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## Social Services and Well-being (Wales) Act 2014

**Statutory guidance in relation to Part 7 of the Act, on Handling Individual Cases to Protect Adults at Risk**

Mae'r ddogfen yma hefyd ar gael yn Gymraeg.  
This document is also available in Welsh.

# Handling Individual Cases to Protect Adults at Risk

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# 1. Introduction

1. This volume provides advice on what should happen if an individual has concerns about the well-being or welfare of an adult at risk<sup>1</sup> (including those living away from home); and in particular concerns that an adult is:
  - experiencing or is at risk of abuse or neglect;
  - has needs for care and support; and
  - as a result of those needs is unable to protect themselves against the abuse or neglect or the risk of it
2. This advice is not intended as a detailed practice guide, but sets out clear expectations about the ways in which agencies and professionals should work together to safeguard adults at risk.
3. Achieving good outcomes for adults requires all those with responsibility for assessment and the provision of services to work together according to an agreed plan of action. Effective collaboration requires organisations and people to be clear about;
  - the legislative basis for the work;
  - their roles and responsibilities for safeguarding and promoting the welfare of adults at risk;
  - the procedures to be followed, including the way in which information will be shared across professional boundaries and within agencies, and be recorded;
  - which organisation, team or professional has lead responsibility, and the precise roles of everyone else who is involved;
  - the way in which children, adults, family members and carers will be involved; and
  - any timescales set down in Regulations or Guidance which govern the completion of assessments, making of plans and timing of reviews.

## **Policies, procedures and protocols**

4. Relevant partners working with adults at risk must ensure that staff, including volunteers, are trained in recognising the signs of abuse or neglect; how to respond to them; and where to go for advice and support. They should also have a clear understanding of the relevant roles and responsibilities of each partner in handling individual cases. These responsibilities should be available in *national protection procedures for practitioners* which are accessible, easily understood and used by all relevant partners.

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<sup>1</sup> Section 126(1) of the Social Services Well-being (Wales) Act 2014 defines an “adult at risk”

## 2. Statutory Duties

5. Safeguarding Boards and their relevant partners all have the responsibility to ensure there is sharing, exchange and joint-working on matters of mutual concern which should be supported wherever possible by common functions and procedures.
6. Safeguarding Board partners **must** take account of the functions and procedures of the Board to fulfil their responsibility in section 139(4) of the Social Services and Well-being (Wales) Act 2014 to ensure the Board is operating effectively. Functions of the Safeguarding Boards are formally set out at regulation 3 of the Safeguarding Boards (Functions and Procedures) (Wales) Regulations 2015<sup>2</sup>.

### Duty to report adult at risk

7. Section 126(1) of the Social Services and Well-being (Wales) Act 2014 defines an “adult at risk” as an adult who:-
  - a) is experiencing or is at risk of abuse or neglect;
  - b) has needs for care and support (whether or not the authority is meeting any of those needs); 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
- 8.

There should be clearly identifiable single points of contact within the local authority and the relevant partners to ensure that a relevant partner can report any concerns to the local authority in line with the duty set out at section 128 of the Social Services and Well-being (Wales) Act 2014. Relevant partners are defined by section 162(4) as:

- a) the local policing body and the chief officer of police for a police area any part of which falls within the area of the local authority;
- b) any other local authority with which the authority agrees that it would be appropriate to co-operate under this section;
- c) the Secretary of State to the extent that the Secretary of State is discharging functions under sections 2 and 3 of the Offender Management Act 2007 in relation to Wales;
- d) any provider of probation services that is required by arrangements under section 3(2) of the Offender Management Act 2007 to act as a relevant partner of the authority;
- e) a Local Health Board for an area any part of which falls within the area of the authority;
- f) an NHS Trust providing services in the area of the authority;

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<sup>2</sup> [http://www.legislation.gov.uk/wsi/2015/1466/pdfs/wsi\\_20151466\\_mi.pdf](http://www.legislation.gov.uk/wsi/2015/1466/pdfs/wsi_20151466_mi.pdf)

- g) the Welsh Ministers to the extent that they are discharging functions under Part 2 of the Learning and Skills Act 2000;
  - h) such a person, or a person of such description, as regulations may specify.
9. If a relevant partner has reasonable cause to suspect that a person is an adult at risk, and appears to be in the local authority area, it must inform the local authority of that fact. If the adult at risk is within the area of another local authority the relevant partner must inform that other local authority. In determining the meaning of reasonable cause to suspect that a person is an adult at risk it is not necessary that a particular fact is established, Reasonable suspicion exists when there is information which would satisfy an objective observer that the particular circumstances exist.
10. Sometimes concerns may be identified following a complaint, a clinical incident, whistle blowing or disciplinary issue. Where concerns relate to the quality of care and support in a regulated setting information should also be appropriately shared with the relevant regulatory bodies such as, but not exclusively the Care and Social Services Inspectorate Wales (CSSIW) and Health Inspectorate Wales (HIW).

### **Duty to enquire**

11. Section 126(2) of the 2014 Act sets out that “If a local authority has reasonable cause to suspect that a person within its area (whether or not ordinarily resident there) is an adult at risk, it **must**:-
- a) make (or cause to be made) *whatever enquiries it thinks necessary* to enable it to decide whether any action should be taken (whether under this Act or otherwise) and, if so, what and by whom; and
  - b) decide whether any such action should be taken.”
12. There are three separate components:
- i. a reasonable cause to suspect;
  - ii. the making of enquiries; and
  - iii. recording the outcome of the enquiries.

## **3. General Principles**

### **13. Effective safeguarding systems are those where:**

- the individual’s personal outcomes are known and they are able to communicate them effectively;
- the needs of the individual are put first, so that the adult receives the care and support they need before a problem escalates;

- all professionals who come into contact with adults at risk are trained and alert to their needs including any potential or suspected abuse or risk of abuse or neglect;
- all professionals share appropriate information in a timely way, and have direct access to advice to discuss any concerns about an individual;
- all professionals are able to use their expert judgment to put the individual's needs and personal outcomes at the centre of the system so that the right solution can be found for them; and
- all professionals work in a multi-agency and cooperative way to safeguard and promote an adult at risk's well-being and regularly review progress against the outcomes set out in care and support plans.

