



# Causing Others to Make Enquiries Guidance

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**Author:** Swindon Safeguarding Partnership

## Forward

This guidance has been agreed by Swindon Safeguarding Partnership and is for use by staff who manage or undertake statutory Safeguarding Adult Enquiries under Section 42 (S42) of the Care Act 2014. It comes into effect once a decision has been reached by the Local Authority that the criteria has been met. This guidance is in addition to the Adult Safeguarding policy and procedures for the protection of adults with care and support needs in Swindon.

It is recognised that not all safeguarding adult concerns will be best dealt with by a referral to the Local Authority, or meet the criteria for a Section 42 Enquiry. Where they do not, other courses of action may need to be taken, dependent on the circumstances of each case and the views of the adults the concern is about or their advocate. This document outlines the framework which should be followed when responding to safeguarding concerns and undertaking enquiries. It sets out the expectations regarding the standards, roles and responsibilities of agencies and organisations and practice of staff and managers involved in safeguarding work.

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1: Multi-Agency Caused Enquiry Agreement Template

2: Swindon Locality Protocol for Managing All Allegations Against Health Staff with Reference to The South West Region Adult Position of Trust Framework (SW PiPoT)

## Responding to Safeguarding Concerns

When the Local Authority receives a safeguarding concern it will initially check if any action is required to address immediate risks, for example by contacting emergency services if there is an imminent serious or life threatening risk to the adult or others.

The Care Act 2014 places a duty on the Local Authority to undertake a Safeguarding Enquiry where a Local Authority has reasonable cause to suspect that an adult in its area (whether or not ordinarily a resident there):

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

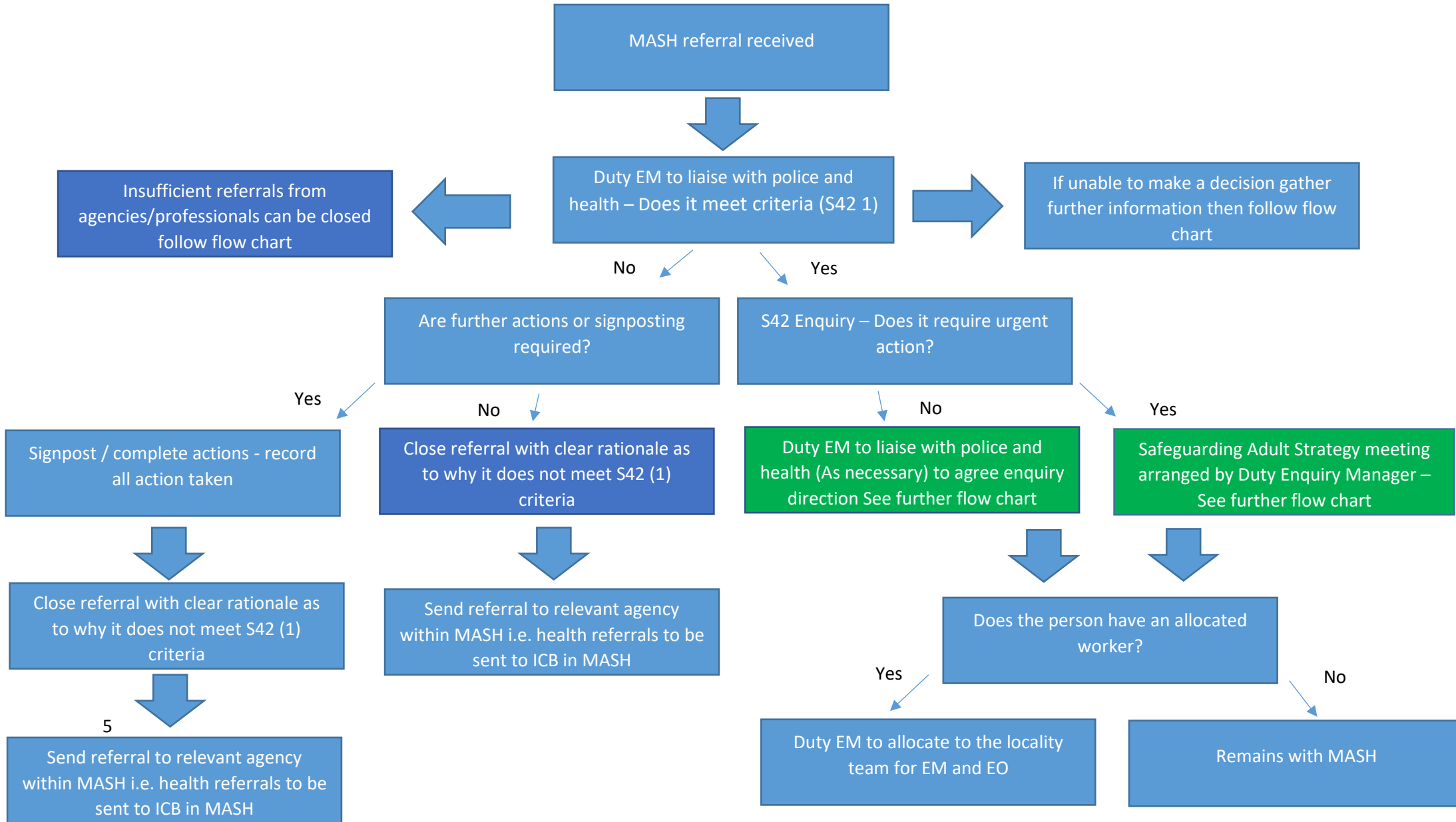
If the information received gives the Local Authority reasonable cause to suspect that these three key criteria are met, then the duty to enquire is triggered.

