

# Guidance Paper 7

## Roles and Responsibilities

### Cumbria County Council

Cumbria County Council, Adult and Local Services have the lead role in co-ordinating the multi-agency approach to safeguarding adults at risk. This includes the coordination of the application of these policy, procedural and guidance papers, coordination of activity between organisations, review of practice, facilitation of joint training, dissemination of information and monitoring and review of safeguarding activity within the local Authority area.

In addition to the lead strategic role, Adult and Local Services have responsibility for coordinating the action taken by organisations in response to concerns that an adult at risk is being or is at risk of abuse or neglect. Adult and Local Services should:

- Ensure that any Safeguarding Adults alert is acted on in line with local policy and procedures
- Coordinate the actions that relevant organisations take in accordance with their own duties and responsibilities
- Ensure a continued focus on the adult at risk and due consideration to other adults and children
- Ensure that an interim and final safeguarding plan are put in place with adequate arrangements for review and monitoring
- Ensure that actions leading from investigations are proportionate to the level of risk and enable the adult at risk to be in control, unless there are clearly recorded reasons why this should not be the case.
- Facilitate learning the lessons from practice and communicate these to the Cumbria Safeguarding Adults Board/

The internal Safeguarding Adults Procedure must be followed when an alert or allegation of abuse or neglect is received. This gives clear advice and guidance in every aspect of investigating and managing an alert /allegation.

The Safeguarding Adults Team, Adult and Local Services, is part of the Care Governance team of the Adult and Local Services Directorate. Care Governance describes the systems and processes put in place to ensure that quality is at the heart of the Directorate. Care Governance provides the framework that creates an environment in which excellence will flourish. As part of that framework, the Safeguarding Adults Team has been given the responsibility for ensuring continuous improvement in Safeguarding Adults work.

The Team will offer advice, information and specialist consultation to practitioners and managers who are responding to Safeguarding issues. Safeguarding Officers will also be available to chair Safeguarding Meetings .

#### The Safeguarding Officers:

- Provide knowledge, skills and specialist advice to support staff to enable them to deliver robust and effective safeguarding strategies to service users;
- Provide knowledge, skills, specialist advice to assist team Managers in the Safeguarding decision making process;
- Attend safeguarding adults meetings as agreed, to provide advice and consultation;
- Chair Safeguarding meetings as outlined below;
- Raise awareness about safeguarding adults work;
- Have a role in Quality Assurance;
- The service provided by the Safeguarding Officers covers all service user groups.
- **If you are a manager of staff working with adults who may be at risk of abuse**, you can contact the team for advice and information.
- **If you are a practitioner working with adults who may be at risk of abuse**, you can contact the team for advice and information

- **If you are a manager or a senior practitioner and you are not sure if you should be going down the Safeguarding route,** you can contact the team for advice and information
- **If you are a member of staff, manager or volunteer working for any agency, or a member of the public** you can contact the team for advice and information

A Safeguarding Officer must always chair safeguarding meetings where any of the following conditions apply:

- Where there has been a death, sexual abuse
- Where there are concerns about institutional abuse or where more than one service user is at risk
- Where there is reason to believe that a serious crime has been committed
- When directed by a relevant County Manager from Adult Social Care

All other safeguarding meetings will be chaired by the relevant Team Manager or delegated other. That delegated other may be a Safeguarding Officer.

The Safeguarding Adults Team does not:

- Investigate individual cases
- Provide or organise a venue for meetings
- Provide or organise for a minute taker to attend meetings
- Invite people to attend meetings

## Carers, relatives and members of the public

Everyone has a role to play in the detection of the abuse and neglect. Relatives, carers and members of the public are often in a better position than anyone else to notice changes to someone in their own family, or a close friend or neighbour and must not hesitate to bring concerns to the attention of someone who is in a position to help.

Every reported incident of abuse or suspected abuse will be taken seriously by all the agencies involved. Concerns should be raised with:

- The management of the service or agency concerned.
- The Local Adult Social Care Office, (chapter 1 page 12)
- The Public Protection Unit of the Cumbria Police (chapter 1 page 12)

## Residential care / nursing homes

Each establishment should identify a senior member of staff who will assume responsibility for the coordination of all measures to people using services. This person should coordinate training and ensure that it is made available, at an appropriate level, for all staff. They should also take a lead in the development and implementation of a suitably robust safeguarding adults procedure, which is clearly written and given to all staff and volunteers as part of induction.

