



Swindon Safeguarding Partnership

Swindon Safeguarding Partnership Adult Safeguarding Policies and Procedures

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Section 1 – Safeguarding Adults Framework

Introduction

Safeguarding in England is governed by the Care Act 2014. This legislation requires local authorities to fulfil specific duties in relation to safeguarding adults.

These duties apply in relation to any adult (a person who is aged 18 or over where there is reasonable cause to suspect that the adult has needs for care and support, is experiencing,

or is at risk of abuse or neglect and as a result of their needs is unable to protect themselves.

The safeguarding duties are to:

- Make enquiries, or nominate others to do so to enable it to decide whether any action should be taken what action and by whom
- Arrange, where appropriate, for an independent advocate
- Set up a Safeguarding Adults Board
- Cooperate with each of its relevant partners to share information
- Carry out Safeguarding Adult Reviews (SAR)

There is a statutory duty that a local authority must co-operate with each of its relevant partners, and each relevant partner must co-operate with the authority, in the exercise of their respective functions relating to adults with needs for care and support and their respective functions relating to carers. This duty to co-operate extends to protecting adults with needs for care and support who are experiencing, or are at risk of, abuse or neglect, and to identifying lessons to be learned from cases where adults with needs for care and support have experienced serious abuse or neglect and applying those lessons to future cases.

Relevant partners include each NHS body, police and probation organisation within the authority's area.

Care Act 2014 Statutory Principles of Safeguarding Adults

- Empowerment – Support for the person to make their own decisions where informed consent is sought
- Prevention – It is better to take action before harm occurs
- Proportionality – Proportionate and least intrusive response appropriate to the risk presented
- Protection – Support and representation for those in greatest need
- Partnership – Local solutions through services working with their communities. Communities have a part to play in preventing, detecting and reporting neglect and abuse
- Accountability – Safeguarding practice is accountable and transparent.

Swindon Safeguarding Partnership

Swindon's Safeguarding Partnership (SSP) is made up of professionals from the local authority, the police, health services and other local organisations. Members work together to prevent abuse and neglect where possible and safeguard adults with care and support needs across Swindon.

Every area in the country has a legal duty to have a Safeguarding Partnership. SSP members work together to protect adults with care and support needs. Someone might be at risk because they have dementia, a learning disability, an illness or a physical disability. Whatever the persons care and support needs, the SSP wants to make sure their views are heard and they are protected from harm.

The statutory partner agencies are:

- Swindon Borough Council (SBC)
- Wiltshire Police

- NHS Bath and North East Somerset, Swindon and Wiltshire Integrated Care Board (ICB)

Wider partners include:

- Avon and Wiltshire Mental Health Partnership NHS Trust (AWP)
- Care Providers
- Care Quality Commission
- Dorset and Wilts Fire and Rescue
- Great Western Hospital (GWH NHSFT)
- Learning Disability Partnership Board (LDPB)
- NHS England
- Probation Community Rehabilitation Companies
- Probation National Probation Service
- SBC – Adult Social Services
- SBC – Cabinet Member Health and Adult Social Care
- SBC – Communities and Housing
- SBC – Community Safety Partnership
- SBC – Public Health
- SBC – Trading Standards
- South Western Ambulance Service Trust (SWAST)
- Swindon Safeguarding and Community Safety Partnership
- Swindon Advocacy Movement (SAM)
- Swindon Carers Centre
- Swindon Healthwatch

Policy Statement

The Swindon Safeguarding Partnership recognise that inequality, disadvantage and discrimination exist in society.

All signatories to this policy agree to work together to ensure that all adults in need of care and support, regardless of their ethnic origin, religion, language, age, sexuality, gender or disability, have equal opportunity to access services and information designed to protect them from harm and to promote their wellbeing.

The signatories to this policy adopt the following philosophy statement in accordance with the principles currently contained within the European Convention on Human Rights and the Human Rights Act 1998:

- All individuals have the right to live their lives free from coercion, intimidation, oppression and physical, sexual emotional or mental harm
- All individuals have a right to a family life and privacy
- Individuals have a right to confidentiality in respect of personal information insofar as this does not infringe the rights of other people
- All individuals have the right to receive full and comprehensive information to enable them to make informed choices about their own circumstances
- All individuals have the right to the protection of the law and access to the judicial process.

The partners of the SSP operate a policy of zero tolerance to abuse to all adults in need of care and support.

Scope of this Policy

'The emphasis must be on sensible risk appraisal, not striving to avoid all risk, whatever the price, but instead seeking a proper balance and being willing to tolerate manageable or acceptable risks as the price appropriately to be paid in order to achieve some other good – in particular to achieve the vital good of the elderly or vulnerable person's happiness. What good is it making someone safer if it merely makes them miserable?' cited Lord Justice Munby [Local Authority X v MM & Anor \(No. 1\) \(2007\)](#),

This policy applies to all adults physically present in Swindon who have care and support needs.

Any necessary measures taken should be in line with the ethos of Making Safeguarding Personal (MSP). All actions should be undertaken at the earliest opportunity and individuals supported and empowered to decide what action, if any, will be taken. Where an adult does not have the capacity to consent to actions taken to protect them, it should be clarified who, if anyone, has the power to act on their behalf or should advocate for them in accordance with the Mental Capacity Act 2005.

While services will be keen to work to help people to be safe, the individual needs opportunities to express what being safe means to them. As far as possible, all the relevant agencies should work towards enabling the person to achieve this while maintaining their wellbeing.

In order to respond to abuse and risk swiftly and efficiently, this policy sets a number of target timescales for processes. However, decision makers in all agencies need to keep in mind that responses should happen at a pace that is right for the adult and puts them in greatest control of their life; and it is the person and not the process that should determine how safeguarding work is taken forward.

A carer (family/friend/partner; that is, not a member of care staff) may experience abuse or neglect while providing care to an adult covered by this policy, however, the carer is not covered by the duty to safeguard but will be entitled to a carers assessment under s10 of the Care Act.

When is an Adult at Risk?

Risk can be perceived in different ways, so it is important to consider with the adult the benefits of taking the risk but also the potential detrimental consequences. Adults may have resources to reduce and manage risk. However, practitioners should consider adults' past experiences, behaviours, current circumstances, or the frequency and duration of certain risk factors.

Risk factors could be (this is not an exhaustive list):

- Local community factors such as lack of social opportunities, lack of access to local services, housing conditions
- Social and peer factors such as lack of opportunities for social connection, or work, or to take part in volunteering/education, lack of opportunity to experience friendship or shared values, or for taking part in cultural practices

- Family factors such as abuse/neglect, caring responsibilities, family's mental/physical health, family's financial situation, dysfunction (values/beliefs/culture), absence of supportive family members
- Individual characteristics such as personality/life experience, values/beliefs/resilience, physical and mental health conditions/disabilities, living situation, personal finances, behaviours and lifestyle
- Social and political factors such as socio-economic stigma, discrimination, cultural norms and cultural identity, popular culture and media, literacy and technological engagement, access to benefits and income.

Assessing the capacity of the person to understand risks and consequences of their decisions is important. Risk assessments should be undertaken in line with the Mental Capacity Act (MCA). More information about MCA is at: <https://www.gov.uk/government/collections/mental-capacity-act-making-decisions>

What is Abuse?

Abuse may consist of a single act or repeated acts, or may be an act of neglect or an omission to act. Abuse may be a criminal offence and as such found to be committed with deliberate intent, or as a result of negligence or ignorance.

Neglect and poor professional practice also need to be taken into account. This may take the form of isolated incidents of unsatisfactory professional practice or it may occur when an adult at risk is persuaded to enter into a financial or sexual transaction to which he or she has not consented, or cannot consent.

Abuse can occur in any relationship and may result in significant harm to, or exploitation of, the person subjected to it. Abuse is a violation of an individual's human and civil rights by any other person or persons. The risk of being abused depends upon the situation, the environment and those who cause harm, not on the behaviour of victims. Many incidents of abuse are criminal offences.

Abuse may include one or more of the following:

- **Physical abuse**, including hitting, slapping, pushing, kicking, misuse of medication, inappropriate restraint, or inappropriate sanctions
- **Sexual abuse**, including rape and sexual assault, contact or non-contact sexual acts to which the adult at risk has not consented, or could not consent or was pressurised into consenting
- **Psychological abuse**, including emotional abuse, threats of harm or abandonment, deprivation of contact or communication, humiliation, blaming, controlling, intimidation, coercion, harassment, verbal abuse, isolation or withdrawal from services or supportive networks
- **Financial or material abuse**, including theft, fraud, exploitation, pressure in connection with wills, property or inheritance or financial transactions, or the misuse or misappropriation of property, possessions or benefits
- **Neglect or acts of omission**, including ignoring medical or physical care needs, failure to provide access to appropriate health, social care or educational services, the withholding of the necessities of life, such as medication, adequate nutrition and heating, failure to report abuse or risk of abuse
- **Discriminatory abuse**, including that based on a person's ethnic origin, religion, language, age, sexuality, gender, disability, and other forms of harassment, slurs or similar treatment

- **Organisational abuse**, including neglect and poor care practice within an institution or specific care setting such as a hospital or care home, for example, or in relation to care provided in one's own home. This may range from one off incidents to on-going ill-treatment. It can be through neglect or poor professional practice as a result of the structure, policies, processes and practices within an organisation
- **Domestic Abuse**, as defined by the Home Office. Any incident or pattern of incidents of controlling, coercive or threatening behaviour, violence or abuse between those aged 16* years or over who are or have been intimate partners or family members regardless of gender or sexuality. This can encompass, but is not limited to, the following types of abuse: psychological, physical, sexual, financial and emotional.
*Although this definition refers to those over aged 16 years, in the context of this policy safeguarding adults refers to victims of domestic abuse who are aged 18 years or over.
- **Modern Slavery** encompasses slavery, human trafficking, forced labour and domestic servitude. Traffickers and slave masters use whatever means they have at their disposal to coerce, deceive and force individuals into a life of abuse, servitude and inhumane treatment
- **Self-Neglect**, covers a wide range of behaviour including neglecting to care for one's personal hygiene, health or surroundings. It includes behaviour such as hoarding

Any or all of these types of abuse may be carried out with deliberate intent, negligence or ignorance.

Single or multiple incidents of abuse may affect one person or more but professionals and others should look beyond single incidents or individuals to identify patterns of harm.

Repeated and/or serious instances of poor care may be an indication of systemic problems and of what we now describe as **organisational abuse**.

It is important to recognise that abuse or neglect may be unintentional and may arise, for example, because an informal carer is struggling to care for another person, or where a paid carer has not been provided with the necessary training. In the first example, a carer's assessment and support for the carer is an important immediate response. In the second example, it may not be the individual carer who is responsible for the lack of training.

Where there is poor, neglectful care or poor practice by a carer or carers in an organisation, consideration should be given to whether employer-led disciplinary practice or a care quality pathway may be a more appropriate response to the concern. In order to see these patterns, it is important that information is recorded in the organisation and appropriately shared with commissioners.

Individual organisations need to ensure that they are compliant with their own safeguarding arrangements.

Recognising adult abuse and neglect

The Person Alleged to have Caused Harm (PACH)

Those who carry out abuse or neglect may be people who hold a position of power or authority in relation to an adult in need for care and support (from here on referred to as 'adult' in this section).

A person who causes harm may be:

- A member of staff, proprietor or service manager
- A member of a recognised professional group

- A volunteer or member of a community group such as a place of worship or social club
- A service user or adult at risk
- A spouse, relative or member of the person's social network
- A carer who has the right to an assessment and may be eligible for services to meet their caring role
- A neighbour
- A stranger
- A person who deliberately targets adults at risk; and
- In the case of self-neglect, the person themselves.

As well as their responsibility to the person who may have been abused or neglected, agencies have a responsibility in relation to those alleged to have caused harm and who themselves may be in need of care and support. The agencies' powers and duties will vary depending upon the needs of the person alleged to have caused harm, in relation to the agency and its provision.

In some circumstances, there may not be an identified alleged abuser or abusers and the abuse stems from organisational cultures or practices.

Where may abuse occur?

Abuse can take place in any private or public situation and place, for example:

- Where the person lives, either alone or with someone else
- In supported/sheltered accommodation
- Within nursing, residential or day care settings
- In hospital
- In custodial situations
- Where support services are being provided
- In public places.

Allegations against staff and organisations

Where there are allegations against individual staff members who work with adults with care and support needs in agencies within Swindon, the relevant allegations management policies for those staff members should be followed. Where those staff members are also working with children, the Local Area Designated Officer should be notified and there should be a discussion as to who is best placed to lead the investigation, and whether the Local Area Designated Officer needs to attend the meetings. Swindon's locality of BSW ICB have an Allegations Management Protocol for Allegations against health staff (in all health agencies in Swindon) which can be found on the ICB intranet.

