Cheshire West and Chester Local Safeguarding Adults Board

Safeguarding Adults Procedures

Revised June 2024

Contents

Glossary of Terms

Abuse –the Care Act Statutory guidance does not provide a general definition of what constitutes abuse or neglect so as not to limit thinking in this area. It is recognised that abuse or neglect can take many forms and the circumstances of the individual should always be considered. The following are identified as common types of abuse or neglect – physical, sexual, emotional, psychological, financial, material, neglect, acts of omission, discriminatory, organisational, domestic abuse, modern slavery, and self-neglect (this list is not exhaustive).

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

Adult safeguarding – the term used to cover all work undertaken to support adults with care and support needs to maintain their own safety and well-being. It describes the preventative and responsive actions undertaken to support adults who are experiencing or are at risk of experiencing abuse or neglect.

Adult safeguarding process – refers to the decisions and subsequent actions taken on receipt of a concern. This process can include safeguarding meetings or discussions, enquiries, a safeguarding plan and monitoring and review arrangements.

Adult with care and support needs - someone 18 or above who has needs for care and support (whether or not the local authority is meeting any of those needs) and; is experiencing, or at risk of, abuse or neglect; and as a result of those care and support needs is unable to protect themselves from either the risk of, or the experience of abuse or neglect.

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

Best interest – the Mental Capacity Act 2005 states that if a person lacks mental capacity to decide then whoever is making that decision or taking any action on that person's behalf must do so in the person's best interest.

Carer – refers to unpaid carers for example, relatives or friends of the adult with care and support needs. Paid workers, including personal assistants, whose job title may be 'carer' are called staff. The Care Act defines the carer as an adult who provides or intends to provide care for another adult who needs support.

Concern - describes when there is or might be an incident of abuse or neglect. Replaces the previously used term "alert."

Consent - the voluntary and continuing permission of the person for the intervention based on an adequate knowledge of the purpose, nature, likely effects, and risks of that intervention, including the likelihood of its success and any alternatives to it.

CQC (Care Quality Commission) - responsible for the registration and regulation of health and social care in England.

DBS (Disclosure and Barring Service) – is a non-departmental public body of the Home Office of the UK. It supports organisations in the public, private and voluntary sectors to make safer recruitment decisions by identifying candidates who may be unsuitable for certain work, especially that involving children or adults it also provides wider access to criminal record information through its disclosure service for England and Wales.

Domestic Abuse – is any incident or pattern of incidents of controlling, coercive, threatening behaviour, violence, or abuse between those aged 16 or over who are, or have been, intimate partners or family members regardless of gender or sexuality. The abuse can encompass, but is not limited to: psychological, physical, sexual, financial, and emotional.

DoLS (Deprivation of Liberty Safeguards) – is an amendment to the MCA (2005) and provides safeguards for people who lack capacity specifically to consent to treatment or care in either a hospital or care home that, in their own best interests, can only be provided in circumstances that amount to a deprivation of liberty.

Emergency Duty Team – a social care team that responds to out of hours referrals where intervention from the Council is required to protect a vulnerable child or adult with care and support needs, and where it would not be safe, appropriate or lawful to delay that intervention to the next working day.

Enquiry - An enquiry is the action taken or instigated by the Local Authority in response to a concern that abuse, or neglect may be taking place. The purpose of the enquiry is to establish whether the Local Authority or another organisation, or person needs to do something to stop or prevent the abuse or neglect.

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

General Data Protection Regulations 2018 - As of May 2018 the Data Protection Act (DPA) will be replaced by the General Data Protection Regulation 2018. The regulations govern how and why personal data is processed, it is intended to strengthen and unify data protection. Article 9 (h) allows the processing of special categories of personal data necessary to provide health and social care.

HR (human resources) – the division of an organisation that is focused on activities relating to employees. These activities normally include recruiting and hiring of new employees, orientation and training of current employees, employee benefits, and retention.

Human Rights Act 2000 – legislation introduced into domestic law for the whole of the UK in October 2000, to comply with the obligations, set out in European Convention of Human Rights. Section 73 of the Care Act 2014 extends the provisions of the Human Rights Act to protect people who are in receipt of personal care in the place where they reside at the time under the following circumstances. The care is arranged or commissioned (partly or wholly) by a relevant Authority (public body currently covered by the Act).

Independent Mental Capacity Advocate (IMCA) - Established by the Mental Capacity Act 2005. IMCAs are mainly instructed to represent people who lack mental

capacity when there is no-one outside of services, such as a family member or a friend, who can represent them. IMCAs are a legal safeguard who will help people make important decisions about where they live, serious medical treatment options, care reviews, or adult safeguarding concerns.

Lapse in care that has led to harm - It can be the result of a responsible person (such as a care worker or family member) doing something incorrectly (e.g., not following correct procedure when repositioning an individual cared for in bed) or not doing something that they should do (e.g., not giving an individual their medication) that has led to the person being harmed.

MCA (Mental Capacity Act 2005) – the Mental Capacity Act 2005 provides a statutory framework to empower and protect people aged 16 and over who lack, or may lack, mental capacity to make certain decisions for themselves because of illness, a learning disability, or mental health problems. The Act was fully implemented in October 2007and applies in England and Wales.

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

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

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

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

2.0 Introduction

These Adult Safeguarding Procedures are written with a key focus on the key principles within section 42 of The Care Act 2104. The aim is to ensure that a person-centred approach is taken when supporting adults at risk of/who have experienced harm are supported to engage in the process in an outcome focused way. It is vital for successful safeguarding that the procedures in this section are understood and applied consistently by all organisations.

Care Act 2014 Safeguarding principles

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 act 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 can 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 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 responsibility for the coordination of adult safeguarding arrangements lies with the Local Authority, the implementation of these procedures is a collaborative responsibility and effective work must be based on a multi-agency approach to:

- Work together to prevent and protect adults with care and support needs from abuse.
- Empower and support people to make their own choices.
- Make enquiries and act about actual or suspected abuse and neglect.
- Support adults and provide a service to those who are experiencing, or who are at risk of, abuse, neglect, or exploitation.
- Share information in a timely way.
- Co-operate with each other to safeguard adults with care and support needs – although the Care Act 2014 is clear that the lead role sits with the Local Authority, Section 6 of the Act is equally clear that the Local Authority and other relevant partner agencies have duties to co-operate with each other.

The following key themes run throughout the adult safeguarding process:

- **User outcomes**: what the individual wants to achieve must be identified and revisited where appropriate. To what extent these views and desired outcomes have been met must be reviewed at the end of the safeguarding process regardless of what stage it is concluded.
- **Risk assessment and management**: these are central to the adult safeguarding process. Risks to others must also be considered.
- **Mental capacity**: the Mental Capacity Act 2005 requires an assumption that an adult (aged 16 or over) has full legal capacity to make decisions unless it can be shown that they lack capacity to decide for themselves at the time the decision needs to be made. Individuals must be given all appropriate help and support to enable them to make their own decisions or to maximise their

participation in any decision-making process. Unwise decisions do not necessarily indicate lack of capacity. Any decision made, or action taken, on behalf of someone who lacks the capacity to make the decision or act for themselves must be made in their best interests. It is important that an individual's mental capacity is considered in the adult safeguarding process.