Policies and procedures must make clear to staff and volunteers what their responsibilities are in the recognition and reporting of any suspicions they may have about abuse and neglect. Each agency will have policies and procedures which reflect the ethos of their emergency. As a basic minimum they should tell staff to:

- Immediately report any suspicions to the senior member of staff on duty. If the suspicions are about that senior member of staff the procedure must make clear who else to advise.
- Take seriously any complaints made by individuals, relatives, visitors or other professionals and report them immediately.
- Follow the staff guidelines for recording incidents.
- Ensure that once a concern has been raised the manager has dealt with it appropriately.

### Managers must:

- Report the alert - see Chapter 4
- Take seriously and listen carefully to reports or concerns raised by people using services, staff, relatives, volunteers or other professionals
- Ensure the immediate safety of the individual(s) concerned.
- Prevent the intimidation of witnesses including the individuals concerned and staff.
- Consider the seriousness of the concerns.
- Make initial enquiries about the concerns or suspicions
- Ensure that appropriate records have been kept both of the concern and the outcome of the initial enquiries.
- Where it is possible that an offence may have been committed the local Public Protection Unit of Cumbria Police should be notified (Chapter 1 page 12.)
- Before the end of the day on which the concern is received the manager must contact your local Adult Social Care Office to report the alert.
- Where the alleged victim of abuse has been placed by another local authority Cumbria Adult Social Care should be advised who to contact in the placing authority.

In all cases, the provider must inform the CQC.

### Managers must NOT:

- Interrogate witnesses
- Interfere with or otherwise contaminate evidence
- Initiate internal investigations (eg by auditors or other “independent” people)

Staff, visitors, relatives or other professionals may have concerns about the way in which a home discharges its responsibilities towards the welfare and care of those using their services. These concerns should be dealt with in exactly the same way as any other allegation of abuse or neglect.

**Remember, decisions by staff regarding whether or not to report concerns of abuse are not a matter of individual conscience but are considered a professional duty.**

## Domiciliary care agencies

Agencies should identify a senior member of staff who will assume responsibility for the coordination of all measures to safeguard people using their services. This person should coordinate training and ensure that it is made available, at an appropriate level, for all staff. They should also take a lead in the development and implementation of a suitably robust safeguarding adults procedure, which is clearly written and given to all staff and volunteers as part of induction.

Policies and procedures must make clear to staff and volunteers what their responsibilities are in the recognition and reporting of any suspicions they may have about the welfare of people who may be at risk of abuse or neglect.

Each agency will have policies and procedures which reflect the ethos of that agency. However, as a basic minimum they should tell staff to:

- Immediately report any suspicions to the manager on call. If the suspicions are about that manager the procedure must make clear who else to advise.
- Take seriously any complaints made by service users, relatives, visitors or other professionals and report them immediately.
- Follow the staff guidelines for recording incidents.
- Ensure that once a concern has been raised the manager has dealt with it appropriately.

**Managers must:**

- Report the alert - see Chapter 4
- Take seriously and listen carefully to reports or concerns raised by people using services, staff, relatives or other professionals.
- Ensure the safety of any individual(s) involved.
- Prevent the intimidation of witnesses including those using services and staff
- Consider the seriousness of the concern.
- Make initial enquiries about the concerns or suspicions.
- Ensure that appropriate records have been kept both of the concerns and the outcome of the initial enquiries.
- Where it is possible that an offence may have been committed the local Public Protection Unit of Cumbria Police should be notified (Contact numbers are at the back of this booklet.)
- Before the end of the day on which the allegation is received the manager must contact the local Adult Social Care Office to report the alert.
- It is good practice for providers to also inform the CQC.

**Managers must NOT:**

- Interrogate witnesses
- Interfere with or otherwise contaminate evidence
- Initiate internal investigations (eg by auditors or other 'independent' people)

Staff, people who use services, relatives or other professionals may have concerns about the way in which an agency discharges its responsibilities towards the welfare and care of those people who use their services. These concerns should be dealt with in exactly the same way as any other allegation of abuse or neglect.

**Remember, decisions by staff regarding whether or not to report concerns of abuse are not a matter of individual conscience but are considered a professional duty.**

## Day Centres

Day Centres should identify a senior member of staff who will assume responsibility for the coordination of all measures to safeguard service users. This person should coordinate training and ensure that it is made available, at an appropriate level, for all staff and volunteers. They should also take a lead in the development and implementation of a suitably robust safeguarding adults procedure, which is clearly written and given to all staff and volunteers as part of induction.