### **A coordinated person-centred approach**

14. Effective safeguarding arrangements in every safeguarding area should be underpinned by two key principles:
- **safeguarding is everyone's responsibility:** for safeguarding arrangements to be effective each professional and organisation must play their full part;
  - and
  - **a person centred approach:** for safeguarding arrangements to be effective they should be based on a clear understanding of the personal outcomes and what matters to the individual.
15. No single professional can have a full picture of an individual or their family and the ability to work across agencies is essential to build a better understanding of the adult at risk's circumstances and their need for care and support. Strong working relationships and working using a multi-agency approach can prevent needs escalating and identify when an adult or a family member is at risk.
16. Relevant partners (section 162(4) of the 2014 Act) should understand their statutory duty to report to the local authority where there is reasonable cause to suspect that an adult is at risk.
17. To ensure a person centred approach anyone working directly or indirectly with an adult at risk on a safeguarding matter must:
- see and speak with them;
  - listen to what they say and understand their personal outcomes;
  - take their views, wishes and feelings seriously;
  - work in partnership with them when determining how to meet their care and support needs; and

- take steps to facilitate the person's ability to participate whether via communication support or advocacy.

18. While practitioners should seek to discuss any concerns with the individual concerned and, where possible, seek their agreement to reporting concerns to local authority social services this should only be done where it will not place the person or others at increased risk of harm.

### **Advocacy**

19. The dedicated code of practice on advocacy under Part 10<sup>3</sup> of the Act sets out the functions in relation to which a local authority, in partnership with the individual, must reach a judgement on how advocacy could support the determination and delivery of an individual's personal outcomes; together with the circumstances when a local authority must arrange an independent professional advocate. Professionals and individuals must ensure that judgements about the needs for advocacy are integral to the relevant duties under this statutory guidance.

### **Supported and Informed Decisions**

20. Safeguarding actions should empower the adult as far as possible to make choices and to develop their own capacity to respond to them. Rights to safety need to be balanced with other rights, such as rights to liberty and autonomy, and rights to family life. Adults at risk, regardless of whether they have mental capacity or not may want highly intrusive help, such as the barring of a person from their home, or a person to be brought to justice. They may wish to be helped in less intrusive ways, such as through the provision of advice as to the various options available to them and the risk and advantages of these various options.
21. Any intervention regarding family or personal relationships needs to be carefully considered. The approach taken must consider how to support the adult to have the opportunity to develop, or maintain, a private life which includes those people with whom the adult at risk wishes to establish, develop or continue a relationship. While abusive relationships never contribute to the well-being of an adult, interventions which remove all contact with family members may be experienced as an abusive intervention and risk breaching the rights to family life if not justified or proportionate.

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<sup>3</sup> [Part 10 Code of Practice \(Advocacy\)](#)

## **Adult Protection and Support Orders (APSO)**

22. The statutory guidance for Adult Protection and Support Orders provides comprehensive information regarding the seeking, making and enforcement of an APSO<sup>4</sup>.
23. APSOs are to be used to enable an “authorised officer”, and any other person specified in the order, to speak to an adult suspected of being at risk of abuse or neglect in private, to establish whether the adult can make decisions freely, to assess whether the person is an adult at risk and to establish if any action should be taken.

## **Mental Capacity Act 2005**

24. The Mental Capacity Act 2005 sets out five statutory principles which underpin the legal requirements in the Act. These are:
  1. A person must be assumed to have capacity unless it is established that they lack capacity
  2. A person is not to be treated as unable to make a decision unless all practicable steps to help him or her to do so have been taken without success
  3. A person is not to be treated as unable to make a decision merely because he or she makes an unwise decision.
  4. An act done, or a decision made, under this Act for or on behalf of a person who lacks capacity must be done, or made in his or her best interests
  5. Before the act is done, or the decision is made, regard must be had to whether the purpose for which it is needed can be as effectively achieved in a way that is less restrictive of the person’s rights and freedom of action
25. All safeguarding considerations and decisions should take into account the legal requirements of the Mental Capacity Act and associated Code of Practice.<sup>5</sup> Chapter 14, in particular sets out “What means of protection exist for people who lack capacity to make decision for themselves”.
26. The statutory Code of Practice (for Wales, revised 2016) to the Mental Health Act 1983 sets out in Chapter 13: Relationship between the Mental Health Act, the Mental Capacity Act and the Deprivation of Liberty Safeguards<sup>6</sup>

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<sup>4</sup> <http://gov.wales/docs/dhss/publications/160909safeguarden.pdf>

<sup>5</sup> <https://www.gov.uk/government/publications/mental-capacity-act-code-of-practice>

<sup>6</sup> <http://gov.wales/topics/health/nhswales/mental-health-services/law/code-of-practice/?lang=en>



## Welsh Language Requirements

27. The process **must** recognise the concept of language need and practitioners should ensure that the active offer principle is embedded in practice. This means that the local authority should be proactive in its approach and the individual should be asked which language they would prefer at the beginning of the process. This will ensure that they are able to receive services in their own language throughout the process of identifying and meeting care and support needs. Language is an integral element of the care that people receive and it is the responsibility of the local authority to deliver appropriate services which includes meeting users' linguistic needs. Only by doing this can they provide care that is safe and effective.
28. Local authorities should make sure Welsh language services are built into planning and delivery and that Welsh language services are offered to Welsh speakers without them having to request it. Welsh Government has established a Strategic Framework for Welsh Language Services in Health, Social Services and Social Care (More than just words)<sup>7</sup>.

## Information Sharing

29. Practitioners must share information in accordance with the Data Protection Act 1998 and the common law duty of confidentiality. Both allow for the sharing of information and should not be used as a reason for not doing so. In exceptional circumstances, personal information can be lawfully shared without consent where there is a legal requirement or the professional deems it to be in the public interest. One of the exceptional circumstances is to prevent abuse or serious harm to others

## Confidentiality and Consent

30. Professionals have a duty of confidentiality. This is important in maintaining confidence and participation in services. However, the duty of confidentiality is not absolute and may be breached where this is in the best interests of the individual, or the wider public interest.
31. In their work with people, professionals should always seek to be transparent regarding the circumstances where they may need to share information with social services or the police.
32. Difficulties in working within the principle of maintaining confidentiality of an adult should not lead to failure to take action to protect the adult or others from abuse or harm.