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

Where an adult has substantial difficulty being involved in the adult safeguarding enquiry and where there is no other appropriate person to represent them, the Social Worker must arrange for an independent advocate to support and represent them as stated in the Care and Support Statutory Guidance.

- Safeguarding planning should be used to.
    1. Prevent further abuse or neglect.
    2. Keep the risk of abuse or neglect at a level that is acceptable to the person being abused or neglected and the agencies supporting them.
    3. Adults with mental capacity have the right to self-determination and as such may decide to remain in a situation which professionals feel is unsafe or make decisions which professionals feel are 'unwise'.
    4. Promote wellbeing and support anyone who has been abused or neglected to recover from that experience.

- Information sharing: is key to delivering informed and efficient services that are coordinated around the needs of the individual. An awareness and appreciation of the role of your own and other organisations is essential for effective collaboration and partnership working to keep adults at risk safe from significant risk of harm. Early intervention and preventative work are of benefit to all to promote the safeguarding duties for those adults at risk. Information sharing is a vital element in improving outcomes for all, also to be recognised that people need to feel confident that their personal information is managed in a sensitive way. Sharing the right information, at the right time, with the right people, is fundamental to good practice in safeguarding adults.
- An agreement for information gathering and sharing is imperative to ensure that the safeguarding enquiry is presented with factual information and needs to consider: -:
    - The wishes, views, and desired outcomes of the person at risk
    - The person's mental capacity and need for representation.
    - The nature of the concerns
    - The person's mental capacity in relation to decisions about their safety and wellbeing
    - What actions have already been taken?
    - Whether the person is now safe and what the risks are, and
    - Whether further actions are needed to respond to those risks.

The local authority will need to decide whether it can gather this information, or whether another agency is better placed to do so. If another agency is better placed, then often they will ask them to help gather this information. The approach taken should be one of partnership, working together to achieve best outcomes for the person at risk.

- Recording: good record-keeping is an essential part of the accountability of organisations to those who use their services. Maintaining factual records is vital to individuals' care and safety by all agencies. It is fundamental to ensure that evidence is protected and to show what action has been taken and what decisions have been made and why.

- Feedback: it is important to ensure feedback is given to the adult; people raising the concern where appropriate and partner agencies. People who raise adult safeguarding concerns are entitled to be given appropriate information regarding the status of the referral they have made. The extent of this feedback will depend on various things (e.g., the relationship they have with the victim, confidentiality issues and the risk of compromising an enquiry). At the very least it should be possible to advise people raising the concern that their information has been acted upon and taken seriously. Partners in provider organisations require feedback to allow them to continue to provide appropriate support to fulfil employment law obligations and make staffing decisions.

Finally, it is equally important that these procedures are managed and administered in such a way as to comply with all the articles of the Human Rights Act 1998 (Articles 5 and 8). What this means is that both the process and the outcome must be the least restrictive, proportionate and enable risk where appropriate. In addition, any actions falling under these procedures should be consistent with current legislation as it relates to social care, health, housing, and education.

3.0 What is a Section 42 enquiry?

The Care Act 2014 (Section 42) requires that each local authority must make enquiries, or cause others to do so, if it believes an adult is experiencing, or is at risk of, abuse or neglect. An enquiry should establish whether any action needs to be taken to prevent or stop abuse or neglect, and if so, by whom.

'Safeguarding adults' is the name given to the multi-agency response used to protect adults with care and support needs from abuse and neglect. When an allegation about abuse or neglect has been made, an enquiry is undertaken to find out what, if anything, has happened. The findings from the enquiry are used to decide whether abuse has taken place and whether the adult at risk needs an action plan. An action plan is a list of arrangements that are required to keep the person and others safe.

The purpose of a safeguarding enquiry is to decide what action in needed to help and protect the adult. Its aims are to:

- establish the facts about an incident or allegation.
- ascertain the adult's views and wishes on what they want as an outcome from the enquiry.

- assess the needs of the adult for protection, support and redress and how they might be met.
- protect the adult from the abuse and neglect, as the adult wishes.
- establish if any other person is at risk of harm.
- make decisions as to what follow-up actions should be taken regarding the person or organisation responsible for the abuse or neglect.
- enable the adult to achieve resolution and recovery.

3.1 Definition as defined in section 42 of The Care Act – 2014

Enquiry by local authority

(1) This section applies 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.

(2) The local authority must make (or cause to be made) whatever enquiries it thinks necessary to enable it to decide whether any action should be taken in the adult's case (whether under this Part or otherwise) and, if so, what and by whom.

(3)“Abuse” includes financial abuse; and for that purpose “financial abuse” includes—

(a)having money or other property stolen,

(b)being defrauded,

(c)being put under pressure in relation to money or other property, and

(d)having money or other property misused.

3.2 Purpose

Safeguarding concerns should always be taken seriously, and the correct information/advice given. The steps to be taken when responding to a concern are:

- Ensure that immediate actions are taken to safeguard anyone at immediate risk of harm. Where appropriate call 999 for emergency services if there is a medical emergency, other danger to life or risk of imminent injury, or if a crime is in progress.
- Wherever it is safe to do so, to speak to the adult and get their views on the concern or incident and their desired outcomes. This should help to guide what next steps should be taken and whether the concern should be reported as an adult safeguarding concern or should be dealt with by another means.
- If the concern meets the criteria for a Section 42 enquiry, then report the concern, without delay, to the **Community Access Team** https://adultsocialcareonline.cheshirewestandchester.gov.uk/web/portal/pages

/home/professionals and the **Emergency Duty Team** 01244 977277 out of office hours, weekends and bank holidays, and report to the Police where a criminal offence has occurred or may occur. Information on what constitutes a Section 42 enquiry can be found on page 14 of the North West Safeguarding Adults Policy, Local Safeguarding Adults Board

- Take steps to preserve any physical evidence if a crime may have been committed and preserve evidence through recording.
- Consider if there are other adults with care and support needs who are at risk of harm, and take appropriate steps to safeguard them;
- Report concerns to the **Integrated Access and Referral Team** (I-ART) 0300 1237047 if a child is identified as being at risk of harm.

3.3 What will happen when a safeguarding concern is raised?

The level of response will depend upon several factors – intentional or unintentional abuse, the harm that has occurred, the risk of the same thing happening again, whether the abuse constitutes a criminal offence, and importantly what the 'adult at risk' wants to happen if they have the capacity to make this decision.

Adults with mental capacity have the right to self-determination and as such may decide to remain in a situation which professionals feel is unsafe or make decisions which professionals feel are 'unwise'.

3.4 Making a decision

Once all relevant information has been gathered – including the views of the adult in all circumstances where it is possible and safe to ask. The Local Authority should be able to make a decision about how the concern should be addressed and whether the criteria for a statutory section 42 duty of enquiry is met.

Where the above criteria for statutory enquiry are not met, please refer to section on Adult Quality Concerns

3.5 Roles and responsibilities

A concern can be identified and reported by anyone, including the adult, a carer, family, friends, professionals, or other members of the public.

Any individual or agency can respond to an adult safeguarding concern raised about an adult. This can include reporting the concern and seeking support to protect individuals from any immediate risk of harm (e.g., by contacting the police or emergency services).

