocol
xxxii	Sexual Assault and Rape Centre (SARC)
xxxiii	Crown Prosecution Service (CPS)