



# **ADASS Safeguarding Adults Policy Network**

## **Guidance**

June 2016

### **Out-of-Area Safeguarding Adults Arrangements**

Guidance for Inter-Authority Safeguarding Adults Enquiry and  
Protection Arrangements

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## Foreword

Cross-boundary considerations in safeguarding arrangements were originally covered in a protocol that was ratified by ADSS (Association of Directors of Social Services) in 2004. This was developed into more comprehensive guidance and published by ADASS (Association of Directors of Adult Social Services) in 2012. Its purpose was to support Councils in resolving issues when a person was placed outside their own local authority and then subsequently experienced abuse or neglect. Although originally aimed at situations where people were living in registered care homes, this was widened in the 2012 guidance to include other circumstances, such as supported living or hospital settings. It was also extended to provide specific good practice guidance where an organisational investigation was underway, which could involve a large number of service users and several different commissioning organisations.

The guidance has now been reviewed and updated to reflect new safeguarding duties under the Care Act (2014) and the accompanying Care and Support Statutory Guidance (2016). This includes, as fundamental, the person-centred, outcome-focused approach enshrined in Making Safeguarding Personal and the six national safeguarding adults principles.

The good practice guidance is not a substitute for locally agreed multi-agency safeguarding adults policies and procedures, whether at individual Safeguarding Adults Board, sub regional or regional level. Local multi-agency procedures, together with the Care Act and statutory guidance take precedence. We would encourage Safeguarding Adults Boards to familiarise themselves with this guidance in order to support partner agencies when dealing with complex cross boundary issues.

In addition, there are a number of other national guidance sources for local authorities and NHS bodies in existence which are referred to in this document. They may be relevant depending on the specific circumstances of the safeguarding enquiry and should be referred to when necessary.

We would like to acknowledge the feedback and comments received during the consultation from a number of respondents, including safeguarding adults board managers, independent SAB chairs, principal social workers and regional safeguarding networks; also to ADASS London for the inclusion of parts of the glossary from the 2015 pan-London Multi-Agency Safeguarding Policies and Procedures.

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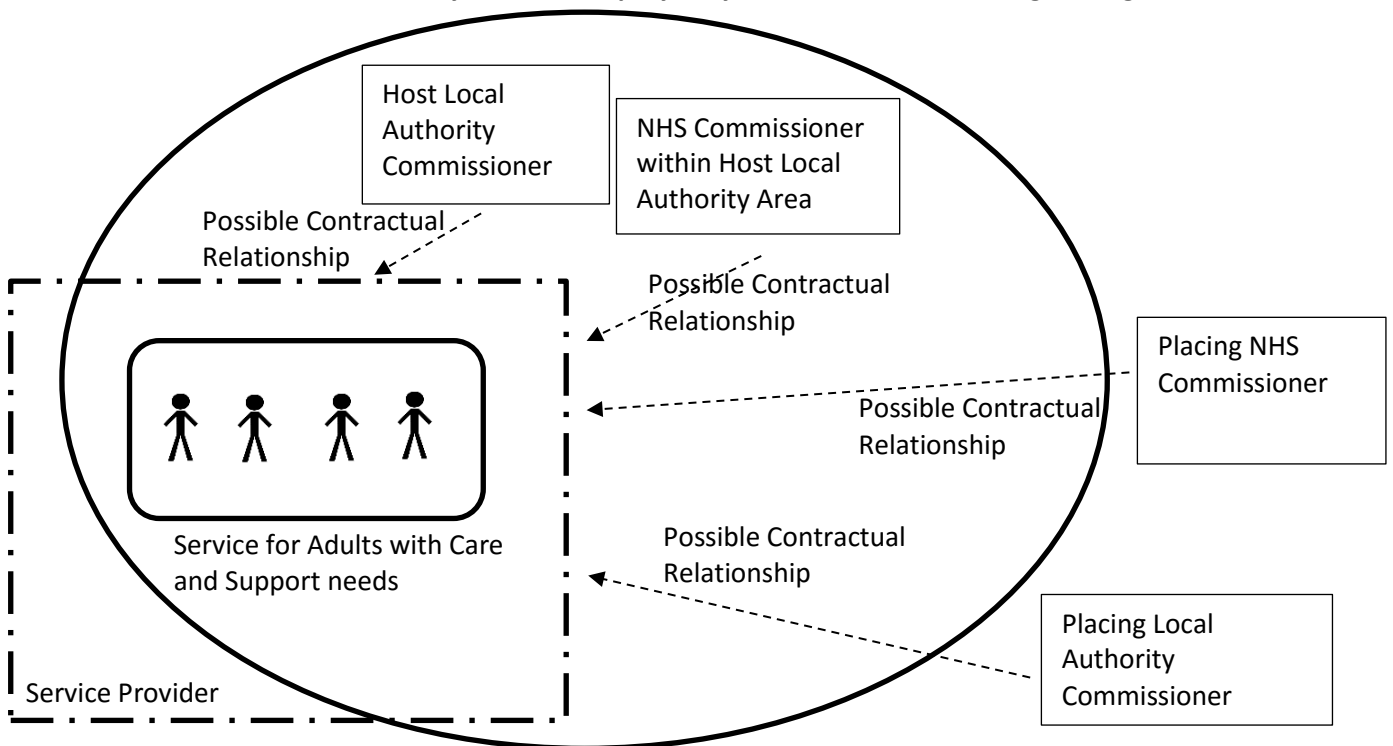
# 1 Introduction

