

# ***Nottinghamshire Safeguarding Adults Procedures following a Referral***

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## 1 Introduction

Safeguarding means protecting an adult's right to live in safety, free from abuse and neglect. It is about people and organisations working together to prevent and stop both the risks and experience of abuse or neglect, while at the same time making sure that the adult's wellbeing is promoted including, where appropriate, having regard to their views, wishes, feelings and beliefs in deciding on any action.

The aims of adult safeguarding are to:

- stop abuse or neglect wherever possible;
- prevent harm and reduce the risk of abuse or neglect to adults with care and support needs;
- safeguard adults in a way that supports them in making choices and having control about how they want to live;
- promote an approach that concentrates on improving life for the adults concerned;
- raise public awareness so that communities as a whole, alongside professionals, play their part in preventing, identifying and responding to abuse and neglect;
- provide information and support in accessible ways to help people understand the different types of abuse, how to stay safe and what to do to raise a concern about the safety or well-being of an adult; and
- address what has caused the abuse or neglect.

This document sets out the Nottinghamshire Safeguarding Adult Boards procedure for all organisations to follow when a concern is raised that result in Care Act Section 42 enquiries being required.

**The following six principles apply to all sectors and settings and should inform the ways in which professionals and other staff work with adults:**

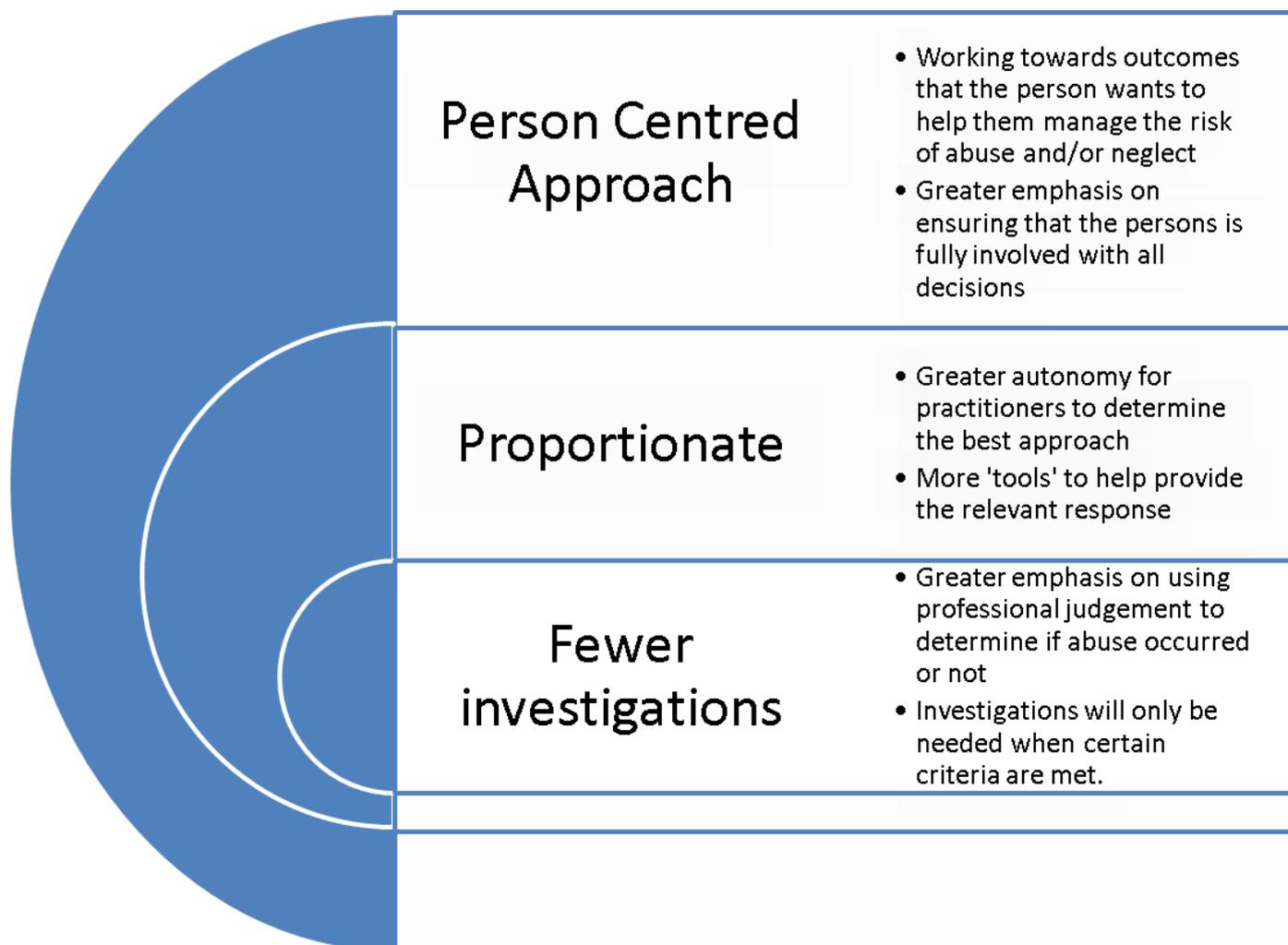
- **Empowerment – People being supported and encouraged to make their own decisions and informed consent.**  
“I am asked what I want as the outcomes from the safeguarding process and these directly inform what happens.”
- **Prevention – It is better to take action before harm occurs.**  
“I receive 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.”

*The development of the ‘Making Safeguarding Personal’ agenda was ‘drawn up in response to feedback from people using safeguarding services, stakeholders and practitioners that the focus of safeguarding work was on process and procedure. People using safeguarding services wanted a focus on a resolution of their circumstances, with more engagement and control’ (Making Safeguarding Personal, Sector Led Improvement, LGA ADASS, April 2013).*

This means a move away from the need to investigate everything, where the focus is often on the alleged perpetrator and whether they abused the adult at risk or not.