If the information received is not sufficient to enable the Local Authority to make a reasonable judgement as to whether the duty is triggered, then it may seek further information until there is sufficient information to make a decision under section 42.1 of the Care Act 2014. This could include:

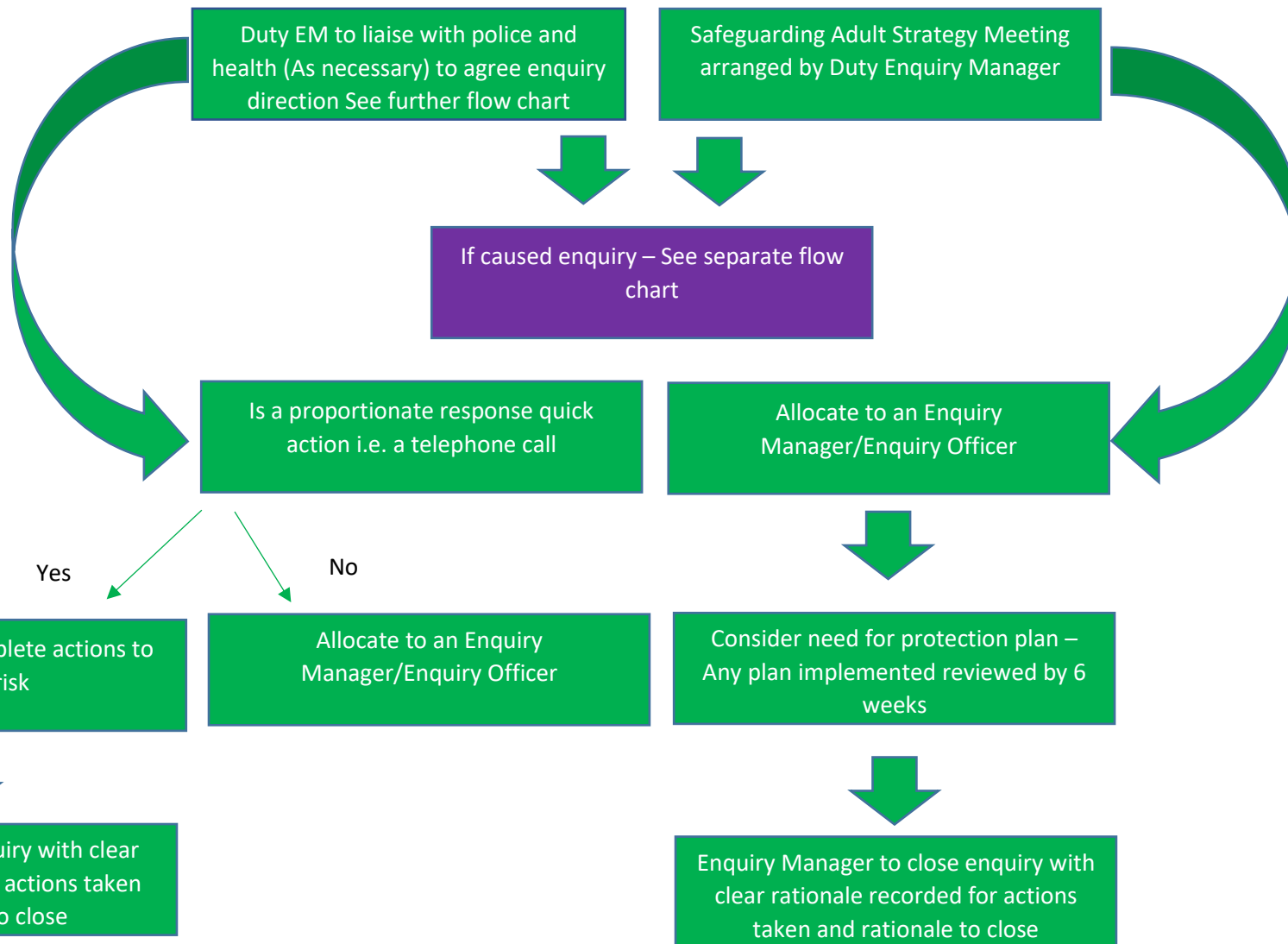
- reviewing previous records,
- gathering further information from the person who raised the concern.
- Speaking to the person the concern is about.