## Purpose

This document aims to complement existing statutory guidance and local policy and procedures by providing additional guidance in responding to safeguarding concerns which involve cross-boundary considerations. ADASS members recognise the increased safeguarding risk and complexity associated with adults whose care and support arrangements cross local authority boundaries. These may arise where funding/commissioning responsibility for an adult lies with an authority in one area and where concerns about potential abuse and/or exploitation arise in another area.

The Care Act 2014 came into force on 1 April 2015, for the first time placing safeguarding adults on a statutory footing and bringing a range of new duties and responsibilities for how local authorities and other parts of the system should protect adults at risk of abuse or neglect. These duties include: a responsibility to ensure enquiries are made where safeguarding criteria are met; the duty to establish Safeguarding Adults Boards; a requirement to conduct Safeguarding Adult Reviews; information sharing duties and the duty to cooperate; and care providers' duty of candour. This guidance for inter-authority working on safeguarding enquiries has been revised and updated to reflect the new Care Act duties, the accompanying statutory guidance and the ethos and best practice standards of Making Safeguarding Personal.

### Area of the host local authority with s42 enquiry duty and the associated Safeguarding Adults Board



This guidance applies to all care and support settings including registered care settings, supported living, community settings, family placement or hospitals. It applies to all adults whether or not the costs of their care and support are being met by public funds. Where safeguarding adults concerns are raised, the local authority where the risk is posed is responsible, under Section 42 of the Care Act, for ensuring that enquiries are undertaken.

It is recognised that each local Safeguarding Adults Board area has local safeguarding adults procedures, and each may use slightly different terminology. ADASS aims to use clear terminology, in line with statutory guidance, but accepts that it is not possible to match local language in every case. Throughout this document the following terms are used:

**Host Authority** – The Local Authority in the area where the alleged abuse occurred, and which therefore has the S42 duty to make enquiries or cause them to be made (whether or not the host authority is commissioning care and support services for the adult).

**Placing Authority** – The Local Authority or NHS Body that is responsible for commissioning care and support services for an individual involved in a safeguarding adults enquiry.

There may be situations where an adult experiences abuse while being in another area in the very short term, for example they are a victim of abuse on a street in a neighbouring authority, or the incident occurred while on a day trip or holiday. It is recognised that the statutory duty remains with the host authority where the alleged abuse took place. However in these circumstances discussions should take place between the funding or responsible authority and the authority where the incident took place to determine who is most appropriate to undertake the safeguarding enquiry. It is essential to ensure that the person remains at the centre of the enquiry, that there is effective liaison with all agencies involved including for example police or health organisations and that timely agreement is reached on the conduct of the enquiry.

Where an individual is a self-funder, and there is no placing authority involved in commissioning care and support services, the host authority has the S42 enquiry duty regardless of the originating area of the adult. The host local authority may need to consult clinicians or other services from the area a person originates from, if there has been historic involvement that may be relevant.

This guidance aims to clarify both strategic and operational responsibilities and actions to be taken by host authorities and placing authorities with respect to safeguarding enquiries involving people who live in one area, but for whom commissioning responsibility remains with the area from which they originated, or where a person has experienced abuse in an area other than where they normally reside.

It can be particularly complex and demanding for a host authority to manage an organisational safeguarding adults enquiry of a care provider when there are many different placing authorities involved. This can include both social care and health commissioners,

and for some specialist service providers, such as secure mental health or learning disability services, can involve both local and regional specialised commissioning teams. Good practice guidance on organisational enquiries involving many placing authorities is therefore included.

This guidance should be read in conjunction with the following current national guidance:

- Care Act 2014 and accompanying Care and Support Statutory Guidance 2016 (including the Making Safeguarding Personal approach)
- “Who Pays? Establishing the Responsible Commissioner” (last updated August 2013, but with addendum<sup>1</sup> published by NHS England in February 2016, effective from 1 April 2016, pending publication of the full Who Pays document later in the 2016).
- Safeguarding Adults: roles and responsibilities in health and care service (CQC, LGA, ADASS, NHS England, ACPO May 2014)
- Statement on CQC’s roles responsibilities for safeguarding children and adults (Care Quality Commission June 2015)
- Safeguarding Vulnerable People in the NHS - Assurance and Accountability Framework (NHS England July 2015)
- Safeguarding Adults: The Role of NHS Commissioners (DH 2011)

## 2 Principles

There are a range of principles that support good inter-authority safeguarding work. These are listed in this section and underpin the whole of this guidance, but for the sake of brevity are not repeated in every section.

