

# 12. Adult Safeguarding Enquiry (Section 42)

## 12.1 Definition

A formal adult safeguarding Enquiry (Care Act s42) is the range of actions undertaken or instigated by the Local Authority in response to an abuse or neglect concern in relation to an adult with care and support needs who is unable to protect themselves from the abuse or neglect or the risk of it.

If the three point criteria is met the local authority has a duty to carry out enquiries or cause others to do so.

Local Authorities may choose to undertake non statutory safeguarding enquiries, if the local authority believes it is proportionate to do so, and by doing so it will enable the local authority to promote the person's wellbeing and support a preventative agenda. Non statutory enquiries would follow the same principles and procedures as statutory enquiries.

Enquiries do not follow a prescribed process but are made up of a number of different elements that are appropriate and proportionate for concerns being dealt with. 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 a much more formal multi-agency plan or course of action.

## 12.2 Purpose

The purpose of a Care Act s42 Adult 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 of the adult for protection, support and redress and how they might be met
- protect from the 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

## 12.3 Who will lead an enquiry?

The Local Authority should decide very early on in the process who is the best person/organisation to lead on the enquiry. In many cases it is the professional that knows the person or has the knowledge regarding a specific area, which will be best placed to lead the enquiry. This could be a social worker, nurse, OT or provider manager for example.

Where there are multiple agencies involved, the LA should take the lead and delegate specific parts of the enquiry as appropriate, co-ordinate the response and ensure the enquiry is completed to a satisfactory standard in line with Making Safeguarding Personal.

The Local Authority retains the responsibility for ensuring that the enquiry is referred to the right place and is acted upon. 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 are unsatisfactory. In exceptional cases, the Local Authority may undertake an additional enquiry, for example, if the original fails to address significant issues.

The degree of involvement of the Local Authority will vary from case-to-case, but at a minimum must involve decision making about how the enquiry will be carried out, oversight of the enquiry, decision making at the conclusion of the enquiry about what actions are required, ensuring data collection is carried out, and quality assurance of the enquiry has been undertaken.

When causing others to carry out an Enquiry Tameside MBC will:

- Identify the timescale within which the Enquiry should be completed. It will be expected that enquiries will be completed within 28 days unless there are exceptional circumstances.
- Identify how the Enquiry outcomes will be fed back to the Tameside MBC Enquiry Officer (e.g. by written report, verbal account, or meeting).
- Identify to whom the outcomes will be reported to.

On receipt of the Enquiry the Tameside MBC Enquiry Officer will:

- Assure itself that the enquiry satisfies the duty under section 42 and that the Safeguarding Plan is appropriate and robust.
- Request further enquiries or Actions if it is felt they are required.
- Ensure that the adult has been full involved and their desired outcomes have been achieved.
- Conclude the Safeguarding Enquiry and record the outcome.

It is important that when the Local Authority is causing others to carry out enquiries that the organisation leading has the skills and knowledge to carry out the enquiry in line with the Multiagency Policy and Legal Frameworks.

## 12.4 Planning discussions/Information Gathering

Planning should be seen as a process, not a single event. The planning process can be undertaken as a series of telephone conversations, or conversations with relevant people and agencies.

In some cases the complexity or seriousness of the situation will require formal meetings. The urgency of response should be proportionate to the seriousness of the concerns raised, and the level of risk.

The planning should be tailored to the person's situation but should include the following:

1. How will the views and wishes and desired outcomes for the person be gained?
2. Is an independent advocate required?
3. Sharing information with relevant parties.
4. Agreeing what enquiries are required and who will lead these.
5. Views of relevant parties (present or not).
6. Risk Assessment: Risks to the person and/or others.
7. Safeguarding Plan: What arrangements are in place for the person safety?
8. Safeguarding Response: Actions required to respond to the concerns.
9. Additional actions required.
10. Who will keep the person at risk (and/or representative) up to date with progress?