## 2 What is the main focus of these procedures?

To make our work person centred, in line with the Care Act 2014 and the Making Safeguarding Personal project, these procedures differ from the 'traditional' approach to safeguarding in the following ways:



Safeguarding should not be used as a substitute for preventing abuse or neglect of adults in the first place. The guidance issued under the Care Act 2014 states that:

'Safeguarding is not a substitute for:

- Providers' responsibilities to provide safe and high quality care and support;
- Commissioners regularly assuring themselves of the safety and effectiveness of commissioned services;
- The Care Quality Commission (CQC) ensuring that regulated providers comply with the fundamental standards of care or by taking enforcement action; and
- The core duties of the police to prevent and detect crime and protect life and property.'

## 3 Definitions used in these Procedures

### 3.1 Adult at Risk

Safeguarding duties apply where a local authority has reasonable cause to suspect that an adult in its area (whether or not ordinarily resident there)—

- (a) Has needs for care and support (whether or not the authority is meeting any of those needs),

(b) Is experiencing, or is at risk of, abuse or neglect, and

(c) As a result of those needs is unable to protect himself or herself against the abuse or neglect or the risk of it.

The adult's care and support needs should arise from, or be related to a physical or mental impairment or illness however, they do not need to meet the minimum eligibility criteria as set out in chapter 6 of the [Care and Support Statutory Guidance](#), issued under the Care Act 2014.

The adult who safeguarding duties apply to, will hereafter be referred to as the 'adult' or 'adult at risk' in these procedures.

***Carers may experience intentional or unintentional harm from the adult they are trying to support and as a result safeguarding enquiries may be required. For more information on carers and safeguarding see ADASS 'Carers and Safeguarding Adult at risks – working together to improve outcomes' July 2011.***

### **3.2 Abuse and neglect**

3.2.1 Abuse and neglect can take many forms and the individual circumstances of a case should always be considered, although the criteria at 2 above will need to be met before the issue is considered a safeguarding concern. The Care Act 2014 provides the following categories of abuse and neglect:

- Physical;
- Domestic violence (where the criteria at 4.1.1 are met)
- Sexual;
- Psychological;
- Financial and material;
- Modern slavery;
- Discriminatory;
- Organisational;
- Neglect and acts of omission;
- Self neglect

3.2.2 These categories are explored in depth in the accompanying guidance.

3.2.3 When discussing abuse with an adult at risk, family, carer or other members of the public it is recommended that common language is used. This means you may prefer to use literal terms when discussing concerns with an adult at risk or other members of the public, rather than the categories listed above. **Examples of this may be using the terms 'hitting' or 'slapping', rather than saying 'physical abuse'; discussing 'theft' instead of 'financial abuse'; or 'bullying' instead of 'psychological abuse'.**

Follow this link to different types of abuse, examples of abuse and possible early indicators of abuse [www.safeguardingadultsnotts.org](http://www.safeguardingadultsnotts.org).

# **Roles & Responsibilities**

## 4 Roles and Responsibilities

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### **Guidance documents relating to this section:**

Complex Abuse.

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#### **4.1 Safeguarding Manager**

- 4.1.2 The team manager from the relevant team within Nottinghamshire County Council's Adult Social Care department should decide who is best placed to act in the role of safeguarding manager.
- 4.1.3 In Nottinghamshire, safeguarding managers are normally team managers or senior practitioners (Band C social workers) from assessment teams within Nottinghamshire County Council's Adult Social Care Department, including any that are joint health and social care teams, who has undertaken appropriate training. Support and supervision should be in place to support all safeguarding managers.
- 4.1.4 In cases which are complex ([see guidance for Complex Abuse](#)), high risk, or which are likely to attract public interest, it may be necessary to escalate the management of the safeguarding adults' procedure to a Designated Safeguarding Adults Manager (DASM) or to appoint an independent safeguarding manager.
- 4.1.5 The safeguarding manager will appoint an appropriate safeguarding officer (see 5.2 below) where this is relevant.
- 4.1.6 It is important to note that the safeguarding manager and the safeguarding officer roles should not be undertaken by the same person.
- 4.1.7 The safeguarding manager will have overall responsibility for:
- Agreeing with partner agencies which enquiries are most appropriate and proportionate to the concern;
  - Where agreement cannot be reached, having the final decision on which enquiries are required and who is most appropriate to undertake them;
  - Deciding who will act as Safeguarding Officer;
  - Assuring the local authority that all enquiries, either undertaken by the local authority or by others, is person centred and focusses on the wishes of the adult at risk (or their representative) wherever possible;
  - Determining what, if any, further actions are required following enquiries;
  - Chairing or leading the 'initial discussion' and ensuring that there is a clear record of the discussion along with any agreed actions;
  - Convening and chairing a 'strategy meeting' when appropriate and ensure that there is a clear record of the meeting along with any agreed actions;
  - Convening and chairing a 'case conference' when appropriate and ensuring that there is a clear record of the meeting along with any agreed actions;
  - Ensuring decisions are recorded;
  - Ensuring that enquiries are closed at the most appropriate time and relevant documentation is completed correctly and timely;
  - Ensuring that feedback is given to the relevant individuals at the relevant times.

#### **4.2 Safeguarding Officer**

- 4.2.1 The safeguarding officer will be a qualified worker in a social care assessment team, who has undertaken appropriate training. This will normally be a social worker or senior practitioner however, this may be different in multi-disciplinary teams or in cases of complex abuse, where this role may be escalated to a more senior member of staff. Support and supervision should be in place to support all safeguarding officers.
- 4.2.2 The safeguarding officer has several responsibilities within the safeguarding process:

#### 4.2.3 ***Taking actions agreed at the initial discussion***

The safeguarding officer may be responsible for undertaking any actions agreed with the safeguarding manager at the initial discussion. This may include visiting the adult at risk.