## Whistle blowing/raising concerns

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<sup>7</sup> More than just words - Strategic Framework for Welsh Language Services in Health, Social Services and Social Care: <http://wales.gov.uk/topics/health/publications/health/guidance/words/?lang=en>

33. Every organisation that works with adults should have clear whistle blowing/raising concerns procedures and all staff should understand the procedure for making a report about the organisation or another member of staff.
34. All staff / practitioners have a duty to be made aware that they can approach social services or the police, independently, to discuss any worries they have about abuse neglect or harm and that they should always do so if;
- they have concerns that their manager, designated practitioners or proprietor may be implicated;
  - they have concerns that the manager, designated practitioners or proprietor will not take the matter seriously and/or act appropriately to protect the adult; or
  - they fear intimidation and/or have immediate concerns for their own or for the service users' safety.

### **Accessible Services**

35. Local authorities have a duty to provide an information, advice and assistance service under Part 2<sup>8</sup> of the Social Services and Well-being (Wales) Act 2014. This service should be accessible to individuals and professionals so they can find the support they need quickly and easily. Anyone who has concerns that an adult is at risk should be able to seek advice and make a report to social services without delay through this service.

### **Information for the public**

36. The public has a vital role in protecting adults through the recognition and prevention of abuse. It is the responsibility of all agencies and organisations to ensure there is a good level of public awareness of abuse, neglect and harm and how concerns can and should be reported. All relevant partners should have a range of current information and clear arrangements in place to ensure people know:
- how to contact them; and
  - what they might expect by way of a response.

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<sup>8</sup> Chapter 5 - [Part 2 Code of Practice \(General Functions\)](#)

## 4. Assessment and Care Planning

### Assessment

37. Sections 19 and 24 of the Social Services and Well-being (Wales) Act 2014 set out the duties on a local authority to assess an adult's needs for care and support and a carer's needs for support. The Care and Support (Assessment) (Wales) Regulations 2015<sup>9</sup> make further provision about such assessments. The Code of Practice on Part 3<sup>10</sup> of the Social Services and Well-being (Wales) Act 2014 sets out a process for assessing the needs of an individual for care and support, or support in the case of a carer.
38. The process of assessment set out under Part 3 of the Act will apply when an adult is suspected to be at risk of abuse or harm. The assessment can begin from the point when a report is made to the local authority to identify all needs for care and support including those to protect an adult at risk. The assessment can be ongoing throughout the process and should be completed with the appropriate level of urgency according to the case.
39. An assessment should draw together proportionate information gathered from the adult and their family or carer and relevant professionals including health, police, the third sector and adult social care. The assessment for an adult at risk should include a substantial emphasis on recording the risks in the 5 key elements through the what matters conversation with the individual. The 5 key elements are set out in the [Part 3 Code of Practice](#).
40. A high quality assessment is one in which risks are identified and the assessment revised throughout the process. It is a characteristic of skilled practice that practitioners revisit their assumptions in the light of new evidence and take action to revise their decisions in the best interests of the individual. The aim is to work with the individual to identify difficulties and risk factors as well as developing a picture of strengths and protective factors.
41. All assessments should include a clear analysis. The practitioner working with the individual should analyse all the information gathered from the assessment to decide the nature and level of the needs for care and support and how the individual's personal outcomes can be achieved.
42. If during a care and support assessment it appears to local authorities that the person is an adult at risk of abuse or neglect they must decide with the adult in question what action, if any, is necessary and by whom. Where an adult has care and support needs, local authorities must continue to carry

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<sup>9</sup> [The Care and Support \(Assessment\) \(Wales\) Regulations 2015](#)

<sup>10</sup> [Part 3 Code of Practice \(Assessing the Needs of Individuals\)](#)

out a needs assessment and determine whether they have eligible needs, and if so, how these will be met.

43. The assessment for care and support should run parallel to the safeguarding enquiry and the enquiry should not disrupt the assessment process or the local authority meeting eligible needs.

### **The Care and Support Plan**

44. Section 54 of the 2014 Act provides that a local authority must prepare and maintain a care and support plan for a person whose needs it is required to meet. This includes needs which the local authority considers it necessary to meet to protect an adult from abuse or neglect or a risk of abuse or neglect. The Code of Practice on Part 4<sup>11</sup> of the Act 2014 sets out the process for the local authority to provide and keep under review care and support plans for people who have needs which meet the eligibility criteria, and for people where it appears to the local authority that it is necessary to meet the person's needs in order to protect the person from abuse or neglect or the risk of abuse or neglect. The Care and Support Plan under Part 4 will be used for an adult at risk. This may also be referred to as a Care and Support Protection Plan.
45. The conclusions of any enquiries made when an adult is suspected to be an adult at risk must be recorded in the care and support plan under Part 4 of the 2014 Act. The individual may already have a care and support plan which should be reviewed following the outcome of the enquiries to reflect any changes that should be made. If a care and support plan is not already in place an assessment under Part 3 of the Act should be undertaken and a care and support plan put in place.

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<sup>11</sup> [Part 4 Code of Practice \(Meeting Needs\)](#)

46. The care and support plan should include all elements of a plan required under Part 4 but emphasise the protection or risk management to support the individual to achieve their personal outcomes. This may include actions such as:
- the steps to be taken to assure the individual's safety in future;
  - the provision of any support, treatment or therapy including on-going advocacy;
  - any modifications needed in the way services are provided;
  - any on-going risk management strategy as appropriate;
  - any action to be taken in relation to the person or organisation that has caused the concern, responsibility for this action and how the adult will be kept informed;
  - how best to support the adult through any action they take to seek justice or redress.
47. When a care and support plan includes elements to protect the individual from risk the professional should regularly review the plan according to the level of risk.

