

Sefton Safeguarding Adults Practice Guidance

Version 4

July 2021

Foreword

This practice guidance is to an agreed template designed by NWADASS Task and Finish Group members involved in the production of the NW Safeguarding Adults Policy document

Safeguarding Adults Boards and Local Authorities which have contributed to NW Safeguarding Adults policy are:

- Cheshire East Safeguarding Adults Board
- Cheshire West and Chester Safeguarding Adults Board
- Halton Safeguarding Adults Board
- Knowsley Safeguarding Adults Board
- Liverpool Safeguarding Adults Board
- Sefton Safeguarding Adults Board
- Tameside Safeguarding Adults Board
- Wirral Safeguarding Adults Board

Useful Contact Numbers

If you wish to report a safeguarding concern to another LA area please use the following relevant telephone number:

| LOCAL AUTHORITY | CONTACT NUMBER FOR RAISING SAFEGUARDING CONCERNS |
|---------------------------|--|
| Cheshire East | 0300 123 5010 |
| Cheshire West and Chester | 0300 123 7034 |
| Halton | 0151 907 8306 |
| Knowsley | 0151 443 2600 |
| Liverpool | 0151 233 3800 |
| Salford | 0161 793 2500 |
| Sefton | 03451400845 |
| St Helens | 01744 676 600 |
| Stockport | 0161 217 6029 |
| Tameside | 0161 342 2400 |
| Warrington | 01925 444 239 |
| Wirral | 0151 606 2006 |

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1.0 Introduction

Local Authorities have a legal requirement, within the Care Act 2014, to make enquiries or cause others to do so, if there is reasonable cause to believe that an adult with care and support needs is experiencing, or is at risk of, abuse or neglect.

Six key principles, set down in the Care Act 2014, must underpin all aspects of adult safeguarding work:

- Empowerment – personalisation and presumption of person-led decisions and informed consent
- Prevention – better to take action before harm occurs
- Proportionality – the most proportionate and least intrusive response appropriate for the risk presented
- Protection – support and representation for those with greatest need
- Partnership – local solutions through services working with their communities
- Accountability – accountability and transparency in delivering adult safeguarding

Making Safeguarding Personal allows for a person-centred approach within adult safeguarding, working towards outcomes that a person wants whilst helping manage risk of abuse or neglect.

The Local Authority has specific duties in relation to adult safeguarding spelt out within the Care Act 2014. These apply to any adult who:

- Has care and support needs AND
- Is experiencing, or is at risk of abuse or neglect AND
- Is unable to protect him/herself because of their care and support needs

The duty is regardless of whether or not the care and support needs are being met, whether by Local Authority or any other means and extends to those who pay for their own care and support services.

2. Glossary of Terms

Adult at Risk - 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 - Protecting a person's right to live in safety, free from abuse and neglect.

Advocacy – Support for people who have difficulty expressing their concerns and the outcomes they want during the safeguarding process.

Best Interest – The Mental Capacity Act 2005 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.

Carer – In this document carer refers to family/friend carers as distinct from paid carers who are referred to as support workers. The Care Act defines the carer as an adult who provides or intends to provide care for another adult who needs support.

Concern - Describes when there is or might be an incident of abuse or neglect. This replaces the term "alert."

Enquiry - An enquiry is the action taken or instigated by the Local Authority in response to a concern that abuse, or neglect may be taking place. The purpose of the enquiry is to establish whether or not the local authority or another organisation, or person needs to do something to stop or prevent the abuse or neglect.

Equality Act 2010 – Protects people from discrimination in the workplace and in wider society. It replaced previous anti-discrimination laws making the law easier to understand and strengthening protection in some situations.

Independent Mental Capacity Advocate (IMCA) - Established by the Mental Capacity Act 2005. IMCAs are mainly instructed to represent people who lack mental capacity when there is no-one outside of services, such as a family member or a friend, who can represent them. IMCAs are a legal safeguard that will help people make important decisions about where they live, serious medical treatment options, care reviews, or adult safeguarding concerns.

Making Safeguarding Personal – This refers to person-centred and outcome-focused practice. It is about empowering individuals to express what is important to them by whatever means appropriate. Practitioners must demonstrate through their practice that they have carefully listened to the individual and those important to them and how they want matters to progress. Outcomes of interventions should be meaningful to the person at the centre of the enquiry and reflect their original wishes wherever practicable.

Person/Organisation alleged to have caused harm - The person/organisation suspected to be the source of risk to an adult at risk.

Person in Position of Trust (PiPoT) – When a person holds a position of authority and uses that position to his or her advantage to commit a crime or to intentionally abuse or neglect someone who is vulnerable and unable to protect him or herself.

Safeguarding Adults Board (SAB) – Each local authority must have a SAB to assure itself that local safeguarding arrangements and partners act to help and protect adults at risk. SABs will oversee and lead adult safeguarding and will be interested in all matters that contribute to the prevention of abuse and neglect.