#### 4.2.4 ***Working with the adult at risk towards their 'desired outcomes'***

Where actions for agencies to work towards the adult at risk's desired outcomes are identified, the safeguarding officer will normally ensure that these are completed.

#### 4.2.5 ***Link between organisations, adult social care and the adult at risk***

Where the local authority causes others to make enquiries or actions, the safeguarding officer is the link between the local authority, the adult at risk and those organisations and/or individuals who are undertaking the identified enquiries or actions

#### 4.2.6 ***Undertaking adult social care safeguarding 'investigation'***

Where the strategy meeting identifies that a safeguarding adults investigation is required, the safeguarding officer is normally the person who will undertake this work.

### 4.3 ***Managers in all organisations***

4.3.1 All organisations have a responsibility to undertake enquiries where it is agreed that they are the most appropriate organisation to do so.

4.3.2 When the local authority causes others to make enquiries, managers must:

- Work within the agreed timeframe;
- Report back in the agreed way and format;
- Always work in a person centred way, working with the adult towards their desired outcomes;
- Ensure that anyone undertaking work has the necessary competencies based on the National Capability Framework (see [www.safeguardingadultsnotts.org](http://www.safeguardingadultsnotts.org) for more information).

4.3.3 The safeguarding manager from the local authority will retain overall responsibility for determining what actions are required as a result of enquiries being made however, managers in all organisations will still be responsible for ensuring agreed actions are undertaken.

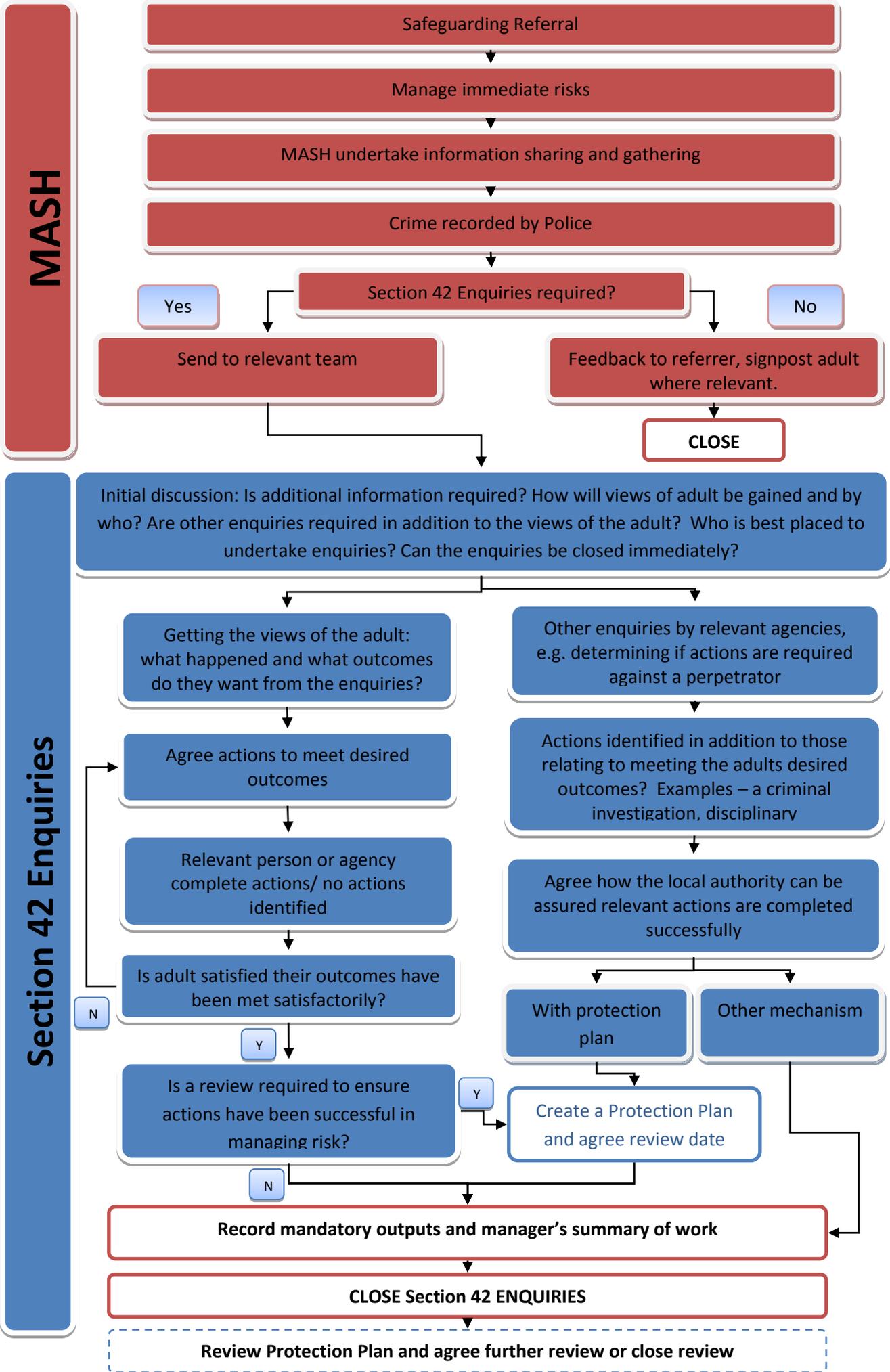
4.3.4 Attendance at meetings should be limited to those who 'need to know' and who can contribute to the decision making process. Staff should be of sufficient seniority to make decisions within the meeting concerning their organisation, including any resources agreed as part of enquiries.

### 4.4 ***Designated Adult Safeguarding Manager (DASM)***

4.4.1 The Care Act 2014 states that each member of the safeguarding adults board should have a Designated Adult Safeguarding Manager (DASM). This role will include oversight of complex cases.