Individual agencies should have internal procedures and guidance for responding to and reporting concerns.

Follow good practice under the Mental Capacity Act when speaking to the adult. Assume the adult has capacity unless proven otherwise. If the person is proven to lack capacity, speak to the person's representative/s and always act in their best interests.

The Local Authority cannot delegate its duty to conduct a formal Section 42 enquiry, but it can cause others to make enquiries. This means that the Local Authority may

ask a provider or partner agency to conduct its own enquiries, and report these back to the Local Authority to inform their decision about whether and what action is required in the adult's case.

Where a crime has or may have been committed the Police are responsible for conducting a criminal investigation. In the meantime, providers can run as a dual process.

While the Local Authority has overall responsibility and the duty to conduct enquiries, this does not absolve other agencies of safeguarding responsibilities. Relevant partner agencies involved in providing services to adults who may have care and support needs have a legal duty to cooperate in formal adult safeguarding enquiries, unless doing so is incompatible with their own duties or would have an adverse effect on their own functions. This includes sharing information to enable the enquiry to be made thoroughly, participating in the enquiry planning processes, and undertaking enquiries when they have been caused by the Local Authority to do so.

3.6 Timeliness and risk

This procedure does not outline any specified indicative timescales to complete checks and make the decision about how the concern should be responded to. However, as with all adult safeguarding work, responses should be timely, and a decision should be made within two working days.

If there are immediate risks to be managed, the sharing and gathering of information and planning will be facilitated by a discussion led by Cheshire West and Chester Council's Adult Social Care in partnership with others.

3.7 Responding to disclosures

It is often difficult to believe that abuse or neglect can occur. Remember, it may have taken a great amount of courage for the person to tell you that something has happened and fear of not being believed can cause people not to tell. Good practice in responding to disclosures should include-

- Accept what the person is saying – do not question the person, reassure the person that you take what they have said seriously.
- Don't interview the person; just listen to what they are saying. If they want to give you lots of information, let them. ~~R~~emember what the person is saying in their own words so that you can record it later. You can ask questions to establish the basic facts.
- Don't promise the person that you'll keep what they tell you confidential or secret. Explain that you will need to tell another person, but you'll only tell people **who need to know** so that they can help.
- Reassure the person that they will be involved in the safeguarding process and any decisions made regarding them.
- Do not be judgemental or jump to conclusions.
- If the person has specific communication needs, provide support and information in a way that is most appropriate to them, ensure that all involved are made aware of this also.

3.8 Preserving Physical Evidence

In cases where there may be physical evidence of crimes (e.g. physical or sexual assault), contact the Police immediately. Ask their advice about what to do to preserve evidence.

As a guide-

- Where possible leave things as and where they are. If anything must be handled, keep this to an absolute minimum.
- Do not clean up. Do not touch anything you do not have to. Do not throw anything away which could be evidence.
- Do not wash anything or in any way remove fibres, blood, etc;
- Preserve the clothing and footwear of the victim.
- Preserve anything used to comfort or warm the victim, e.g. a blanket.
- Note in writing the state of the clothing of both the victim and person alleged to have caused the harm. Note injuries in writing. As soon as possible make full written notes on the conditions and attitudes of the people involved in the incident.
- Take steps to secure the room or area where the incident took place. Do not allow anyone to enter until the Police arrive.

In addition, in cases of sexual assault: -

- Preserve bedding and clothing where appropriate, do not wash.
- Try not to have any personal or physical contact with either the victim or the person alleged to have caused the harm. Offer reassurance and comfort as needed but be aware that anyone touching the victim or source of risk can cross contaminate evidence.

4.0 What is an adult quality concern

Adult quality concerns are incidents that did not incur harm, were not as a result of an act of omission and that do not meet the threshold for a Section 42 referral, these must be recorded and submitted monthly to the Local Authority.

Adult quality concerns are to be sent to AdultQualityConcerns@cheshirewestandchester.gov.uk by the first week of the previous month (i.e. March returns are due by the end of the first week of April)

It is vital to record and report all incidents within your service and to carry out regular analysis to understand themes and trends and discuss lessons learned. This is essential as some very serious issues have been identified following notification of the repetition of minor actions or omissions, which collectively have amounted to significant abuse.

All staff within your services should be completing regular safeguarding training to ensure that they are able to identify whether an incident should be recorded as an adult quality concern or raised as safeguarding referral, these need to be recorded and reported timely and accurately and sent to the appropriate team.

If you have concerns which do not come under safeguarding procedures, you can contact:

- Market Management Quality team - if the concerns relate to Care Homes, Care at Home, Extra-Care Housing and LD and Supported Living services.
- Complaints department
- Commissioning and Contracts team if the concern relates to the conduct of a commissioned service.

By working closer with the voluntary and community sector, organisations can reduce the number of Quality Concerns by being more joined up with them, for example reducing feelings of suicide by putting lonely service users in touch with a local chat group. They can use Live Well to find local community and voluntary sector service on the Cheshire West Live Well - which is an online directory and information hub that lists places where people can learn to get online and therefore be more connected.
Getting online | Live Well Cheshire West (cheshirewestandchester.gov.uk)

5.0 Safeguarding Adults in Care Homes

This guideline covers keeping adults in care homes safe from abuse and neglect. It includes potential indicators of abuse and neglect by individuals or organisations and covers the safeguarding process from when a concern is first identified through to Section 42 safeguarding enquiries. There are recommendations on policy, training, and care home culture, to improve care home staff awareness of safeguarding and ensure people can report concerns when needed. https://www.nice.org.uk/guidance/NG189

6.0 High Risk Panels

Any agency can convene a high-risk panel for an adult who is Care Act eligible or for an adult that doesn't meet the threshold for Care Act eligibility but there are concerns of high risk of harm and it is deemed necessary to convene a multi-agency panel to look at a plan to mitigate the high risk of harm either from their own action or the actions from others. The process involves a practitioner or manager can complete the referral form and email to the Risk Assessor lead with the following additional documents (Care Act Assessment, RA, MCA/BIM where applicable). The Risk Assessor lead will then coordinate a meeting, which will consist of SM for that area, P/M/TM, practitioner and where relevant and chair in agreement, other parties professionally involved.

The purpose of the High-Risk Panel is to offer support and guidance to practitioners when dealing with very high-risk cases. This will be a supportive role and will explore all options available.

7.0 Capacity and consent

The Mental Capacity Act (2005) defines the following principles for the consideration of capacity.

(1) The following principles apply for the purposes of this Act.

(2) A person must be assumed to have capacity unless it is established that he lacks capacity.

(3) A person is not to be treated as unable to make a decision unless all practicable steps to help him to do so have been taken without success.

(4) A person is not to be treated as unable to make a decision merely because he makes an unwise decision.

(5) An act done, or decision made, under this Act for or on behalf of a person who lacks capacity must be done, or made, in his best interests.

(6) 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.

Capacity – anyone who acts for, or on behalf of, a person who may lack capacity to make relevant decisions has a duty to understand and always work in line with the Mental Capacity Act (MCA) and MCA Code of Practice.