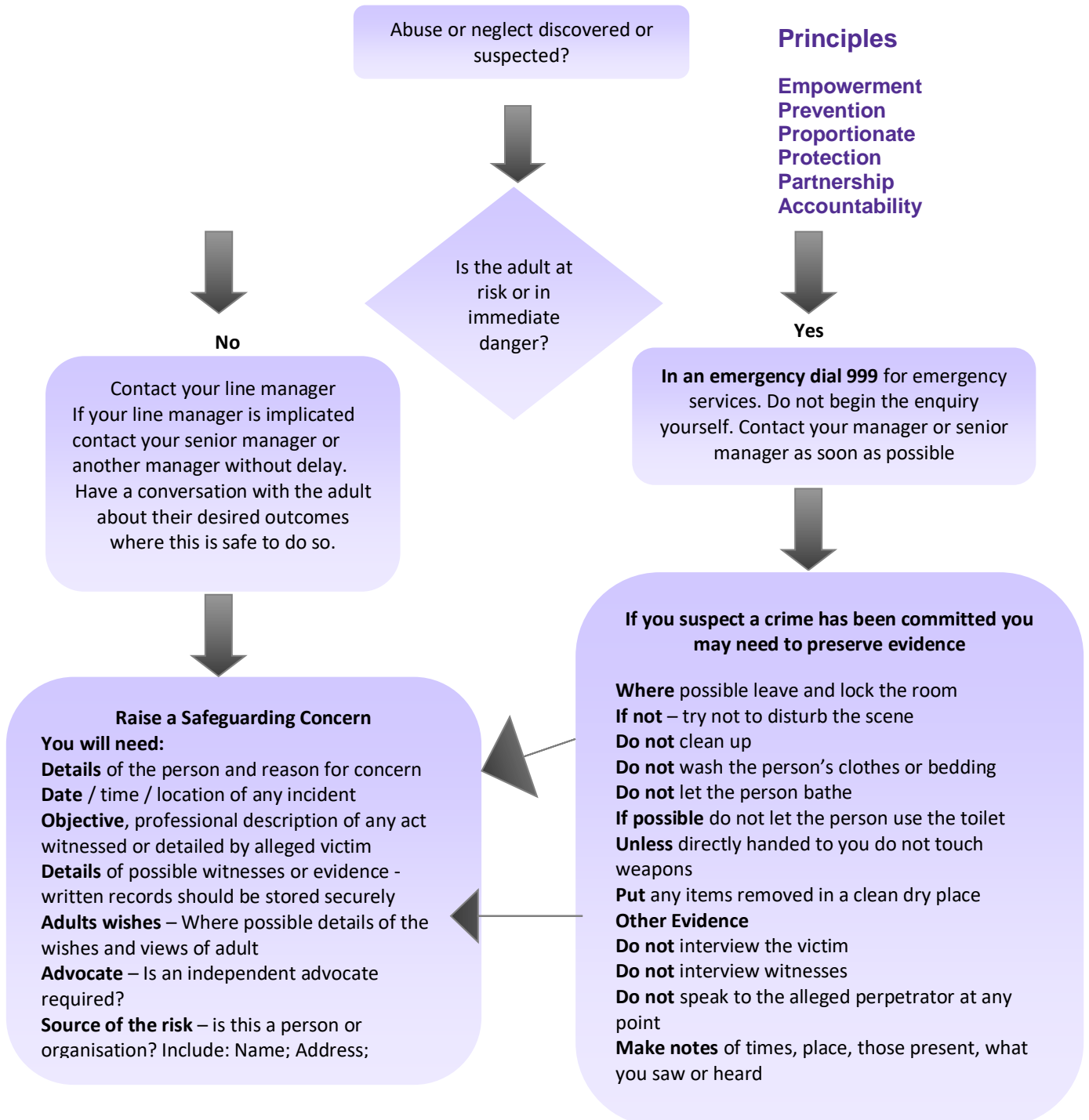
Safeguarding Adults Review (SAR) – Undertaken when an individual with care and support needs dies or suffers unnecessarily as a result of abuse or neglect and there is a concern that the local authority or a partner organisation could have done more to protect them.

3.0 How to Raise a Safeguarding Concern

3.1 Reporting a Safeguarding Concern

This section tells you what you must do when you are concerned that an adult with care and support needs is at risk or, or is experiencing, abuse or neglect.

Please refer to the North West Safeguarding Adults Policy for definitions of abuse and information about who may pose a risk. Please refer to the appendices for the 'Referral Pathways' document as to if a concern meets the criteria for reporting.



3.2 The immediate safety of the person

Make an immediate evaluation of the risk and take steps to ensure that the adult is not in immediate danger. Where necessary, call 999 for emergency services if there is a medical emergency, or a danger to life or risk of imminent injury, or if a crime is in progress.

Summon urgent medical assistance from the GP, or other primary healthcare service if the person needs medical assistance or advice. You can call NHS 111 service for urgent medical help or advice when it is not a life-threatening situation.

Consider if there are other adults with care and support needs who are at risk of harm and take appropriate steps to safeguard them.

Consider supporting and encouraging the adult to contact the Police if a crime has been or may have been committed.

- Take steps to preserve any physical evidence if a crime may have been committed.
- Keep a written record of what you saw, heard, or were told and of any action taken.

3.3 Responding to a 'Disclosure' – when an adult tells you that they are at risk of, or are experiencing, abuse

Concerns about possible abuse and neglect can come to light in a variety of ways, for example:

- an active disclosure of abuse by the adult
- a passive disclosure of abuse where attention is drawn to symptoms of the abuse
- a growing awareness that "something is not right"
- an allegation of abuse by a third party
- a complaint or concern raised by an adult or a third party who does not recognise that it is abuse

Incidents of abuse or crimes may only come to light because the abused person tells someone. The person may not consider that they are being abused when they tell you what is happening to them, or disclosure may take place many years after the actual event. Disclosure may take place when the person has left the setting where the abuse took place. Even if there is a delay, the information must be taken seriously, and you must reassure the person that you are taking what they say seriously.

Many incidents only come to light because the adult tells someone. The person may not realise the significance of what they are sharing, they may not recognise that what they have experienced is abusive.

If someone makes an Allegation or Discloses Abuse to you:

DO

- stay calm and try not to show shock

- listen carefully
- be sympathetic
- tell the person that:
 - telling you was the right thing to do
 - you will treat the information seriously
 - it was not their fault
 - you will have to report the information to your manager
- write down what the person said to you as soon as possible and actions taken by you and others
- if known what the adult's views of the incident are, and what they want to happen and if they have given consent for you raise a safeguarding concern

Good Practice Guide – Responding to a Disclosure

- Listen carefully to what the person wants to tell you
- Do not question the person about what they are telling you, do not 'interview' them. If the person wants to give you lots of information, let them. It is okay to give prompts and make encouraging comments but do not ask lots of questions as they may need to be interviewed by the Police at a later stage
- Reassure the person that you want to help and tell them that you are taking the information seriously
- Ask the person what they would like to happen next
- Do not promise the person that you will keep the information confidential
- Explain that you will have to inform your line manager and that other agencies may need to be informed, if other people are at risk
- Explain that if others do need to be involved it will only be those necessary to and that they will be kept informed of any enquiry

Following a disclosure report the conversation to your Line Manager. Write down as soon as possible what you were told, using the person's own words and ensure that this information is store securely

3.4 Who can Report a Safeguarding Concern?

Anybody can raise a safeguarding concern for themselves or another person. Often abuse and neglect can be prevented from occurring in the first place if issues are identified and raised as soon as they arise so that they can be addressed at the earliest point. Those working with adults (paid or unpaid) have specific professional, organisational and legal responsibilities to ensure that they report any safeguarding concerns as a matter of urgency.