# Process Overview

# Nottinghamshire Safeguarding Adults Process Overview



# **Receiving a Safeguarding Adults Referral**

### Guidance documents relating to this section:

Out of Area Arrangements.

#### 5.1 **What is the Multi Agency Safeguarding Hub (MASH)?**

5.1.1 Nottinghamshire has a single point of contact for receiving safeguarding adults' referrals from professionals. This is done through the Multi Agency Safeguarding Hub (MASH).

For more information on raising a concern or making a safeguarding referral, follow this link to the Nottingham and Nottinghamshire Multi Agency Safeguarding Adults at risk Procedures.

#### 5.2 **What is the purpose of the MASH?**

5.2.1 The MASH has separate operational procedures which are used internally.

5.2.2 The purpose of the MASH is to:

- Ensure that action is taken to mitigate any immediate risks;
- Record safeguarding referrals;
- Ensure that the relevant consent has been gained, or provide evidence why this is not required;
- Share relevant information between a range of partner organisations;
- Make a decision using multi-agency information about whether a Section 42 enquiry is required;
- Where a Section 42 enquiry is required, assess and determine the level of risk;
- Send requests Section 42 enquiries to the relevant team in adult social care;
- Signpost to other processes and organisations where this would be a more appropriate and proportionate response;
- Provide feedback to the referrer about the decision.

#### 5.3 **What are the possible outcomes from the safeguarding referral?**

5.3.1 **No further action** – when a section 42 enquiry is not required and no signposting or referral is required to other organisations or teams.

5.3.2 **Signposting or referral to other services/organisation** – where a section 42 enquiry is not required, for example, care management or quality concerns are identified.

5.3.3 **Section 42 enquiries are required** – where the MASH determine that a section 42 enquiry is required, they will inform the relevant team within the Local Authority's Adult Social Care Department, depending on where the allegation took place ([see guidance for Out of Area Arrangements](#)).

5.3.4 Where a section 42 enquiry is required, the MASH will assess and determine the level of risk presented and the timescale for an initial discussion to take place, based on the following:

##### **RED – Priority One**

**An initial discussion should be held within 6 working hours**

##### **AMBER – Priority Two**

**An initial discussion should be held within 1 working day**

##### **GREEN – Priority Three**

**An initial discussion should be held within three working days**

# **Section 42**

## **Enquiries**

### **Overview**

**Guidance documents relating to this section:**

Making Safeguarding Personal.

**6.1 What is a section 42 enquiry?**

6.1.1 A section 42 enquiry is the term used to describe the work undertaken by the local authority or others after a safeguarding referral is made which meets the criteria on pages 5-6 (definitions).

**6.2 What is the purpose of the section 42?**

6.2.1 The section 42 enquiry has two purposes:

1. To work with the adult at risk to agree:
  - Their desired outcomes from the section 42 enquiry ([see guidance for Making Safeguarding Personal](#));
  - What practical steps and work is required to enable the adult to reach their desired outcomes and who needs to do what.
2. To determine what, if any, other actions are required to protect the adult or others from the risk of future abuse or neglect, and who is best placed to do this ([see Section 9 – Other Actions following Section 42 Enquiries](#)).

**6.3 Section 42 enquiry Overview**

6.3.1 The section 42 enquiry process documented emphasises the need for a proportionate and person centred response.

6.3.2 The process takes account of the six principles detailed within the introduction to this document and enshrined within the [Care Act Statutory Guidance](#).

6.3.2 This includes agreeing and working towards the ‘desired outcomes’ of the adult at risk.

6.3.3 Actions and investigations to determine if abuse occurred or not (and if the alleged perpetrator abused or not) will only be necessary where certain criteria are met.

6.3.4 To enable the section 42 enquiry to be proportionate, the process is not designed to be a linear one, with the exception of the initial discussion, which must be recorded first.

6.3.5 To further emphasise this, there may not always be a need to undertake any other actions in addition to the work in relation to the adult’s desired outcomes.

6.3.6 Where other actions are identified, the Local Authority should cause others to do these where this would be the most appropriate approach.

# **Initial Discussion And Strategy Meeting**

## 7 Initial Discussion

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### **Guidance documents relating to this section:**

Mental Capacity Act 2005;

Information Sharing Guidance;

Planning a Visit or Interview with the Adult at risk;

Making Safeguarding Personal;

Record Keeping;

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### **7.1 What is the 'initial discussion'?**

7.1.1 An initial discussion is the first discussion, normally between the safeguarding manager, the safeguarding officer and others who may be asked to make enquiries as a result of the discussion or the information presented by MASH (see [Roles and Responsibilities on page 7](#)).

### **7.2 What are the timescales for an initial discussion?**

7.2.1 It is the responsibility of the safeguarding manager to ensure a discussion takes place with the appropriate individuals. This discussion should take place within the relevant timescales, depending on the level of risk presented by the MASH.

7.2.2 The following risk ratings will be provided by the MASH:

#### **RED – Priority One**

**An initial discussion should be held within 6 working hours;**

#### **AMBER – Priority Two**

**An initial discussion should be held within 1 working day;**

#### **GREEN – Priority Three**

**An initial discussion should be held within three working days.**

### **7.3 What is the purpose of the initial discussion?**

7.3.1 The purpose of the initial discussion is to:

- Ensure any immediate risks to the adult at risk (and others), as presented by MASH are being managed or have been mitigated;
- Review all other information provided by MASH;
- Agree any additional information gathering required, in addition to that provided by the MASH (see 8.5 below);
- Plan and agree what enquiries are required and proportionate to the concern (see section 42 enquiries);
- Determine if the local authority or others are best placed to undertake the agreed enquiries;
- Agree how the desired outcomes of the adult at risk will be determined as part of the enquiries (or agree why it is not possible to do so), including who is most appropriate to do this, or the reasons why a visit is not required (see 8.6 below);
- Agree if a visit to the care provider and/or alleged perpetrator is required (see 8.7 below);
- Agree who will undertake this work;

**OR;**

- Determine that a multi-agency strategy meeting is required immediately because of the nature and complexity of the referral (See below - Strategy Meeting).