Where there are concerns about commissioned providers (for example, quality concerns or about employed care safe these safeguarding concerns) should be sent to the generic email address in the contracts team at Contracts@swindon.gov.uk. The contracts team keeps a log of these cases to evidence the requests and actions completed.

Cases are regularly discussed with the ICB and the Adult Safeguarding Team to ensure that if new information comes to light, cases can be 'moved' to safeguarding if necessary.

The Swindon Safeguarding Partnership Threshold E Document is at:
<https://www.swindon.gov.uk/xfp/form/795>

South West Region, Adult Position of Trust Framework

https://safeguardingpartnership.swindon.gov.uk/downloads/file/900/south_west_position_of_trust_framework

Protocol for Allegations Management ICB – See appendix 9

Location of the abuse – cross boarder responsibility

The local authority is responsible for safeguarding concerns for adults in its area, whether or not the individual is ordinarily resident. For example, if a resident in a care home in Swindon, who has been placed by another authority, comes to harm, Swindon will lead on the safeguarding enquiry for this resident. Where Swindon Borough Council has placed and is funding a resident in another Local Authority area the other LA will take the lead on the safeguarding enquiry.

However, in cases where another local authority is involved in the person's care, or may hold relevant historic information, or information on the person coming to harm in their area, cross boundary conversations need to take place between local authorities on who is best placed to complete which actions in an enquiry.

Patterns of abuse

Patterns of abuse vary and reflect very different dynamics. These include:

- Predatory abuse involving a person intending to cause harm, seeking out and 'grooming' individuals over a period of time. Sexual abuse can fall into this pattern as do some forms of financial abuse and psychological abuse
- Long term abuse in the context of an on-going family relationship such as domestic abuse between spouses or generations of family members (e.g. older relatives, or children where children's safeguarding procedures may be required) this could also include Honour Based Violence where an adult is subjected to controlling behaviour within families or other social groups to protect perceived cultural and religious beliefs and/or honour
- Situational abuse which arises because pressures have built up and/or because of difficult or challenging behaviour
- Neglect of a person's needs because those around him or her are not able to be responsible for their care, e.g. the carer has difficulties attributable to debt, alcohol, mental health problems or learning disabilities or has not got the required skills to fulfil the caring role
- Organisational abuse as a result of poor care standards, lack of positive responses to needs, rigid routines, inadequate staffing and insufficient knowledge base within the service
- Restrictive care planning in a hospital or care home setting with or for people who lack capacity to consent to these arrangements without appropriate reference to the legal requirements. These may be in their best interests but may deprive them of their liberty and require further action; for example, Deprivation of Liberty Safeguards
- Unacceptable 'treatments' or programmes which include sanctions or punishments such as withholding food and drink, seclusion, unnecessary and unauthorised use of control and restraint or over medication
- Prevention or failure to allow access to healthcare, dentistry, prostheses
- Misappropriation of benefits and/or use of a persons' money by other members of the household
- Fraud or intimidation in connection with wills, property or other assets

- Failure of agencies to address racist and discriminatory attitudes, behaviour and practice
- Violence
- Online and other digital risks that can include cyber bullying, “grooming” or harm that can result from malicious use of social networking sites by those who intend to cause harm, online risks resulting in fraud and financial abuse and misuse of other digital media that is intended to cause harm; for example, malicious use of mobile phones, text messaging etc.
- Intimidation, coercion or exploiting the vulnerability of an adult to become involved in acts of terrorism or actions that may contribute to acts of terrorism
- Controlling behaviour that leads to an adult becoming subordinate and unnecessarily dependent and isolated from support. Exploiting the adult for personal gain, depriving them of the means needed for independence, resistance and escape and directing their everyday behaviour that is detrimental to their wellbeing
- Coercion of an adult at risk to carry out actions they would not otherwise undertake (for example, slavery, human trafficking, forced labour and domestic servitude)
- Being forced into a marriage the adult at risk cannot, or does not, consent to.

(Please note this list is not exhaustive)

Indicators of possible abuse

Indicators of abuse should be seen as suggestive of, not proof of, abuse. Any one or a group of indicators could arise from causes other than abuse. However, recognition of a number of factors or symptoms in any one individual should lead to concern and further assessment or enquiry.

If a member of staff under any SSP agency or organisation sees one or more indicators in an individual, they must discuss this with a line manager/senior manager. It could be the case that several staff are seeing some of these signs and that by openly sharing their observations, they become aware that they have each noticed a different aspect of the abuse. By sharing the information, a fuller picture of the abuse may emerge.

More detail on indicators of possible abuse, against the 10 abuse types, is included in the [Adult Safeguarding Threshold Document](#)

What is an adult safeguarding concern?

An adult safeguarding concern is **any concern** you may have about an adult. The decision as to whether or not the safeguarding concern meets the **statutory criteria** and what if any action should be taken is the responsibility of the Local Authority and not the referrer.

Section 42(1) Statutory Criteria

REASONABLE CAUSE TO SUSPECT that an adult in its area (whether or not ordinarily resident there)

- **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 or neglect.**

A concern may be raised by anyone, and can be:

1. An active disclosure of abuse by the adult is where the adult raises a concern about abuse and/or neglect. The concern to the Local Authority may be made by the adult themselves (self-referral) or by a third party (third party referral).
2. A passive disclosure of abuse is where someone has noticed signs of abuse or neglect; for example, clinical staff who notice unexplained injuries
3. A third-party referral can be made by, for example, a family member, friend or neighbour who have observed abuse or neglect or have been told of it by the adult.
4. A complaint or concern can be raised by an adult or a third party as a general concern, with neither recognising the concern as abuse or neglect.

Good practice when abuse, risk or concern is raised

- Speak in a private and safe place
- Listen to what the person is saying
- Establish the basic facts
- Ask the person what they would like to happen and what they would like you to do
- Don't promise the person that you'll keep what they tell you confidential; explain who you will tell and why
- If the person asks you not to share the information, record this and seek advice
- If there are grounds to override a person's consent to share information, explain what these are
- Explain how the person will be involved and kept informed
- Provide information and advice on keeping safe and the safeguarding process
- Make a best interest decision about the risks and protection needed if the person is unable to provide informed consent

Obtaining the consent of the adult involved

The mental capacity of the adult, their ability to give their informed consent to a concern being raised, and action being taken under these procedures, is significant but not the only factor in deciding what action to take. The test of capacity in this case is to find out if the person at risk has the mental capacity to make informed decisions about:

1. A safeguarding concern being raised with the local authority
2. Actions which may be taken under multi-agency policy and procedures as a result of this concern
3. Their own safety or that of others including dependents and/or other family members including an understanding of longer-term harm as well as immediate effects
4. Their ability to take action to protect themselves from future harm.

As a professional, you are expected to make the person referred aware of the concern you intend to raise and get their consent unless it meets the exceptions below.

When consent is not required:

- Where you have reason to believe that getting their consent or causing a delay would put them at risk of harm.
- Where the concern needs to be raised to protect this person from significant harm or death; in which case the person should, where practically possible, be informed that the concern needs to be raised.
- Where you are acting in the persons best interest when they lack capacity to consent to a concern being raised
- Where the person is under pressure/coercion.
- Where your concern is in the wider public interest.

If the person raising the concern deems that the person has not got capacity to consent to the concern being raised, they must consider if it is in the person's best interests to raise the concern.

If there is any doubt that not sharing the information may put the person at risk of harm, information should be shared to prevent harm to the person.

With reference to Making Safeguarding Personal (MSP), the expectation is that where the person cannot themselves participate in the safeguarding process, they either have support from an advocate to participate or an advocate speaking on their behalf. The advocate could be a friend, family member, significant other, or a paid advocate, ensuring that the person's views are represented and taken into consideration.

Where the person is found to lack the mental capacity to make the relevant safeguarding decision, an Independent Mental Capacity Advocate (IMCA) may be involved under the Mental Capacity Act 2005, especially where the person has a Safeguarding Plan. Where the person is found to have substantial difficulty in making the decision, the paid advocate would usually be an advocate under the Care Act 2014.

Considerations when the adult refuses to consent

If the adult can make their own decisions and does not consent to a concern being raised and there are no public or vital interest considerations, they should be given information about where to get support to promote their safety and how to raise any future concerns if the abuse and/or neglect continue. A record must be made of the concern, as well as the adult's decisions and the reasons given. A record should also be made of what information the person at risk was given.

The referrer must assure themselves that the decision to withhold consent is not made under undue influence, coercion or intimidation. In the event that the referrer believes that there is undue influence, coercion or intimidation consent is not required and the referral should be made.

Factors to consider when raising a concern

The first consideration must be 'Does the adult require immediate support from emergency services?'

Establish the risks and what immediate steps to take. If the person is at immediate risk of harm, it is expected that the referrer will have taken appropriate steps to contact emergency services. If there is no immediate risk, then the referrer needs to consider the following:

- The ability of the person to protect themselves during the concern process
- The ability of the person to make their own decisions about their safety, to understand the safeguarding process, and/or for any other specific decisions relevant to the concern.
- Communication needs, whether an interpreter or other support is needed
- Whether it is likely that advocacy may be required
- What the adult at risk would hope to achieve as outcomes from the safeguarding process – or in general
- Personal care and support arrangements which may need to be put in place or adjusted

Remember the five principles of the Mental Capacity Act 2005 and that the capacity to make one's own decisions can be undermined by the experience of abuse, exploitation, grooming, coercion, and/or undue influence or duress. More information is available at: https://safeguardingpartnership.swindon.gov.uk/info/1/swindon_lscb/15/adult_safeguarding/6

Other considerations include:

- The person's history and experience of trauma due to personal, environmental and social factors

- The nature and extent of the abuse including whether it is criminal
- Whether the situation poses a risk to the public or other people, including children under age 18 years
- Whether the person who may have caused harm is a person in a 'position of trust' and a potential risk to other people
- The length of time the abuse has been occurring and whether it is a one-off incident or a pattern of repeated actions
- The impact of the abuse on the adult and the physical and/or psychological harm being caused and whether the abuse is having an impact on other people
- The extent of premeditation, threat or coercion
- The immediate and likely longer-term effects of the abuse on their independence, well-being and choice
- The risk of repeated or increasingly serious acts by the person causing the harm.

Information the Safeguarding concern might contain

Organisations that refer to the local authority should include the following information (the list is not exhaustive):

- Demographic and contact details for the adult at risk, the person who raised the concern and for any other relevant individual, specifically carers and next of kin
- Factual details of what the concern is about; what, when, who, where
- Basic facts, focusing on whether or not the person has care and support needs including communication and on-going health needs and how as a result of these they are not able to protect themselves from abuse and/or neglect
- Immediate risks and any actions taken to address risk
- Preferred method of communication
- If reporting a crime – details of which police station/officer, crime reference number etc.
- Whether the adult at risk has any cognitive impairment which may impede their ability to protect themselves
- Any information on the person alleged to have caused harm
- Wishes and views of the adult at risk, in particular consent
- Advocacy involvement (includes family/friends)
- Information from other relevant organisations; for example, the Care Quality Commission
- Any recent and long-term history (if known) about previous concerns of a similar nature or concerns raised about the same person, or someone within the same household.

Not all concerns will necessarily result in a s42 Enquiry. For example, if the person makes an informed decision on not wanting a safeguarding enquiry to take place, where there is no abuse, or where a more appropriate response to the concern is signposting to another service such as for a review of their current care plan. For situations of self-neglect, the Self-Neglect policy and guidance can be found here: [Self-Neglect policy and guidance](#). A key point to note is that agreeing a lead agency / professional at the earliest stage is very important for cases where there are concerns for self-neglect. This ensures consistency and that actions do not get dropped and missed. In cases where a S.42.2 is open, the lead agency should be the Local Authority.

Alerts to the Local Authority can be made by contacting the Adult Safeguarding Team on 01793 463555 or by email at adultsafeguarding@swindon.gov.uk

Professionals are required to raise concern via the online process.

The **Adult Safeguarding online form** is at: <https://www.swindon.gov.uk/xfp/form/728>

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

https://safeguardingpartnership.swindon.gov.uk/info/1/swindon_lscb/15/adult_safeguarding/3

Appendix 8 sets out the Care Act Safeguarding Adult process diagram.

Section 2 – Key Safeguarding Personnel

Adult Safeguarding Roles and Responsibilities

Overall responsibility

The overall responsibility for making enquires or causing others to do so lies with Swindon Borough Council.

Roles and Responsibilities in relation to Adult Safeguarding

When the Adult Safeguarding team receives a concern, the first response will be completion of screening and triaging. This will be based on evidence that is collected from different sources relevant to the concern, with a decision by an experienced social worker on:

- Are the statutory criteria met?
- What is the best pathway to address this concern?

An Adult MASH is now in place, MASH Standard Operating Procedures are below.



Standard Operating
Procedures May 2024

Enquiry Management

Enquiry Managers and Officers ensure that the Policy and Procedures for Safeguarding Adults in Swindon are adhered to.