Once the duty to enquire is triggered any following actions undertaken are taken under Section 42.2 of the Care Act 2014, where each Local Authority must make enquiries or cause others to do so. An Enquiry should establish whether any action needs to be taken to prevent or stop abuse or neglect and if so, by whom. An Enquiry must take into account the adult's views as to what actions, if any, they wish to happen as part of the Enquiry.

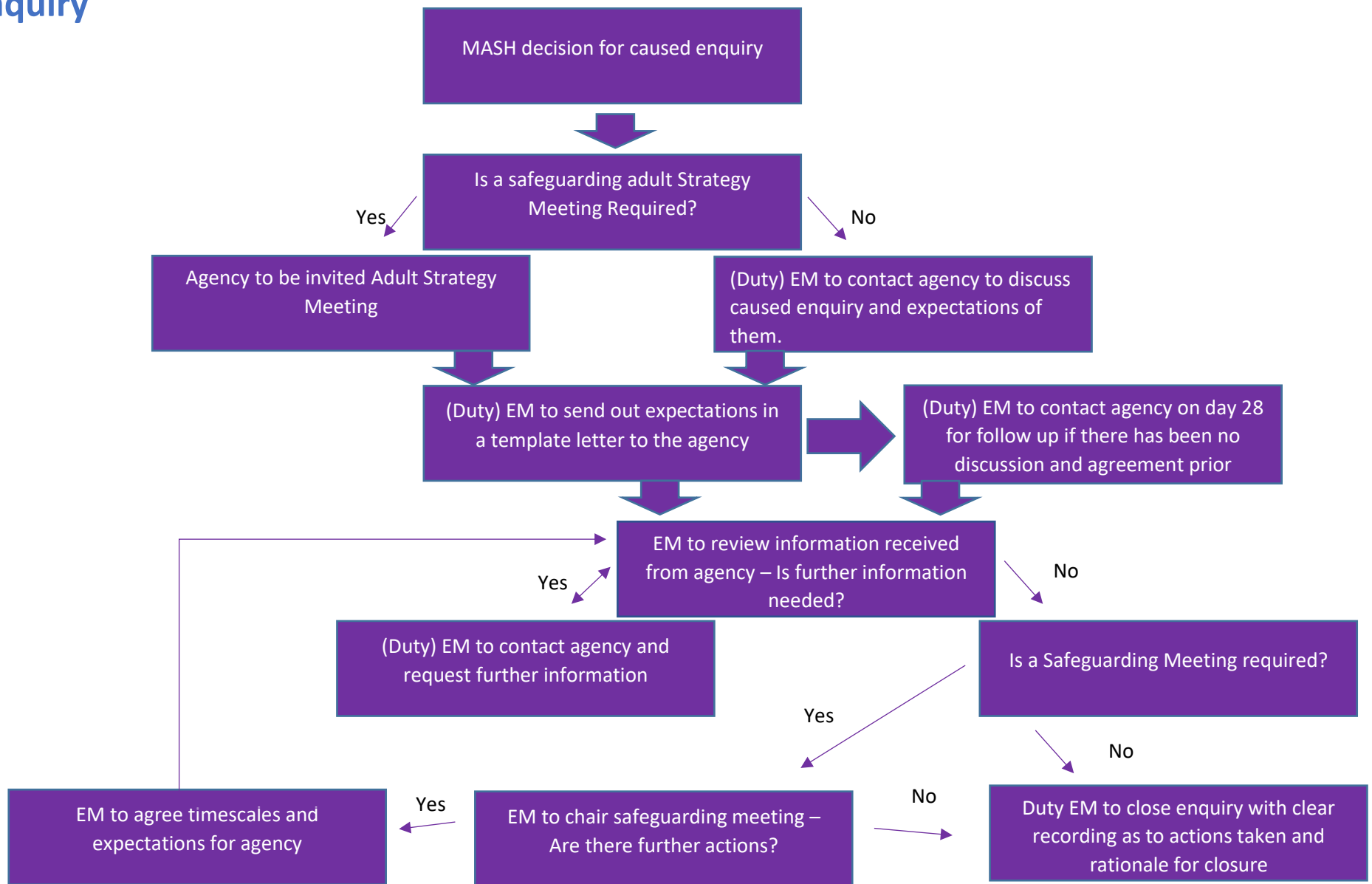
## Standard Operating Procedures Adult Mash – Flow Chart



## Proceeding to Enquiry



## Caused Enquiry



## Who should conduct the Safeguarding Enquiry?

Section 42 of The Care Act 2014 states ‘the Local Authority must make (or cause to be made) whatever enquiries it thinks necessary to enable it to decide whether any action should be taken in the adult’s case (whether under this part or otherwise) and, if so, what and by whom.

When considering who should conduct the Enquiry the following points should be considered:

Which professional has the closest relationship with the individual? This might be the care provider, housing support worker, health professional for example.

- Are there any employment responsibilities? Allegations about staff may be best undertaken by the employer. All statutory and agency partners have agreed and are working in accordance with Swindon Locality Protocol for Managing All Allegations Against Health Staff with Reference To The South West Region Adult Position Of Trust Framework (SW PiPoT) – See *Appendix 2*.

Who has the necessary skills and knowledge? Specific skills may be required such as treatment of pressure ulcers, medicines, home care provision, psychiatric observations, for example.

Where the abuse or neglect happened (it is the duty of the Local Authority where the alleged abuse or neglect has taken place to hold the responsibility of undertaking the enquiry (or causing the enquiry).

- Has a crime been committed? If a crime is suspected the police must lead the criminal investigation.



## When it will not be appropriate to cause a Safeguarding Enquiry

The Local Authority as the lead agency for making enquiries will not cause another person, agency or organisation to undertake an Enquiry when:

- There is a serious conflict of interest on the part of the employer. For example if there are existing or multiple concerns regarding the organisation, if there are conflicts related to commissioning or matters requiring investigation by the Police.
- There are or have been concerns about non-effective previous enquiries.
- There are concerns regarding the organisation following recent CQC inspection, particular attention on whether the organisation is 'well-led' and whether there are concerns regarding leadership of the organisation.
- It is not clear they have the necessary skills and knowledge to undertake what is required.
- The concern(s) relates to organisational abuse or it requires a Large Scale Enquiry.