To report a concern please contact Sefton Council Contact Centre on **03451400845**

If in doubt, contact the Sefton Adult Social Care Safeguarding Team Tel: 0151 934 3497 or 0151 934 3437 for advice.

3.5 Anonymous reporting

In order to carry out a thorough enquiry it is important that the identity of the referrer is known so that information can be checked as the enquiry progresses. It can make it more difficult to follow up concerns if the identity or contact details of the referrer are not known. All staff in statutory organisations, and Managers in independent organisations, are expected to provide their contact details when raising a safeguarding concern. Workers in paid or unpaid positions in the independent sector should also provide their contact details. However, if the identity of the referrer has been withheld, the adult safeguarding process will proceed in the usual way.

3.6 Making Safeguarding Personal – a conversation with the adult at risk at the point of raising a concern

All adults have a legal right to make decisions about their lives. At the first point when concerns are identified the views of the adult should be sought. This enables the person to say what they want to happen and the outcomes they want. These views should directly inform what happens next.

However, there may be occasions where seeking the views of the person is not possible as it would increase the risk or cause delay. The safety of the adult and the potential for increasing the risk should always be considered when planning to speak to the person.

Where you have identified that an adult is at risk of, or is experiencing, abuse and neglect you need to have a conversation with the adult about what they want to happen and to seek their consent to share information. The safety of the adult and the potential for increasing the risk should always be considered when planning to speak to the person. Any situations where there is the potential for endangering safety or increasing risk should be assessed carefully and advice taken from your line manager. Where there is a concern that seeking the adults' views would increase risk or cause delay then the safeguarding concern can be submitted without this information.

Good Practice Guide – Having a conversation with the adult

When speaking to the adult:

- Find a private and safe place to discuss the concerns. The person alleged to be the source of risk should not be present
- Ask the adult for their views and what they would like to happen
- Give the adult information about the safeguarding process and what could be done to help them feel safer
- Explain confidentiality issues and that information will be shared only with those who need to know in order to keep the adult, and anyone else at risk, safe
- Advise the adult that they will remain in control of the process and will be kept informed of any developments

does not want any action taken, this does not override a professional's responsibility to raise a safeguarding concern and to share key information with relevant professionals e.g. where others are at risk or a crime has been committed.

If there appears to be significant risk to the adult, and no one else, consideration will need to be given to whether their wishes should be overridden. The adult's wishes should not stop professionals from fulfilling their responsibilities in relation to duty of care regarding appropriate sharing of information.

In these situations, the adult must always be:

- advised about what information will be shared, with whom and the reasons for this
- advised that their views and wishes will be respected as far as possible by the local authority or other agencies in relation to any response they may have a duty to make
- provided with information regarding what happens when a local authority is advised of a safeguarding concern
- calmly assured by the person who is to relay this information to the local authority that their wishes, views and consent to share, or not as the case may be, will be carefully spelt out to the person taking the referral

3.8 Adults who lack capacity to make decisions about the safeguarding process

If the person lacks capacity to understand and be involved in the safeguarding process professionals have a duty to act in their best interests under the Mental Capacity Act 2005. The safeguarding concern should be reported without their consent in their best interests.

3.9 Where an offence may have been committed

If it is suspected that an offence may have been committed, there should always be a conversation with the adult regarding whether they wish the police to be involved.

If the adult does not want the police to be involved this does not override a professional's responsibility to share information regarding a potential or actual offence with them.

Such situations should always be approached sensitively. The adult should be advised that the police will be contacted and assured that the police will be informed that the adult does not wish to pursue this matter or speak to the police. It is for the police to determine if they feel it is necessary for them to speak to the adult, or if there is further action they may need to pursue.

3.10 Procedure for reporting a Safeguarding Concern

If something happens to you, or someone you know or are working with, or you see or hear about something which could be adult abuse do the following:

- in an emergency you must dial 999 for either the police or ambulance services. You do not have to wait for permission from your line manager to do this
- where appropriate action should be taken to prevent harm, however, **YOU MUST NOT PUT YOURSELF AT RISK**
- where appropriate talk to the adult as soon as possible unless this would put them, others or you at risk, about what they want to happen, what action they do or do not want taken, or want to take themselves
- if you are a member of staff, explain your responsibility to share information or raise a safeguarding concern
- follow your organisation's procedures for Reporting Safeguarding Concerns to the Local Authority

Only the police have the responsibility to establish if a criminal offence has been committed.

Reporting a safeguarding concern through the formal channels will enable a proper assessment or enquiry to be co-ordinated. This will avoid any confusion or conflict between complaints, disciplinary and safeguarding processes.

All those making a complaint, allegation or expressing a concern, whether they are staff, service users, carers, members of the public, can be reassured that:

- they will be taken seriously
- their comments will be treated confidentially but their concerns may be shared if they or others are at risk
- if they are a service user action will be taken to minimise the risk of further abuse, reprisals or intimidation
- if they are staff they will be given support and afforded protection if necessary e.g. under the Public Interest Disclosure Act 1998; Crime & Disorder Act 1998, s. 115
- they will be supported whatever the outcome of the enquiry
- they will be dealt with fairly and in a non-discriminatory manner
- they will be kept informed of action that has been taken and its outcome as far as possible.

If you suspect a crime has been committed you may need to preserve evidence for forensic examination, so avoid touching/moving objects or furnishings and request a forensic medical examination and treatment of any injuries/conditions before any other intervention.

In all cases of concern, allegation or disclosure of abuse you must inform your manager/person within your organisation responsible for referring safeguarding concerns to the local authority as soon as possible.