Enquiry Managers set the scope for Enquiries and actions with reasonable timescales. They will make the decisions on s42 Enquiries being carried out if it is believed that the statutory criteria is met.

The Enquiry Manager is responsible for the direction and management of the Enquiry, but both Enquiry Manager and Enquiry Officer must ensure that the adult is involved in all stages of the safeguarding process.

Where there are substantial difficulties in ensuring participation or where the adult lacks the mental capacity to consent to the safeguarding process and there is no one suitable to support the adult, an advocate will need to be engaged. It will be the responsibility of the enquiry officer to make the referral to the advocacy service.

In exceptional circumstances, where it is believed that by involving the adult at the earliest stage could place an additional risk on the person, it may be necessary to delay involvement until an assessment of the risks can be carried out.

The Enquiry Manager is responsible for establishing who is best placed to complete enquiry actions and reports (including 'caused enquiries') and support that agency if required. They will also need to ensure the appropriate partner agencies are involved in safeguarding the adult. The enquiry must be compatible with the agencies duties and would not have an adverse effect on its function.

Enquiry Manager and Officer must ensure that all records are kept in accordance with the relevant agencies' policies and the General Data Protection Regulation (GDPR).

Enquiry Managers and Officers are responsible for ensuring that they receive appropriate training to carry out their role and responsibilities in safeguarding adults.

Enquiry Officer

In collaboration with the relevant Enquiry Manager, the primary role for the Enquiry Officer is to undertake the enquiry within the scope set for it by the Enquiry Manager in accordance with this Policy and Procedures.

Wiltshire Police

The current Policing plan for Wiltshire Police includes a priority to protect the most vulnerable people in society. This states that the Police and other public services must work together to protect vulnerable people. They are at the greatest risk of being victims of crime and so need more support from a range of services to cope with, and recover from, the impact of crime.

Adults at Risk (AAR) are at greater risk of exploitation as both victims and offenders. Working with partners to find more effective and innovative ways of protecting the most vulnerable people and dealing with their, sometimes complex, needs will reduce demand on Policing and other services.

The Police have a duty and a responsibility to prevent and investigate criminal offences committed against Adults at Risk and such actions should be carried out sensitively, thoroughly and professionally. Crimes against Adults at Risk are not, within a policing context, seen only as the role of the Safeguarding Adults Investigators, but that of all Police Officers as part of their everyday duties.

Wiltshire Police recognises the fundamental importance of inter-agency working in combating Adult Abuse.

Wiltshire Police is committed to the sharing of information with other agencies, where it is necessary and proportionate to protect an Adult at Risk.

Right Care Right Person (RCRP) is an approach to ensure that people with health and/or social care needs are responded to by the right person, with the right skills, training, and experience. It a decision-making tool being used by the control room to assess relevant calls received and ensure that all vulnerable people receive an appropriate response from the individuals and agencies best equipped to support them. BANES Swindon and Wiltshire plan to implement fully by September 2024. Right Care Right Person will not stop the police attending incidents where there is a threat to life or risk of immediate serious harm to an individual. Wiltshire Police have a duty to protect communities and they will continue to do

so. It is about working with partners to make the necessary changes to service provisions to ensure that vulnerable people are given appropriate care by the appropriate agency.

NHS Bath and North East Somerset Swindon and Wiltshire Integrated Care Board (ICB)

NHS Bath & North East Somerset, Swindon, and Wiltshire Integrated Care Board formed in July 2022. Swindon is one of its localities.

The ICB, both as a commissioner and provider of some services, has a dual responsibility regarding safeguarding adults. The first is to ensure all the services it commissions are compliant with safeguarding legislation and national guidance. Secondly, that the ICB itself is compliant as an organisation to ensure it applies safeguarding through the work it does and in any services it provides directly.

The ICB has identified leads (The Designated Nurse for Safeguarding, the Named GP for Safeguarding and the Executive Nurse for Safeguarding) to ensure that safeguarding operates at all its levels. Through this leadership, it also ensures that providers and the ICB itself are held to account regarding their safeguarding arrangements.

As a commissioner, the ICB will be informed of safeguarding issues related to the providers that it commissions and will often be invited to be involved in safeguarding enquiries or conduct 'caused enquiries' for Adult Safeguarding on an individual case basis or relating to large scale enquires regarding a single or several providers.

Other partner agencies

Working with the Multi-Agency Safeguarding Hub, all local partners that provide advice, care, support, health services, or protect adults at risk or uphold their rights should:

- Actively work together based on the guidance relating to the Care Act 2014
- Take action proportionate to the level of risk to prevent harm from occurring
- Carry out, or co-operate with, investigations where abuse or neglect is alleged and follow Safeguarding Adults procedures within the agreed policy and procedures, involving the adult as much as possible
- Provide a proportionate response and seek to ensure that the individual's life will be improved and recovery is achieved as a result of using safeguarding procedures
- Actively promote the empowerment and well-being of adults
- Ensure good practice with safe recruitment and staff development
- Actively support the rights of the individual to lead an independent life based on self-determination and personal choice
- Ensure the law is followed when assessing an individual's capacity to make particular decisions and that decisions made on their behalf are in their best interests if they are assessed as lacking capacity to do this for themselves
- Recognise people who are unable to make their own decisions and/or protect themselves, their assets and their bodily integrity
- Recognise that the right to self-determination can involve risk, that risk is a natural part of life, but to ensure that such risk is recognised and understood by all concerned, and harm is minimised whenever possible
- Ensure the safety of adults in need of care and support by integrating strategies, policies and services relevant to abuse within all systems and relevant legislation

- Ensure that when the right to an independent life and choice is at risk, the individual concerned receives appropriate advocacy, including advice, protection and support from relevant agencies
- Ensure that the law and statutory requirements are known and used appropriately so that adults in need for care and support receive the protection of the law and access to the judicial process
- Identify others who may be at risk of harm, including children (including unborn babies), and effect immediate referral to the appropriate authority
- Recognise the on-going duty of care to service users who cause harm and facilitate any necessary action to address abusive behaviour
- Actively promote an organisational culture within which all those who express concern will be treated seriously and will receive a positive response from management
- Each agency and their staff working with adults in need of care and support are familiar with this policy and the agreed procedures
- Ensure that confidentiality and information sharing related to safeguarding adults at risk and those alleged to have caused harm in a multi-agency context are maintained with the agreed protocols
- Ensure that all staff responsible for managing and conducting enquiries within these procedures receive the appropriate training and support

Each partner agency will have its own policy with an explanation of how they relate to this over-arching Swindon multi-agency Safeguarding Adults Policy and Procedures document.

Contracts and quality monitoring staff based in local authorities and Integrated care Boards will be the appropriate professionals to undertake enquiries relating to concerns about quality of care or poor care and to support any service improvement processes.

Local Authority and NHS commissioning teams are most appropriately placed to undertake enquiries relating to organisational abuse, repeating or escalating patterns of concerns, where the responsible individual for the service is implicated or where the provider is not considered to be competent to undertake the enquiry in competent manner.

Responsibilities in relation to Transitional Safeguarding

The Children and Families Act 2014 and the Care Act 2014 created a new comprehensive legislative framework for transition when a child turns 18. The duties in both Acts are on the local authority, but this does not exclude the need for all organisations to work together to ensure that the Safeguarding Adults Policy and Procedures work in conjunction with those for children and young people.

Abuse within families reflects a diverse range of relationships and power dynamics, which may affect the causes and impact of abuse. In particular, staff may be assisted by using domestic abuse risk management tools as well as safeguarding risk management tools. Staff providing services to adults, children and families should have appropriate training whereby they are able to identify risks and abuse to children and adults with care and support needs.

Where a person is 18 or over but is still receiving Children's Services and a safeguarding concern is raised, the matter should be dealt with through Adult safeguarding arrangements. This may be, for example, when a young person with substantial and complex needs continues to be supported in a residential educational setting until the age of 25. Where appropriate, Adult Safeguarding services should involve the local authority's Children's Safeguarding colleagues as well as any relevant partners; for example, the Police or NHS, or other people relevant to the case.

It is not **eligible** need that is relevant where there is a safeguarding concern.

The young adult does not need to have a certain level of need for care and support or be receiving any particular service from the local authority, in order for a safeguarding concern to be raised.

The SSP recognises the importance of the family approach. Where it is identified through the Safeguarding Adults process that a child may be at risk, the concern must be referred immediately to Children's Services. Where it is identified by Children's Services in the context of their work with children and families that an adult is at risk of or is experiencing abuse or neglect, then the concern must be referred to Adult Services. A decision will be made as to who will lead the safeguarding process where there are risks to both the child(ren) and adult(s). Regardless of who takes the lead, there should be appropriate representation from both Adult and Children's Services within this joint process.

In all Adult Safeguarding work, staff working with an adult should establish whether there are children in the family and whether checks should be made on children and young people who are part of the same household, irrespective of whether they are dependent on care either from the adult at risk, or the person alleged to have caused harm. Children and young people may be at greater risk of harm or be in need of additional help in families where adults have mental health problems, misuse substances or alcohol, are in a violent relationship, have complex needs or have a learning disability. For further information, see Working Together to Safeguard Children 2023 at:

[Working together to safeguard children 2023 - statutory guidance](#)

Robust joint working arrangements between Children's and Adult Services must be in place to ensure that the medical, psychosocial, educational and vocational needs of children moving from Children's to Adult Services, including children with health or disability needs, or leaving care, are addressed as they move to adulthood and there are no gaps left in assessments of needs and service provisions. The care needs of the young person should be at the forefront of any support planning and require a co-ordinated multi-agency approach. Assessments of care needs at this stage should include issues of safeguarding and risk. Care planning needs to ensure that the young adult's safety is not put at risk through delays in providing the services they need to maintain their independence and well-being and choice.

Good practice includes:

- Having policies and procedures which support effective transition processes
- Shifting the general view of risk as a potential danger for a child, to one of potential opportunity for an adult, but acknowledging there are still potential risks
- Managing risks as a phased process with awareness of the psychological and emotional issues
- Managing family expectations (being clear about the level of support and resources available)
- Taking time to get to know the young person and their family, especially if they have communication difficulties; and
- Acknowledging the rights of adults to take more responsibility for their decisions.

Where there are ongoing safeguarding issues for a young person and it is anticipated that on reaching 18 years of age, they are likely to require adult safeguarding responses, then the safeguarding arrangements should be discussed as part of transition support planning and protection. Conference Chairs and Independent Reviewing Officers, if involved, should seek assurance that there has been appropriate consultation with the young person by Adult Services and invite them to any relevant conference or review.

Clarification should be sought on:

- What information and advice the young person has received about Adult Safeguarding
- The need for advocacy and support
- Whether a mental capacity assessment is needed and who will undertake it
- If best interest decisions need to be made
- Whether any application needs to be made to the Court of Protection.

If the young person is not subject to a plan, it may be prudent to hold a professionals' meeting.

Section 3 – When to Make Safeguarding Decisions and Referrals

When and how to make a decision

Under Section 42(2) of the Care Act 2014, a local authority is required to make statutory enquiries, or cause others to do so where it is established that there is reasonable cause to suspect that the criteria in s42 (1) are fulfilled.

Section 42(1) Statutory Criteria

Reasonable cause to suspect that an adult in its area (whether or not ordinarily resident there):

- (a) Has needs for care and support (whether or not the Local Authority is meeting any of those needs)
- (b) Is experiencing, or is at risk of abuse or neglect, and
- (c) As a result of their needs is unable to protect himself or herself against the abuse or neglect or the risk of it

This duty cannot be delegated by the local authority. The local authority is responsible for this public law decision as to whether or not to carry out a statutory, s42(2) enquiry and if one is not undertaken the responsibility or liability remains with the Local Authority. The Local Authority works alongside individuals and partner agencies under a duty of co-operation in gathering information connected with s42(1) to support that decision and in carrying out s42(2) enquiries.

Only if it is established that there is reasonable cause to suspect that the criteria in s42(1) are fulfilled is the duty under s42(2) to make enquiries triggered.

With reference to s42(1)(c), the local authority needs to gather information to support decision making in relation to the following:

- What understanding and resources does the person have in relation to the risk?
- Does the person understand why others have concerns?
- Is the person's inability to protect themselves as a result of their care and support needs?
- Is there evidence of incapacity, coercion, undue influence or distress?
- What outcomes matter to the person and will these reduce or remove the risk related to the duty of care?

Swindon Borough Council Adult Safeguarding Team must carry out proportionate information

gathering to ascertain whether or not there is reasonable cause to suspect that the statutory criteria for a s42 enquiry are met.

The Association of Directors of Adult Social Services (ADASS) Safeguarding Decision Making Framework (July 2019) highlights the duty to undertake to a statutory s42 enquiry is to establish whether any action needs to be taken to prevent or stop abuse or neglect, and if so, what and by whom. The proportionate conversations and information gathering that take place in finding out whether the criteria in S42(1) are met (and therefore whether a statutory enquiry is triggered) sometimes themselves offer protective and preventive value.