## Safeguarding Enquiry

A Safeguarding Enquiry is any action taken or instigated by the Local Authority in response to a concern that a person at risk of experiencing abuse or neglect may or has taken place.

The purpose of the Safeguarding Enquiry is to establish with the adult and / or their representative(s) what action, if any, is required in relation to the concern and who should take such action. The first priority should always be to ensure the safety and well-being of the adult. However, this should be carefully balanced with the adult's views, wishes, and any risks to others. The adult should experience the safeguarding process as empowering and supportive.

The specific objectives of an Enquiry into abuse or neglect are to, where possible:

- Establish facts.
- Ascertain the adult's views, wishes and desired outcomes. Where it is established that the adult lacks capacity to consent to the Enquiry, action should be taken in their best interests.

- Protect the adult from abuse or neglect, in accordance with their wishes.
- Assess the needs of the adult for protection, support and redress, and how these might be met.
- Make decisions as to what action should be taken with regard to the person or organisation thought to be the cause of risk or harm.

## Duty of the Local Authority Causing an Enquiry

Where the Local Authority responsible for a Section 42 Enquiry identifies that another agency is best placed to undertake that Enquiry, or an element of it, they must:

- Be satisfied that the organisation(s) are appropriate to be Caused an Enquiry and record a rationale for this decision. To include a review of existing evidence in relation to the concerns, any previous concerns regarding the agency and/or CQC ratings of the agency.
- Adult social care Quality Assurance Commissioning Lead to regularly share quality assurances regarding providers, including CQC inspection outcomes (including ratings concerning whether the organisation is 'well-led') and previous and recent safeguarding concerns.
- In circumstances where safeguarding concerns occurred in an acute hospital or short-term services/settings, the Local Authority ensure there is consideration as to whether that service is the appropriate organisation to undertake the Enquiry, if the person is no longer in that setting.
- Allocated Enquiry Manager to organise and chair a Safeguarding Adult Strategy meeting / discussion, with the professional lead in the relevant organisation(s) and all relevant professionals involved.
- Enquiry Manager to ensure they explain details of the safeguarding concern, those involved, the risks and reasons why the organisation(s) is best placed to undertake the Enquiry.
- Enquiry Manager to complete the Multi Agency Caused Enquiry Agreement form with the organisation(s). It is vital that there is agreement at this stage regarding how Making Safeguarding Personal will be achieved, who will gather the persons desired outcomes and what mechanisms will be agreed to ensure the person is at the centre of the Enquiry and regularly informed.
- Where there is reasonable evidence and concerns regarding a person's capacity, the Enquiry Manager to ensure a mental capacity assessment is undertaken to assess that person's ability to make decisions in regards to the

safeguarding concern. Enquiry Manager to agree upon who will undertake the Mental Capacity Assessment.

- If the person lacks capacity, the Enquiry Manager to consider if there is an LPA for Health and Welfare or if they have someone to represent their views, if not the Enquiry Manager must undertake an Advocacy referral,
- Enquiry Manager to ensure the organisation knows of the appointment and contact details of any Independent Advocate or other person acting on the adult's behalf where they have substantial difficulty in taking part in the Enquiry.
- The Enquiry Manager ensures the adult and or their representative has sufficient information to know their rights and choices. Information is available from the Swindon Safeguarding Partnership Website: <https://safeguardingpartnership.swindon.gov.uk/site/index.php>
- Enquiry Manager is responsible for agreeing the Terms of Reference with the organisation and that these are clearly defined and understood by all involved.
- Enquiry Manager is responsible for ensuring that the person(s) at risk is safeguarded as soon as practicably possible and continually safeguarded during the Enquiry and is responsible for ensuring risk assessments are conducted and regularly reviewed. The Enquiry Manager may need to consider immediate risk to person and actions to eliminate or reduce risk.
- It is recommended a caused enquiry is undertaken and returned within twenty-eight calendar days. However, it is vital timescales are agreed in relation to the complexity of each enquiry and the safety of those involved, whereby clear rationales are evidenced. Timescales need to be agreed in proportion to the concerns as well as in awareness of organisations existing safeguarding protocols. If the caused enquiry is not received within agreed timescales, methods of review and escalation are agreed upon at the outset of causing the enquiry.
- Enquiry Manager to resolve any disagreements regarding the causing of the enquiry with the organisation where at all possible. Enquiry Manager to follow Swindon Safeguarding Partnership [Process for the Resolution of Professional Disagreement Relating to Safeguarding Protection of Adults Policy](#) where issues remain unresolved and proportionate to the disagreement.
- Enquiry Manager to ensure the organisation knows the name and contact details of the Enquiry Manager.
- Enquiry Manager to send the Multi Agency Caused Enquiry Agreement form to the organisation(s) involved following multi agency meeting / discussion.
- Enquiry Manager to make any amendments to the terms of reference necessary as the Enquiry progresses or the adult's desired outcomes change or develop and ensure this is communicated to all involved.