***It is important to remember that any immediate risks should still be managed first.***

**OR;**

- Determine that the case can be closed without the need for a section 42 enquiry because it is IMMEDIATELY clear, from the information presented by MASH, that the referral should not have met the thresholds for a section 42 enquiry (i.e. it has been sent in error).

7.3.2 Where the case can be closed immediately, it should be returned to the MASH for closure for them to take the appropriate action (see section 13 – Closing the Section 42 enquiry). Consideration must also be given to any other services or organisations that you may be able to either signpost or support the adult at risk to access.

7.3.3 It should be noted that this process should only be used when a referral has been sent in error and may not be used where there is a disagreement about the decision.

7.3.4 **The actions agreed at the initial discussion may not necessarily be done in the order above and, at any point, it may be necessary to progress to a strategy meeting.**

#### **7.4 Review any Immediate Risks**

7.4.1 Where immediate risks are identified these should be managed first, prior to undertaking any other work.

7.4.2 There are times where you will need to consider an immediate medical examination. There are two reasons for considering this. One is because medical treatment may be needed and the other is that the examination may provide evidence which could be used in prosecution.

7.4.3 When an adult at risk needs urgent medical attention or has recently been assaulted the need for medical treatment will always precede any other consideration.

7.4.4 Consent must be obtained prior to any medical intervention from the person requiring the attention/examination. If you are of the opinion that the adult at risk does not have the mental capacity to give their permission, you are required, by law, to act in accordance with the provisions set out in the Mental Capacity Act (2005).

7.4.5 If there is a possibility that forensic evidence can be identified, the safeguarding manager should seek the adult's permission to call the police in order that they can supervise the medical examination. If you are of the opinion that the adult at risk does not have the mental capacity to give their permission, you are required, by law, to act in accordance with the provisions set out in the Mental Capacity Act (2005) (see guidance for the Mental Capacity Act 2005).

#### **7.5 Further information gathering**

7.5.1 Where it is identified that additional information is required to that presented by the MASH, to either determine the level of risk and/or establish what initial actions are needed, the safeguarding manager, with the safeguarding officer, should agree how this will be obtained and who is best placed to do this.

7.5.2 Where further information gathering is identified, you should contact organisations using the single points of contact provided in the Information Sharing guidance.

#### **7.6 Agreeing Section 42 enquiries**

7.6.1 Section 42 enquiries should be proportionate to the concern and should focus both on:

- How you can best work with the adult to reach their outcomes and determine what other actions are required, and;
- What actions are required to protect the adult and/or others from the risk of future abuse?

7.6.2 The local authority must determine what enquiries it thinks necessary and cause these to happen. For more information on enquiries, see Section 42 enquiries.

#### **7.6 What is a strategy meeting and its purpose?**

7.6.1 A strategy meeting is a meeting or discussion between the relevant individuals and agencies. The purpose of the strategy meeting is to agree what further work, either enquiries or actions are required. For further information, see guidance – strategy meetings.

**7.7 *When should I hold a strategy meeting?***

7.7.1 A strategy meeting should be held when a multi-agency response is required and there is a possibility that enquiries will result in actions relating to a perpetrator, or to the risk to others.

7.7.2 When required, it will normally be held following work agreed as part of an initial discussion however, a strategy meeting can be convened at any point in the process and may be required immediately if the nature and complexity of the referral makes this proportionate.

**7.8 *Discussion or meeting?***

7.8.1 The term 'strategy meeting' is used to minimise confusion with the 'initial discussion'. However, it could be a discussion by telephone, conference call, video call or via email if holding a meeting would involve a delay and place the person at greater risk, or where few organisations are involved and a meeting is not necessary. If a discussion is held, it may still be necessary to hold a follow-up meeting and more than one meeting or discussion may be required.

# Section 42

# Enquiries

## 8. Section 42 Enquiries

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### **Guidance documents relating to this section:**

Mental Capacity Act 2005;

Information Sharing Guidance;

Planning a Visit or Interview with the Adult at risk;

Making Safeguarding Personal;

Record Keeping;

Complex Abuse;

Root Cause Analysis;

Achieving Best Evidence in Criminal Proceedings;

Information Sharing Guidance.

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### **8.1 What are section 42 enquiries?**

8.1.1 A section 42 enquiry is the term used to describe the work undertaken by the local authority or others after a safeguarding referral is made which meets the criteria on pages 5-6 (definitions).

### **8.2 What is the purpose of the section 42 enquiries?**

8.2.1 The section 42 enquiry has two purposes:

1. To work with the adult at risk to agree:
  - Their desired outcomes from the section 42 enquiry ([see guidance for Making Safeguarding Personal](#));
  - What practical steps and work is needed to enable the adult to reach their desired outcomes and who needs to do what.
2. To determine what, if any, other actions are required to protect the adult or others from the risk of future abuse or neglect, and who is best placed to do this (see Section 9 – Other Actions following Section 42 Enquiries).

### **8.3 What are the different types of enquiries that may be required?**

8.3.1 Section 42 enquiries should be proportionate when focusing on the two purposes stated above.

8.3.2 Below are some examples of enquiries which may be relevant. It should be noted that you may need to make several different types of enquiries to help determine what, if any, actions are required.

### **8.4 Visit to, or discussion with, the Adult at Risk**

8.4.1 The desired outcomes of the adult at risk should be presented as part of the safeguarding referral. To ensure that these remain the outcomes or to agree what the adult's desired outcomes are, it is likely that section 42 enquiries will normally include a visit to, or, in some circumstances, discussion with, the adult at risk and/or the person representing them or their best interests.