If the statutory criteria in s42(1) are not met, then the Adult Safeguarding Team must not continue to a s42 enquiry. The decision that the duty under s42 is not triggered must be recorded, and show how any residual issues and risks will be addressed or prevented.

Where the criteria are not met, and the duty does not continue to s42(2), issues may still need to be addressed and risks mitigated under other processes and powers. Other investigative processes, early intervention and preventative measures, advice, information and signposting, alternative pathways such as Care Act assessment or carer's assessment may be used to reduce and manage the risk to the person's wellbeing.

Within the Care Act s42(1), the local authority needs to consider the enquiry in relation to a 'human rights' context, with reference to the question if it is fair, lawful and reasonable to interfere.

The ADASS Framework advocates a flexible approach to support a strengths based approach and that responses are proportionate to the issues identified. This is also in line with the six Care Act 2014 'Safeguarding Principles; with Making Safeguarding Personal (MSP) and the Care Act Wellbeing principle as referenced in Annex 3.

The local authority, as lead agency for safeguarding, is responsible for recording and evidencing decisions as to whether or not to proceed with the duty to make enquiries under s42.

The ADASS Framework for making decisions on the duty to carry out safeguarding adults enquiries is at: <https://www.adass.org.uk/media/7326/adass-advice-note.pdf>

The definitions contained within this policy are underpinned by the Care Act 2014 and associated guidance and will assist in making the decision to safeguard as referenced in Section 3.

Section 4 – The s42 Enquiry Process

Screening of Concerns

The Screening Hub of the Adult Safeguarding Team following the safeguarding concern being received undertakes initial screening and triage. Initial screening of the concern takes place within 24 hours and the referrer may be asked to put additional measures in place to mitigate risk if the concern was not clear on how immediate risk will be addressed. The Multi-Agency Terms of Reference and Standard Operating Procedures for the Adult Safeguarding Hub can be found at Appendix 6.

The aim is for the Adult Safeguarding team to make a decision within 5 days whether the case should progress to a s42 Enquiry. During this time, the referrer or other involved parties may be contacted for further information. Mitigating factors may justify a delay, and these must be recorded.

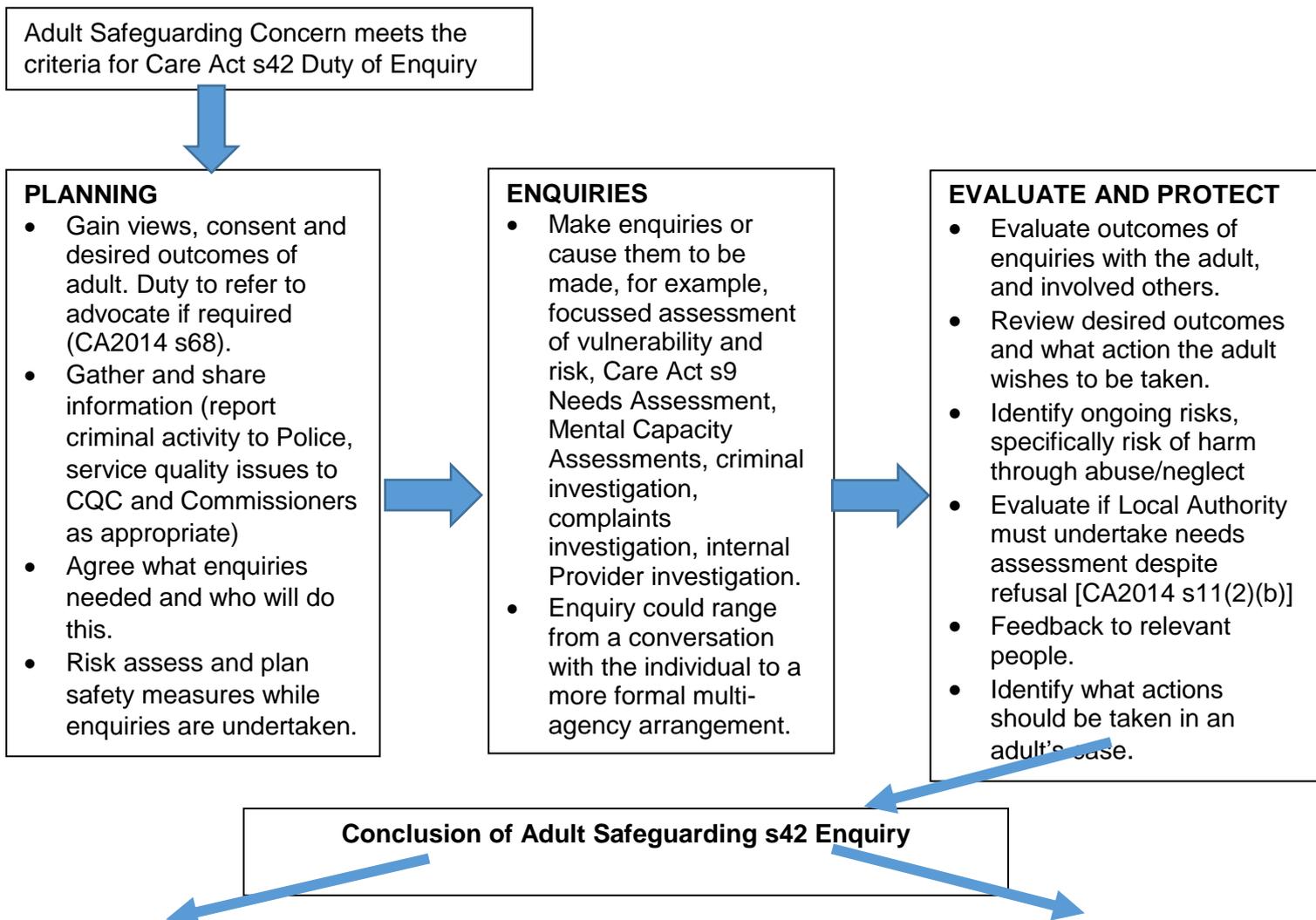
When the local authority becomes aware of a situation that meets the statutory criteria as stated under the Care Act (2014) s42, 'The Local Authority must make (or cause to be made) whatever enquiries it thinks necessary to enable it to decide whether any action should be taken and, if so, what and by whom'.

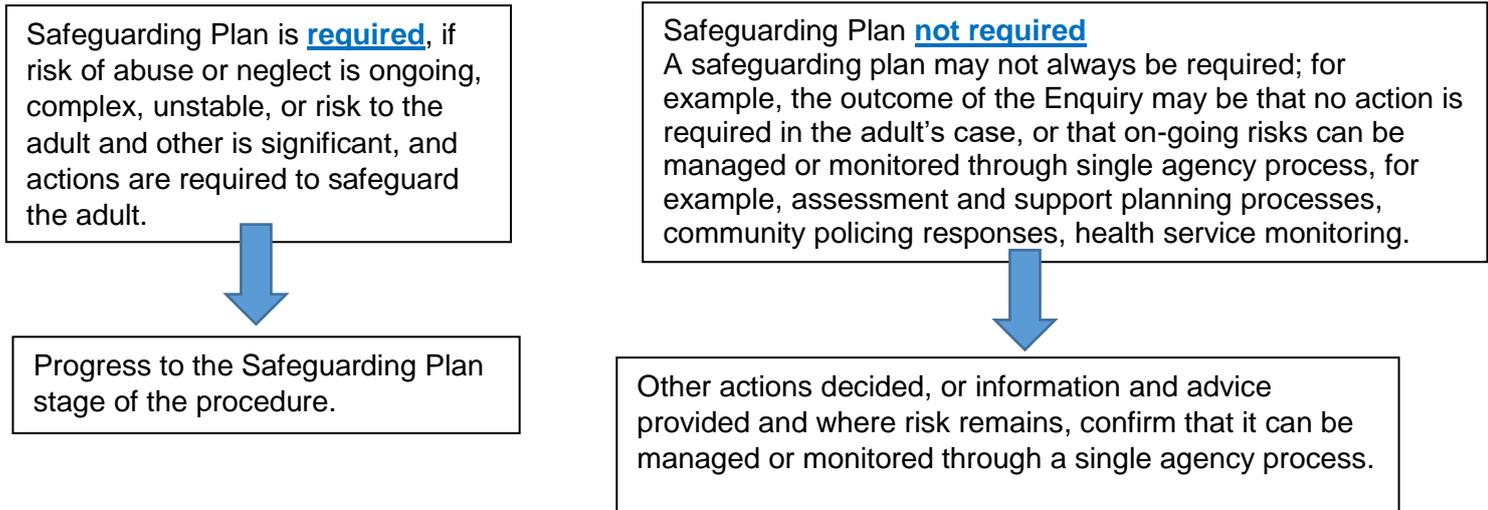
Gathering information early on in the process helps the local authority determine if a Section 42 Enquiry will be necessary and with what scope.

Following the screening process, where it is decided that a concern will progress to a Section 42 Enquiry, the local authority will take on management of this Enquiry.

The Local Authority process for managing a s42 Enquiry is set out in Appendix

Flowchart for s42 Enquiries





Safeguarding Section 42 Enquiry Process

What a Section 42 Enquiry should consider

The purpose of an Enquiry is to establish what action needs to be taken to prevent or stop abuse or neglect this may include agreeing an interim safeguarding plan /safety measures while enquiries are undertaken

The priority should always be to ensure the safety and wellbeing of the adult at risk. They should experience the safeguarding process as empowering and supportive.

During the Enquiry the following factors should be taken into consideration:

- As far as possible establish facts and gather and share information in relation to the concern
- Obtain the adults views and desired outcomes
- Carry out relevant assessments, such as a needs assessment, risk assessment or mental capacity assessment
- Practitioners should wherever possible seek the consent of the adult before taking any action. However, there will be circumstances when consent cannot be obtained. This could be because the adult lacks the capacity to give it, but it is in their best interests to undertake an enquiry
- Whether or not the adult has capacity to give consent, action may need to be taken if others are or will be put at risk if nothing is done, or where it is in the public interest to take action because a criminal offence has occurred
- Any intervention in family or personal relationships needs to be carefully considered with regard to the correct legal frameworks. Measures which restrict a person's contact with family members may interfere with the adult's right to family life. Interventions intending to safeguard a person should recognise that the right to safety must be balanced with other rights, such as the right to liberty and autonomy, and the right to family life
- Reasonable target timescales must be set for actions
- Actions are often primarily supportive and could be therapeutic but could also involve the application of civil orders, sanctions, suspensions, regulatory activity or criminal prosecution, disciplinary action or de-registration from a professional body
- It is important, when considering an intervention or enquiry, to approach reports of incidents or allegations with professional curiosity AND an open mind, based on the

knowledge that an allegation remains an allegation until it is substantiated as a result of an enquiry. A right to full reply should be provided in respect of any allegation being made unless there is a safeguarding reason not to do so during the Enquiry process

- Talking through a concern/enquiry may result in resolving it; if not, the duties under s42 continue
- If the adult expresses a clear and informed wish not to pursue the matter further and has the capacity to make this decision, the local authority should consider whether it is appropriate to end the Enquiry. In such cases, the local authority should consider whether it still has reasonable cause to suspect that the adult is at risk and whether further enquiries are necessary while bearing in mind the adult's own views
- Local authorities should aim to provide swift and personalised safeguarding responses, involving the adult at risk from the outset in the decision-making process
- Local authorities should record the information they receive, the views and wishes of the adult at risk, as well as the decisions taken, the rationale and any advice and/or information given.

Other considerations for s42 enquiries

- Criminal investigations
- Section 44 Mental Capacity Act 2005
- Section 127 Mental Health Act 1983
- Sections 20 to 25 of the Criminal Justice and Courts Act 2015
- Potentially Dangerous Offender
- Linking different types of investigative processes
- Disputes
- Complaints

Further information about these considerations and relevant legislation can be found in full detail in **Appendix 3**.

Establishing safeguarding outcomes and person-centred risk assessment

The adult's views, wishes and desired outcomes may change throughout the course of the enquiry process. There should be an on-going dialogue and conversation with the adult to ensure that their views and wishes are gained as the process continues, and enquiry actions may have to be adjusted should the adult change their views. These conversations need to be recorded.

Identifying the primary source of risk may assist in deciding what the most appropriate and proportionate response to the individual enquiry might be. There are no hard and fast rules and judgement will need to be made about what type of enquiry, actions and target timescales are right for each particular situation.

The most proportionate and least intrusive response should be informed by a person-centred risk assessment which considers the wishes of the adult and professional judgements about risks. The same conversation can be used to explore and agree Outcomes. If a meeting is held which neither the adult nor their representative attend, the Enquiry Manager or Officer should try and speak to them beforehand in order to ensure that the adult's views are heard.