- Enquiry Manager to ensure the returned Enquiry report from the organisation reflects the persons desired outcomes and what they wish to achieve or the outcomes made in their best interests.
- Enquiry Manager to ensure the Enquiry report from the organisation addresses the terms of reference and that there is sufficient information to determine what, if any, further action is needed to help and protect the adult from harm. The Enquiry Manager to meet with the organisation where safeguarding enquiry is complex or there are multiple concerns.
- Enquiry Manager to ensure the quality of the Enquiry report is reviewed within seven calendar days, including feeding back areas of good practice and learning.
- Enquiry Manager to determine and confirm with the organisation and all involved that the Caused Enquiry will be closed.
- Enquiry Manager to complete Enquiry form within Liquid Logic and ensure management oversight.
- The Local Authority to establish key performance indicators re; Caused Enquiries including;
  - Timeliness of MASH decision and timeliness of allocation to Enquiry Manager
  - Evidence of assurance checks with QA Commissioning Lead
  - Multi-Agency Caused Enquiry Agreement
  - Were Desired Outcomes asked
  - Did the person have Mental Capacity Assessment
  - Advocacy referrals
  - Timeliness of completion of Caused Enquiry
  - Were Desired Outcomes achieved
  - Risk outcomes
  - Quality of Caused Enquiry completed by organisation
  - Quality Enquiry completed by Enquiry Manager
  - Safeguarding Plan

## Duty of the organisation identified to undertake an Enquiry

The organisation that is caused to undertake a Section 42 Enquiry must:

- Appoint a safeguarding lead to undertake the Enquiry and complete the Enquiry report.
- The organisation must ensure the safeguarding lead is competent to undertake the Caused Enquiry, that they receive the support necessary to satisfactorily complete it, and that there is no conflict of interest in their undertaking this role.
- The organisation must satisfy themselves that the Enquiry terms of reference are clearly understood and within the remit of the organisation to undertake.
- The organisation to make the Enquiry Manager aware of any circumstances where the organisation is not the appropriate body to undertake the Enquiry.
- The organisation to resolve any disagreements regarding the causing of the enquiry with the Enquiry Manager where at all possible. The organisation to follow Swindon Safeguarding Partnership [Process for the Resolution of Professional Disagreements Relating to Safeguarding Protection of Adults Policy](#) where issues remain unresolved and proportionate to the disagreement
- The organisation to ensure the Enquiry report has addressed the terms of reference and is delivered to the Enquiry Manager within the agreed timescale.
- The organisation to conduct the Enquiry in line with the principles of Making Safeguarding Personal, by ensuring that:
  - The Enquiry reflects the outcomes that the adult wishes to achieve.
  - The adult (or their representative or Independent Advocate) is included as far as possible throughout the process.
  - Keep in contact with the Enquiry Manager and inform them of any changes or developments during the Enquiry.