8.4.2 It should be agreed who is most appropriate to undertake this visit, or if a joint visit with the safeguarding officer or someone who knows the adult at risk is more appropriate.

- 8.4.3 As part of planning any visits or discussions you should consider the following:
- How the visit will be planned (see guidance Making Safeguarding Personal);
  - The 'desired outcomes' for the adult at risk as presented by MASH (see below and guidance for Making Safeguarding Personal);
  - If you have any information which suggests that adult may have significant difficulty in being involved in the process, in which case consideration should be given to instructing an independent advocate or other appropriate representative (see 8.9 below);
  - Any known communication aids required or known capacity issues (which may result in the need for an Independent Mental Capacity Advocate) (see guidance for Planning a Visit or Interview with an Adult at Risk);
  - How any discussions will be recorded (see guidance for Record Keeping)
- 8.4.4 The visit to the adult at risk can be broken down into two parts. The first part of the discussion should:
- Check that there are no immediate risks (and agree how these will be managed if there are);
  - Consider the support needs of the adult at risk (see guidance for Supporting an Adult at Risk);
  - Get the views of the adult at risk about what has happened in relation to the alleged abuse.
- 8.4.5 This should lead onto a discussion which should include the following:
- The 'desired outcomes' the adult at risk would like in relation to managing the risk of future abuse and/or neglect (see guidance for Making Safeguarding Personal);
  - What actions are required to work towards the 'desired outcomes';
  - The timescales for the completion of actions required by organisations.

## **8.5 Desired Outcomes**

- 8.5.1 The full title of 'Desired outcomes' is 'the desired outcomes of the adult in relation to managing the risk of future abuse'.
- 8.5.2 Outcomes should be person centred and be achievable. For example, a desired outcome might be:
- 'Mr A. no longer wishes to receive his care from care worker B'.
- 8.5.3 A desired outcome could not be:
- 'Mr A. would like care worker B to be sent to prison'.
- 8.5.4 This second example is an outcome against someone else, which Mr A. cannot influence or determine, although this might be the end result.
- 8.5.5 Further examples of desired outcomes might be:
- 'Elaine wants to make sure no one can steal her money. Therefore, she would like a safe to be fitted in her wardrobe'.
- 'Rashid has stated that what is important to him is to stay at home with his family. Therefore, he would like to be supported to agree living arrangements and boundaries with his family'.

## **8.6 Negotiation**

- 8.6.1 When meeting with an adult at risk or the person representing them or their best interests, to understand their desired outcomes, it is necessary to understand what the person wants and negotiate what can be done to work towards this.
- 8.6.2 Taking the example above, if Mr A. states that they want care worker B to be sent to prison, we need to understand what they mean by this to make it personal to them and achievable:

- Does it mean they no longer want to have to see the person?
- Does it mean that they would like support to report the abuse against them as a crime?

8.6.3 These would then become the desired outcomes of the adult at risk.

## **8.7 Working towards the adults 'desired outcomes'**

8.7.1 You should agree with the adult any actions required by the adult or others, including organisations, to work towards the desired outcomes and also how the adult at risk will subsequently manage the risk of future abuse and/or neglect.

8.7.2 Examples of this might be:

'The safeguarding officer will organise quotes and support Elaine to get a safe fitted. Elaine will use the safe to store her money'.

'Rashid's support worker will meet with him and his family to discuss living arrangements and boundaries. Rashid will then be supported to live at home depending on the outcome of the meeting with family'.

Further examples can be found in section 15 – Scenarios for How a Section 42 enquiry Might Progress.

8.7.3 **The section 42 enquiry will normally remain open whilst work relating to the desired outcomes of the adult at risk (or their representative) is ongoing. However, at times, it might be more appropriate to create a protection plan and close the section 42 enquiries. For more information on closing the section 42 enquiry, see section 12 - Closing the Section 42 enquiry.**

## **8.8 Enquiries where no desired outcomes are identified**

8.8.1 Where it is determined by the safeguarding manager, with the safeguarding officer and adult at risk, that:

- The adult at risk does not wish to engage (see 9.3.2 below) OR;
- The risk no longer remains and is unlikely to in the future.

8.8.2 The adult at risk may wish for no further action to be taken. Practitioners must be confident that the adult at risk is making this decision without undue influence, threats and intimidation. If there are no other people at risk from the person causing abuse or neglect and the alleged perpetrator is not a member of staff or volunteer, there will be no further actions under these procedures at this time.

8.8.3 In this situation there should be express agreement with the adult at risk that there will be no more action under these procedures. They should be given information about possible sources of help and support and whom they can contact if they should change their mind, or the situation changes and they no longer feel able to protect themselves.

8.8.4 If a concern persists and the adult at risk's refusal to consent to action is seen to have resulted from fear, loyalty, coercion or disempowerment as a result of long term or persistent abuse, you must proceed to a strategy meeting to consider the best way to engage with the person and consider the legal powers available to intervene with the person(s) causing the abuse.

8.8.5 In these cases you should still consider whether a multi-agency strategy meeting would be of benefit.

## **8.9 Supporting the Adult - Independent Advocates, Independent Mental Capacity Advocates and other suitable people**

8.9.1 **There may be times when you are unable to get the views of the adult at risk because:**

- **They have substantial difficulty in being involved in the process;**

- They lack the mental capacity to understand what has happened or what they would like to happen;
- Discussing this with them would put them at increased risk or cause greater distress.

8.9.2 Therefore, the views might be those gained through consultation with other suitable people that know the adult at risk (such as carers, family members but NOT someone who is paid to care for the adult at risk) and be outcomes which are deemed to be in their best interests. This should be fully recorded and, where appropriate, in accordance with the provisions set out in the Mental Capacity Act (2005) (see guidance for the Mental Capacity Act 2005).