### Six key principles that underpin all adult safeguarding work

The following six key principles are embedded in the Care and Support statutory guidance. They apply to all sectors and settings and underpin all inter-authority safeguarding adults work:

- **Empowerment** – People being supported and encouraged to make their own decisions and informed consent.

*“I am asked what I want as the outcomes from the safeguarding process and these directly inform what happens.”*

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<sup>1</sup> The latest version of the “Who Pays” guidance is dated August 2013. It is due to be updated in full during 2016, but an updated guidance took effect from 1<sup>st</sup> April 2016 on who, within the NHS, pays for services for people who need them under S117 of the Mental Health Act 1983. To see the amended guidance on [S117 PAYMENT CLICK HERE](#).

- **Prevention** – It is better to take action before harm occurs.

*“I receive clear and simple information about what abuse is, how to recognise the signs and what I can do to seek help.”*

- **Proportionality** – The least intrusive response appropriate to the risk presented.

*“I am sure that the professionals will work in my interest, as I see them and they will only get involved as much as needed.”*

- **Protection** – Support and representation for those in greatest need.

*“I get help and support to report abuse and neglect. I get help so that I am able to take part in the safeguarding process to the extent to which I want.”*

- **Partnership** – Local solutions through services working with their communities. Communities have a part to play in preventing, detecting and reporting neglect and abuse.

*“I know that staff treat any personal and sensitive information in confidence, only sharing what is helpful and necessary. I am confident that professionals will work together and with me to get the best result for me.”*

- **Accountability** – Accountability and transparency in delivering safeguarding.

*“I understand the role of everyone involved in my life and so do they.”*

## **Making Safeguarding Personal**

The Care and Support statutory guidance notes that in addition to the 6 principles, it is also vital that all organisations recognise that adult safeguarding arrangements are there to protect individuals, with different preferences, histories, circumstances and life-styles, so it is unhelpful to prescribe a single process that must be followed in all cases. When responding to concerns, it is essential to ascertain the wishes of each individual and to involve them in the development of any required safeguarding plan. The Care and Support statutory guidance states that an enquiry will usually start with asking the adult their view and wishes which will often determine what next steps to take.

## **Cross-Boundary Considerations**

The following specific principles for inter authority working underpin the guidance in this document:

1. Care and Support Statutory Guidance (14.93) states that the scope of an enquiry, who leads it and its nature, and how long it takes, will depend on the particular circumstances. It also states that everyone involved must focus on improving the adult's wellbeing and work together to that shared aim. Clarity about the responsibilities of host and placing authorities at the outset of the enquiry is essential to ensure the person's wellbeing and desired outcomes remain paramount. Negotiation at an early stage should enable clarity of roles and expectations, allow any issues to be addressed, agree timescales to mitigate drift in undertaking the enquiry, and agree who is best placed to undertake this, taking account of geographical distance.
2. The host authority, in holding the Section 42 Care Act enquiry duty, will have overall responsibility for ensuring there is good communication with all stakeholders, especially with regards to the scheduling of meetings and the planning of the enquiry. Where distance is an issue and might hold up required meetings, the use of technology such as teleconferencing, skype and video links should be considered to reduce delays.
3. Where there is a placing authority involved in commissioning a service, that authority will contribute to the enquiry as required, and maintain overall responsibility for the person they have placed, including needs assessment and care and support planning.
4. The placing authority should ensure, through contracting arrangements and in service specifications, that the provider has arrangements in place for safeguarding adults at risk of abuse or neglect and for managing concerns, which should be in line with the local (host authority) Safeguarding Adults Board multi-agency safeguarding adults policy and procedures. The placing authority may make decisions under its contract monitoring procedures relating to its contract with the provider, including suspension of placements with the provider.
5. It may be necessary for a host authority to take urgent action to safeguard an individual. During the course of an enquiry, host and placing authorities may agree that local services may be best placed to meet needs arising from the enquiry. Placing authorities and the host authority may need to negotiate flexible arrangements, to enable the most appropriate response to ensure the wellbeing of the adult.
6. In the case of an urgent response being required, the wellbeing of the person being safeguarded remains paramount and a host authority may have to take action on behalf of the placing authority. In such cases, the host authority should ensure the placing authority is informed and involved in discussions about the response as early as possible. The host authority may incur costs which it believes are ultimately the responsibility of the placing authority. Where possible, the placing authority should be given the opportunity to agree the costs involved, but it should be recognised that this may not always be possible. In such cases, the host authority should keep costs to a minimum, and negotiations over costs may need to happen retrospectively.