## 12.5 Initial Visit

In most situations it is best practice for an initial visit to take place with the person to ensure their views and wishes are at the centre of the Enquiry.

The aim of the visit is to:

- Assess the Adults capacity to engage with the process and consider whether advocacy may be required.
- Consider whether or not a formal Mental Capacity Act Assessment is required.
- Discuss the Adult's desired outcomes
- Assess risk and consider initial steps that maybe required to reduce or minimise risk
- Gain insight into the context within which the Adult is living, such as the accommodation and /or relationships
- Consider the adult's informal networks that may be able to contribute to the protection plan.
- Review any other information that may be relevant such as files and notes.

The enquiry officer will determine with their manager who is best placed to carry out the initial visit.

The visit should take place as soon as practically possible. If an initial visit does not take place and issues are dealt with on the phone instead a rationale for the decision should be recorded in the notes.

The information gathered will lead the discussions throughout the enquiry, further visits maybe required to ensure that the person's wishes and desired outcomes remain central to the enquiry.

## 12.6 Information Sharing

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 adult's consent, 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 accurately
- be shared securely

## Best practice notifying key professionals

Where it is suspected a crime has been committed.	Police
Where quality and safety concerns are raised regarding registered services	CQC Local Authority Commissioning CCG when services are funded by health
Where quality and safety concerns arise about an NHS hospital or independent hospital	CQC Local Authority Commissioning CCG when services are funded by health
Where disciplinary issues are involved	Manager of relevant agency
Where there is a sudden or suspicious death or an enquiry has not concluded and the person dies.	The Coroner's Office
Concern occurred in a health/ social care setting and involved unsafe equipment or systems of work	Health and Safety Executive (HSE)

## 12.7 Planning Meetings

A planning meeting will not be necessary in all cases, where a discussion will suffice. However in more complex cases a meeting will be useful.

The purpose of a meeting is:

- To share information
- To understand the nature of the concerns
- To assess risk to the person and/or others
- To work towards achieving the person's wishes and desired outcomes
- To plan how to respond as a partnership

A planning meeting may be arranged when:

- Where the health and safety of the Adult is or may be compromised and protection and enquiry actions from more than one agency may be required.
- Where the allegations indicate a potential Criminal Investigation may be required ( which does not meet the criteria for referral into the Allegation Management Process)
- Where there are Previous Safeguarding Concerns that indicate that the risk may be higher than originally thought.

Who you might be invited to the meeting?

- The Enquiry Officer and Manager
- For incidents in registered services the TMBC/CCG Commissioning Team
- For incidents in registered services CQC should also be sent an invitation
- The police
- Housing
- Formal and or Informal Advocates
- GP
- All agencies involved with the person
- The person and/ or their family member

The meeting should be recorded and notes shared with the person and/or their representative as well as the other participants at the meeting. Sometimes Enquiries can be concluded in one meeting, others may require several meetings.

## 12.8 Safeguarding Plans

Safeguarding plans will be developed throughout the enquiry, they are actions set to achieve the adult's desired outcome and protect the Adult.

An adult safeguarding plan is not a care and support plan, and it will focus on care provision only in relation to the aspects that safeguard against abuse or neglect, or which offer a therapeutic or recovery based resolution. 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 plan must be specific as to how this intervention will achieve this outcome.

Safeguarding Plans should illustrate:

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

The plan should outline the roles and responsibilities of all individuals and agencies involved. It should identify which lead professional in each agency will monitor and review their relevant part of the plan, and when this will happen. Adult safeguarding plans should be person-centred and outcome-focused. Safeguarding plans should be made with the full participation of the adult at risk. In some circumstances it may be appropriate for safeguarding plans to be monitored through ongoing care management responsibilities. In other situations, a specific safeguarding review may be required.

## 12.9 Concluding an Enquiry

Safeguarding Enquiries must be concluded and the adult should be given feedback on the outcomes.