Planning an Enquiry under s42 duties

Enquiries should be proportionate to the particular situation and they need to be planned and coordinated, with the key people identified early on. The circumstances of each individual case

determine the scope of the Enquiry and who leads it. Enquiries should be outcome focused, and best suited to the particular circumstances to achieve the best outcomes for the adult.

Individual's strengths and support networks

The strengths of the adult at risk should always be considered, including their social network and resources. Taking into consideration and if possible expanding their network and resources may reduce risks sufficiently for the Enquiry to be closed.

Questions to ask could be for example:

- Who can the person count on and what for?
- How do they get in contact?
- Who visits them frequently? How often?
- Who do they miss and would like to have back in their life?
- Why have they not been able to see/keep in touch with people close to them?
- Who else could be part of their lives?
- Are there any other people helping the individual? Any other professionals?
- Is there anything that could facilitate this network to increase, either in quantity or quality?
- What has been working until now, and how have things changed?
- What could help to enable them to return to previous means of support which worked for them?
- Which care needs/outcomes can be met better and how?
- What other pathways are better suited to address the concerns for the individual?
- What is preventing the individual from doing what they would like to do or seeing who they would like to see?
- What do they think they can do to change this?
- Who do they think can help to change it?

Safeguarding Adults Enquiry Planning Meetings/Discussions

The Section 42 Enquiry Planning Meetings or discussions should take place as early as possible after it has been decided that an enquiry is necessary, unless there are mitigating factors which cause a delay. Depending on the nature of the enquiry this may be a multi-agency planning meeting. Any mitigating factors should be recorded.

Enquiry Planning Meetings or Discussions may take place with partner agencies and the adult and/or their representative. Consistent with the Making Safeguarding Personal (MSP) ethos, the adult and/or their representative will be given the opportunity to participate. Consideration needs to be given to the degree of risk and the adult at risk's preferred means of involvement and their ability and capacity to engage as well as the need for professionals to share information in an appropriate and complete way. It may be that they are invited to attend some all of the meeting and this should be a decision taken on a case by case basis. There may be some information which cannot be shared with the adult at risk due to the confidential nature of that information for example if it is employment information or part of an ongoing criminal investigation. The decisions surrounding how the adult at risk is included in the Enquiry should be recorded.

An Enquiry Planning Meeting/Discussion is held based on the procedures for safeguarding adults at risk in Swindon. A safeguarding concern for the adult will be shared with the attendees. Together with the adult his/her representative, and other professionals the risk/risks will be assessed and, if required, a plan made to address the risks and to agree the actions for the enquiry some of which may be for the protection for the person.

Any meetings held should be flexible and geared towards supporting the meaningful participation of the adult. Meetings could be held at the adult's home or alternatively, a neutral venue. Some adults may appreciate a one-to-one meeting in advance of a planning meeting to help them prepare, others may prefer telephone conversations or 'virtual meetings'.

The main focus of pre-meeting activities will be on supporting the adult to prepare for the Enquiry Planning Meeting and the development of a possible chronology of key events to inform the discussion and decision-making process.

The Adult Safeguarding Enquiry will conclude when the local Lead Agency has made a decision that no further action is required in the adult's case.

Multiple Enquiry Planning Meetings/Discussions may take place. The Enquiry Planning Meeting may set actions, who should complete them, set target timescales, review the progress of any actions, or initiate a Safeguarding Protection Plan.

Information and advice and/or other actions may need to continue under other processes, for example, ongoing contract compliance or regulatory inspection/action.

Participants of Safeguarding Adults Enquiry Planning Meeting/Discussion

The Enquiry Manager will consider the information that was gathered as part of the screening process and will identify the relevant agencies to be involved in the Enquiry Planning Meeting or in discussions.

Those from partner agencies/organisations who attend meetings or discussions should be of sufficient seniority to make decisions concerning their organisation's role and the resources they may contribute to the assessment or enquiry and to the agreed protection measures.

Where possible, the Adult at Risk and/or their representative need to be included.

Enquiry Managers in Adult Social Care chairing Enquiry Meetings will act in an impartial and objective way in conducting the meetings and will facilitate the meetings to reach decisions and recommendations with the person at risk wherever possible.

Co-operation between organisations to achieve outcomes is essential and all actions should be co-ordinated. Keeping the Adult at Risk safe is paramount. Information sharing should be timely and should comply with all legislative requirements, including GDPR. Where one agency is unable to progress matters further, for example where a criminal investigation has not achieved desired outcomes for the adult, the local authority, in consultation with the adult and others, will decide if and what further action is needed.

Professionals from other teams or agencies who may undertake enquiries

Police will be the appropriate agency to undertake a safeguarding enquiry where a crime is suspected. Whilst the police must undertake the criminal investigation, the local authority may need to support this process; for example, by providing information and assistance. The local authority has an on-going duty to promote the wellbeing of the adult in these circumstances.

Caused Enquiries

Guidance has been produced to follow when 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.

[https://safeguardingpartnership.swindon.gov.uk/downloads/file/1349/causing_enquiries_guidance - april 2024](https://safeguardingpartnership.swindon.gov.uk/downloads/file/1349/causing_enquiries_guidance_-_april_2024)

Section 5 – Closure of s42(1) and s42(2) Enquiries

Safeguarding Enquiries are closed where all the actions that were set in the Enquiry Planning meeting/s are completed and enabled the adult to achieve resolution and recovery.

In some cases, where risk to the adult remains, there will be a need to implement protection plans to manage this risk. The Adult Safeguarding team will be clear when closing the Enquiry about who will be responsible for protective actions.

In some cases, the Adult Safeguarding team will formulate, coordinate, and monitor a Safeguarding Plan. This will be a plan in the sense of what the Care Act 2014 refers to as 'Safeguarding Plan'. Where the Adult Safeguarding team put such a plan in place, a date will be set to have this plan reviewed by the SBC Adult Safeguarding team.

It is good practice where a care management assessment, Care Programme Approach (CPA), reassessment of care and support, health review, placement review or any other pre-booked review is due to take place following the safeguarding enquiry, for a standard check to be made that there has been no reoccurrence of concerns.

Closure records should note the reason for this decision and the views of the adult at risk to the proposed closure. The Enquiry Manager responsible should ensure that all actions have been taken, building in any personalised actions, this may include:

- Referral for assessment and support
- Agreements with the adult at risk to closure
- Advice and Information provided
- All organisations involved in the enquiry updated and informed
- Feedback has been provided to the referrer
- Action taken with the person alleged to have caused harm
- Action taken to support other service users
- Referral to Children's Services MASH made where necessary
- Outcomes noted and evaluated by adult at risk
- Consideration for a SAR via Swindon Strategic Partnership
- Any lessons to be learnt.

Section 6 – Adult Safeguarding Plans

Outcomes for the Enquiry or for Safeguarding Plans can be related to safety, quality of life, change/development, and the safeguarding process. The outcomes are what those involved hope to achieve for the person. The practitioner will agree the outcomes with the adult and explore in a conversation how they are best set to make them specific and achievable.

At the second Enquiry Planning meeting, where the risks specific to the abuse or neglect in the concern cannot be mitigated by other pathways, and where a multi-agency approach led by the SBC Adult Safeguarding Team is the most appropriate way to manage the risk, the Adult will become subject to a Safeguarding Plan.

An Adult Safeguarding Plan sets actions which help to reduce or manage the risks to the person. They may involve resources such as family and friends and also professional services.

A Safeguarding Plan will usually be required where the risk of abuse or neglect is, for example:

- On-going
- Complex
- Unstable
- Risk of harm to the Adult or others is significant
- Other factors such as coercion, undue influence, or duress add to the complexity and uncertainty of the risk
- And that the risk cannot be managed appropriately or adequately by other processes

These types of situations will require a greater level of scrutiny and review, usually within a multi-agency context. Where it is determined, following a safeguarding s42 enquiry, that further action is required based on the risk of abuse or neglect described above, it is duty bound under the Care Act to develop a Safeguarding Plan.

A Safeguarding Plan may not always be required; for example, the outcome of the Enquiry may be that no action is required in the adult's case, or that on-going risks can be managed or monitored through a single agency process; for example, assessment and support planning processes, community policing responses, health service monitoring.

A Safeguarding Plan is not a care and support plan, and it will focus on care provision only in relation to the aspects that safeguard against abuse or neglect, or which offer a therapeutic or recovery-based resolution.

The Safeguarding Plan should outline the roles and responsibilities of all individuals and agencies involved, and should identify the lead Enquiry Manager who will monitor and review the plan, and when this will happen.

The Safeguarding Plan should be accessible for the adult being protected by it and should set out:

- Desired outcomes for the individual
- Actions to achieve these outcomes
- What steps are being taken to assure their safety in the future
- What support, treatment, therapy or ongoing advocacy will be provided
- What will change in relation to their current support
- Where the adult is seeking justice, how they will be supported to do this
- What the risks are and how these will be managed, and
- What action is being taken against the person or organisation that has caused the abuse or neglect

However, the provision of information and advice and/or other actions may need to continue under other processes, for example, addressing potential risks from people who are employed in 'positions of trust, referral to the DBS, on-going compliance or regulatory inspection/action.

Decisions about actions required should always be made with the full participation of the adult, or their representative or advocate if the adult has substantial difficulty or lacks mental capacity to participate in the decision making process.

The Adult's desired outcomes should directly inform the decision-making process, and wherever possible, decisions about actions should be led by and designed to achieve these outcomes. Sometimes adults can express unrealistic outcomes, and there should be negotiation with the adult throughout the Safeguarding Plan process to support the adult to understand what outcomes are achievable, and fit in with their views and wishes.

However, there will be occasions where the desired outcomes of the Adult cannot be met or where doing so would cause unacceptable risk of harm to the adult or others. The duty of care to safeguard the Adult will always need to be balanced with their right to self-determination. Such situations will require careful negotiation with the adult and involved others, and all decisions should be discussed and explained to the adult in a way they can understand.

In cases where the Adult is not able to understand and make safe decisions, restrictions on the Adult's choices and lifestyle may need to be considered. Any support or decision designed to restrict unsafe choices or behaviour needs to be lawful, proportionate, and the least restrictive. Positive risk taking frameworks and theory should be applied.

Conclusions of the Adult Safeguarding Plan and decisions about actions required should be recorded and clearly defensible. Defensive decision making means providing a clear rationale based on legislation, policy, models of practice or recognised tools utilised to come to an informed decision based on information known at the time. Accurate, timely, concise, specific, appropriate recording will support decision making and provide justification for actions taken.

Review of Safeguarding Plans

The Safeguarding Plan must be reviewed within 6 weeks, or in line with actions set in Safeguarding Plan.

The Review of the Safeguarding Plan will be led by the Enquiry Manager.

The meeting to review the Safeguarding Plan can be held as many times as necessary (with consideration of MSP and identified risks), and as long as outstanding actions remain.

Review Meetings of Safeguarding Plans and decisions about plans should be communicated and agreed with the adult. The views and wishes of the adult at risk must be respected as much as possible. This is to include decisions about:

- Their desired outcome of the enquiry. The Review should consider whether the adult's preferred outcomes have been achieved or have changed.
- Their agreement to attend the Meeting, and confirmation of how they want to be involved
- Who they want to represent their views if they choose not to attend
- Further involvement in the Safeguarding Plan Review and support required, including Advocacy support

The Safeguarding Plan Review Meeting should:

- Assess the effectiveness of the Safeguarding Plan, review the risks and update as necessary
- Assess all relevant information and plan how to safeguard the 'Adult at Risk' and promote his/her welfare and that of any others who may be at risk (looking at potential wider concerns). Determine an on-going risk management strategy where appropriate and agree how this will be co-ordinated
- Agree timeframe for next Safeguarding Plan Review Meeting
- Record all discussions and decisions in relation to the proposed course of action.
- Consider issues regarding mental capacity and best interests particularly when the adult at risk or the person alleged to have caused harm lack mental capacity. This may include receiving a report from the Independent Mental Capacity Advocate (IMCA)
- Consider whether the case should be subject of a Safeguarding Adult Review (SAR) via Swindon Safeguarding and Community Safety Partnership or a potential large-scale enquiry
- Send pdf copy of Safeguarding Plan Review to the Adult, and to all agencies involved in enquiry
- Decide whether the Safeguarding Plan requires further review or can be closed

Safeguarding Plan Review Meeting

The Safeguarding Plan Review Meeting should be held no later than 6 months after implementation of the Plan.

The most important factor is how actions have impacted on the adult and how risk has developed throughout the enquiry.

The Enquiry Manager should monitor the Safeguarding Plan within the agreed timescales.

The purpose of the Safeguarding Plan Review Meeting is to:

- Evaluate the effectiveness of the Safeguarding Plan
- Evaluate whether the plan is meeting/achieving outcomes

Reviews of Safeguarding Plans and decisions about plans should be communicated and agreed with the Adult at Risk. Following the Review process, it may be determined that:

- The Safeguarding Plan is no longer required; or
- The Safeguarding Plan needs to continue.