7. Providers of care and support services have rights and responsibilities, and may be required to undertake an enquiry. The provider may have duties as an employer and service provider, where there are poor practices or disciplinary issues to be addressed. The host authority must ensure effective and timely communication with the provider of care throughout the enquiry, ensuring throughout that information sharing is person-led and outcome-focused. An open culture around safeguarding should be encouraged, working in partnership with the provider to ensure the best outcome for the adult. This includes the requirement for the care provider to inform the host authority of the names of adults affected by the safeguarding concerns, including people who may be funding their own care, and also where relevant, the placing authority for each person.
8. Under Section 67 and 68 of the Care Act, relevant local authorities have the duty to arrange independent advocacy for adults, if required. The host authority will be responsible for ensuring that the views and wishes of the adult are sought as early as possible, and where there is a requirement for independent advocacy to be arranged, the host and placing authorities should liaise as early as possible on how this should be achieved for each adult.
9. If a Safeguarding Adults Review is being considered the Safeguarding Adults Board of the host authority will be responsible for liaising with all those involved, including the SAB in any placing authorities. The relevant Board Managers and Independent Chairs should agree how the SAR will be undertaken. Boards and organisations should cooperate across borders and requests for the provision of information should be responded to as a priority. If agreement cannot be reached on the requirement for a SAR to be undertaken then this will be resolved in the first instance by the relevant Board Managers, with ultimate decision making and discussion being resolved by the Independent Chair of the Safeguarding Adult Board. Independent Chairs will agree on the mechanisms for presenting SARs that have cross border learning.

The following sections describe the respective roles of the host authority, placing authority and service provider at each stage of the safeguarding process from raising a safeguarding concern, through undertaking the safeguarding enquiry, achieving an outcome for the person and ongoing responsibilities for safeguarding planning and review.

### **3 Safeguarding Concerns**

#### **Host Authority**

A safeguarding concern could be raised in the first instance with either a host authority or a placing authority. Where the concern is first raised with the host authority they must always seek to inform all involved placing authorities as soon as possible of any allegations involving one or more of their service users as either a person who has experienced the alleged abuse or a person who has caused the alleged abuse.

Once a safeguarding concern has been raised with the host authority, it is the host authority's responsibility to lead the initial response to the concern in consultation with the placing authority. In some circumstances it may be necessary for the host authority to take immediate action to protect the adult, for example, by contacting the police or other emergency services. In liaison with the placing authority the host authority will seek, where appropriate, medical assessment of any injuries/concerns.

If, as part of the initial safeguarding plan, it is necessary to move an adult to a place of safety, this should be done wherever possible by agreement with the person, their family and the placing authority. Funding responsibilities remain with the placing authority. Protection arrangements will be reviewed throughout the enquiry process. Lack of initial agreement about arrangements for funding should not prevent the host authority from taking the necessary steps to protect the person.

The host authority will coordinate the enquiry in line with Making Safeguarding Personal principles, gather information regarding the concern, including information which may be held by other agencies, for example police, Care Quality Commission or health agencies in relation to the provider and/or people involved, ensuring prompt notification to the placing authority and other relevant agencies.

The host authority will allocate a suitably qualified worker to act as the named lead coordinator with overall responsibility for the enquiry.

## **Placing authority**

When the placing authority is notified of a safeguarding concern they will:

- Ensure immediately that the host authority has been made aware
- Check whether the placement continues to meet the person's needs within a safe environment.
- If necessary, seek an alternative placement, whilst ensuring that the current provider has made adequate provision for the immediate protection and meeting of the person's care needs until the move occurs, liaising with the host authority where appropriate
- Provide all relevant information to the host authority's named lead coordinator

## **Service provider**

Providers have a duty to inform the regulator of any safeguarding concerns that arise for any adults using their services. If the provider is registered with the Charity Commission as a charitable organisation, they also have a duty to report safeguarding concerns to the Charity Commission.

All safeguarding concerns should be raised with the host local authority, in line with multi-agency procedures, regardless of who is believed to be a source of risk.

When raising a concern, the provider should give clear contact details, and information on what has been done to date to safeguard any adults at risk. This will support the local authority in their duty to make enquiries or cause enquiries to be made.

## **4 Undertaking safeguarding enquiries**

### **Host authority**

It is the host authority's responsibility to ensure that the Section 42 enquiry is conducted in accordance with the local decision making processes contained within the adult safeguarding procedures. This may involve arranging a planning discussion or meeting and ensuring all appropriate placing authorities and other relevant local agencies are invited to contribute. The named lead coordinator should liaise with all placing authorities regarding the planning arrangements to facilitate maximum contribution. A multi-agency planning discussion may require involvement from the relevant NHS body, the Police and the Care Quality Commission (CQC). See Section 8 for more information on placements commissioned by the NHS. See also Care Quality Commission "Statement on CQC's roles and responsibilities for safeguarding children and adults" June 2015.

The named lead coordinator will endeavour to ensure that all agencies are working together effectively, taking account of MSP principles, and may chair planning discussions or meetings where required. They will invite the placing authority to participate in the planning arrangements, with the expectation that placing authorities of service users affected by the allegations will contribute, either in person, or through the use of technology. The placing authority should provide all relevant information to the planning process, including written reports.