The purpose of and Outcome meeting:

- To work towards achieving the desired outcomes of the person at risk
- To review actions undertaken
- To assess ongoing risks
- To agree how to manage those risks
- To plan any further actions
- To identify any learning
- To set a review date as and when required

Who should be invited to the meeting?

- The Enquiry Officer and Manager
- For incidents in registered services the TMBC Commissioning Team
- All agencies involved with the person
- The person and/ or their family member

The meeting should be recorded and notes shared with the person and/or their representative as well as the other participants at the meeting.

The Final completion and closure of an enquiry will take place by Enquiry officers at TMBC. The outcome of the Enquiry must be shared with the following agencies/individuals as appropriate:

- The adult
- Their representative/advocate
- The person/agency who raised the adult safeguarding concern
- The people/ agencies involved in the enquiry

## **12.10 Monitoring and Reviewing of the Safeguarding Plan**

In some complex situation it may be proportionate for a review date to be set. The Local Authority Enquiry Officer will plan and coordinate this. The review may take place through conversations or in complex situations a formal meeting may be held.

The Purpose of the review is:

- To work towards achieving the desired outcomes of the person at risk
- To assess ongoing risks
- To review safeguarding plans in place
- To ensure safeguarding plans are working effectively
- To identify any learning

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

- The adult safeguarding plan is no longer required; or
- The adult safeguarding plan needs to continue.

Any changes or revisions as a result of the review of the plan should be made, new review timescales set (if needed) and agreement reached regarding the lead professional for each organisation who will continue to monitor and review the plan within their organisation; or, it may also be agreed, if needed, to instigate a new adult safeguarding Section 42 Enquiry. New safeguarding enquiries will only be needed when the Local Authority determines it is necessary. If the decision is that further enquiries would be a disproportionate response to new or changed risks, further review and monitoring may continue.



## 12.11 Working together, to resolve disagreements in Tameside

It is the responsibility of all agencies to be proactive in resolving disagreements in an effective and timely manner. Resolving disagreements should be seen as a constructive process of working together to:

- find the best response for a person at risk.
- improve shared understanding of issues, and
- improve how practitioners work together across agencies.

In all cases, the safety and wellbeing of any person at risk of abuse, neglect or self-[1] neglect should be the primary focus of how issues or concerns are resolved. The following steps outline how organisations should work together to resolve disagreements:

**Step 1:** If practitioners have concerns about safeguarding practice across agencies they should:

- reflect on the nature of the concerns and the risk, as well as the wishes and desired outcomes of the person at risk
- discuss with colleagues to clarify good practice
- seek to understand the alternative view, review any relevant policies, procedures or practice guidance
- consult with their line manager or organisation's named/designated Safeguarding Adults Lead as appropriate.

Having considered these issues and sought advice where needed, they should try to resolve any disagreements, focusing on the needs of the person at risk.

**Step 2:** If concerns remain unresolved and a person remains at risk, or there are important practice issues to resolve, practitioners should refer this to their line manager. The line manager should consult with their organisation's named/designated Safeguarding Adults Lead as appropriate. Having considered the issues, and sought advice where appropriate, the line manager should seek to resolve the concerns in discussion with the line manager of the other service.

**Step 3:** If agreement cannot be reached following discussions between first line managers, the issue must be referred without delay through the line management structure to the operational Safeguarding Adults Lead for each organisation, who should seek to resolve the concerns with their counterparts. Where organisations are Board members, their representatives should be the final point of escalation.

**Step 4:** In the unlikely event that the steps outlined above do not resolve the concerns, policy/practice issues of concern should be referred to the chair of Tameside Safeguarding Adults Board to determine the appropriate process for resolution: [protectadults@tameside.gov.uk](mailto:protectadults@tameside.gov.uk)

Clear written records should be kept by everyone at all stages, which must include records of agreed resolutions and the proposed follow-up of any outstanding issues.