Consent – all adults have the right to choose and have control in their own lives. As a general principle, no action should be taken for, or on behalf of, an adult without obtaining their consent.

At the concern stage, the most common capacity and consent issues to consider will usually be: -

- whether the adult has the mental capacity to understand and make decisions about the abuse or neglect related risk, and any immediate safety actions necessary and.
- whether the adult consents to immediate safety actions being taken and whether the adult consents to information being referred/shared with other agencies.

If it is felt that the adult may not have the mental capacity to understand the relevant issues and to decide; it should be explained to them as far as possible, given the person's communication needs. They should also be given the opportunity to express their wishes and feelings.

It is important to establish whether the adult has the mental capacity to make specific decisions. This may require the assistance of other professionals. In the event of the adult not having capacity, relevant decisions and/or actions must be taken in the person's best interests. The appropriate decision-maker will depend on the decision to be made.

7.1 Reporting without consent of an adult with capacity

If there is an overriding public interest or vital interest, or if gaining consent would put the adult at further risk, the concern must be reported. This includes situations where:

- There is a risk or harm to the wellbeing and safety of the adult or other.
- Other adults or children could be at risk from the person causing harm.
- If is necessary to prevent crime or if a crime may have been committed.

- The person lacks capacity to consent.

The adult would normally be informed of the decision to report and the reasons for this, unless telling them would jeopardise their safety or the safety of others.

Disclosure without consent needs to be justifiable and the reasons recorded by professionals in each case.

For further information please refer to the North West Safeguarding Adults Policy, p16 Information Sharing, Local Safeguarding Adults Board

7.2 Anonymous reporting and protecting anonymity

Anonymous reporting – the outcome for the adult at risk is improved when it is known who is reporting a concern. It can be difficult to follow up concerns if the identity or contact details of the referrer are not known. Staff working in a professional role should always be expected to state who they are when reporting concerns and provide contact details. Where appropriate the referrer can remain anonymous to the person alleged to have caused harm.

If the identity of the referrer has been withheld, the adult safeguarding process will proceed if there is enough information to do so.

Protecting anonymity – while every effort will be made to protect the identity of anyone who wishes to remain anonymous, the anonymity of people reporting concerns cannot be guaranteed throughout the process.

8.0 Timescales when someone has died

Referrals should be made in a timely manner – delays may mean it is difficult to enquire as evidence may be lost. Unfortunately, there will be some cases where the adult at risk has died before, during or shortly after the referral, this should not be a reason for failing to make enquiries of alleged or suspected abuse. In such cases the interests, welfare, and safety of OTHER adults at risk should be considered before any decision is made that an enquiry is not required or that the enquiry is closed. If there are no other adults at risk the case may be closed. Referrals made after a person has died should be done within 8 weeks of the date of the concern. Any referrals outside of the timescale should be discussed with the Senior Manager, if there are valid reasons for the delay/and others are still at risk the manager may agree to an enquiry. If outside of the time frame then a Safeguarding Adult Review can be made, the policy and the referral form can be found on the Local Safeguarding Adults Board

The purpose of a safeguarding enquiry is to establish the probability that abuse occurred NOT if it led to the death of that person, which is a matter for the police and the coroner, although information discussed during the safeguarding process may be pertinent to them enquires. The main purpose of the safeguarding enquiry is to gather information and ensure that other adults at risk are protected.

8.1 If Safeguarding Adults Procedures are already in progress

Safeguarding procedures must be completed if they have begun before someone dies. Someone passing away during a referral or enquiry should not result in the process stopping. It is important to complete the process and arrive at an outcome.

8.2 If Safeguarding Adults procedures have NOT began

Safeguarding procedures should be started when a person dies if abuse is suspected as being a contributing factor and:

- there are lessons to be learnt **or**
- there are a possibility other people are or may be affected.

8.3 Things to consider when safeguarding after someone dies

• Has a criminal offence occurred?

• Involvement of the Coroner

• Consider if anyone else may be affected

• What can we learn from this incident?

• Secure documentation as soon as possible

• Involving families, where appropriate to do so, will require extreme sensitivity

• How long after someone dies should we consider implementing safeguarding? This will need to be decided on an individual basis.

Consideration of other reviews i.e., LeDeR. (A LeDeR review looks at key episodes of health and social care the person received that may have been relevant to their overall health outcomes. The reviewers look for areas that need improvement and areas of good practice). If you decide that another review will cover the safeguarding aspects, then you may decide not to duplicate work. Any decision needs to be recorded on the system and the reasons why.

Safeguarding procedures will:

- help ensure multi-Agency working and sharing of information
- enable the Care Quality team to be involved where the victim is a person self-funding their care and support
- provide a framework
- ensure other possible victims are identified and safeguarded

8.4 How should safeguarding proceed?

• The referral should be logged against the individual who died

• Information gathering should proceed as per the procedures

• Strategy discussion or meeting should take place as per the procedures

• An enquiry should proceed as per the procedures if abuse is suspected

• The safeguarding process can be used to conclude the enquiry, determine the outcome, identify any learning or decide to carry out further enquiries.

8.5 Checklist if concerns raised after a person has died

The LA will complete a checklist when a referral is received after a person has died to determine whether a s42 is applicable or not.

The role for the Local authority:

It states, "safeguarding procedures should be started when a person dies if ***abuse is suspected as being a contributing factor****"* ***AND***

-there are lessons to be learnt

-there is a possibility other people may be affected

9.0 Out of area placements

The term "out of area" relates to an individual's care and support being delivered in a local authority area that is different from the local authority with the statutory responsibility for the provision of that care and support.

Where this involves a service commissioned by Cheshire West and Chester outside of the borough the 'host' authority would have the responsibility to lead on the section 42 responsibilities.

If the alleged harm has occurred in the area covered by Cheshire West and Chester, they will be responsible for the section 42 enquiry and will involve the commissioning authority in the enquiry.

The full ADASS Guidance includes more detail and information about out of area safeguarding arrangements:- ADASS guidance on inter authority safeguarding arrangements

10.0 Evaluate and conclusion of the section 42 enquiry

Throughout the enquiry processes, information and risk should be evaluated regularly, and the enquiry plans adapted, or changes as new information becomes available or if circumstances change. Once all necessary enquiries have been made, the allocated Social Worker for the Section 42 enquiry will review the information and with their manager make decision about the next steps which can include -

- The arrangement of a safeguarding meeting to include all agencies involved in the enquiry.
- Develop a risk assessment for the adult at risk - reviewed It is particularly important where the risk may not have been reduced/removed that the risks are identified along with what options have been explored.
- Providers may also be asked to provide an action plan to identify learning and to address concerns. It should be identified at the conclusion of the Section 42 enquiry.
- Support the development of actions from the section 42 enquiry and monitor or delegate the actions to be completed by other agencies, eg – Contracts and Commissioning, partner agencies etc
- The reason for any decisions should be clearly recorded and should demonstrate the workers decision making process. This will inform any

ongoing care and support planning along with monitoring and reviewing the plan

- Outcomes should be shared with the adult at risk/their advocate and referrer at the closure of the section 42 enquiry

Where the adult requires assessment and provision of care and support services by the Local Authority, they must also have a care and support plan in line with the requirements of the Care Act 2014 Sections 24 & 25).