8.9.3 Where an adult at risk has substantial difficulty in being involved in the process and there is no other suitable person to represent and support them, the local authority must arrange for an independent advocate to represent and support them (see Guidance Making Safeguarding Personal).

8.9.4 Alternatively, there may be a need to instruct an Independent Mental Capacity Advocate (IMCA), where this would be in the persons best interests (see guidance for Planning a Visit or Interview with an Adult at Risk).

8.9.5 If, when considering the visit as part of the initial discussion, you determine that a visit is not required, the reasons for this should be fully documented. An assumption that the adult at risk 'lacks capacity' or 'cannot communicate' are inappropriate reasons for not getting the adults views.

8.9.6 In cases where the alleged perpetrator is not someone in a position of trust (such as a family member or carer) it might be relevant to meet with them as part of the Section 42 enquiries.

The purpose of this may be:

- To get their views about what has happened in relation to the alleged abuse;
- Where possible, to minimise the need for further visits to discuss the allegation;
- Where it is clear that abuse has occurred, to understand why it has happened;
- To consider any support needs that the alleged perpetrator may have.

## **8.10 Causing others to make enquiries**

8.10.1 There may be times when it is appropriate for the local authority to cause others to make enquiries. For example, the police may be asked to make enquiries to determine if a crime has been committed or health professionals/safeguarding leads might be asked to determine if injuries are as a result of abuse.

8.10.2 At times, it may also be appropriate to cause the care provider to make enquiries (or to visit or have a discussion with them). This is particularly relevant when the provider is the employer of the alleged perpetrator. This might be appropriate to:

- Discuss what steps they have taken to manage any immediate or future risks;
- Ascertain details of any discussions they have had with the adult at risk and/or alleged perpetrator;
- Examine relevant care plans and/or running records;
- Inform and update the provider about the section 42 enquiry.

8.10.3 Enquiries by the care provider at this point should be to clarify and gather information, rather than begin a formal disciplinary against an employee (although an employer is under a duty to ensure people are safe. This may include suspension of staff or other measures if appropriate).

8.10.4 Whichever individual or organisation is making section 42 enquiries, their focus should be on the adult and the outcomes they want to achieve in line with the visit to the adult at risk detailed above.

## **8.11 Follow up discussions**

- 8.11.1 As part of undertaking the enquiries agreed above, there should be regular follow up discussions between the safeguarding manager, safeguarding officer and others who are making enquiries. This could be a series of informal conversations, emails or meetings between the two and may result in further actions being identified. All discussions should be recorded in the relevant sections of the adult at risk's care record.
- 8.11.2 When section 42 enquiries identify the need for other actions to manage the future risk to the adult or others, for example, by investigating the concerns against the alleged perpetrator, these should begin as soon as it is appropriate to do so even if other enquiries are ongoing.
- 8.11.3 It should not be assumed that the focus of other actions will always be on an investigation. An investigation is only required where it is determined by the safeguarding manager, with the safeguarding officer and/or other organisations where relevant, that:
- The adult at risk does not want further safeguarding work to be undertaken but you perceive this to be as a result of fear, loyalty, coercion or disempowerment (see section 9.3.2, 9.3.3, 9.3.4 & 9.3.5), **OR**;
  - The alleged perpetrator or risk is a person or organisation in a position of trust, e.g. a member of staff or a volunteer. **OR**;
  - A criminal investigation is required, **OR**;
  - The referral meets the criteria for 'complex abuse' (see guidance for Complex Abuse), **OR**;
  - There is a need to know if abuse occurred or not and/or if the person alleged to have abused has or not, before desired outcomes can be achieved (see Types of Investigation in section 11), **OR**;
  - Understanding why abuse has occurred will help manage future risk (see guidance for Root Cause Analysis).
- 8.11.4 Examples of actions that may be required and who might be responsible for undertaking them can be found in section 'Actions following Section 42 Enquiries'.

## **8.12 Closing the Section 42 Enquiries**

- 8.12.1 To enable a proportionate response to concerns, enquiries should be closed when it is appropriate to do so. This may be following a single visit to the adult at risk (or their representative) or a number of visits and agreeing a protection plan that can be reviewed at a later date.
- 8.12.2 Section 42 enquiries can be closed when the local authority is assured that:
- all required Section 42 enquiries are completed;
  - the adult at risk (or their representative) is satisfied that their outcomes have been achieved (or accept why they cannot be);
  - actions identified as a result of the enquiries are being managed effectively by the relevant agency;
- 8.12.3 For more information on closing a section 42 enquiry, see section 13 - Closing the Section 42 enquiry.

## **8.13 Timescales for completing section 42 enquiries**

- 8.13.1 The very nature of making safeguarding personal means that it is difficult to be prescriptive with timescales. However, it generally is hoped that section 42 enquiries will be completed within four weeks from the date it is received by the relevant team (i.e. 28 days or 20 working days). It is recognised though, that this may not always be possible, particularly where complex work is identified or where ongoing work is required to support the adult to reach a resolution.
- 8.13.2 There should be regular liaison between the safeguarding manager, safeguarding officer and individuals or organisations responsible for carrying out investigations. A running record should be kept of these discussions within the adult at risk's social care record.

# **Actions Following Section 42 Enquiries**

**Guidance documents relating to this section:**

Complex Abuse;

Root Cause Analysis;

Achieving Best Evidence in Criminal Proceedings;

Information Sharing Guidance.

**9.1 What are actions following section 42 enquiries?**

9.1.1 Action following section 42 enquiries is the work identified to manage the future risk to the adult or others for example, by investigating the concerns against the alleged perpetrator.