The planning process will agree roles and responsibilities for undertaking the enquiry, with overall responsibility for coordination of the enquiry remaining with the host authority. Within the planning discussion it may be necessary to assign tasks to the placing authority. If the placing authority is not present then the named lead coordinator is responsible for confirming agreement with the placing authority on the tasks to be assigned.

It will also set out a clear communication and engagement strategy which will include communication with all those affected by the safeguarding adult concern:- service users, families, carers and advocacy services, including Independent Mental Capacity Advocate (IMCA) services where appropriate and Care Act advocacy services where substantial difficulties are identified. This strategy should be reviewed regularly. The host authority will share the minutes with all invitees, including CQC in respect of a regulated service.

The planning process will also agree whether, and if so, how, other placing authorities will be informed of the concerns raised and why, and who will do this.

The named lead coordinator will ensure that all decisions and agreed actions are fed back to a placing authority in the event that they are absent from the planning discussion, and

will liaise with the placing authority throughout the enquiry. This is to ensure that:

- The outcomes sought by the adult are clarified and jointly agreed by the adult, the host and placing authorities
- Evidence or other information from any work undertaken by the placing authority is fed into the enquiry.
- The placing authority is kept up-to-date on progress with the enquiry

### **Placing authority**

The placing authority should liaise with the host authority's named lead coordinator regarding the conduct of the Section 42 enquiry. The placing authority should provide a representative with appropriate authority for decision making to attend and participate in any planning meetings which may be convened by the host authority.

The placing authority should provide all relevant information to the enquiry via the host authority's named lead coordinator. In planning the enquiry it may be necessary to assign tasks to the placing authority. It is expected that the placing authority has an established relationship with the adult at risk. They may therefore be the most appropriate organisation to ascertain the person's views and wishes and to undertake initial enquiries with them.

If a mental capacity assessment and/or an independent advocate are needed as part of the safeguarding enquiry, the placing authority should confirm with the host authority how this will be provided or commissioned, as part of the planning discussions.

### **Service provider**

The host authority may discuss the concern with the provider, decide whether any further actions are required, and may cause the provider to make enquiries. Care and support statutory guidance is clear that the provider has duties as both a service provider and as an employer. These duties include:

- Dealing with employment/disciplinary issues
- Protecting the adult at risk
- Incident investigation
- Assuring commissioners and regulators
- Preventing reoccurrence and risk to others
- Reporting concerns

The statutory guidance is clear that the provider should look into the concerns unless there is a compelling reason why it is inappropriate or unsafe to do this. Compelling reasons would include:

- Serious conflict of interest on the part of the employer, for example a family-run business where institutional abuse is alleged, or where the manager or owner of the service is implicated.

- Concerns having been raised about non-effective past enquiries or serious, multiple concerns
- A matter that requires investigation by the police

Where the provider is making the enquiry, they should be mindful of the requirement to fully involve the adult, and in particular to ask them (or their representative or advocate) what they want as an outcome following the raising of the safeguarding concern. This should be recorded and reported to the host local authority, as part of the enquiry.

Providers should supply the contact details of placing authorities responsible for the adults involved in the enquiry, so that the host authority can liaise with them. They should also provide information on any adults at risk who are self-funders. If the information is not provided, the host authority may refer to the local Safeguarding Adults Board procedure on S45 of the Care Act, which places a duty on individuals and organisations to supply relevant information required to safeguard individuals.

Providers should work together with the host local authority in discussing what the enquiry should cover, and also with relevant placing authorities to ensure they are fully informed when reassessing needs. This may involve participation in safeguarding meetings in line with local multi-agency procedures.

Following completion of the safeguarding enquiry the host authority will share the enquiry report(s) with the placing authority in order to discuss the content of the report and any required safeguarding arrangements.

The purpose of this discussion is:

- To share the outcome of the enquiry
- To agree recommendations regarding the outcome of the enquiry, including the extent to which it has been able to achieve the outcomes for the adult at risk, or what more they would like to happen.
- To identify any different views and the potential opportunities to resolve them
- To agree how communication with the person, their family, carers or advocate regarding the outcome of the enquiry and content of the report(s) will take place ensuring the person remains at the centre of the work.
- To agree how the attendance of the adult, their family, carers or advocate may be facilitated and/or their views reflected in the outcome
- To discuss the recommended content of the safeguarding plan where appropriate
- To agree arrangements for ongoing review of the safeguarding plan.

If a service provider has undertaken the enquiry, they will liaise with the host authority on their findings so that the host authority can decide whether any further actions are required.

## **5 Safeguarding outcomes**

## **Host authority**

Once the enquiry is completed, conclusions should be reached on whether the desired outcomes of the adult at risk have been achieved, the level of any remaining risks and whether any further actions are required. This could include, for example where a professional or staff member has been established as the source of risk, a referral to a professional regulator or the Disclosure and Barring Service (DBS) (or both).

These decisions are made by the named lead coordinator in consultation with the adult and other parties involved in the enquiry. If a meeting is required to discuss the outcome of the enquiry and any further action required, the host authority will arrange the meeting in liaison with the adult or their representative and the placing authority.