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## 5. The Process for Handling the Suspected Case of an Adult at Risk

48. The primary focus of the following guidance will be on the process for reporting and managing the risk of abuse or neglect. All relevant partners should be alert to the well-being needs and safety of an adult at risk and know:
- who to contact in what circumstances;
  - what sources of further advice and expertise are available; and
  - when and how to make a report to local authority social services
49. Any concerns about an adult's well-being should always be recorded in writing, including whether or not further action was taken. The recording should accurately record what has been said by whom and separate facts from opinion.
50. The following sections set out the steps that professionals should take when working together to assess and provide support or care and support for adults at risk.

### Reporting suspected cases of an adult at risk

#### Immediate threat to safety or suspicion of an offence

51. Anyone who has concerns about imminent danger to an adult or if there is suspicion that an offence may have occurred should make an immediate direct report:
- to the police without delay in order to protect those from imminent serious harm; and
  - to the 999 service if urgent medical attention is needed

#### Making the Report

52. Anyone may report actual, alleged or suspected abuse or neglect directly to social services. Reports can be made by phone, e-mail or in writing.
53. All safeguarding reports must be made to social services, and police where it is suspected that a crime has been committed, as soon as possible and within one working day of a concern being identified.
54. Where a report is made by telephone to the local authority social services, the person making the report should confirm the report in writing within 24 hours.
55. If having made the initial report in writing the person making the report has not received an acknowledgement within 7 working days they should always contact the local authority social services again. Next steps may be:

- discussion with any referring professional or service;
  - consideration of information held in existing records, including available care and support plans, risk assessments; or
  - discussion with other professionals and services as necessary (including the police, where a criminal offence may have been committed against an adult or others or any ongoing risks may be present).
56. The individual's agreement should be sought before discussing a report about them with other agencies, unless seeking agreement may itself place an individual or others at potential risk of harm, or they do not have capacity, or unless it is in the public interest not to do so.
57. Whenever local authorities have a case referred to them because of concerns about an adult at risk which constitutes or may constitute a criminal offence they must discuss the case with the police.
58. All reports about an adult at risk must be recorded and show the evaluation and conclusion reached including all the information gathered and rationale for any decision to proceed, or not to proceed, to the enquiry stage. The information should be recorded in such a way as to ensure that it is available in the future to inform any further reports received and for audit and data collection purposes.

### **Responding to a Report**

59. In all cases the local authority will need to consider the information within the context of the situation that has led to the report and assess presenting information (which may not be known at this stage) to determine whether the concerns raised provide a reasonable cause to suspect an adult (other adults or children) is or may be at risk.
60. Both social services and the practitioner making the report should be clear about and record in writing:
- the proposed action, or that no further action will be taken;
  - timescales;
  - who will be taking the action / roles and responsibilities;
  - what the individual or others will be told about the referral, by whom and when; and
  - any concerns the reporter has about the consequences for themselves and others in making the report.
61. Where a local authority decides not to take further action, or re-direct the case to other sources of more suitable support, feedback on the decision and the reasons for making it should be provided to the professional making the report.
62. The subject of any report and/or their representative should be appropriately informed of the report and the resulting determination. Should the individual or their representative disagree with the process followed by

the local authority and the matter cannot be resolved they should be referred to the local authority's complaint process<sup>12</sup>.

63. If the local authority report does not result in an enquiry under section 126(2) of the Act the individual can be advised, directly or through the professional making the report, of any other support available through the information, advice and assistance service. This may result in an assessment of their care and support needs under Part 3 of the Act.

#### **If the adult does not want any action taken**

64. The consent of the adult is a significant factor in deciding what action to take in response to a concern or allegation. Adults with care and support needs may be able to protect themselves from abuse, neglect or exploitation by others and are not inevitably unable to protect themselves because of their age, frailty or disability. In some circumstances however the ability of the adult to protect themselves may be affected by their needs for care and support. These needs may affect how far they are able to make and exercise informed choices free from pressure or duress.
65. Whilst professionals should always record and seek to respect the adult's personal wishes and autonomy, in some circumstances these wishes may be overridden, including the following examples:
- relevant partners' duty to report;
  - the adult to whom the concerns relate lacks the mental capacity to make specific decisions
  - there is high risk to the health and/or safety of the individual;
  - others, including children young people or other adults, may be at risk;
  - a crime is suspected or may have been committed against the adult;
  - concerns relate to a failure in care, breach of regulation or professional code of conduct;
  - adult social services, local Health Boards or another agency is supporting or working with an adult who is directly or indirectly affected by an issue or incident that has caused harm;
  - an individual is thought to be the cause of risk because of something they did or did not do.

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<sup>12</sup> <http://gov.wales/topics/health/socialcare/complaints/?lang=en>



## Duty to make enquiries

66. Where a local authority has reasonable cause to suspect that a person within its area (whether or not ordinarily resident there) is an adult at risk, the local authority is required by section 126(2) of the 2014 Act to make (or cause to be made) whatever enquiries it thinks necessary to enable it to decide whether any action should be taken (whether under this Act or otherwise) and, if so, what and by whom; and decide whether any such action should be taken.
67. The three separate components of this duty are:
- a reasonable cause to suspect;
  - the making of enquiries; and
  - recording the outcome of the enquiries.
68. In broad terms enquiries have three phases:
- i. **screening:** to check general factual accuracy of any referral;
  - ii. **initial evaluation:** This will involve collecting, reviewing and collating information;
  - iii. **determination:** Given the outcome of the screening/initial evaluation what, if anything, should be done? This may include initiating a single or multi-agency investigation.
69. Enquiries should not be rushed, but timescales should be set. An enquiry should normally be completed within SEVEN working days of the referral. This will not prevent immediate action being taken when necessary to protect an adult at risk. If an enquiry takes longer than seven days, the reasons should be recorded. The local authority should monitor progress with the enquiry if another agency is making enquiries and ensure compliance with timescales to prevent delay. The seven day timescale is not changed where the local authority causes the enquiry to be made by another agency. .
70. Enquiries embrace a range of activity and are not necessarily identical. The form that the enquiries take is at the local authority's discretion, based on the information and evidence that it has available and the circumstances of the individual case. Local authorities should record in writing why they consider the enquiries they are making, and the form that they are taking, to be necessary. Enquiries are information gathering in nature rather than a formal commissioned investigation.
71. Enquiries may lead up to the strategy meeting stage; they are not the investigative part of the process. Enquiries do not include formal investigations involving the police although that may be the outcome.
72. An assessment of the individual's care and support needs under Part 3 of the Act should begin as soon as the individual appears to have needs for care and support. This can run alongside and be integral to the enquiry.
73. The local authority may make the enquiries itself, or if another agency is best placed to undertake enquiries the local authority may cause them to

be made by another body. Relevant partners may be asked to undertake enquiries on behalf of the local authority, and must comply with such requests unless to do so is incompatible with their own duties. There may be circumstances where others could assist, for example a third sector or independent organisation supporting the person.