If you suspect your manager is involved in the abuse you must report to a senior manager as soon as possible.

If someone makes an allegation or discloses abuse to you, you must make a note as soon as possible of what they said. Make sure that you use the person's own words and that this information is stored securely.

You must never keep secrets, even if the person asks you not to tell anyone else. You must always share concerns, allegations or disclosures with your manager/person within your organisation responsible for reporting safeguarding concerns to the local authority.

3.11 Co-operation

You will be expected to co-operate with the enquiry. You may be required to provide a statement, attend a strategy meeting, or be interviewed by the police.

Do not discuss what has happened with members of staff who have no direct involvement in the situation.

If a family member is raising the concern you should explain the safeguarding process to them and the next steps. If the family is unaware of an incident, you should take advice in relation to the appropriate timing of sharing information with them.

3.12 Raising a Concern / Making a Referral

- The person responsible for making the referral to raise a safeguarding concern should wherever possible provide the following information:

Concern

- details of the person
- details of the person raising the concern
- reason for concern
- date / time / location of any incident
- location of victim
- details of the person's views and wishes if known/what the person wants to happen and if they have given consent for you to contact adult social care. If you do not know the adult's views. You need to provide the reason you were not able to talk to them (this should only be if there was a concern that this might put them or others or you at risk)
- if the person has 'substantial difficulty' understanding/being involved with the enquiry
- details of family or a friend who can support the individual
- if the person requires an independent advocate
- objective, professional description of any act witnessed or detailed by alleged victim
- details of any possible witnesses
- details of any possible evidence - written records should be stored securely.

Source of the risk

- name
- address
- gender
- relationship to the adult at risk
- if the source of the risk is a member of staff, what actions have been taken prior to referral, e.g. suspension?
- If the source of the risk is another service user, do they require an independent advocate
- Where available, the safeguarding concern should include information about the wishes of the person and their capacity to be involved in the safeguarding process.
- The referrer should record separately what they saw, heard or were told and retain this in a safe place. This record must be signed, dated and include the name and job role of the person completing it; this information may be requested later to inform a police investigation. The record can be hand-written or typed; if typed it should be scanned immediately and stored electronically so that it cannot be changed at a later date.

4.0 What will happen when a Safeguarding Concern is raised?

Sefton currently has a single point of contact. The Council Call Centre for receiving safeguarding adults concerns operates normal office hours **0345 140 0845** and there is an Emergency Duty Team on all **0151 934 3555** for outside of normal office hours.

Local Authority staff will triage the Safeguarding Concern, as they would for any other information or referral received, to determine how best to support the adult(s) and address any immediate risks. In some circumstances this may include a referral to the Police or an out of hours visit by Social Workers/Police. The Local Authority will always take account of the adult's wishes and what they want to happen, as far as this is known.

If the information received and/or identified through checks, appears to indicate the adult affected meets the criteria below then the Local Authority has a duty to make enquiries **or** cause others to do so. These enquiries may range from a conversation with the adult or if they have substantial difficulty understanding the enquiry their representative or advocate, to a more formal multi-agency plan or course of action.

Criteria for Safeguarding Enquiry under s.42 of the Care Act 2014

An adult:

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

The decision to carry out a safeguarding enquiry does not depend on the person's eligibility to receive Local Authority commissioned services but should be considered if there is reasonable cause to think that the person is experiencing, or is at risk of, abuse or neglect.

4.1 Where it is unclear if the adult is covered by the criteria set out in section 42 of the Care Act

If the Local Authority does not have sufficient information to establish if the criteria for an enquiry is met, but still has concerns that the adult may be or is experiencing abuse or neglect it should be assumed the adult meets the criteria until further information is available to inform this decision, or until the safeguarding concern is addressed.

4.2 Non-Statutory or Discretionary Enquiries

The Local Authority may also choose to undertake safeguarding enquiries for people where there is not a section 42 duty, if the Local Authority believes it is a proportionate response to do so and will enable the Local Authority to promote the person's wellbeing and the preventative agenda. This might be where an adult does not have care needs but has some support needs.

4.3 Informal Enquiries

The Local Authority may decide to undertake informal enquiries if it decides this would be appropriate given the nature of the concerns and circumstances of the adult, and where it is unclear whether the adult meets the criteria for a safeguarding enquiry or not.

4.4 Considerations

When Sefton Council staff receive a safeguarding concern they will take account of the information they already have, do not have, or requires, in order to determine the most appropriate response to the safeguarding concern. The type and nature of the alleged abuse/neglect will inform and influence decision making regarding the most appropriate action to take including:

- Making contact with the adult at risk of abuse or neglect
- Any immediate risk to the adult or others
- The adult's wishes
- The adult's capacity, representation and advocacy issues
- Any risks and protective factors for the adult
- Any risks and protective factors for others
- Previous safeguarding concerns
- Any overarching concerns about a provider
- What other agencies might need to be involved

If the action undertaken through the enquiry at this point results in it being established that:

- this is not a safeguarding concern, **or**
- the safeguarding concern has been resolved **and**
- the adult is no longer at risk of abuse or neglect (real or suspected)

Then the Local Authority's duty under section 42 will have been discharged and the enquiry is concluded at this point.

4.5 Recording Information

All information and actions taken by triage staff must be recorded on the Local Authority's management information system.

This will include:

- Details of concern/allegations
- Details of discussions and feedback with the adult or where relevant their representative
- Details of strategy discussions
- Details of discussion/involvement with other agencies
- Discussion and contact details of any relevant family members or key people
- Crime reference numbers
- Rationale for actions undertaken
- Rationale as to why the concern does not require any further action/closure of the case

If initial enquiries do not resolve the safeguarding concern, the Local Authority's duty to make enquiries continues until it is satisfied that the adult is protected and any other actions that may be required have been completed.

It is important that the Local Authority acts promptly to all enquiries to ensure the safety of the adult and to prevent others from abuse/neglect.

4.6 Principles and approach underpinning all responses to Safeguarding Concerns

All responses to safeguarding concerns by the Local Authority, or partner agencies must always be underpinned and informed by the six key safeguarding principles in the Care Act.