## **Placing authority**

If a meeting is required, the placing authority will attend either in person or via technology. The placing authority will ensure that where appropriate, family members are invited to the meeting. If required, the placing authority will support families with travel arrangements and, where agreed, any reasonable travel costs. This is not the responsibility of the host authority.

Where the adult, their family, carers or advocate cannot attend the outcome meeting, the placing authority will be responsible for ensuring that their views are obtained so that they can be represented within the process and for ensuring that the outcome of the meeting is fed back to them.

Where the need for an individual safeguarding plan is identified, the outcome meeting will discuss and agree the protection arrangements to be put in place by the placing authority.

Further actions may also be agreed, which relate to a service provider or a wider group of service users.

## **Service Provider**

As a result of the outcome discussions, further action may be required by the care provider. These could include training for staff, changes to operational guidelines, making referrals to regulators or the Disclosure and Barring Service.

# **6 Implementing the safeguarding plan**

## **Host Authority**

Following the enquiry a safeguarding plan may be required to confirm actions needed and who is responsible for each action. A safeguarding plan is not a care and support plan; 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 set out:

- The views, wishes and goals of the adult and level of risk that s/he is comfortable with
- What steps are to be taken to assure the future safety of the adult at risk;
- The provision of any support, treatment or therapy, including on-going advocacy;
- Any changes needed in the way services are provided (e.g. same gender care or placement; appointment of an Office of the Public Guardian deputy);
- How best to support the adult through any action they may want to take to seek justice or redress;
- Any on-going risk management strategy as appropriate.

The plan should outline the roles and responsibilities of all individuals and agencies involved; it should identify the lead professional who will monitor and review the plan, and when this will happen. Safeguarding plans should be person-centred and outcome-focused, and should be made with the full participation of the adult involved. In some circumstances it may be appropriate for safeguarding plans to be monitored through on going care management responsibilities. In other situations a specific review of the safeguarding plan may be required. If the safeguarding plan needs to be reviewed, the timescales for this should be agreed jointly by all involved, in line with Making Safeguarding Personal principles.

If any tasks are allocated to the host authority relating to the care setting, it will be the responsibility of the host authority to keep the placing authority and other relevant agencies informed of progress made or any additional concerns raised.

The host authority also has responsibility to feedback information on progress and/or concerns to health and social care commissioners and the Care Quality Commission (see the statement on CQC's roles and responsibilities in safeguarding children and adults, June 2015). The host authority must share the minutes with CQC when the allegations involve a regulated service, even if CQC has not been represented at the outcome discussion.

### **Placing authority**

The placing authority will notify the host authority of completion of any protection actions agreed following the enquiry. Ongoing protection planning and review of safeguarding plans for each individual is the responsibility of their placing authority.

### **Service Provider**

The provider's participation in further safeguarding meetings may be needed in line with local multi-agency procedures, to review whether the desired outcomes of the adult at risk have been achieved, whether the safeguarding plans are working and whether any further actions

are required.

## **7 Transitional Arrangements: Safeguarding Children and Young People**

Safeguarding Children's procedures cover children and young adults up to the age of 18 years. Safeguarding Adults procedures covers all adults from the age of 18 years.

When the person who is alleged to have been abused or harmed is over the age of 18 years by the time the safeguarding incident is reported, but the incident occurred prior to the young person reaching 18 years, any investigation into the concern will be led by Children and Young People's services.

When the person is over 18 and the alleged incident occurred after they were 18, any investigation into the concern will be led by Adults Safeguarding. However there should be some flexibility in this approach according to individual circumstances. It may be counterproductive to the adult at the time of crisis to have new and unfamiliar practitioners involved, especially if case management responsibilities remain with children's services.

If concerns are raised about a provider that provides services for people both under and over the age of 18, such as specialist colleges, the host authority will be responsible for clarifying whether their children or adults safeguarding services will act as named lead coordinator for any enquiry necessary. This means that the named lead coordinator may need to liaise with children's services, adult's services or both from each placing authority.

Where someone is over 18 but still receiving children's services and a safeguarding issue is raised, the matter should be dealt with as a matter of course by the adult safeguarding team. Where appropriate, they should involve the local authority's children's safeguarding colleagues as well as any relevant partners (e.g. police or NHS) or other persons relevant to the case. The same approach should apply for complaints or appeals, as well as where someone is moving to a different local authority area after receiving a transition assessment but before moving to adult care and support

## **8 NHS Placements**

"Who Pays? Establishing the Responsible Commissioner" (last updated August 2013) requires a placing CCG, when placing a patient requiring continuing health care in a registered care home or independent hospital in another CCG area, to notify the CCG where the care home or independent hospital is located.

Local authorities should ensure that they have arrangements with NHS partners to receive such information about NHS-funded placements from outside their area. This supports host authorities, working in partnership across health and social care to be aware of NHS placements in their area.