74. The duty to determine the nature of the enquiries remains with the local authority even where another body is carrying out the enquiries.
75. A lead practitioner should be identified at this stage to have oversight of the case and remain the single point of contact. If an assessment has started the lead practitioner should be the lead assessment coordinator.
76. In deciding on the nature of enquiries, the local authority should consider a number of factors:
  - the right of the person thought to be an adult at risk to refuse to participate. Refusal to participate does not automatically relieve the local authority of its duty, but may reduce the effectiveness of the enquiry.
  - The enduring nature of the duty will assist in enquiries where coercion or undue influence are present;
  - the personal outcomes, wishes and feelings of the adult at risk;
  - the possibility that the adult thought to be at risk is not making decisions freely;
  - whether there is a need to involve an advocate;
  - the need to carry out the enquiry sensitively and with the minimum distress to the person and others (for example, carers and family members);
  - whether the alleged abuser has any needs for care and support;
  - whether the alleged abuser is providing care or support for another adult at risk or child who may be at risk;
  - the need for the local authority to work closely with and involve other agencies who may be able to assist with the enquiries and contribute to achieving the identified outcomes of the enquiries;
  - the need to be aware of contaminating any evidence that might be used in any current or future criminal investigation;
  - the importance of recognising that any enquiries are proportionate and compatible with the European Convention on Human Rights and sections 2, 5, 6, and 7 of the Social Services and Well-being (Wales) Act 2014.
  - the mental capacity of the adult at risk to make specific decisions if there is reason to suspect impairment of, or a disturbance in the functioning of, the mind or brain. In accordance with the Mental Capacity Act 2005

77. If it is determined at an early stage that the adult is not an adult at risk, the enquiries should end. However, the person may need to be signposted to other agencies or services if appropriate or may require an assessment under section 19 or 24 of the Act. Section 17 of the Act requires the local authority to provide information, advice and assistance services to help all people access relevant, accurate and timely advice and assistance about ways to meet their care and support needs to achieve their personal well-being outcomes. The code of practice in relation to Part 2 sets out all the requirements on local authorities in relation to an information advice and assistance service.
78. Relevant partners **must** share information as part of exercising this duty unless to do would be unlawful.
79. The following information should be included in a report of an enquiry which is likely to be held in the individual case record or assessment of the person suspected to be an adult at risk:
- identities of the individual who identified the concern and the individual who took the decision to initiate the enquiry;
  - the identity and relevant details of the person who is the subject of the enquiries;
  - a summary of the evidence on which the 'reasonable cause to suspect' was founded;
  - the identity of the person or persons and, if relevant, the agency who conducted the enquiries;
  - the chronology of the enquiries;
  - a list of people who provided information during the enquiries;
  - a list of people interviewed during the enquiries;
  - a list of documentary evidence reviewed during the enquiries;
  - a statement that those making the enquiries consider that the person is or is not an adult at risk. Where the finding is that the adult is not an adult at risk, a statement should be included stating why this conclusion was reached.
80. Consideration should be given to identifying any possible future concerns that may arise and the need for information, advice and assistance;
- a statement on whether an assessment under the Mental Capacity Act 2005 or the Mental Health Act 1983 has been, or should be carried out. If such an assessment has been carried out, the outcome should be included in the record;
  - a statement of the findings of the enquiries that led to the conclusion (if that is the case) that the adult is an adult at risk, these should be transferred to the care and support plan if they are deemed to be at risk;
  - a record of any abuse that the person may be experiencing together with any supporting evidence including the following:
    - the nature of the abuse;
    - the length of time the person has been subjected to abuse;

- the wishes and feelings of the adult at risk;
- the frequency and intensity of the abuse;
- the alleged abuser and the relationship, if any, to the adult at risk;
- the impact of the abuse on the adult at risk;
- the presence of any other person in the household who may be an adult at risk or a child;
- whether the alleged abuser provides care and support for the adult at risk or for any other known adult at risk. If so, the nature and intensity of such care;
- the nature of any support and assistance the adult at risk may be receiving from a carer or relative other than the alleged abuser;
- the identity of any other agencies or third sector organisations who are aware or involved in working with the adult at risk;
- such other matters as those making the enquiries consider should be included in the care and support plan.

81. At any point in the enquiries an assessment of an adult's needs for care and support under section 19 or 24 of the Act for can be initiated if not already started earlier in the process. The assessment can assess their risks as well as the individual's wider care and support needs.
82. Section 54 provides that a local authority **must** prepare and maintain a care and support plan for a person whose needs it is required to meet. This includes needs which the local authority considers it necessary to meet to protect an adult from abuse or neglect or a risk of abuse or neglect. The conclusions of any enquiries made when an adult is suspected to be an adult at risk must be recorded in this care and support plan.
83. The conclusion should include whether the person is or is not an adult at risk and, what action should be taken and by whom.
84. Where an adult at risk has refused a care and support plan the findings of enquiries should be recorded in the individual case record. The record should be accessible so that any future reports can cross refer to the enquiry.

### **Section 126 enquiries and police investigations**

85. Everyone is entitled to the protection of the law and access to justice. Behaviour which amounts to abuse and neglect, for example physical or sexual assault or rape, psychological abuse or hate crime, wilful neglect, unlawful imprisonment, theft and fraud and certain forms of discrimination also often constitute specific criminal offences under various pieces of legislation. Although the local authority has the lead role in making enquiries, where criminal activity is suspected, then the early involvement of the police is likely to have benefits in many cases.
86. Where it is clear that there should be a police investigation as part of an adult at risk enquiry, a strategy meeting should be the forum for deciding

what action should be taken by whom and by when. The individual, their representatives, family or carer or carer should be seen and told the detail of the concerns.