11.0 Escalating concerns

If a provider has been subject to a safeguarding enquiry on the same person and/or the same issues of concern have arisen on 3 consecutive times within a 12-month period (or earlier at the discretion of the safeguarding team manager), this matter should be escalated to the senior manager for adult safeguarding and the senior manager for contracts. Consideration will then be given as to whether the disruption policy for contracted services should be instigated.

Where families/others are unable to come to an agreement or where the person themselves does not agree with the outcome, then the complaints procedure can be utilised.

It is the responsibility of all agencies to be proactive in resolving disagreements in an effective and timely manner. Resolving disagreements should be 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 or neglect, should be the primary focus of how issues or concerns are resolved.

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.

For resolving inter agency professional challenges when working with adults please refer to the **LSAB Escalation Procedure**

12.0 Organisational Safeguarding Alert (OSA)

This is to be considered when a report is made into the Cheshire West and Chester, Adult Social Care about a provider and with no identifying data for service users. The information given needs to be triaged against the criteria for a section 42 enquiry (using the guidance from the LSAB safeguarding procedures). Where contact details are given for the referrer, the local authority will make additional enquiries to ascertain further information and where possible the service user/s concerned and the level of harm/risks. If through the gathering of information service users are identified and meet the section 42 criteria the concern will be managed as a section 42 enquiry.

However, if the criteria has been met for a section 42 enquiry and it has not been possible to identify service user/s then this will be recorded as an OSA and managed as such by the local authority.

13.0 Legal section

Working together: Duty to cooperate

Section 6 of The Care Act 2014 relates to co-operation generally in relation to adults with needs for care and support and their carers.

Specifically – s 6 (7) states 'Local authorities must cooperate with each of their relevant partners, as described in section 6(7) of the Care Act, and those partners must also cooperate with the local authority, in the exercise of their functions relevant to care and support including those to protect adults.

The Act sets out reasons for cooperation that include:

- improving the quality of care and support for adults and support for carers provided in the authority's area (including the outcomes that are achieved from such provision)
- protecting adults with care and support needs who are currently experiencing or at risk of abuse or neglect and
- promoting the wellbeing of adults needing care and support and of carers in the authority's area
- smoothing the transition from children to adults' services
- identifying lessons to be learned from cases where adults with needs for care and support have experienced serious abuse or neglect.

Relevant partners of a local authority include any other local authority with whom they agree it would be appropriate to co-operate (for example, neighbouring authorities with whom they provide joint shared services) and the following agencies or bodies who operate within the local authority's area including:

NHS England

CCGs

NHS trusts and NHS foundation trusts

Department for Work and Pensions

the police

prisons

probation services

14.65 Local authorities must also co-operate with such other agencies or bodies as it considers appropriate in the exercise of its adult safeguarding functions, including (but not limited to) those listed in section 6(3):

general practitioners

dentists

pharmacists

NHS hospitals

housing, health and care providers

Sharing the right information, at the right time with the right people, is fundamental to good safeguarding practice. Information sharing is a positive act that helps organisations work together effectively in the interests of supporting the person at risk. If it is necessary to share information outside the organisation, the general principle is that the person's explicit consent should be sought to share information about them. If a person is reluctant for information to be shared, it is important to try and understand the person's reasons for this, so that their concerns can be addressed.

There are, however, circumstances in which obtaining consent may not be possible. Firstly, sharing of the information should be in the substantial public interest, and necessary for the purposes of either:

- Protecting an individual from neglect or physical, mental, or emotional harm; or
- Protecting the physical, mental, or emotional wellbeing of an individual

Secondly, the reason that explicit consent has not been obtained is due to one of the following reasons:

- Consent cannot be given, e.g., the person lacks mental capacity; or is unable to consent due to intimidation or duress. If a person lacks mental capacity, then the usual principles of the Mental Capacity Act will apply as to whether the sharing of information is in their best interests.
- Consent cannot reasonably be expected to be obtained, e.g. the risks are such that action is needed urgently; it is not practicable in the circumstances; seeking consent may place someone at greater risk; or the nature of your relationship makes this inappropriate.
- Obtaining consent would prejudice the purposes of safeguarding, e.g. the information needs to be shared to protect an individual from abuse or neglect; to protect others from harm; or to fulfil public interest duties such as will occur when there are safeguarding concerns involving a service, employee or volunteer
- If consent cannot be obtained to sharing information about an individual, then you should consider the Caldicott principles. https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/192572/2900774_InfoGovernance_accv2.pdf

Actions taken should be proportional to the concerns. When a decision is taken to share information in the absence of explicit informed consent, the usual data protection principles continue to apply. Practitioners should seek advice from managers and information sharing leads as required to ensure information is appropriately shared.

Section 25 of the Care Act 2014 details responsibilities of producing a Care and Support Plan and that the Local Authority can ask agencies for assistance, which will involve the sharing of information.

14.0 Prisoners and Persons in Approved Premises

Most Care Act duties apply to adults who are prisoners or who live in approved premises, for example, Local Authorities have a duty to undertake Care Act section 9 needs assessments for adults who are prisoners or who live in approved premises. However, the Care Act Section 42 duty of enquiry does not apply to adults who are prisoners or who live in approved premises. In these circumstances, prison governors and National Offender Management Service (NOMS) respectively have responsibility.

15.0 Prevent

Radicalisation refers to the process by which a person comes to support terrorism and forms of extremism leading to terrorism. If there is any concern that a vulnerable person has been or is at risk of being radicalised in any way, to report your concern then there is an online referral form on the LSAB website which goes directly to Counter Terrorism Police or call Cheshire Police on 101. Local Safeguarding Adults Board

16.0 Self-neglect other types of concern

Not all cases of adult self-neglect will meet the criteria necessary to trigger Section 42 enquiries and each case will need to be considered on a case-by-case basis. Any decision as to whether a safeguarding response is required will depend on the adult's ability to protect themselves by controlling their own behaviour. A time may come however, when the person is no longer able to do so without external support, often 'triggered' by either self-report or community / professional concern.

In cases where an adult has declined an assessment and services and thus potentially presents or remains at high risk of serious harm as a result of potentially being unable to protect themselves from that risk, a Section 9/11 needs assessment should be undertaken, together with an assessment of individual capacity, which may lead to a Section 42 enquiry being held. For further information please refer to the LSAB Self Neglect Policy, Procedure and Toolkit

17.0 Homelessness

Many homeless people are hidden from statistics and services as they are dealing with their situation informally. This means staying with family and friends, sofa surfing, living in unsuitable housing such as squats or in 'beds in shed' situations. It can also include temporary accommodation, hostels, B&Bs, and refuges.

Statutory homelessness also applies if an individual is experiencing or threatened with domestic abuse by a partner, former partner, or family member. Statutory homelessness extends to those experiencing violence or serious threats in their home from someone unrelated to them. This includes racial abuse; witness intimidation; gang-related violence; serious neighbour nuisance.

The Homelessness Reduction Act 2017 reformed England's homelessness legislation by placing duties on local housing authorities to intervene at earlier stages to prevent homelessness in their areas, and to provide homelessness services to all those who are eligible.