## Appendix 1:

### Multi-Agency Caused Enquiry Agreement Template

<b>Name of Adult at Risk</b>		<b>NHS No.</b>	
<b>Address of Adult at risk</b>		<b>Date of Birth</b>	
<b>Tel No.</b>			
<b>Safeguarding Reference Number (AWP)</b>		<b>LAS Number</b>	
<b>Incident No. (Police)</b>		<b>STEIS Ref (AWP)</b>	
<b>Incident date</b>		<b>Local Authority Deadline Date</b>	
<b>Nominated Organisation</b>			
<b>Name and contact details of Local Authority Enquiry Manager</b>			
<b>Summary of concern as reported</b> (to be completed by SBC)			
<p><i>(Provide details of the concern(s) i.e. what happened, where did the concern(s) take place, type of alleged abuse, details of other people and agencies involved, views of the adult and/or family/carers, consideration of capacity in relation to consent, engaging in the enquiry and the incident. Impact on the adult, details of any harm/injuries, is harm likely to reoccur, provide details of the current risk regarding the adult).</i></p>			
<b>Risks</b> (to be completed by SBC)			
<p><i>(Detail any known risks to the adult and others involved, to ensure partners are aware. Have any immediate risk assessments or risk mitigations been undertaken or needed to safeguard the adult/others?).</i></p>			

<b>S42.2 Caused Enquiry</b> (to be completed by SBC)	
<b>Actions Requested by Local Authority / Terms of Reference</b> (scope of the Enquiry as directed by Local Authority)	
<b>Information about the person(s) alleged to have caused the harm</b> (if relevant)	<i>(Provide details of name, DOB, relevant information about the person circumstances).</i>
<b>Organisation/Staff member(s) involved/alleged to have caused harm</b> (if relevant)	<i>(Provide details if this is a PIPOT / LADO situation).</i>
<b>Other agencies involved in Caused Enquiry</b>	

<b>Making Safeguarding Personal (MSP)</b>		
<b>Is the Adult at Risk aware of the concern and able to express their wishes re the allegation?</b>	Ye s	<i>(What are the Adults desired outcomes for the enquiry and views about the concerns? What is the Adult worried about? What support is available to the Adult? Can family, friends or neighbours offer support? What other protective factors are there?).</i>

	No	<i>(Record why MSP was not completed. Are there concerns relating to the persons capacity to protect themselves from harm? Include date of Assessment. Are there risks associated with coercion or duress, additional risk factors, including informing the individual of the allegations?).</i>
<p><b>Enquiry Methodology</b> (to be completed by Nominated Enquirer).</p>	<p><i>(Detail on who has been consulted, what documents have been viewed or other internal processes taken place).</i></p>	
<p><b>Summary of Findings</b></p>	<p><i>(Provide details of the findings. Record each allegation separately, where there has been a number of issues raised. Include impact on the Adult and their desired wishes (if known) and outcome of any immediate actions taken. Include information about action taken in relation to specific staff members i.e. increased supervision/support, formal HR processes and referral to Disclosure &amp; Barring Service).</i></p>	
<p><b>Adult(s) at risk Recommendations / Learning</b></p>	<p><i>(Include how recommendations/learning will be used to improve outcomes and safety of the Adult at risk and others, have the findings been shared with the person and/or their advocate? Are they satisfied with the outcome? Have their desired outcomes been addressed? What actions have been taken to assist the person with recovery and resolution?).</i></p>	



<b>Organisational recommendations / learning</b>	<i>(Include how recommendations/learning will be used to improve existing policies and procedures, practices, service provision, etc.).</i>
<b>Ongoing / Residual Risks</b>	
<b>What are the continuing risk factors for the adult?</b>	
<b>What actions are in place to mitigate the risks?</b>	
<b>Are there any risks to others?</b>	
<b>Completed by</b>	
<b>Submitted by</b>	
<b>Date of Submission</b>	

<b>Review of Caused Enquiry between Enquiry Manager (SBC) and nominated agency.</b>	
<b>Completed by</b>	
<b>Date</b>	

## Appendix 2

### South West People in a Position of Trust Framework

A framework and process for responding to allegations and concerns against people working with adults with care and support needs.

[https://safeguardingpartnership.swindon.gov.uk/downloads/download/106/south\\_west\\_position\\_of\\_trust\\_framework](https://safeguardingpartnership.swindon.gov.uk/downloads/download/106/south_west_position_of_trust_framework)