Any changes or revisions to the Safeguarding Plan should be made, new or reviewed time scales set (if needed). The revised Safeguarding Plan should be sent to all invitees.

To consider within a Review of Safeguarding Plan meeting:

To ensure the views and wishes of the Adult at Risk are respected as much as possible. This is to include decisions about:

- Their desired outcome of the enquiry
- Their agreement to attend the Meeting, confirmation of how they want to be involved in the enquiry
- Who they want to represent their views if they choose not to attend
- Further involvement in the enquiry and support required as the case progresses
- Advocacy support

To ensure that all professionals are working in a co-ordinated way and to assess all relevant information and plan how to safeguard the 'Adult at Risk' and promote his/her welfare and that of any others who may be at risk (looking at potential wider concerns).

To ensure that the original Terms of Reference of the enquiry and actions in the Safeguarding Plan are agreed are central to the progress of the enquiry, and followed at all times.

Consideration of other avenues of support in relation to other information that may be discussed within the safeguarding arena; that is, care and support/carers support.

To record all discussions and decisions in relation to the proposed course of action.

To draw together and analyse in an inter-agency setting the information which has been obtained through the enquiries initiated at the Enquiry Planning Meeting/Discussion or previous Safeguarding Plan Review meeting

To make judgements about the likelihood of the Adult at Risk being at risk of harm in the future and of others who may be affected.

To consider issues regarding mental capacity and best interests particularly when the adult at risk or the person alleged to have caused harm lack mental capacity. This may include receiving a report from the Independent Mental Capacity Advocate (IMCA).

To decide what future action is needed to safeguard the adult at risk and promote his/her welfare, how that action will be taken forward, and with what intended outcomes.

To resolve issues when there are serious concerns that an adult at risk may not otherwise be safeguarded adequately or where there is dissatisfaction with the outcome of the Safeguarding Plan.

- To review action taken to protect the referrer
- The Swindon Borough Council Whistleblowing Policy is at https://www.swindon.gov.uk/downloads/file/882/whistleblowing_policy
- Other agencies will have their own Whistleblowing Policy.
- To consider additional action required following the closure of a criminal investigation
- To review the Safeguarding Plan which will ensure the safety of the adult at risk and others who may be at risk
- To consider if a referral to the Disclosure and Barring Service is required
- To consider if a review of the current care plan is required
- To agree how best to support the adult at risk through any action that is taken to seek justice or redress
- To determine an on-going risk management strategy where appropriate and agree how this will be co-ordinated
- Within the bounds of confidentiality, what information is to be fed back to the referrer and who is to be responsible for feeding back this information
- To decide whether there are any other individuals or organisations that have a legitimate right to know about the progress or outcome of the enquiry
- To close an enquiry
- To consider whether the case should be subject of a Safeguarding Adult Review (SAR) via Swindon Safeguarding and Community Safety Partnership or a potential large-scale enquiry

If the Safeguarding Plan is to continue then set a date for a Safeguarding Plan Review Meeting. The Enquiry Manager will ensure that the time frame is appropriate and reviewed on a regular basis and communicated to all involved.

Closure of Safeguarding Plans

Where the safeguarding risks have been reduced or removed, the Safeguarding Plan is no longer required and can be closed. This will usually happen in the context of a Review of Safeguarding Plan Meeting/Discussion. At the point of closure, the relevant professionals will all be informed, including the GP.

It may be appropriate for a single agency to continue to monitor the ongoing care of the individual at this stage. The care of the individual will be handed over to that agency who will continue a care management plan/risk management plan or equivalent within their own agency. The Safeguarding Plan will be closed at this point of handover.

The decision to close the Safeguarding Plan will be led by the Enquiry Manager, who will:

- Ensure outstanding actions are allocated prior to closure of Safeguarding Plan and how these will be monitored, and who will lead these actions.
- Ensure the adult's desired outcomes are evidenced, against MSP principles.
- Complete and record summary of the Plan and how the actions have addressed the concerns.
- Send pdf copy of Safeguarding Plan Review to the adult, and to all agencies involved in the Enquiry.

Section 7 – Other things to consider

Recovery and resilience

Adults who have experienced abuse and neglect may need to build up their resilience. This a process whereby people use their own strengths and abilities to overcome what has happened, learn from the experience and have an awareness that may prevent a reoccurrence, or at the least, enable people to recognise the signs and risks of abuse and neglect, and know who and how to contact for help.

Resilience is supported by recovery actions, which includes adults identifying actions that they would like to see to prevent the same situation arising. The process of resilience is evidenced by:

- The ability to make realistic plans and being capable of taking the steps necessary to follow through with them
- A positive perception of the situation and confidence in the adult at risks own strengths and abilities
- Increasing their communication and problem-solving skills

Resilience processes that either promote well-being or protect against risk factors, benefit individuals and increase their capacity for recovery. This can be done through individual coping strategies assisted by:

- Strong personal networks and communities
- Social policies that make resilience more likely to occur
- Handovers/referrals to other services for example care management, or psychological services to assist building up resilience
- Restorative practice

If no further safeguarding action is required and there are alternative ways of supporting adults, then the adult safeguarding process can be closed down.

Domestic Abuse services

Where there is a referral where there are concerns about Domestic Abuse, a DASH risk assessment should be completed to establish the level of risk – a DASH risk assessment should only be carried out if safe to do so; for example, it may increase the risk if the alleged perpetrator is in the background during a telephone conversation. If it is not possible to carry out the DASH risk assessment safely then it can be completed with the information known by the professional and the risk level assessed using professional judgement only. If the risk is high, a referral should be made to MARAC through the MARAC referral form.

The point of contact for Swindon MARAC, and any enquiries about the MARAC process, is at SwindonMARAC@swindon.gov.uk

If the risk is not high, referrals may be made to Domestic Abuse services, such as SDASS/SWA at <https://swadomesticabuse.org/referral-form/>

If children are in the household then a referral to MASH must also take place – MARAC does not replace this.

There are also a number of specialist national help lines, and a list is attached in the Appendices.

The Domestic Abuse Referral Pathway is as follows:

- Complete the DASH Risk assessment and if it comes out with fourteen ticks or more it meets the criteria for a referral to MARAC. Remember, if there are not fourteen ticks or more, but you still think the victim is at serious risk of harm or death, you can still refer to MARAC as regards professional judgement.
- Be clear with the victim about confidentiality. You should always try and seek consent to make the Referral but for high risk victims, you can still refer to MARAC without consent if they are high risk.
- Complete the MARAC referral form.
- Forward the MARAC referral form and the completed RIC to the MARAC Coordinator, who will check it and forward it to the IDVA (Independent Domestic Violence Advisor) service and ensure it is included in the next available MARAC. Email: SwindonMARAC@swindon.gov.uk
- You are also responsible for submitting an RF1 to the MASH if children are involved in the situation.
- MARAC takes place every 2 weeks. It discusses the highest risk victims (those at serious risk of harm or death). Agencies share their information and the victim's views are presented by the IDVA (Independent Domestic Violence Advisor).
- A safety/action plan is developed and MARAC partners should flag/tag their own systems to identify whether the victim is high risk and has been considered at MARAC.
- The IDVA acts as an advocate for the victim, helps them assess their options and helps co-ordinate wrap-around support.

Prevent

From July 2015, the Counter Terrorism and Security Act 2015 placed a duty on specific authorities including local authorities, police, education and health to have 'due regard to the need to prevent people from being drawn into terrorism' and to address this with a proportionate response. The Prevent Strategy 2011 is one element of the UK's national counter-terrorism strategy, Contest.

It has three key objectives:

- To respond to the ideological challenge of terrorism and the threat we face from those who promote it
- Prevent people from being drawn into terrorism and ensure they are given appropriate advice and support
- Work with sectors and institutions where there are risks of radicalisation that we need to address

Prevent is about safeguarding our communities from the threat of terrorism by stopping people from supporting terrorism or becoming terrorists themselves.

Anyone can make a Prevent referral if they have concerns about someone. When a referral is made, Prevent officers gather information to look at the context surrounding concerning behaviour changes and conduct a vulnerability assessment. In most cases, referrals are signposted to other services, but if it is recognised that there is an ideology present, capability or intent to act then they may be put forward for support from Channel (see below). There are many factors that could make someone vulnerable to radicalisation including:

- Feelings of grievance and injustice
- Being at a transitional time of life
- Experiencing a traumatic event
- A desire for political or moral change
- Struggling with a sense of identity, meaning and belonging or questioning their place in society
- A desire for status
- Being influenced or controlled by a group
- Experiencing racism or discrimination

Channel

Channel is a multi-agency panel consisting of professionals from services in contact with the individual of concern. This will include a chair from the local authority and a Prevent police representative. Participation in Channel is voluntary and confidential. If consent is obtained, the panel look at risk and protective factors and how support can be provided to build resilience and divert them from being drawn into terrorism. Progress is monitored monthly and when it is agreed, the individual has no further terrorism related concerns they will leave the programme. Six- and twelve-month reviews are carried out following channel closure to review progress.

Support is provided via Channel from services including, but not limited to:

- Mental health
- Education
- Housing
- Substance misuse services
- Adult and children's social care
- Home Office intervention providers
- Mentoring services
- Community policing
- Diversionary activities such as sport and activity clubs

While Swindon is considered a low risk area, it is important to be aware of vulnerabilities in people we know and meet and that advice is sought if there are concerns

What if I have a concern related to radicalisation?

There are several ways you can seek advice:

- Speak to your designated safeguarding lead (if applicable)
- Call the local Prevent team on 01380 826454
- Call 101 and state you would like some advice regarding a Prevent concern
- If you see or hear something that could be terrorist related call the anti-terrorist hotline on 0800 789 321
- If you require urgent police assistance dial 999

To make a referral use email PreventReferrals@wiltshire.pnn.police.uk

It is crucial to note that Prevent is a supportive space and does not get people in trouble or criminalise them. It is about safeguarding them from the impact of extremism and radicalisation.

For more information, go to: https://www.swindon-csp.org.uk/info/9/swindon_csp/13/the_prevent_duty_safeguarding_from_radicalisation

And visit the SSCSP website at:

https://safeguardingpartnership.swindon.gov.uk/info/3/workers_and_volunteers/10/workers_and_volunteers/14

The Care Quality Commission will be the appropriate body to respond to regulatory breaches and non-compliance with mandatory standards of care.

Safeguarding Adult Reviews (SAR)

When should a Safeguarding Adults Review take place? One of the Safeguarding Adults Board's (SAB) core statutory duties is to conduct any SAR in accordance with s44 of the Care Act 2014.

Under the statutory requirements of the Care Act 2014, a Safeguarding Adults Board (SAB) must arrange a SAR when:

- An adult in its area dies as a result of abuse or neglect, whether known or suspected, and there is concern that partner agencies could have worked more effectively to protect the adult (s14 (133)).

SABs must also arrange a SAR if:

- An adult in its area has not died, but the SAB knows or suspects that the adult has experienced serious abuse or neglect. In the context of SARs, something can be considered serious abuse or neglect where, for example, it would have been likely that the individual would have died but for an intervention, or has suffered permanent harm or has reduced capacity or quality of life (whether because of physical or psychological effects), as a result of the abuse or neglect.

SABs are also free to arrange for a SAR in any other situations involving an adult in its area with needs for care and support (s14 (134)). In all cases, the adult must have needs for care and support, but does not have to have been in receipt of care and support services for a SAR to be considered. SARs may also be used to explore examples of good practice where this is likely to identify lessons that can be applied to future cases. Essentially, SARs are concerned with the abuse or neglect of adults with care and support needs who are not able to protect themselves because of those care and support needs.

What is a Safeguarding Adults Review (SAR)?

Safeguarding Adults Reviews are undertaken to:

- Determine what the relevant agencies and individuals involved in a case could have done differently, that may have prevented serious harm or death
- Establish what can be learned from the case
- Apply that learning to future cases to prevent similar harm occurring again

SARs are not enquiries into how an adult with care and support needs died or who is culpable; that is a matter for Coroners or Criminal Courts to determine as appropriate.

The purpose of a SAR is not to hold any individual or organisation to account. Other processes exist for this, including:

- Criminal proceedings
- Disciplinary procedures
- Employment law and systems of service and professional regulation, such as the Care Quality Commission (CQC), the Nursing and Midwifery Council, the Health and Care Professions Council, and the General Medical Council

It is vital, if individuals and organisations are to be able to learn lessons from the past, that reviews are trusted and are safe experiences that encourage honesty, transparency and sharing of information in order to obtain maximum benefit from them. If individuals and organisations are fearful of SARs, their response will be defensive and their participation guarded and partial (s14 (140)).

The purpose of a SAR is not to re-investigate an incident or incidents, nor is it to apportion blame but to identify whether lessons can be learnt about the effectiveness of professionals and agencies working together to safeguard adults at risk.