Additionally, the Act introduced a duty on specified public authorities, which includes adult social care services, to refer service users who they think may be homeless or threatened with homelessness to local authority homelessness/housing options teams.

The application of Adult Safeguarding duties is the same for those experiencing homelessness and rough sleeping as for the housed population.

18.0 When to report a safeguarding concern about pressure ulcers

Pressure ulcers are not always attributed to poor care and neglect, and each individual case should be considered independently taking into account the person's medical condition, prognosis and any underlying skin conditions. The person's mental capacity to agree to their care must also be assessed. Records should be kept of the person's compliance with their care plan as well as any best interest decision where the person lacks capacity and in line with the Mental Capacity Act 2015.

A safeguarding concern should be raised when a failure to provide adequate care has resulted in a person developing a category 3 or 4 pressure ulcer or multiple category 2 pressure ulcers; this would include circumstances such as; failure to seek specialist advice, appropriate equipment not provided in a timely manner, care plan/repositioning charts not being completed and wilful neglect. Cases of category 1 and 2 pressure ulcers must be considered as requiring early intervention to prevent further deterioration or damage. Severe damage may be indicated by multiple category 2 pressure ulcers or single category 3 or 4 pressure ulcers but could also be indicated by the impact the pressure damage has on the person affected (for example, pain) and should be considered for safeguarding. Definitions of pressure ulcer categories can be found in the NWCSP Pressure ulcer recommendations and clinical pathway (PDF, 1 MB).

The *Pressure ulcers - Safeguarding Adults protocol* produced by the Department of Health and Social Care provides a best practice guidance that offers a clear process for the clinical management of the removal and reduction of harm to the person, while considering if an adult safeguarding response under section 42 of the Care Act 2014 is necessary. Pressure ulcers: how to safeguard adults

The adult safeguarding decision guide within the protocol should be completed by a qualified nurse with experience in wound management and not directly involved in the provision of the persons care at the time the pressure ulcer developed. The decision tool should be completed immediately (or within 48 hours of identifying the pressure ulcer,) and a safeguarding concern should be raised when there is a score of 15 or above. However, this should not replace professional judgement. A copy of the completed decision tool (including body map) should be sent alongside the safeguarding referral and a copy should be kept on the person's file. If a safeguarding referral is not required, the decision tool should be retained on the person's file and the incidence of pressure ulcer reported through the Cheshire West and Chester Adult Quality Concern process.

Where the person has been transferred into the care of the organisation it may not be possible to complete the decision guide. Contact should be made with the transferring organisation to ascertain if the decision guide has been completed or any other action taken.

Skin damage that is established to be because of incontinence and/or moisture alone should not be recorded in the notes as a pressure ulcer but should be referred to as a moisture lesion to distinguish it and recorded separately. However, this might be because of neglect or poor oversight and thus, it should be explored not ignored.

Appendix 1 The following Guidance may be used to assist in distinguishing between poor practice i.e., failure to meet a service user's care needs, which should be managed by a provider or care manager in the case of an informal carer, or a commissioner (health, local authority/other) by reviewing the care or other agency.

Please note this is ***not*** an exhaustive list.

Area of concern	Adult Quality Concern	***Section 42***
1.Acts of non-intentional abuse or neglect	**Examples/indications may be:** - informal carer struggling to provide adequate care - signs of stress to the point of increased risk harm to the adult at risk - one off incidents of neglect/failure to provide care from informal/formal carer where no harm has occurred - care plans not available/not updated **Possible actions**: - internal investigation. - review of care support by commissioners - carer's assessment	N/A
2.Acts of wilful neglect, ill treatment or acts of omission/ abuse	N/A	**Examples/indications may be**: - ignoring emotional, medical or physical care needs and harm has occurred. - deliberately withholding the necessities of life such as medication, adequate nutrition, heating etc. and harm – emotional or physical harm occurs. **Possible actions**: Section 42 enquiry co-ordinated initially by the local authority in conjunction with partners.
3. Sexual abuse	N/A	**Examples/indications may be**: - indecent exposure - sexual harassment - inappropriate touching or looking - sexual teasing or innuendo - sexual photography - being forced to watch pornography or sexual acts.

Area of concern	Adult Quality Concern	*Section 42*
		Possible actions: Section 42 enquiry co-ordinated initially by the local authority in conjunction with partners.
4. Financial abuse	**Examples/indicators may be:** - theft or scams where the police/trading standards are already engaged and where the person themselves or their family have already put safeguards in place. - concerns about missing money/belongings which turn up shortly after **Possible actions**: - support from family/others regarding money and management of - advice given of keeping possessions safe. - person pursues with police with support of family/friends/action fraud	**Examples/indicators may be**: - where theft or scams are suspected - misuse of the person's possessions/benefits - misappropriation of direct payments - coercion in relation to other financial affairs such as their will/inheritance **Action:** Section 42 enquiry co-ordinated initially by the local authority in conjunction with partners.
5. Emotional abuse	**Examples/indicators may be:** Person is spoken to in a rude, insulting, humiliating or other inappropriate way by a member of staff or informal carer. They are not distressed and this is an isolated incident. **Possible actions**: - internal investigation to resolve the situation to the satisfaction of the adult at risk. - informal carers – offered advice/support as to appropriate ways of managing service user. - action by commissioners where concern is regarding informal carers	**Examples/indicators may be;** Person is spoken to in a rude, insulting, humiliating or other inappropriate way by a member of staff or informal carer – this is a recurring incident and or the language used is discriminatory and continues to cause distress resulting in emotional harm. **Action**: Section 42 enquiry co-ordinated initially by the local authority in conjunction with partners.
6. Physical abuse	Unexplained marks or bruising – found on one occasion, no harm or distress. **Possible actions:** - provider or commissioner to monitor and review, environment, medication, change in needs. - Review care plans/risk assessments and update as required. - informal carer offered support/training on moving and handling if appropriate	**Examples/indicators may be:** Physical abuse may include – assaults such as hitting, slapping, pushing which results in injury, restraining resulting in injury, inappropriate physical sanctions, ongoing marks and lesions, marks that resemble 'finger' bruising/grab marks. **Action:** Section 42 enquiry co-ordinated initially by the local authority in conjunction with partners.
8. Domestic abuse	Where a person does not have care and support needs, specialist domestic abuse services are available as well as the police – details can be found on the LSAB website. **Action:** Referral to domestic abuse services, or person given advice /support on DA services, record advice given	Where a person has care and support needs and is being abused by someone in a relationship – whether this is intimate or not. - Indicators/types of abuse may include – emotional, physical, sexual, coercion and control, honour-based violence. **Action:**