During the Safeguarding Adults process it is possible for a reassessment of the person's needs to be undertaken and as a result they may be assessed as eligible for continuing healthcare. In this case the funding responsibility to meet the person's needs may transfer from the placing local authority to the NHS. It is the responsibility of the placing authority to liaise with the NHS in such circumstances.

Where a placement is fully funded by the NHS, there may nevertheless be the need for the host authority to liaise with the local authority of the originating area of the person. This may be associated with historic involvement, or because a person may return to the originating area under S117 of the Mental Health Act 1983, and the local authority is required to be jointly involved with the NHS in commissioning such services. Similarly when a person has services commissioned by a regional specialised commissioning team, there may be the need for the host authority to liaise with an NHS body in the person's originating area.

## **9 Ensuring effective communication**

Throughout the safeguarding enquiry the host authority and the placing authority must stay in close communication. The named lead coordinator and all placing authorities must be kept informed of any changes that affect the enquiry or interim protection arrangements.

The following decisions about a service provider will be taken on a case by case risk assessment basis and should be shared with all placing authorities, if the decisions relate to relevant safeguarding adults matters:

- Suspension of placements
- Application of contracting sanctions
- Implementation of a service improvement action plan

Where the host authority becomes aware, during a safeguarding enquiry, that a care provider can no longer provide a safe service, this must be clearly communicated to all placing authorities.

Any immediate actions that are required to safeguard service users, such as transferring residents from one service to another, must be discussed as early as possible with all placing authorities.

## **10 Resolving areas of difficulty or dispute**

Professional disagreements should be resolved at the earliest opportunity in line with local procedures, ensuring that the safety and wellbeing of the adult at risk remains paramount.

Challenges to decisions should be respectful and resolved through co-operation. Disagreements can arise in a number of areas and staff should always be prepared to review decisions and plans with an open mind. Assurance that the adult at risk is safe takes priority. Disagreements should be talked through and appropriate channels of communication established to avoid misinterpretation. In the event that operational staff are unable to resolve matters, more senior managers in both the host and placing authorities should be consulted.

The named lead coordinator within the host authority must immediately report to their immediate line manager any situations of difficulty or dispute which create risks to ensuring safeguarding outcomes are achieved, for example:

- Where it is recognised that the provider can no longer meet the needs of their service users and an alternative is not immediately available
- Where there is disagreement about funding
- Where placing and hosting authorities are in dispute about the implementation of the protocol.

Where there is a dispute over the implementation of this guidance, funding, the investigation process or findings, it is vital that the safety of the adult takes precedence. The authorities should ensure that the safety of the person is secured or maintained and that the investigation remains focused on their needs and that of their family carers, prior to the resolution of any dispute.

## **11 Good Practice in Organisational Enquiries**

The principles and guidance throughout this document apply to all cases where funding/commissioning responsibility for an adult lies with an authority in one area and where concerns about potential abuse and/or exploitation subsequently arise in another area, whether this is for a single adult or a number of adults.

An additional consideration is that factors leading authorities to place people outside their area often (though not always) require very specialist providers. The specialist nature of the needs of those receiving such services increase the likelihood of them being placed at a distance from their family and placing authority, and also decrease the likelihood of alternative placements being readily available.

When a safeguarding adults concern involves a number of adults and a number of placing authorities, the task of coordinating the enquiry becomes much more complex. Whilst the roles and responsibilities described in the guidance are principally unchanged when there is such an enquiry, it is essential that all authorities have a clear understanding of their respective roles and responsibilities, regardless of distance from the service where the alleged concerns arose.

In particular, all placing authorities must actively support the host authority to ensure no further risk is posed to any adult affected by the issues under investigation.

There are some key matters, which, if managed carefully, will support the progress of the enquiry. The key difference is that organisational enquiries have wider strategic implications and careful consideration is required to ensure effective, timely and responsive actions.

The process must be supported by a comprehensive communications plan covering the essential communications at every stage of the process. This includes the media co-ordination and management that may be required

## **Strategic Oversight**

When it becomes evident to a host authority that the degree and severity of safeguarding concerns indicate that an organisational enquiry is required, the host authority should initiate a strategic management group. This group will invite placing authorities to identify the most appropriate senior manager to represent their organisation and take responsibility for any required actions, setting up a sequence of meetings to aid communication and wider strategic decision making. Membership may be extended to other key strategic bodies involved or to other advisers or independent persons, such as:

- Care Quality Commission
- Health and Safety Executive
- Trading Standards
- Police
- Legal adviser
- Specialist adviser with expertise pertaining to the type of service under investigation
- Press and communications adviser

This body of strategic decision makers should be briefed regularly by the named lead coordinator, maintaining an overview of the enquiries and any themes or trends that arise within the findings. It is useful for each placing authority to identify a single point of contact for initial communication purposes.