Making a referral for a SAR

It is the responsibility of those who work with adults with care or support needs to make a referral for a SAR where there are reasonable grounds to consider that the criteria, as set out above, may be met. When deciding whether to make a referral, there are four key questions to consider:

1. Does the adult involved have care or support needs? Examples of these can be found in the [SSP's Threshold E-Document](#)
2. Has serious abuse or neglect taken place? (statutory guidance sets out that in the context of SARs, something can be considered serious abuse or neglect where, for example, the individual would have been likely to have died but for an intervention, or has suffered permanent harm or has reduced capacity or quality of life (whether because of physical or psychological effects) as a result of the abuse or neglect, or the individual has died as a result)
3. Is the adult living in Swindon, or were they subject to abuse or neglect in Swindon?
4. Could agencies have done more, by working together, to protect the adult from abuse or neglect?

If the answer to all of the questions above is yes, a referral must be made. The referral form and further information can be found on the website. An SAR may also be considered where the Swindon Safeguarding Partnership believes there would be value in doing so, or it is in the public interest. However, referrals must be made in the above circumstances.

Partner agencies should not draw their own conclusions on whether the criteria is met when that is not immediately clear, but should make a referral to the Swindon Safeguarding Partnership in order for this decision to be made.

https://safeguardingpartnership.swindon.gov.uk/downloads/file/430/safeguarding_adults_review_framework

Enquiries about the referral process can be made by email to safeguardingpartnerhisp@swindon.gov.uk

APPENDICES

Appendix 1: Primary Care

Section 42 Enquiries:

GPs should be involved in all s42 (2) enquiries concerning the following types of cases:

- Domestic abuse
- Self-neglect
- Cases where the perpetrator is a relative

Usual consent and capacity considerations will apply to all cases. GPs can be involved in any further s42(2) enquiry at the discretion of the Enquiry Manager, including the sharing of information with the GP if they feel it is appropriate, with an explanation as to why the GP needs to be involved or the information shared.

Process for contacting surgeries:

The surgery should be contacted via a simple email (**see Appendix 9**) to the secure email address of the surgery, requesting a phone call ideally with either the usual GP of the patient or the safeguarding lead or deputy.

1. Within this phone call, the details of the case can be discussed and a plan jointly agreed as to what the involvement of the GP in the enquiry will be and what their actions, if any, will be.
2. The email should be sent using the email template below and specifying the timeframe for return of response.
3. For urgent same day cases only, the screening officer should contact the surgery via the backdoor phone number.
4. For any enquiry that has already been discussed with the GP, if appropriate the GP can then be invited to any planning meeting for that patient.

Adult Protection Plans:

Where a GP is invited to be involved in the safeguarding planning and development of the protection plan, the GP will be sent a copy.

Appendix 2: Other Considerations for s42 Enquiries

Criminal investigations

Although the Local Authority has the lead role in making enquiries or requesting others to do so, where criminal activity is suspected, early involvement of the police is essential. Police investigations should be coordinated with the Local Authority who may support other actions, but in essence these investigations should always be police led.

The police will determine whether there should be criminal investigations of people in positions of trust where there is ill treatment and wilful neglect (or any other relevant offences). There are several possible offences which may apply, including the specific offences mentioned below.

[Section 44 Mental Capacity Act 2005](#) makes it a specific criminal offence to wilfully ill-treat or neglect a person who lacks capacity.

[Section 127 Mental Health Act 1983](#) creates an offence in relation to staff employed in hospitals or mental health nursing homes where there is ill-treatment or wilful neglect.

Sections 20 to 25 of the Criminal Justice and Courts Act 2015 creates an offence of ill-treatment or wilful neglect by care workers and care providers, regardless of whether the person lacks or has capacity.

Potentially dangerous offenders

At any stage of an investigation, if there are serious concerns about a potentially dangerous offender, any agency may request a meeting of the Multi-Agency Public Protection Arrangements (MAPPA) as detailed within the High-Risk Public Protection Protocol and Criminal Justice and Court Services Act 2000 (ss67 and 68).

Where there is a concern that would indicate Domestic Violence or abuse, a referral to a Multi-Agency Risk Assessment Conference (MARAC) may be appropriate to obtain wider support to safeguarding the adult at risk.

Please refer to **Appendix 3** for specific details regarding current legislation which may need to be considered within s42 enquiries of the Care Act.

Linking different types of investigative processes

There are a number of different types of investigative processes which could be happening at the same time. It is important to ensure that where there is more than one process, information is co-ordinated. This is to avoid any delays, interviewing staff more than once or making people repeat their story.

Other processes, including police investigations, can continue alongside the formal safeguarding adult's enquiry. Where there are HR processes to consider, it is important to ensure an open and transparent approach with staff, and that they are provided with the appropriate support, including trade union representation. The remit and authority of organisations need to be clear when considering how different types of investigations might support s42 enquiries.

DIFFERENT TYPES OF INVESTIGATIVE PROCESSES	
Types of investigative process	Who might be involved
Criminal (including assault, theft, fraud, hate crime, domestic abuse and abuse or wilful neglect)	Police
Domestic violence	Police coordinated via the MARAC process
Anti-social behaviour (e.g. harassment, nuisance by neighbours)	Neighbourhood Policing Team.
Breach of tenancy agreement (e.g. harassment, nuisance by neighbours).	Landlord/registered social landlord/housing trust/community safety services
Bogus callers or rogue traders	Trading Standards/Police
Complaint regarding failure of service provision (including neglect of provision of care and failure to protect one adult from the actions of another)	Manager/proprietor of service/complaints department/Ombudsman (if unresolved through complaints procedure)
Breach of contract to provide care and support	Service commissioner (e.g. Local Authority, NHS ICB) Fitness of registered service provider CQC
Serious Incident (SI) in NHS settings	Root cause analysis investigation by relevant NHS provide with support from ICB
Unresolved serious complaint in health care setting	ICB, NHS England, CQC, Health Service Ombudsman.
Breach of rights of person detained under the MCA 2005 – Deprivation of Liberty Safeguards (DoLS) or dols (in community based setting)	CQC, Local Authority (Supervisory Body), OPG, Court of Protection
Breach of terms of employment/disciplinary procedures	Employer
Breach of professional code of conduct	Professional regulatory body
Breach of health and safety legislation and regulations	HSE/CQC/Local Authority.
Misuse of enduring or lasting power of attorney or misconduct of a court-appointed deputy	OPG/Court of Protection/Police
Inappropriate person making decisions about the care and wellbeing of an adult who does not have mental capacity to make decisions about their safety and which are not in their best interests	OPG/Court of Protection
Misuse of Appointeeship	DWP
Safeguarding Adults Review.	Swindon Safeguarding and Community Safety Partnership, SAR Policy
Another enquiry could be through commissioning – so checking provider at next visit in relation to missed meds etc.	Care Quality Pathway

Appendix 3: Key Adult Safeguarding Legislation and Guidance

Key Legislation
Care Act 2014
Mental Capacity Act 2005
Mental Health Act 1983
Coroners and Justice Act 2009
Policing and Crime Act 2017
Counter-Terrorism and Security Act 2015
The Modern Slavery Act 2015
The Public Interest Disclosure Act 2013
Female Genital Mutilation Act 2003
Criminal Justice and Courts Act 2015
Serious Crime Act 2015
Data Protection Act 2018
Police and Criminal Evidence Act 1984
Human Rights Act 1989
Domestic Abuse Act 2021
Sexual Offences Act 2003

Key Guidance
Care and Support Statutory Guidance
A Framework for Making Decisions on the Duty to Carry Out Safeguarding Adult Enquiries (ADASS July 2019)
False or Misleading Information Offence; Guidance for Providers 2015
Prevent Training and Competencies Framework NHS 2015
Building Partnerships, Staying Safe DH 2011
The Lampard Report February 2015
Safeguarding Adults Multi-Agency Policy
Improving the Safety of Patients in England Berwick Report (2013)
Mental Capacity Act: Post-legislative Scrutiny 2014 (Select Committee on the MCA)
Domestic Violence and Abuse NICE Guidance 2016
Controlling or Coercive Behaviour in an Intimate or Family Relationship -Statutory Guidance Framework
Duty of Candour

Domestic Violence & Abuse: How Health Services, Social Care and the Organisations They Work With Can Respond Effectively (2014) (out of date)
Multi-agency Statutory Guidance on Female Genital Mutilation
Mid Staffordshire Public Inquiry Report, Executive Summary (2013)
Safeguarding Vulnerable People in the NHS – Accountability and Assurance Framework 2015 (updated)
Disclosure and Barring Service (DBS)
NHS Employers: Criminal Record and Barring Checks (2013)
CQC Fundamental Standard 13: Safeguarding Service Users from Abuse and Improper Treatment
Serious Incident Framework
Supporting Learning to Prevent Recurrence. NHSE 2015
Violence and Aggression: Short-term Management in Mental Health, Health and Community Settings. NICE 2015
Modern Slavery: Statutory Guidance for England and Wales (under s49 of the Modern Slavery Act 2005).

The s42 duty requires consideration of the statutory criteria under s42 (1) and (2) of the Care Act (2014):

S42 (1)

Section 42(1) Statutory Criteria

REASONABLE CAUSE TO SUSPECT that an adult in its area (whether or not ordinarily resident there)

- a. Has needs for care and support (whether or not the Local Authority is meeting any of those needs**
- b. Is experiencing, or is at risk of abuse or neglect, and**
- c. As a result of their needs is unable to protect him or herself against the abuse or neglect or the risk of it**

S42 (2)

‘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.’

The full guidance for the Care Act can be found at:

www.gov.uk/government/publications/care-act-statutory-guidance/care-and-supportstatutory-guidance

Under the Care Act 2014 'Wellbeing' is defined as a broad concept, and described as relating to the following areas in particular:

- Personal dignity (including treatment of the individual with respect)
- Physical and mental health and emotional wellbeing
- Protection from abuse and neglect
- Control by the individual over day-to-day life (including over care and support provided and the way it is provided)
- Participation in work, education, training or recreation
- Social and economic wellbeing
- Domestic, family and personal life
- Suitability of living accommodation, and
- The individual's contribution to society

The Care Act and its Statutory Guidance (Chapter 14) revised the definition of an 'Adult at Risk' as an adult with care and support needs, whilst highlighting the need for inclusion of the adult, prevention, and partnership work between agencies:

'Safeguarding 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 or neglect, while at the same time making sure that the adult's wellbeing is promoted including, where appropriate, having regard to their views, wishes, feelings and beliefs in deciding on any action.'

This must recognise that adults sometimes have complex interpersonal relationships and may be ambivalent, unclear or unrealistic about their personal circumstances. Organisations should always promote the adult's wellbeing in their safeguarding arrangements. People have complex lives and being safe is only one of the things they want for themselves. Professionals should work with the adult to establish what being safe means to them and how that can be best achieved. Professionals and other staff should not be advocating "safety" measures that do not take account of individual well-being, as defined in Section 1 of the Care Act.'

Department of Health Care Act Guidance October 2014, paras 14.7–14.8.

Appendix 4: Disputes and Complaints

Disputes

There is a statutory duty of co-operation between the Local Authority and partner agencies and where co-operation is requested the Local Authority or partner agency must comply with the request unless it considers that doing so would be incompatible with its own duties or would otherwise have an adverse effect on the exercise of its functions. This extends to requests to undertake a s42 enquiry or delegated tasks relating to a s42 enquiry.

If an organisation declines to undertake an enquiry or delegated tasks, or if the enquiry is not done, local escalation procedures should be followed. The key consideration of the safety and wellbeing of the adult must not be compromised in the course of any discussions or escalation and it is important to emphasise that the duty to co-operate is mutual between all agencies.

Where there is interagency dispute about a concern under this policy, it should normally be resolved by the Enquiry Manager. If this is not possible, mediation from senior managers may be required.

[Link](#) to Swindon Safeguarding Partnership Process for the Resolution of Professional Disagreement Relating to Safeguarding Protection of Adults Policy

Complaints

At any time during an enquiry, concerns may be expressed from partners on how a concern under this policy has been handled. Each of the agencies involved in this policy should have 'Comments and Complaints' procedures and these should be referred to address concerns and outline to the complainant how matters are to be resolved. If the complaint is not successfully resolved at this stage it would be possible for the complainant to make use of external organisations to pursue this including Local Government Ombudsmen and other professional bodies.

Occasionally, consideration may be given to a joint response if the conduct of more than one agency is raised.

Any learning identified as a result of a complaint should be shared with key agencies to inform ongoing best practice.