Area of concern	Adult Quality Concern	*Section 42*
		Section 42 enquiry co-ordinated initially by the local authority in conjunction with partners.
9. Significant need not addressed in Care Plan	Person does not have within their **Care Plan**/Service Delivery Plan/Treatment Plan a section which addresses a significant assessed need, for example: - management of behaviour to protect self or others. - liquid diet because of swallowing difficulty - bed rails to prevent falls and injuries. but no harm occurs. **Action:** - internal investigation /review by provider or action under contract by the commissioner of the care. - support to informal carers as to how to follow advice/care plan.	Person does have within their **Care Plan**/Service Delivery Plan/Treatment Plan a section which addresses a significant assessed need, for example: - management of behaviour to protect self or others. - liquid diet because of swallowing difficulty - bed rails to prevent falls and injuries. and harm occurs e.g. inappropriate action or inaction related to this results in harm such as *injury, choking, seizure etc.* **Action:** Section 42 enquiry co-ordinated initially by the local authority in conjunction with partners.
10. Care/support Plan not followed	Care/support plan not followed and no harm or injury occurs. **Action:** - internal investigation /review by provider or action under contact by commissioner of the care. - support to informal carers as to how to follow advice/care plan.	Failure to address a need specified in adult's plan results in harm. This is especially serious if it is a recurring event or is happening to more than one adult. **Action:** Section 42 enquiry co-ordinated initially by the local authority in conjunction with partners.
11. Failure to respond to person's mental health needs	Adult at risk known to mental health services is identified as being at risk. Previous risk assessment identifies same day response is required. Response is not made that day but no harm occurs. **Action:** internal investigation or action under contact by commissioner of the care.	Patient is known to be high risk; a timely response is not made and harm occurs – to them or others Harm: physical injury, emotional distress, death **Action:** Section 42 enquiry co-ordinated initially by the local authority in conjunction with partners.
12. Domiciliary care visit missed	Person does not receive a scheduled domiciliary care visit and no other contact is made to check on their well-being, but no harm occurs. Provider deals with this appropriately through internal investigation, to the satisfaction of person involved. **Action:** internal investigation/review or action under contract by commissioner of the care.	Person does not receive scheduled domiciliary care visit(s) and is unable to call for assistance/help; no other contact is made to check on their well-being resulting in harm. **Action:** Section 42 enquiry co-ordinated initially by the local authority in conjunction with partners.
13. Abuse of a service user by another service user	One adult at risk **verbally abuses or 'taps' or slaps** another adult at risk but has left no mark or bruise, victim is not intimidated and harm has not occurred. **Action:** Provider to consider GP /medication review. Mental health assessment where appropriate	Incident between two adults with care and support needs where harm has occurred. Harm: physical injury, psychological distress **Action:** Section 42 enquiry co-ordinated initially by the local authority in conjunction with partners.

Area of concern	Adult Quality Concern	*Section 42*
	internal investigation or action/review of the placement by commissioner of the care for service user(s).	
14. Self-neglect	Where person does not have care and support needs. This covers a wide range of behaviours including; - neglect of personal hygiene - neglecting health - neglecting environment/surroundings - excessive hoarding. **Possible actions:** - support/action by housing provider under terms of tenancy. - support/action by environmental health - support/action by fire, health other professionals. - actions to be co-ordinated by agency who raises the concern.	Person has care and support needs and has come to harm/is putting others at harm due to self-neglect behaviours. **Action:** Section 42 enquiry co-ordinated initially by the local authority in conjunction with partners. For further information please refer to the LSAB Self Neglect Policy, Procedure and Toolkit
15. An adult with unstable mental health makes allegations against staff or fellow residents/patients that appear unrealistic/false.	Person is unwell and makes allegations that appear false e.g., staff are trying to poison me with medication. Or person X has assaulted me - they were not on duty at that time. That there is clear and documented evidence supported by assessment that the allegations are due to the person's mental health symptoms and no harm has occurred. That a doctor and another qualified member of staff responsible for the person's care can confirm this. Any plans to support this are clear and reviewed regularly. **Possible actions:** - internal investigation or action. - review of the placement/support plan by commissioner of the care for service user.	There is no clear evidence documented or otherwise of a mental health presentation that supports the view that the allegation is false. Or the person makes an historical allegation when they are well. **Action:** Section 42 enquiry co-ordinated initially by the local authority in conjunction with partners
Medication Error Medication errors are where there has been an error in the process of prescribing, preparing, dispensing and administration of medication.	Medication error where no harm has resulted e.g., missed medication or the wrong dose. Delays in obtaining medication e.g., antibiotics and with no harm.	Deliberate withholding of medicine without a valid reason. Incorrect use of a medicine for reasons other than the benefit of a person e.g., sleeping tablets used to sedate the person. Deliberate attempt to harm through use of a medicine. Where a medication error has caused harm Repeated errors by the organisation for multiple residents – evidence of systemic failings in a care providers medicines management process **Action:**

Area of concern	Adult Quality Concern	*Section 42*
		Section 42 enquiry co-ordinated initially by the local authority in conjunction with partners.
Covert Medication Where medicines are given to the person in a disguised form, usually in food or drink, and without the knowledge or consent of the person receiving them	When medication is administered covertly to a person who lacks mental capacity to understand the risk of not taking their medication, without other strategies being considered first. Deprivation of Liberty Safeguards not updated to reflect the administration of covert medication. Care planning does not reflect regular reviews and protocols relating to the covert medication.	When medication has been administered covertly without appropriate consideration to the Mental Capacity Act 2005 and Best Interest decision process and by way of consultation with significant others including family and / or advocacy. **Action:** Section 42 enquiry co-ordinated initially by the local authority in conjunction with partners.
Staff conduct	Poor practice and quality of care issues are an example of the kinds of concerns that may be better addressed within other processes. Not all mistakes and errors therefore should be considered abusive or neglectful, and as such quality-of-care issues and poor practice issues usually be addressed within these more appropriate processes. Distinguishing between poor practice and neglect/abuse can however be difficult and will often require a judgement to be made. It is important to consider the impact of the incident on the person, whether others may be at risk of harm, and what the proportionate response to the concern should be. Where the practice is resulting in harm for the individual concerned or others, abuse is likely to be indicated. However, it is important to consider the nature, seriousness, and individual circumstances of the incident before reaching a decision. For example, using mobile phone, smoking, discussing service users, taking drugs, if there is no impact, then this should be managed through own HR processes.	Staff using own phone, was distracted and it resulted in an incident for example supporting someone to eat in public, then the person chokes. Use of their own phone has impacted on their duty, for example using your phone whilst driving with a service user. Falling asleep when it is a waking night, so there is no supervision of service user. Using the service users' phone for your own personal usage. Harm occurs (or risk of) **Action:** Section 42 enquiry co-ordinated initially by the local authority in conjunction with partners.

Appendix 2 – Safeguarding Adults – Provider S42 Enquiry Guidance

Safeguarding Adults – Provider S42 Enquiry Guidance	
Name of service provider	
Address	
Person completing the enquiry and author of report and contact details	
Name of adult at risk	
Date of Birth	
Next of kin/ people included to support the person	

Cheshire West and Chester Local Authority cannot delegate its duty to conduct a formal section 42 enquiry (S42), but it can cause others to make enquiries. This means that the Local Authority may ask a provider or partner agency to conduct its own enquiries, and report these back to the Local Authority in order to inform their decision about whether and what action is required in the adult's case. The full guidance Safeguarding Adult Policy and Adult Safeguarding Procedure are available on the Local Safeguarding Adult Board website.

The following template can be used by providers and or agencies to support provider led section 42 safeguarding enquiries

An enquiry is the action taken or instigated by the Local Authority *in response to a concern that abuse, or neglect may be taking place.* The purpose of the enquiry is to establish whether the Local Authority should ***cause others to do so,*** to stop or prevent the abuse or neglect.