All responses to safeguarding concerns should involve a conversation with the adult or their representative or advocate if the adult has substantial difficulty understanding the enquiry. The conversation should take place at the earliest opportunity, and, as the enquiry progresses, in order to establish the adult's wishes.

5.0 Process for Enquiry

5.1 When does an Enquiry take place?

Statutory Safeguarding Enquiries

The Care Act s42 requires the Local Authority to make formal safeguarding enquiries, or cause enquiries to be made, in cases where the Local Authority *has reasonable cause to suspect* that an adult in its area:

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

Non-Statutory / Discretionary Enquiries

Local Authorities may choose to undertake discretionary safeguarding enquiries for people where there is not a s42 duty, if the local authority believes it is proportionate to do so, and to do so will enable the local authority to promote a person's wellbeing and support a preventative agenda (*paragraph 14.44 Care and Support Statutory Guidance*)

Discretionary enquiries could relate to adults who:

- are believed to be experiencing or at risk of abuse or neglect
- do not have care and support needs (but may have support needs alone)

An enquiry should be proportionate to the situation and the level of risk involved. This could be a conversation with the adult, or representative if they lack capacity, right through to formal multi-agency plan or course of action.

5.2 Purpose of Enquiry

The purpose of a Care Act s42 Safeguarding Enquiry is to enable the Local Authority to decide whether any action is required in the adult's case, and if so what and by whom.

The objectives of an enquiry are to:

- establish facts
- ascertain the adult's views and wishes
- assess the needs for the adult for protection, support and redress and how they might be met
- protect from abuse and neglect, in accordance with the wishes of the adult;
- make decisions as to what follow-up action should be taken with regard to the person or organisation responsible for the abuse or neglect; **and**
- enable the adult to achieve resolution and recovery

What happens as a result of an enquiry should reflect the adult's wishes wherever possible, as stated by them or their representative or advocate. If they lack capacity it should be in their best interests if they are not able to make the decision and be proportionate to the level of concern (*paragraph 14.79 Care and Support Statutory Guidance 2016*).

5.3 Roles and Responsibilities

The Local Authority cannot delegate its duty to conduct a formal s42 enquiry but it can cause others' to make enquiries. This means that the Local Authority may ask a provider or partner agency to conduct its own enquiries and report back to the Local Authority in order to inform the Local Authority decision about whether and what action is required in the adult's case. It is the role of the Local Authority to decide who, or what organisation, is best placed to lead on an enquiry.

5.4 Criminal Investigation

Although the Local Authority has the lead role in making enquiries, or requesting that others do so, where criminal activity is suspected a prompt referral must be made to the Police. The Police will lead on all criminal investigations, with Local Authority support where appropriate, for example, by provision of information and assistance.

5.5 Partner Responsibilities

Whilst the Local Authority has overall responsibility and the duty to conduct enquiries this does not absolve other partners or agencies of safeguarding responsibilities. Relevant partner agencies involved in providing services to adults who may have care and support needs have a legal duty to cooperate in formal adult safeguarding enquiries (Care Act sections 6 & 7) unless to do so is incompatible with their own duties or would have adverse effect on their own functions.

This includes information sharing to enable the enquiry to be made thoroughly, participating in the enquiry processes and undertaking enquiries when they have been 'caused' by the Local Authority to do so.

If the Local Authority has asked someone else to make enquiries, it is able to challenge the organisation/individual making the Enquiry if it considers that the process and/or outcome unsatisfactory. In exceptional circumstances the Local Authority may make additional enquiries if the original enquiry fails to address significant issues.

5.6 Timelines and Risk

Initial risk assessment and interim safeguarding plan – The target timescale for undertaking an initial assessment of risk, and for deciding what safety and protection actions need to be put into place while enquiries are undertaken (i.e. interim protection plan) is within 5 days of deciding that a formal adult safeguarding enquiry needs to take place. Some cases may have more immediate risks and require a hastier response.

Completing enquiries – This procedure does not outline any specified target timescale to complete enquiries. However as with all adult safeguarding work responses should be timely.

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

Agencies need to remember a co-ordinated multi-agency enquiry will achieve more than a series of separate enquiries.

The Safeguarding Adults process is complete when:

- The enquiry has concluded
- A risk assessment outcome has been defined
- If required a safeguarding protection plan has been identified
- Established if the risk has been removed, reduced or remains

5.7 Dealing with historic allegations of abuse where the adult is no longer at risk

One of the criteria for undertaking statutory enquiries under the Care Act S42 duty is that the adult is 'experiencing or is at risk of, abuse or neglect'. Therefore, the duty to make enquiries under the Care Act relates to abuse or neglect, or a risk of abuse or neglect that is current. Concerns relating to historic abuse or neglect, where the person is no longer at risk, will **not** be subject to statutory enquiry under these procedures but further action under different processes may be needed.

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

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

In cases where an adult has died or suffered serious abuse or neglect, and where there is concern that agencies should have worked more effectively to safeguard the adult there is a statutory requirement for the Safeguarding Adults Board to review the case under the work of the Safeguarding Adults Review Group and potentially undertake a Safeguarding Adults Review under S44 of the Care Act.

5.8 Process

Enquiries are proportionate to the particular situation with individual circumstances of a case determining the scope and who leads. Enquiries should be outcome focused. All enquiries undertaken must be lawful and take full account of the consent and wishes of the adult.

There are 3 key stages within Enquiry, Planning, Enquiry and Evaluation. Enquiries need to be flexible and able to move fluidly between planning, enquiry, and evaluation as the circumstances of the case requires.

5.9 Planning of an Enquiry

All enquiries need to be carefully planned and coordinated with key people identified. No agency should undertake an enquiry prior to a planning discussion, unless it is necessary for the protection of the adult at risk or others.

Planning should be seen as a process and not a singular event. The planning process could be a series of telephone conversations, or meetings with relevant people and agencies. In some cases, the complexity or seriousness of the situation will require a planning process to include formal meeting(s). Urgency of response should be proportionate to the seriousness of the concerns raised along with the level of risk.