87. A criminal investigation by the police takes priority over all other enquiries, although a multi-agency approach should be agreed to ensure that the interests and personal wishes of the adult are considered throughout, even if they do not wish to provide any evidence or support a prosecution. The welfare of the adult and others, including children, is paramount and requires continued risk assessment to ensure the outcome is in their interests and enhances their well-being.
88. If the adult has the mental capacity to make informed decisions about their safety and they do not want any action to be taken, this does not preclude the sharing of information with relevant professional colleagues. This is to enable professionals to assess the risk of harm to the individual and others and to be confident that the adult is not being unduly influenced, coerced or intimidated and is aware of all the options. This will also enable professionals to check the safety and validity of decisions made. It is good practice to inform the adult that this action is being taken unless doing so would increase the risk of harm.

#### **Action Following an Enquiry:**

89. Once enquiries are completed the outcome should be notified to the local authority and relevant partners. The local authority retains responsibility for determining what, if any, further enquiry is needed or what action could be taken, is necessary and is acceptable to the individual.
90. Section 126 enquiries may be concluded at any time where the local authority is satisfied that there is sufficient information to determine whether any action should be taken (whether under the 2014 Act or otherwise) and, if so, what and by whom. The determination of what further action is necessary or acceptable should always be made in consultation with the individual unless there are justifiable reasons for not doing so such as where there is risk to others.

### **Determination 1: - Immediate protection**

91. There are times (including where cases are already known to social services or other services) where the reported information identifies that an adult or others including a child (including an unborn child), children or adults is in need of immediate protection.
92. In these circumstances agencies with the relevant statutory protection powers (social services, or the police) or with service responsibility (health, emergency services) must act quickly to secure the individual's and others immediate safety.
93. The local authority must ensure an assessment under part 3 of the Social Services and Well-being (Wales) Act 2014 is undertaken and a care and support plan put in place. The outcome of the enquiries should be recorded in the Care and Support Plan.

### **Determination 2: - adult not at risk but may have other needs for care and support services**

94. If, at any stage, it is determined that the adult concerned is not an adult at risk, social services' duty under section 126 of the Social Services Wellbeing (Wales) Act 2014 ends. In these circumstances the individual should be advised as they would for any other referral recognising the person may need to be signposted to other agencies or services if appropriate or may require an assessment under section 19 or 24 of the Act.
95. Section 17 of the Act requires the local authority to provide information, advice and assistance services, to help all people access relevant, accurate and timely advice and assistance about ways to meet their care and support needs to achieve their personal well-being outcomes.

Local authority social services must offer an assessment to any adult where it appears to the authority that the individual may have needs for care and support, or support in the case of a carer. In these circumstances any ongoing involvement with social services would be on the basis of the individual's consent.

96. Whatever the time frame for assessment, where particular needs are identified at any stage social workers should not wait until the assessment is concluded before providing services to support the individual. In all situations the assessment should be responsive to the changing circumstances and may be paused, if necessary, to determine the impact of preventative services, such as reablement, on achieving the individual's personal outcomes.

### **Determination 3: - Adult at risk and action to protect needed**

#### **Agreeing actions while balancing wider safety considerations**

97. It is vital that the adult at risk be in control of decisions about how risks are managed. The safeguarding actions should reflect the nature and seriousness of the risk, and wherever possible and appropriate, support the person to achieve their desired outcomes. Any care and support plan that impacts on the well-being of the adult should be developed in partnership with them, taking into account their personal outcomes and the impact of the plan on their lifestyle and independence. This may include actions the adult at risk is taking, as well as the actions of the local authority and other organisations.
98. Where a person has been formally assessed as lacking the mental capacity to make decisions about their own safety, decisions about protective arrangements should be made in their best interests taking into account their wishes, feelings, beliefs and values and in accordance with the provisions of the Mental Capacity Act 2005 and related Code of Practice.
99. The Mental Capacity Act 2005 makes clear that agencies and public bodies must presume that an adult has the mental capacity to make a decision until there is a reason to suspect that capacity is in some way compromised; the adult is best placed to make decisions about their wellbeing which may involve taking certain risks. If the adult has the mental capacity to make decisions in this area of their life and declines assistance, this can limit the intervention that organisations can make. The focus should therefore be, on harm reduction. It should not however limit the action that may be required to protect others who are at risk of harm.
100. Where the adult at risk
  - a) has the mental capacity to make informed decisions about their own safety,
  - b) there is no public interest or vital interest considerations and
  - c) they choose to live in a situation in which there is potential risk or have refused a care and support plan.
101. The findings of such enquiries should be clearly recorded on the individual's case record and include the protection arrangements offered and the work undertaken to understand the reasons for not accepting support. It is important that the record of the enquiry is accessible and is not lost because it is not attached to a care and support plan.
102. Throughout any response it is necessary to consider the safety and well-being of others; this may be those people living in the same family home, those in the same care environment or members of the wider public.

#### **Co-ordinated multi-agency response to concerns**

103. In some circumstances the information available or resulting from section 126 enquires will indicate the need for a wider multi-agency response to the

concerns. Such coordinated action will be indicated by, but not limited to; where any or all of the following factors or concerns are present:

- institutional abuse
- concerns about the safety of a service to continue operating
- concerns several individuals may be at risk;
- allegations of abuse or neglect in relation to a 'person in position of trust' including in regard to their own children or family members;
- where formal or legal actions could be taken in relation to the person alleged to have caused harm
- several agencies are likely to be involved in an enquiry;
- other legal or regulatory action may be necessary;
- one or more members of staff have been implicated/suspended;
- where there is a need to clarify employment status of one or more individuals; this will be important in regard to personalised services including people employed via direct payment.
- historical abuse allegations usually of an organised or multiple nature and the implications including that of any on-going contact with adults or children.