All attempts must be made to demonstrate ***making safeguarding personal*** and the desired outcome of the person involved. This refers to person -centred desired outcomes and focused practice. It is about empowering individuals to express what is important to them by whatever means appropriate. Outcomes or interventions should be meaningful to the person at the centre of the enquiry and reflect their original wishes wherever practicable.

Follow good practice under the Mental Capacity Act when speaking to the adult. We should always assume the adult has capacity unless demonstrated to be otherwise. If the person is proven to lack capacity, speak to the person's representative/s and always act in their best interests. Consider if advocacy is required to maximise the persons involvement in the enquiry, therefore safeguarding their right to live free from fear, harm, abuse, and exploitation.

Timescales in line with the Local Safeguarding Adult Board it is agreed 20 working days to complete the enquiry and return the report. If longer is required, please request an extension from the worker who requested the provider led enquiry and report?

Details of the concerns raised
Who, what, when, where, how? Was it witnessed?
This section should include the concerns being reviewed.

How where the concerns raised, if known who raised them. If reported by yourselves, how where the concerns identified?
Personal profile of the adult at risk
An overview of the person, as they were and how they are now, include any previous known wishes, beliefs, or values. What are their care needs?
Include any pen profiles of the person, any life experiences that are relevant, the purpose is to consider the person who is at the centre of the enquiry
Mental Capacity
Can the adult at risk be included in the enquiry, are they able to express what they would want to come as an outcome of the enquiry?
Is it reasonable to consider the person can understand and express what they would want as an outcome from the enquiry?
Making Safeguarding Personal
What is their desired outcome, if they are unable to express what they would want, who have you included in the enquiry to advocate their wishes?
Can the person communicate what they would want, if deemed not to have mental capacity to be involved and or unable to communicate their wishes, who have you consulted and what is their views on what the person would want?
Chronology of what documents and information reviewed during the enquiry
Detail when and what you looked at / reviewed as part of the enquiry?

Date	Documents/ information	Significance of the findings.
	What have you looked at	What did you find
	You can add more rows	If needed (right hand click, insert)

Outcome of the enquiry	
Was the adult at risks desired outcome achieved? Within the actions taken did this include learning identified within the significance of the findings.	
Outcome of Enquiry ***Achieved, Partially, Not achieved***	Has the enquiry identified actions that will support the outcome expressed by the person/ advocate? Record what the person and or the advocate said/expressed when informed of the enquiry findings, actions taken?
List Actions required and if completed (C)	What actions/ changes have been made to reduce the risks to the person and others?

Organisational Learning
Is there any learning for the organisation, any changes to policies, any training for the wider workforce, implications for any other agencies?
Has the enquiry and the actions highlighted changes that can be made across the organisation?

Appendix 3 – Safeguarding Adults – Provider S42 enquiry

Safeguarding Adults – Provider S42 enquiry	
Name of service provider	
Address	
Person completing the enquiry and author of report and contact details	
Name of adult at risk	
Date of Birth	
Next of kin/ people included to support the person	
Details of the concerns raised	
Who/ what/ when/ where or how? Was it witnessed?	
Personal profile of the adult at risk	
An overview of the person, as they were and how they are now, include any previous known wishes, beliefs, or values. What are their care needs?	
Mental Capacity	
Can the adult at risk be included in the enquiry, are they able to express what they would want to come as an outcome of the enquiry?	
Making Safeguarding Personal	
What is their desired outcome, if they are unable to express what they would want, who have you included in the enquiry to advocate their wishes?	
Chronology of what documents and information reviewed during the enquiry	
Detail when and what you looked at / reviewed as part of the enquiry?	

Date	Documents/ information	Significance of the findings.

Outcome of the enquiry	
Was the adult at risks desired outcome achieved? Within the actions taken did this include learning identified within the significance of the findings.	
Outcome of Enquiry ***Achieved, Partially, Not achieved***	
List Actions required and if completed (C)	

Organisational Learning
Is there any learning for the organisation, any changes to policies, any training for the wider workforce, implications for any other agencies?

Appendix 4 - Section 42 Provider led guidance checklist

You should ensure that the principles of 'making safeguarding personal' are adhered to throughout the process.	Y/N
1. Check referral details on liquid logic – Choose section 42 enquiry type	
2. Risk assess – is the person in immediate danger? If yes, discuss plans to safeguard with a manager/other relevant people i.e. police. **Complete RA in SA module if appropriate to justify actions required**	
3. Strategy discussion with manager and or other relevant people (this could be done after you have spoken to the refer/gathered further information). Record this discussion asap on relevant section in liquid logic.	
4. Speak to the referrer and or the adult at risk- does the referral constitute abuse? If not, can it be dealt with via a social work/complaint/contracts team? Advise the referrer of the appropriate course of action. Ensure that the adult's views and wishes are recorded – what do they want to happen?	
5. Does the person whom the allegation is about have **capacity** to agree to an assessment/investigation? Record capacity assessment in liquid logic. Consider **advocacy** (this may be appropriate for people with capacity as well as for those without if they do not have a family member or friend to support them through the process – see 1.8 page 12 of adult safeguarding policy). If family member/friend has Lasting Power of Attorney. If no confirmation within Liquid Logic, checks must be made to the Office of the Public Guardian. LPA should be the main point of contact during enquiry and to express desired outcomes	
6. Refer to the police – if you feel a crime has been committed, ring 101 and make a note on liquid logic of the incident number/advice given.	
7. Inform CQC safeguarding@cqc.org.uk and/or Contracts team commissioningandcontracts@cheshirewestandchester.gov.uk if relevant.	
8. Inform the commissioner, this could be CWaC, another LA or health via CHC/s117. Keep them informed throughout the process/invite them to attend any safeguarding meetings.	
9. Speak to all relevant people – the person themselves, their friends/family (if the person consents to this, or if you feel it's in their best interests, if they are unable to consent), other professionals. Record in the investigation record on liquid logic.	
10. Check records/documentation if the allegation involves a 'provider'. Do the records support/refute the allegation? Make notes or photocopy any relevant documents.	
11. Carry out actions agreed at strategy – if agreed Provider led enquiry appropriate ensure the following is completed The review and opinion of the information requested is recorded within the enquiry report on LL and the rational why Provider led enquiry appropriate Ensure enquiry report includes the acts of omission/abuse identified requiring a provider led enquiry. Ensure **MSP** is established and recorded in enquiry report on LL Ensure all actions taken are recorded on **action plan** within enquiry report **Only when this is completed and agreed date for return of provider led can the case be assigned to safeguarding Provider led tray**	
12. Duty role to monitor return of the provider led report by the agreed timescale.	

13. Duty role – review the provider led report ensuring that any decisions made are mindful of the 'Making Safeguarding Personal' principles. In terms of outcome – what did the person or their advocate want as an outcome? **If health involved in person's care send copy to seek opinion/ review from Designated Nurse**	
14. Record outcomes on the enquiry report on LL module If satisfied complete closure checklist including, MSP, notifications etc. If the provider led does not demonstrate section 42 duty has been met, reassign the case back to safeguarding tray with rational why allocation and potential meeting required.	