Planning processes should be tailored to the specific circumstances of the case but should cover the following aspects:

- Gaining the views, wishes, consent and desired outcomes of the adult – or planning how these are going to be gathered
- Deciding if an independent advocate is required (or planning how information will be gained to enable the decision to be made)
- Gathering and sharing information with relevant parties
- Agreeing what enquiries are needed and who will do these
- Assessing risks and formulating an interim safeguarding plan to promote safety and wellbeing whilst enquiries are undertaken
- Planning will be led by the Local Authority.

5.10 Information Sharing and who should be involved

Who is involved in planning will depend on the individual situation and will be determined through consultation with the Duty Manager. Deciding the most appropriate method of involvement for different stakeholders needs careful consideration. For example, commissioning and regulatory bodies need to be involved in discussions relating to the concerns in a service but may not need to know all the details relating to a specific adult.

In consideration of levels of involvement it may not be necessary to conduct a face-to-face meeting with all concerned and separate meetings/contacts discussing aspects of the concerns may be more appropriate.

Information sharing between organisations is essential to safeguard adults at risk of abuse or neglect. Decisions about what information is shared and with whom will be taken on a case-by-case basis. Whether information is shared with or without the consent of the adult the information shared should be:

- Necessary for the purpose for which it is being shared
- Shared only with those who have a need for it
- Be accurate and up-to-date
- Be shared in a timely fashion
- Be shared securely

There are a number of key partners and individuals that should always be notified of concerns, and be involved as appropriate, in the following circumstances where:

| Safeguarding Concern | Key Partner |
|--|---|
| A crime is suspected to have been or might be committed | Police |
| Quality and safety concerns arise about a service registered under the Health and Social Care Act 2008 | Care Quality Commission Local Authority Contract & Commissioning Service Local Clinical Commissioning Group – where there is a health funded contract |
| Quality and safety concerns arise about a NHS Service or an Independent Hospital | Care Quality Commission Local Authority Contract & Commissioning Service |

| | |
|--|---|
| | Local Clinical Contract and Commissioning Group – where there is a health funded contract |
| There are disciplinary issues | Senior representative of the relevant agency |
| There has been a sudden or suspicious death | Local Coroner's Office |
| There are concerns around a health/social care setting involving unsafe equipment or systems of work | Health and Safety Executive (HSE) |
| The adult at risk is funded by another Local Authority | Another Local Authority <u>Inter-Authority Safeguarding Arrangements</u> |
| Children are known to or have been found to be present | Local Authority Childrens Department |
| There are concerns around the management of the adult's finance or benefits | Appointee and Court Deputy Section Department of Works and Pensions |

Local Authorities also have a duty to involve the adult in a safeguarding enquiry (Paragraphs 7.6 & 7.7 Care and Support Statutory Guidance). The adult, or representative or advocate, must be involved in the enquiry processes, including planning the enquiry where appropriate and safe to do so.

5.11 Making Safeguarding Personal – Involvement, Empowerment and Personalisation

Adult safeguarding in practice should be person-led and outcome focused. The Care Act ethos and statutory guidance emphasise a personalised approach to adult safeguarding that is led by the individual, not by process. It is critical that the adult feels that they are the focus and that they have control over the process.

Involvement is not just about gaining consent but also about hearing their views and about what they want as an outcome. People's views, wishes and desired outcomes may change through the course of the enquiry and opportunities for ongoing dialogue need to be built into the process.

Personalised practice approaches to adult safeguarding should seek to engage the adult in a conversation about how best to respond to the safeguarding situation in a way that enhances involvement, choice and control as well as improving quality of life, wellbeing and safety.

A safeguarding enquiry should always start with gaining the views and wishes of the adult, unless there are reasons why doing so would cause increased risk of harm. On occasion gaining the views and wishes of the adult will be the only enquiry that is necessary to enable the local authority to decide what actions are required in that particular circumstance. In other circumstances gaining the views and wishes of the adult will be the starting point to determine and undertake a much wider range of enquiries.

Sometimes people will have unrealistic expectations of what can be achieved through safeguarding procedures and they should be supported to understand from the outset how their desired outcomes can be met.

Knowing the views, wishes and outcome of the adult involved will enable an appropriate, proportionate response to the concerns raised to be made. The person's wishes and desired outcomes however are not the only consideration as sometimes actions are required without a person's consent, particularly where there are overriding public interest issues or risks to others. In these circumstances, the practitioner will need to ensure that a sensitive conversation takes place with the adult at risk to explain how and why their wishes have been over-ruled, listening to their feelings and the impact this action will have on them, and seeking to provide them, wherever possible, with reassurance.

The views, wishes and desired outcomes are equally important should the adult lack mental capacity to make informed decisions about their safety and protection needs or have *substantial difficulty* in making their views known and participating in the Enquiry process. Personalised practice approaches should still be taken in such cases, including engaging with the persons representative(s), any best interest consultees, appointing an independent advocate, where appropriate, using whatever information is known and finding out what the adult would have considered important decisions about their life, and by following best practice as laid out in the Mental Capacity Code of Practice 2007.

5.12 Independent Advocacy and Substantial Difficulty

Local Authorities have a duty to involve the adult in a safeguarding enquiry. Involvement requires supporting the adult to understand how they can be involved, how they can contribute and take part and lead or direct the process (Paragraphs 7.6 & 7.7 Care and Support Guidance 2016). As part of the planning process the Lead Agency must consider and decide if the adult has '*substantial difficulty*' in participating in a safeguarding enquiry. The Lead Agency should make all reasonable adjustments to enable the person to participate before deciding the person has '*substantial difficulty*'.

'*Substantial difficulty*' does not mean that the person cannot make decisions for themselves, but refers to situations where an adult has '*substantial difficulty*' in doing one or more of the following:

- *Understanding relevant information*

Many people can be supported to understand relevant information if it is presented appropriately and if time is taken to explain it

- *Retaining that information*

If a person is unable to retain information long enough to be able to weigh up options and make decisions, then they are likely to have substantial difficulty in participating

- *Using or weighing up that information as part of the process of being involved*

A person must be able to weigh up information in order to fully participate and express preferences for or choose between options

- *Communicating their views, wishes or feelings*

A person must be able to communicate their views, wishes and feelings whether they are talking, writing, signing or any other means to aid the decision making process and to make clear priorities.