104. Properly coordinated action will often achieve more than a series of separate enquiry or investigation processes. It will ensure that information and evidence is shared; repeat interviewing is avoided and will cause less distress for the person who may have experienced abuse. However, each agency must act in accordance with its duty when it is satisfied that the action is appropriate. Whilst there may be joint actions, the information shared must be constantly evaluated and reviewed by each agency.

### **Strategy Meeting**

105. A Strategy Meeting follows the enquiry and is a multi-agency meeting to discuss the nature of the referral and agree a response particularly when the enquiries substantiate that an adult is suspected at risk.

106. This can take the form of a telephone discussion or a physical meeting but a record must be kept irrespective of the form and numbers involved. This will take place within 7 working days of the completion of an enquiry.

107. A Strategy Meeting has three purposes:

- to share information;
- to consider issues relating to the report and in particular the level of risk;
- to ensure the assessment is completed; and
- to decide on a course of action.

108. In planning any enquiry or investigation the strategy meeting will consider respective roles and responsibilities of organisations, specific tasks



required, issues of cooperation, communication and the best use of skills, expertise and resources.

109. A strategy meeting should agree how any required information will be sought, and who will be responsible for the various activities. Relevant partners should agree a plan at the end of a strategy meeting to agree areas such as:
- the concerns or allegations to be addressed
  - actions within each agency and how they will be coordinated such as:
    - further enquiries
    - criminal investigations led by the police
    - investigation led by health
    - disciplinary procedures led by the employer
    - regulatory breach, inspection by relevant regulator
  - the involvement, support and communication needs of any adult at risk and the person or organisation alleged to have caused harm
  - risk management to ensure no one is left or placed at risk and investigations are not prejudiced.
  - dates for reporting, completion and next steps.
110. Whilst it is vital that decisions about safeguarding arrangements are made in partnership with the adults at risk it is essential that any formal enquiry or investigation is, and appears to be, fair and objective to all concerned. Every effort should be made to explain the purpose of any enquires and investigations to the adults at risk, to find out their concerns. What they want to happen and their personal outcomes should act to inform decision-making as it relates to them. Consideration should always be given to the adults at risk support needs to enable the person to participate in relevant decision-making. The Strategy meeting **must** decide who will liaise with the adult at risk, and their family, about decisions reached or required.

### **Investigation**

111. A safeguarding investigation is a structured process to gather evidence to reach a conclusion as to whether people have been placed at risk, or are at ongoing risk. It may involve a number of agencies who may have additional interests in, and purposes arising from, the investigation; for example law enforcement or contractual compliance.
112. Evidence from the investigation should be submitted in a written investigation report to the adult protection conference

### **Adult Protection Conference**

113. A Conference should be held following the investigation.
114. A Case Conference is a multi-agency meeting which includes the individual, and relevant others, as appropriate to share and discuss the

outcome of the investigation and agree the care and support plan and any further actions.

### **Reviews and Closure**

115. The care and support plan should be reviewed regularly to ensure all risk is removed, or managed, and care and support needs are met. The review should follow the process set out under Part 4 of the Act.