**9.2 When should actions begin?**

9.2. Actions should begin as soon as it is appropriate to do so. This may be before all section 42 enquiries have been completed. For example, where work is ongoing to achieve an adult's desired outcomes but the requirement for a criminal investigation is identified.

**9.3 What type of actions might be identified?**

9.3.1 Below is a list of possible actions which may be identified following section 42 enquiries.

9.3.2 Where the following actions or investigations are identified, the relevant guidance should be followed:

- Safeguarding Investigation;
- Person Centred Outcomes;
- Making Safeguarding Personal Toolkit;
- Root Cause Analysis;
- Complex Abuse Investigation;
- Allegation of Abuse by a Person of Trust.

9.3.3 Where other actions or investigations are required, organisations should follow their own internal procedures. However, consideration should be given to opportunities for joint working as part of any discussion or strategy meetings and there may be occasions where a joint investigation is agreed to ensure independence and transparency to findings.

**9.4 Table of possible types of actions or investigations required following section 42 enquiries**

Description	Type of Action	Organisation/person responsible
No other investigations are required but you need to know if abuse occurred or not and/or if the person alleged to have abused has or not to aid outcomes or the persons recovery OR to provide independence and transparency to other investigations	Safeguarding Investigation	Adult Social Care (normally the safeguarding officer)
An investigation into the delivery of healthcare to the adult is required	Health led investigation	Relevant health agency
There is benefit in understanding why abuse has occurred	Root Cause Analysis	Relevant organisation
Abuse involving two or more	Complex abuse investigation	Adult Social Care (Normally the

abusers and/two or more adults at risks		Safeguarding Manager)
A crime has been committed such as assault, theft, fraud, hate crime, domestic abuse	Criminal investigation	Police
<b>Anti-social behaviour</b>	<b>Anti-social behaviour investigation</b>	<b>Police with anti-social behaviour teams, vulnerable persons panel</b>
Allegation of abuse by a person of trust	Disciplinary investigation	Employer (this might be the relevant DASM)
Bogus callers, rogue traders, loan sharks	Trading Standards Investigation	Trading Standards
Misuse of Lasting Power of Attorney		Office of Public Guardian
Misuse of appointeeship or agency		Department for Work and Pensions
Decisions about care and wellbeing of an adult without mental capacity which are not in their best interests		Court of Protection
Concerns about the quality of care by provider of a contracted service	Market management quality improvement	Relevant market development/quality team
<b>Compliance issues in a regulated setting</b>	<b>Relevant regulatory work</b>	<b>Care Quality commission</b>
<b>Support for an adult in a situation which makes them vulnerable</b>	<b>Vulnerable Persons Panel</b>	<b>Vulnerable Persons Panel</b>
<b>Review of care and support needs</b>	<b>Review</b>	<b>Adult Social Care, Health and Public Protection</b>

## 9.5 Protection Plan

9.5.1 Where actions are identified for other organisations, the local authority should assure itself that these will be completed satisfactorily. To support this, it may be useful to create a protection plan and review this.

9.5.2 The protection plan can be split into two distinct parts:

- Person centred actions;
- Organisational actions.

9.5.3 Person centred actions are ongoing actions required to work towards an adult's desired outcomes. For example, this might be longer term work towards supporting the adult through recovery, or to review whether the work undertaken to meet their desired outcomes have been achieved after a period of time.

9.5.4 Organisational outcomes are actions for organisations to undertake to protect others from the risk of future abuse. This might, for instance, be an ongoing criminal investigation, staff training or ongoing work with the commissioner of the service or the Care Quality Commission.

- 9.5.5 Where a protection plan is required, this should be reviewed to ensure that agreed actions have been completed successfully and to ensure that the desired outcomes of the adult at risk have not changed.
- 9.5.6 When a protection plan is created and a review date agreed, the section 42 enquiry can be closed. For further details on closing a section 42 enquiry, see Closing the Section 42 Enquiry.

# Closing the Section 42 Enquiry

## 10 Closing the section 42 enquiry

### 10.1 *The section 42 enquiry can be closed when:*

- The adult's desired outcomes have been achieved as far as possible; **AND**
- The local authority is assured that other actions identified will be completed successfully, **OR**;
- A protection plan and review date has been agreed;

10.1.2 In these cases, the safeguarding manager is responsible for ensuring that the following is done:

- Complete the safeguarding manager's summary and case closure;
- Ensure that feedback is provided to the referrer and any other individual or agency where appropriate, including the Care Quality Commission where concerns relate to a regulated setting;
- Setting a review date where there is a protection plan, where appropriate.

### 10.2 *Managers summary and case closure*

10.2.1 When the safeguarding manager, from the local authority, is satisfied that all enquiries have been completed, they should complete the 'manager's summary and case closure' report, recording the following:

- A summary of the work undertaken;
- Whether the adult was asked what their desired outcomes were and given the opportunity to change these throughout the enquiries;
- **Whether the adult's desired outcomes were achieved;**
- **Whether the adult was satisfied that their outcomes were achieved;**
- Case conclusion (where an investigation against the perpetrator was required and concluded as part of the enquiries);
- If the risk has been reduced or remains the same as a result of section 42 enquiries;
- If investigations as part of the section 42 enquiries have resulted in a referral to the Disclosure and Barring Service;
- If investigations as part of the section 42 enquiries have resulted in a criminal conviction.

10.2.2 Where a protection plan and review date has been agreed, these questions may be answered as part of the review.

### 10.3 *Recording and Sharing of information*

10.3.1 A record should be made of all work relating to section 42 enquiries on the adult's social care record. The information should not be shared for any purpose other than the safeguarding and care of the adult at risk of abuse and/or neglect.

### 10.4 *Feedback to referrer*

10.4.1 It is the responsibility of the safeguarding manager to ensure that feedback is given to the referrer and other relevant individuals. How and when this is done should be recorded within adult at risk's social care record.