Where an adult has '*substantial difficulty*' being involved in the adult safeguarding process the Lead Agency must consider and decide whether there is an appropriate person to represent them. This would be someone who knew the person well and they would have to be willing to represent the adult. It could not be someone who is involved in their care or treatment in a professional or paid capacity. Where the adult has capacity to consent to representation then this must be gained. If the adult lacks capacity to consent to representation by that person then the Lead Agency must be satisfied that being represented by that person is in the adult's best interests.

In the event of not being able to identify an appropriate person to represent an adult with '*substantial difficulty*' the Lead Agency must arrange for an independent advocate to support and represent them. Care and Support Statutory Guidance states that where the need for an independent advocate has been identified the local authority must arrange for one to be provided.

If a safeguarding enquiry needs to commence urgently then it can begin prior to appointment of the advocate but appointment must remain as priority. On appointment the advocate must be fully engaged in enquiry planning and evaluation processes to represent the views and wishes of the adult in any decision making.

5.13 Risk Assessment and Interim Safeguarding Plans

The first priority of any enquiry process should be the safety and wellbeing of the adult (paragraph 14.10 Care and Support Statutory Guidance). The support and safety needs of the adult during the period of the enquiry must be considered. The plan of safety measures and support provided for this stage of the process is referred to as an **interim Safeguarding Plan**.

When planning an enquiry a review must be made of:

- The adult's mental capacity to understand the type of enquiry, the outcomes and the effect on their safety now and in the future
- Whether consent has been sought
- Whether an advocate or other support is needed
- The level and impact of risk of abuse and neglect
- The adult's desired outcome
- The adult's own strengths and support networks

5.14 Communication and Actions

It is helpful to agree the best way to keep the adult and relevant parties informed. Where an enquiry is complicated and requires multiple actions that may be taken by others to support the outcome it may be appropriate to conduct a round table meeting. Where enquiries are simple, single agency enquiries it may not be necessary to hold a meeting. Action should never be put on hold due to the logistics or arranging a meeting; proportionality should be the guiding principle.

Information should be timely, cooperation between organisations to achieve outcomes essential and actions coordinated keeping the safety of the adult paramount. Information sharing should comply with all legislative requirements.

Where one agency is unable to progress matters further, for example a criminal investigation may be completed but not necessarily achieve the desired outcome (e.g., conviction), the Local Authority in consultation with the adult and others decide if and what further action is required.

5.15 Making enquiries and causing enquiries to be made

The scope and nature of the enquiries required will be determined during the planning process along with who should undertake these. Some situations require multiple enquiries to take place concurrently. Where several types of enquiries are proceeding concurrently it is essential that staff leading on them keep in regular contact and that one enquiry process does not contaminate, obstruct or interfere with another. It will be the role of the Safeguarding Manager to ensure that this communication and coordination takes place.

5.16 Scope of an Enquiry

Enquiries can range from non-complex single agency interventions to multi-agency complex enquiries. Who leads an enquiry and how long it will take will all depend on particular circumstances. Generally, the views and wishes of the adult should be sought at the outset as this will often determine the next steps. To determine what type of enquiry all the following points also need to be considered:

- What outcomes does the adult seek?
- How can risk be reduced?
- What prevention measures need to be put into place?
- How can enquiries be assessed as successful in achieving outcomes?

Identification of the primary source of risk may assist in the decision making what the most appropriate and proportionate response to the individual enquiry may be. Each particular situation will need assessed individually for a bespoke approach.

An adult safeguarding enquiry will need to establish fact to an extent that decisions and plans for the adult's wellbeing and protection can be fully informed and take account of the context of the situation. The overall focus of the safeguarding enquiry will be on the impact, current and future wellbeing of the adult and less on proving if abuse or neglect did or did not take place.

Adult safeguarding enquiries are undertaken in accordance with statutory duties but do not have statutory powers to compel, enforce or sanction. Where this is

necessary it will be the responsibility of the relevant agencies with appropriate powers.

5.15 Strategy Discussion(s) / Meeting(s)

In order to enable clear understanding of the role(s) and responsibilities of organisations and individuals within safeguarding enquiry strategy discussion(s)/meeting(s) can take place. It is the responsibility of the Safeguarding Enquiry Officer in consultation with the Duty Manager to ensure all appropriate people are invited and the meeting facilitated.

Face-to-face strategy meetings are considered best practice although strategy discussions may suffice in certain circumstances. If discussions are conducted all parties need to be eminently clear from outset of the nature of the meeting and actions need to be recorded using all appropriate documentation. Minutes of the meeting will be taken and circulated to those present within an acceptable timeframe. Actions determined should be shared on the day

In all circumstances the following elements need to be considered:

- Is the person safe and well?
- Is there more than one person at risk? Is there a need to instigate an organisational / whole service enquiry?
- How has the alleged perpetrator been managed?
- Have the views and wishes of the adult been sought?
- Are there any concerns relating to capacity?
- Is there a need for immediate intervention and assistance?
- Who is the most appropriate person to undertake an initial response?
- Which services have been involved with the adult and how can they best engage in this process?

5.16 Support Networks

Risk needs to be thoroughly assessed and managed at the outset of an enquiry and then regularly reviewed throughout. Mapping out the strengths of the individual and their personal networks may sufficiently reduce risk in order to make people feel safe without the need to take matters further.

A multi-agency approach to risk should aim to:

- Prevent further abuse or neglect
- Keep the risk of abuse or neglect at a level that is acceptable to the person

and

- Support the individual to continue in a risky situation if that is their choice and they have the capacity to make that decision

6. Closure of the Safeguarding Enquiry/Conclusion of the Enquiry/Outcomes of the Enquiry

Once enquiries are completed, the outcome should consider with the adult (or their representative/advocate) what, if any, further action is necessary and acceptable.