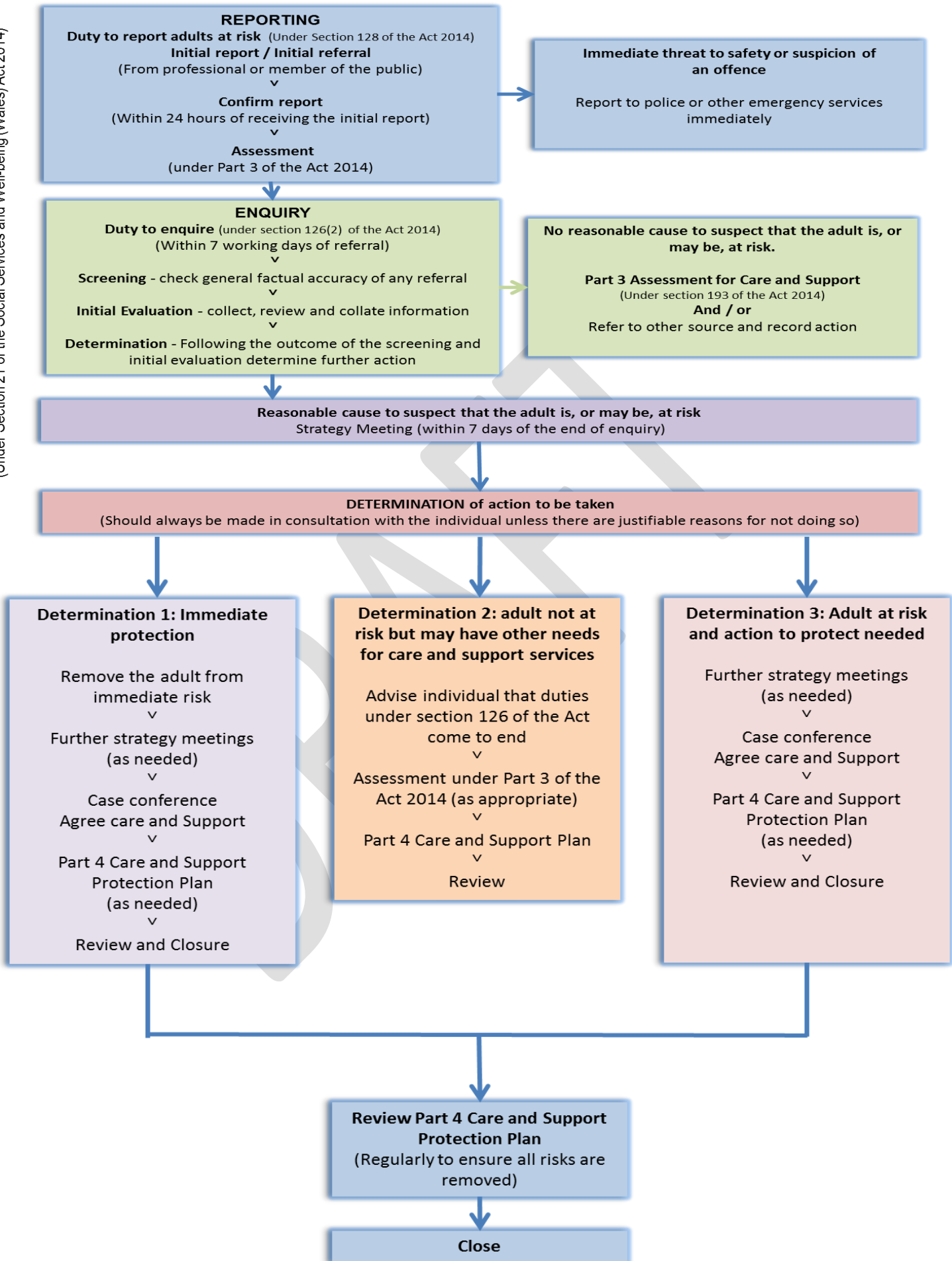
### **Complaints**

116. Every local authority should have a complaints procedure in place for the handling of complaints about a multi-agency process, **such as an adult protection conference**. The complaints process should address the multi-agency nature of a process rather than the complaint against the actions of a single agent which should be pursued through their own complaints procedure.

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**Reporting adults at risk**

Part 3 Assessment for Care and Support ongoing  
(Under Section 21 of the Social Services and Well-being (Wales) Act 2014)



## 6. Managing concerns in particular circumstances

117. People can be subjected to abuse and or neglect by those who work with them in any and every setting. All allegations of abuse or neglect of adults by a professional, staff member, professional carer, or volunteer must be taken seriously and treated in accordance with consistent procedures.
118. Safeguarding Boards have responsibility for ensuring there are effective inter-agency procedures in place for dealing with allegations against people who work with both adult and children, and monitoring and evaluating the effectiveness of those procedures. Safeguarding Boards and other organisations that provide services for adults or children, or provide staff or volunteers to work with or care for adults or children, should operate a procedure for handling such allegations that is consistent with this guidance.

### **Person alleged to be responsible for abuse or neglect**

119. When a complaint or allegation has been made against a member of staff, including people employed by the adult, they should be made aware of their rights under employment legislation and any internal disciplinary procedures.
120. Where the person who is alleged to have carried out the abuse themselves has care and support needs and is unable to understand the significance of questions put to them or their replies, they should be assured of their right to the support of an 'appropriate' adult if they are questioned in relation to a suspected crime by the police under the Police and Criminal Evidence Act 1984 (PACE). Victims of crime and witnesses may also require the support of an 'appropriate' adult.
121. Where a person lacks the mental capacity to make specific decisions and is alleged to be responsible for abuse, responsible bodies have powers to instruct an Independent Mental Capacity Advocate (IMCA) to support and represent that person. This legal provision is set out in full in the Mental Capacity Act 2005 (Independent Mental Capacity Advocates (Wales) Regulations 2007<sup>13</sup>).
122. The Police and Crown Prosecution Service should agree procedures with the local authority, care providers, housing providers, and local health boards and NHS Trusts to cover the following situations:
- action pending the outcome of the police and the employer's investigations
  - action following a decision to prosecute an individual
  - action following a decision not to prosecute
  - action pending trial
  - responses to both acquittal and conviction

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<sup>13</sup> <http://www.legislation.gov.uk/wsi/2007/852/regulation/9/made>

123. Employers who are also providers or commissioners of care and support not only have a duty to the adult, but also a responsibility to take action in relation to the employee when allegations of abuse are made against them. Employers should ensure that their disciplinary procedures are compatible with the responsibility to protect adults at risk of abuse or neglect.
124. With regard to abuse, neglect and misconduct within a professional relationship, codes of professional conduct and/or employment contracts should be followed and should determine the action that can be taken. Robust employment practices, with checkable references and recent DBS checks are important. Reports of abuse, neglect and misconduct should be investigated and evidence collected.
125. Where appropriate, employers should report workers to the statutory and other bodies responsible for professional regulation such as the General Medical Council and the Nursing and Midwifery Council. If someone is removed from their role providing regulated activity following a safeguarding incident the regulated activity provider (or if the person has been provided by an agency or personnel supplier, the legal duty sits with them) has a legal duty to refer to the Disclosure and Barring Service. The legal duty to refer to the Disclosure and Barring Service also applies where a person leaves their role to avoid a disciplinary hearing following a safeguarding incident and the employer/volunteer organisation feels they would have dismissed the person based on the information they hold.
126. The standard of proof for prosecution is 'beyond reasonable doubt'. The standard of proof for internal disciplinary procedures and for discretionary barring consideration by the Disclosure and Barring Service (DBS) and the Vetting and Barring Board is usually the civil standard of 'on the balance of probabilities'. This means that when criminal procedures are concluded without action being taken this does not automatically mean that regulatory or disciplinary procedures should cease or not be considered. In any event there is a legal duty to make a safeguarding referral to DBS if a person is dismissed or removed from their role due to harm to a child or a vulnerable adult.

### **Allegations against people in positions of trust**

127. The local authority's relevant partners, and those providing universal care and support services, should have clear policies for dealing with allegations against people who work, in either a paid or unpaid capacity, with adults with care and support needs. Such policies should make a clear distinction between an allegation, a concern about the quality of care or practice or a complaint.
128. Whilst the focus of safeguarding is to safeguard one or more identified adults with care and support needs, there are occasions when incidents are reported that do not involve an adult at risk, but indicate, nevertheless, that a risk may be posed to adults by a person in a position of trust.
129. If an organisation removes an individual (paid worker or unpaid volunteer) from work with an adult with care and support needs (or would have, had the person not left first) because the person poses a risk of harm to adults,

the organisation must make a referral to the Disclosure and Barring Service. It is an offence to fail to make a referral without good reason. Allegations against people who work with adults at risk must not be dealt with in isolation. Any corresponding action necessary to address the welfare of adults with care and support needs should be taken without delay and in a coordinated manner, to prevent the need for further safeguarding in future.

130. Local authorities should ensure that there are appropriate arrangements in place to effectively liaise with the police and other agencies to monitor the progress of cases and ensure that they are dealt with as quickly as possible, consistent with a thorough and fair process.

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