The strategic group's responsibility will be to:

- Establish and maintain a complete picture of the concerns, overseeing strategic risk assessment and management, including decisions on escalation as required (including to a ministerial level)
- Devise and implement a communications plan, with particular reference to service users, families, senior managers, politicians, staff, regulators and the media
- Oversee the enquiry and make decisions on resources needed to support it,

- including a decision about whether a dedicated multi-agency team is required
- Review the strategic commissioning impacts resulting from interim and longer-term protection requirements
  - Ensure that each authority fulfils its role and responsibilities as required (it is worth noting that the host authority may not have any contractual arrangements with the care setting in question)
  - Make decisions as to what and when information should be shared with other agencies and individuals who are not directly involved or affected by the enquiry.
  - Take account of the collective impact on individuals affected and those that remain within the care setting
  - Make strategic links to other organisations, such as ADASS, ADCS ACPO, as appropriate.
  - Agree closure of the enquiry including how lessons learned should be shared
  - Ensure a shared understanding of Making Safeguarding Personal principles are incorporated into the actions of the strategic management group.

## **Operational Management**

In line with this guidance, the named lead coordinator will coordinate the planning and monitoring of the enquiry, agreeing the tasks to be undertaken by each of the authorities involved and reviewing progress.

They should liaise with all placing authorities on a regular basis to check the progress of agreed activities. It is of particular benefit in organisational enquiries to have a regular meeting of all staff undertaking the enquiries to take stock of the findings to date, identifying any emerging trends or themes and to check whether any changes are required to the enquiry plan or protection arrangements.

The named lead coordinator will consult the strategic management group on strategic matters, providing regular briefings as required.

## Glossary and Acronyms

In using this document, a number of phrases, wording or acronyms have been used. The following provides more information and where necessary a definition.

**Adult at risk** is a person aged 18 or over who is in need of care and support regardless of whether they are receiving them, and because of those needs are unable to protect themselves against abuse or neglect.

**Adult safeguarding** means protecting a person's right to live in safety, free from abuse and neglect.

**Advocacy (under the Care Act)** taking action to help people who experience substantial difficulty contributing to the safeguarding process to say what they want, secure their rights, represent their interests and obtain the services they need.

**Best Interest** - the Mental Capacity Act 2005 (MCA) states that if a person lacks mental capacity to make a particular decision then whoever is making that decision or taking any action on that person's behalf must do so in the person's best interest. This is one of the principles of the MCA.

**CQC** Care Quality Commission, the national body responsible for regulating and inspecting registered care providers

**Care setting** is where a person receives care and support from health and social care organisations. This includes hospitals, hospices, respite units, nursing homes, residential care homes, and day opportunities arrangements.

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

**Commissioning** is the cyclical activity, to assess the needs of local populations for care and support services, determining what element of this, needs to be arranged by the respective organisations, then designing, delivering, monitoring and evaluating those services.

**Concern** is the term used to describe when there is or might be an incident of abuse or neglect and it replaces the previously use term of 'alert'.

**Contracting** is the means by which a process is made legally binding. Contract management is the process that then ensures that services continue to be delivered to the agreed quality standards.

**Disclosure and Barring Service (DBS)** helps employers make safer recruitment decisions and prevent unsuitable people from working with vulnerable groups. It replaces the Criminal Records Bureau (CRB) and Independent Safeguarding Authority (ISA).

**Enquiry** establishes whether any action needs to be taken to stop or prevent abuse or neglect, and if so, what action and by whom the action is taken. Previously this may have been referred to as a 'referral'.

**Host Authority** is the authority where the alleged abuse or neglect occurred.

**Making Safeguarding Personal** is about person centred and outcome focused practice. It is how professionals are assured by adults at risk that they have made a difference to people by taking action on what matters to people, and is personal and meaningful to them.

**Named Lead Coordinator** a suitably qualified worker appointed by the host authority to act as the named lead coordinator with overall responsibility for the safeguarding enquiry.

**NHS continuing healthcare** is a package of ongoing care that is arranged and funded solely by the NHS where the individual has been found to have a 'primary health need' as set out in the National Framework for NHS Continuing Healthcare and NHS-funded Nursing Care). This care is commissioned through NHS funding streams and the NHS is responsible for the overseeing services commissioned this way.

**Organisational abuse** 'is the mistreatment or abuse or neglect of an adult at risk by a regime or individuals within settings and services that adults at risk live in or use, that violate the person's dignity, resulting in lack of respect for their human rights.' (Care and Support Statutory Guidance, 2016)

**Outcome Meeting or discussion** to share the outcome of the enquiry with the adult and other relevant people and organisations; to agree any further actions required to support, protect, and monitoring the risks for adults where risk remains.

**Placing Authority** is the Local Authority or NHS Body that has commissioned a service from a provider (that may be located outside their Authority).

**Regulated Provider** is an individual, organisation or partnership that carries on activities that are specified in Schedule 1 of the Health and Social Care Act 2008 (Regulated Activities) Regulations 2014.

**Safeguarding Adults Procedures** – Multi-agency procedures designed to prevent harm and to oversee and undertake enquiries into allegations of adult abuse or neglect.

**Safeguarding Plan** is a detailed plan of actions to be taken by identified individuals in order to ensure the adult is protected from further abuse or harm.