If the safeguarding concern is resolved through actions agreed with the adult through the initial enquiry response, and the adult no longer remains at risk of abuse or neglect (real or suspected), the Local Authority's duty of enquiry under section 42 concludes.

If the issue cannot be resolved through these means, or the adult remains at risk of abuse or neglect (real or suspected), then the Local Authority's duty of enquiry under section 42 continues until it is decided what action is necessary to protect the adult and by whom and assures itself that this action has been taken. This includes when the Local Authority causes another organisation or agency to undertake an enquiry.

As part of the decision-making process to conclude the adult safeguarding enquiry, the Lead Professional will also decide about whether a safeguarding protection plan is required or not.

A safeguarding protection 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 ongoing risks can be managed or monitored through single agency processes such as assessment and support planning processes. Where no plan is required, this procedure will cease. However, provision of information and advice and/or other actions may need to continue, e.g. referral to the DBS.

A safeguarding protection plan will usually be required where the risk of abuse or neglect is, for instance:

- Complex
- Ongoing
- 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**
- The risk cannot be managed appropriately or adequately by other processes

7. Safeguarding Protection Plans/Review

In most cases there will be a natural transition between deciding what actions are needed and the end of the enquiry, into formalising what these actions are and who needs to be responsible for each action – this is the adult safeguarding protection plan.

There should be no delay between concluding the enquiry and devising the plan where one is required.

An adult safeguarding protection plan is not a care and support plan, and it will focus on support only in relation to the aspects that safeguard against abuse or neglect, or which offer a therapeutic or recovery-based solution. In many cases the provision of care and support may be important in addressing the risk of abuse or neglect, but where this is the intention the adult safeguarding protection plan must be specific as to how this intervention will achieve this outcome.

The safeguarding protection plan should set out:

- 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 ongoing advocacy
- Any modifications needed in the way services are provided (e.g. appointment of an OPG deputy)
- How best to support the adult through any action they may want to take to seek justice or redress
- Any ongoing risk management strategy as appropriate; and
- Any action to be taken in relation to the person or organisation that has caused the concern

The plan should outline the roles and responsibilities of all individuals and agencies involved and should identify the lead professional who will monitor and review the plan, and when this will happen. Adult safeguarding protection plans should be person-centred and outcome focused. Safeguarding plans should be made with the full participation of the adult at risk, or their representative or advocate as appropriate. Wherever possible, adult safeguarding plans should be designed to reflect and aim to achieve the desired outcomes of the adult. There will be occasions where these cannot be met e.g. due to unrealistic expectations and the lead professional will need to work alongside the adult to negotiate outcomes that can be achieved.

Adult safeguarding plans should not be risk averse or paternalistic. Plans should reflect a positive risk-taking approach and be clear how the plan will promote the adult's wellbeing and independence. If the adult declines assistance and has the mental capacity to make this decision, then this can limit the intervention that organisations can make. The focus should therefore be on harm reduction. However, it should not limit the action that may be required to protect others who are at risk of harm.

In some circumstances it may be appropriate for safeguarding plans to be monitored through ongoing care and support responsibilities. In other situations, a specific safeguarding review may be required.

7.1 Review of the Enquiry and Safeguarding Protection Plan

The identified professional lead should monitor the plan and review within the agreed timescales set out in the plan. Timescales for reviewing the plan should be set individually when formulating the plan and should be proportionate to the circumstances and level of risk involved. The purpose of the review is to:

- Evaluate the effectiveness of the adult safeguarding plan

- Evaluate whether the plan is meeting/achieving outcomes
- Evaluate risk

Reviews of adult safeguarding plans, and decisions about plans should be undertaken and agreed in partnership with the adult at risk. Following the review process, it may be ascertained that:

- The adult safeguarding plan **is no longer required**; or
- The adult safeguarding plan **needs to continue**. Any changes or revisions to the plan should be made, new review timescales set (if needed) and agreement reached regarding the lead professional who will continue monitoring and reviewing; or
- **A new adult safeguarding s42 enquiry is needed**. This will usually be when new information comes to light that significantly changes the circumstances and risks or introduces new risks. New safeguarding enquiries will only be needed when the Local Authority determines that new enquiries are necessary to enable a decision on what action is needed in the adult's case. If the decision is that further enquiries would not be necessary to determine what action is needed, then new or changed risks can still be managed through revision and monitoring of the safeguarding plan

8. Closure of the adult safeguarding process

Safeguarding can be closed at any stage. Individuals should be advised on how and who to contact with agreement on how matters will be followed up with the adult at risk if there are further concerns. It is good practice where assessment, care and support planning and reviews are undertaken for a standard check to be made that there has been no reoccurrence of concerns.

Before closing the safeguarding process, a judgement has to be made about the robustness of the response made and whether this has satisfactorily discharged the statutory safeguarding duty. Closure records should note the reason for this decision and the views of the adult at risk to the proposed closure. All actions and decisions must be documented to promote transparency and to support defensible decision making. The lead worker should ensure that all actions have been taken, building in any personalised actions:

- Agreements with the adult at risk to closure
- Referral for assessment and support
- 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 social care if necessary
- Outcomes noted and evaluated by adult at risk
- Consideration for a SAR
- Any lessons to be learnt
- Review and sign off by a manager

8.2 Closing Enquiries down when other processes continue

The adult safeguarding process may be closed but other processes may continue, for example a professional body investigation. These processes may take some time. Considerations may need to be given to the impact of these on the adult and how this will be monitored. Where there are outstanding criminal investigations and pending court actions, the adult safeguarding process can also be closed provided that the adult is safeguarded.

All closures no matter at what stage are subject to an evaluation of outcomes by the adult at risk. If the adult at risk disagreed with the decision to close safeguarding down their reasons should be fully explored and alternatives offered.

At the close of each enquiry there should be evidence of:

- Enhanced safeguarding practice ensuring that people have an opportunity to discuss the outcomes they want at the start of the safeguarding activity
- Follow-up discussions with people at the end of safeguarding activity to see what extent their desired outcomes have met
- Recording the results in a way that can be used to inform practice and provide aggregated outcomes information for Sefton Safeguarding Adults Board