Appendix 5:

Adult Safeguarding, An Easy Read Guide, is available [here](#)

Appendix 6: Safeguarding Process SBC

<u>Stage 1 – Safeguarding Concern Screening</u>
<ul style="list-style-type: none"> • Screening of concern within 24 working hours (immediate actions should also be taken by referrer – consider going back to referrer for more information) • Screening Decision
<p>Record information gathered; any actions; and mitigating factors for delay if applicable.</p> <p><u>Stage 1 is led by the Safeguarding Screening Hub</u></p> <ol style="list-style-type: none"> 1. Assess risk within 24 hours and if required, take immediate protective action to keep Adult safe during screening process. Identify and record primary and other types of abuse, assess degree of risk with Safeguarding Team RAG rating and adapt measures for safety during Enquiry if required. 2. Consider Adult's understanding of the process applying: <ul style="list-style-type: none"> • The Mental Capacity Act 2005 – Capacity regarding the specific concern and consent to progression of Safeguarding Enquiry • The Care Act 2014 – substantial difficulty for decisions re the above • Advocacy referral or use of other appropriate representation 3. Seek the Adult at Risk's preferred outcomes if appropriate and safe to do so. 4. Gather information from various sources and partner agencies on the Statutory Criteria, the person's views, their safety and ability to make their own decisions and complete referrals and information sharing to other partner agencies; e.g. Police, Health. 5. If the information in the concern meets the Statutory Criteria, the concern will be progressed to a s42 Enquiry and an Enquiry Manager allocated.

6. If the information in the concern does not immediately provide sufficient reason to believe that the Statutory Criteria are met, then further information will be gathered.
7. If the concern does not meet the Statutory Criteria, then the concern will either be progressed to 'Other Enquiry' or closed to Safeguarding with a relevant rationale referencing the information gathered, and other pathways will be considered.
8. If there are mitigating factors to suggest that further fact finding is required to make a decision, the concern will be sent to an Enquiry Officer to continue information gathering under s42(1) of the Care Act. This is mainly to ensure that decisions on the progression of the concern are not made without all attempts to involve the Adult at Risk. Mitigating factors must be recorded on the Screening Form.
9. Provide feedback to referrer as appropriate on:
 - Progression to further fact finding under s42(1)
 - Not progressing to s42(2) but what other pathways have been considered/referred
 - for Progression to s42(2)

Stage 2 – Section 42 Safeguarding Enquiry

- **Safeguarding Enquiry should commence at the point a decision is made to progress.**

Record Enquiry planning and actions, Enquiry summary, and any planning review meetings within s42 (2) Enquiry Form, including mitigating factors for delay if applicable.

Stage 2 is led by the Enquiry Manager who is allocated as soon as decision to progress to enquiry has been made

1. Enquiry Manager to set up Safeguarding Enquiry Planning Meeting which can be either a meeting or a discussion. This must involve the Adult and/or their representative, and key agencies (attendees and methods depending on urgency, risk, and availability).
2. Agree Enquiry actions (Terms of Reference) for internal or 'Caused Enquiry' with timescales and persons responsible. Record the information in the Section 42 Enquiry Form.
3. Assess ability of Adult at Risk to make informed decisions and practicable support requirements, consider completion of formal capacity assessment.
4. Consider MSP Outcomes (SMART), focus on the adult's strengths and abilities. Consider Support Network, referrals to other agencies as required. Focus on Adult's resources, strengths and abilities but also your duty of care under relevant legislation.
5. Complete the Risk Assessment Form within the Section 42(2) Enquiry Form and complete the Person Centred Risk Assessment (PCRA), and upload this onto the Enquiry Form.
6. Consider wider concerns including persons in a Positions of Trust/impact on other adults at risk/safety of the person who may have caused harm (PACH).
7. Based on the evidence gathered and reviewed, decide whether the Enquiry should be closed, or whether a Safeguarding Plan is required to protect the adult at risk.
8. If the Enquiry is closed at this stage, complete the summary in the Section 42 Enquiry Form and share with those involved in the Safeguarding Enquiry Planning Meeting/ Discussion. Feedback to referrer is an essential part of this process. Any separate discussions, meetings, or any written communication is recorded in/uploaded onto the Section 42 Enquiry Form.
9. If the Enquiry is closed at this stage, and a safeguarding plan is not required, evidence on the Section 42 Enquiry Form summary section and in Case Notes how any on-going risks will be managed or monitored through a single agency process, e.g. assessment and support planning processes, community policing responses, health

service monitoring, and advise the agency that they can refer back to the SBC Adult Safeguarding Team should the criteria for further enquiry be met.

10. Where a Safeguarding Plan is required, progress to Stage 3.

Stage 3 – Safeguarding Plan

Where it is determined, following a safeguarding enquiry, that further action is required, it is duty bound under the Care Act to develop a Safeguarding Plan.

When the Local Authority is undertaking an action following an Enquiry, a Safeguarding Plan should be agreed.

Where another organisation (or organisations) is involved it is the responsibility of each organisation to implement their part of the plan, although the Local Authority is responsible for monitoring the overall plan.

The plan should be accessible for the adult being protected by it and should set out:

- **What steps are being taken to assure their safety in the future**
- **What support, treatment, therapy or ongoing advocacy will be provided**
- **What will change in relation to their current support**
- **Where the adult is seeking justice, how they will be supported to do this**
- **What the risks are and how these will be managed, and**
- **What action is being taken against the person or organisation that has caused the abuse or neglect**

Stage 3 is led by the Enquiry Manager

1. Develop a Safeguarding Plan, recording the actions and measures already in place and new actions as required.
2. Consider wider concerns which may have come to light and record any actions for other Adults at risk.
3. Consider any changes to the adult's views and outcomes. Focus on the Adult at Risk's strengths and abilities but also Duty of Care under relevant legislation.
4. Consider Risk Assessment/Risk Management for actions from the Enquiry to the Plan.
5. Consider Resolution and Recovery for the adult.
6. Consider the source of the concern. Are any actions required (such as feedback to referrer)?
7. Identify Support Network/s and any further referrals to other agencies as required
8. Agree timeframe for Review of Safeguarding Plan.
9. Evidence in the Safeguarding Plan who will take responsibility for all non-safeguarding actions. Record this on the Safeguarding Plan Form.
10. Record Safeguarding Plan in Safeguarding Plan Form in Adults case management system.
11. Enquiry Manager to send pdf copy of Safeguarding Plan to the adult, and to all agencies involved in Enquiry.

Stage 4 is led by the Enquiry Manager

1. The meeting to review the Safeguarding Plan can be held as many times as necessary (consideration of MSP and Risks identified), and as long as outstanding actions remain.
2. Review if the adult's preferred outcomes have been achieved or have changed.
3. Review the effectiveness of the Safeguarding Plan.
4. Review the risks and update as necessary.

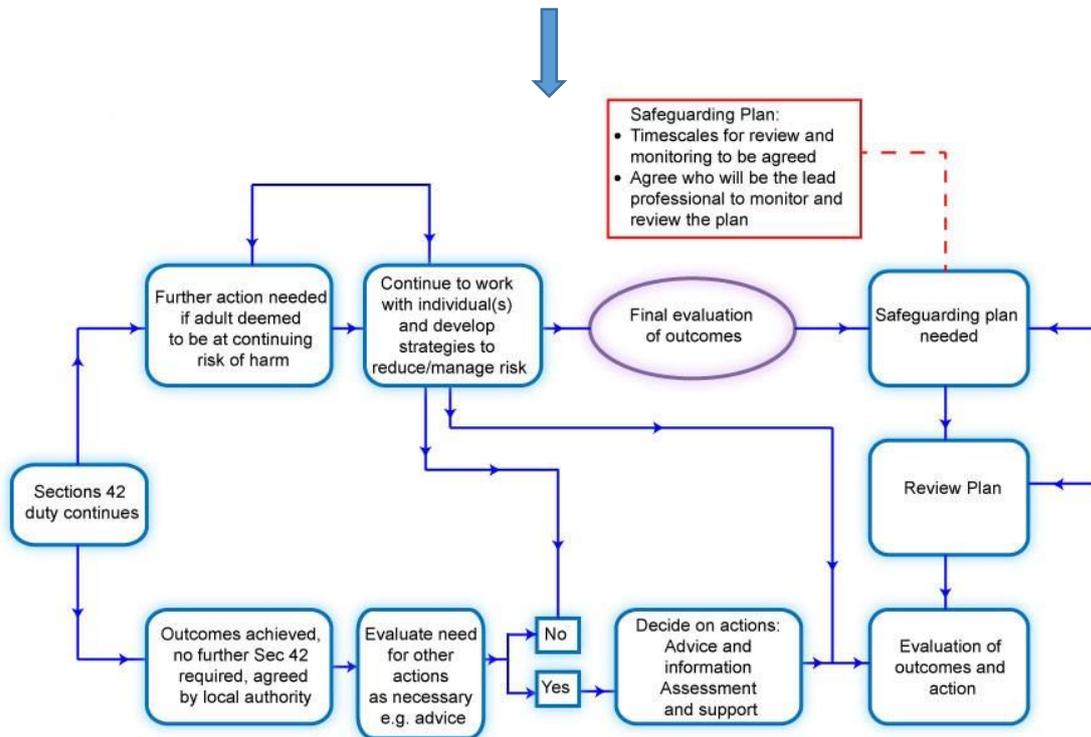
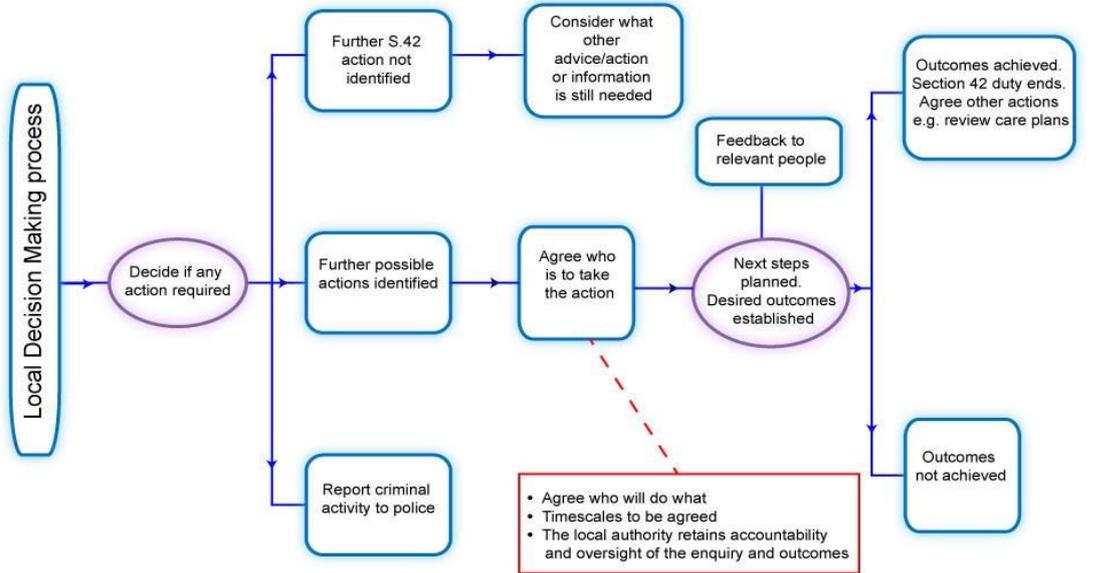
5. Agree timeframe for next Safeguarding Plan Review meeting.
6. Decide whether the Safeguarding Plan requires further review or can be closed.

Stage 5 – Closure of Safeguarding Plan

Stage 5 is led by the Enquiry Manager

1. Complete and record summary of the Safeguarding Plan and how the actions have addressed the concerns.
2. Ensure the adult's desired outcomes are evidenced, against MSP principles.
3. Ensure outstanding actions are allocated prior to closure of Safeguarding Plan and how these will be monitored, and who will lead these actions.
4. Send pdf copy of Safeguarding Plan Review to the Adult, and to all agencies involved in Enquiry.

Appendix 7 – Safeguarding Adults Process Flowchart



Appendix 8: Template email to GP surgery

Subject of email:

SAFEGUARDING IMPORTANT - FAO the usual GP of the patient or the safeguarding lead.

Text of email:**FAO the Usual GP of the patient/Practice Safeguarding Lead**

NAME OF PATIENT:

DOB:

AST REFERENCE NUMBER:

NHS NUMBER:

URGENCY OF RESPONSE: Two days

Dear Usual GP / Safeguarding Lead,

My name is xxxx and I am a social worker (Enquiry Officer/Manager) in the Adult Safeguarding Team at Swindon Borough Council.

I am working on a case where GP information and input is important. The patient name is XXX, their DOB is XXX and their NHS number is XXX. The concern is of XXX abuse.

Please could I ask for a conversation about the case, ideally with either the usual GP of the patient or one of the two practice safeguarding leads?

Please could you let me know when might be a good time for us to have a chat and I will send an invite once we have arranged a time. I am available at the following times:

-
-

I look forward to hearing from you. If you could get back to me within two days that would be much appreciated.

Best wishes,
Name, Enquiry Manager

Enquiry Manager mobile number
Enquiry Manager email address
Adult Safeguarding Team phone number
Adult Safeguarding Team email address

Appendix 9: Protocol for Allegations Management ICB



Protocol for
allegations managem