Policies and procedures must make clear to staff and volunteers what their responsibilities are in the recognition and reporting of any concerns they may have about the health, welfare or safety of adults in their care.

Each Day Centre will have policies and procedures which reflect the ethos of that facility. However, as a basic minimum they should tell staff and volunteers to:

- Immediately report any concerns to the manager: If the suspicions are about that manager the procedure must make clear who else to advise.
- Take seriously any complaints made by people using services, relatives, visitors or other professionals and report them immediately.
- Follow the staff guidelines for recording incidents.
- Ensure that once a concern has been raised the manager has dealt it with appropriately.

### Managers must:

- Report the alert - see Chapter 4
- Take seriously and listen carefully to reports or suspicions raised by people who use services, staff, relatives or other professionals.
- Ensure the safety of the individuals concerned.
- Prevent the intimidation of witnesses including people who use services and staff or volunteers
- Consider the seriousness of the concern.
- Make initial enquiries about the concerns or suspicions.
- Ensure that appropriate records have been kept both of the allegation and the outcome of the initial enquiries.
- Where it is possible that an offence may have been committed the local Child and Adult Protection Unit of Cumbria Police should be notified (Contact numbers are at the back of this booklet.)
- Before the end of the day on which the concern has been raised the manager must contact the local Adult Social Care Office to report the alert.

### Managers must NOT:

- Interrogate witnesses
- Interfere with or otherwise contaminate evidence
- Initiate internal investigations (eg by auditors or other 'independent' people)

Staff, people who use services, relatives or other professionals may have concerns about the way in which a Day Centre discharges its responsibilities towards the welfare and care of service users. These concerns should be dealt with in exactly the same way as any other allegation of abuse or neglect.

**Remember, decisions by staff regarding whether or not to report concerns of abuse are not a matter of individual conscience but are considered a professional duty.**

## Sheltered housing / supported living schemes

Each Scheme should identify a senior member of staff who will assume responsibility for the coordination of all measures to safeguard tenants. This person should coordinate training and ensure that it is made available, at an appropriate level, for all staff and any volunteers. They should also take a lead in the development and implementation of a suitably robust safeguarding adults procedure, which is clearly written and given to all staff and volunteers as part of induction.

Policies and procedures must make clear to staff and volunteers what their responsibilities are in the recognition and reporting of any concerns they may have about the welfare of adults in their care.

Each Scheme will have policies and procedures which reflect the ethos of that facility. However, as a basic minimum they should tell staff and volunteers to:

- Immediately report any suspicions to the manager. If the suspicions are about that manager the procedure must make clear who else to advise.
- Take seriously any complaints made by tenants, relatives, visitors or other professionals and report them immediately.
- Follow the staff guidelines for recording incidents.
- Ensure that once a concern has been raised the manager has dealt it with appropriately.



**Managers must:**

- Report the alert - see Chapter 4
- Take seriously and listen carefully to reports or suspicions raised by tenants, staff, relatives or other professionals.
- Ensure the safety of the individual(s) concerned.
- Prevent the intimidation of witnesses including tenants and staff or volunteers.
- Consider the seriousness of the concerns.
- Make initial enquiries about the concerns or suspicions.
- Ensure that appropriate records have been kept both of the concern and the outcome of the initial enquiries.
- Where it is possible that an offence may have been committed the local Public protection Unit of Cumbria Police should be notified (Contact numbers are at the back of this booklet.)
- Before the end of the day on which the concern is raised the manager must contact the local Adult Social Care Office to report the alert.
- It is good practice for providers of supported living schemes to inform the CQC.

**Managers must NOT:**

- Interrogate witnesses
- Interfere with or otherwise contaminate evidence
- Initiate internal investigations (eg by auditors or other 'independent' people)

Staff, tenants, relatives or other professionals may have concerns about the way in which a Sheltered Housing Scheme discharges its responsibilities towards the welfare and care of service users. These concerns should be dealt with in exactly the same way as any other allegation of abuse or neglect.

**Remember, decisions by staff regarding whether or not to report concerns of abuse are not a matter of individual conscience but are considered a professional duty.**

## National Health Service Trusts, General Practitioners and surgery staff

Staff from each of the Trusts will already have policies and procedures in place advising them what to do in the event that they either have concerns or witness abuse or neglect or allegations are made to them by a third party. These Procedures will be closely linked to these multi-agency guidelines.

Trusts will identify senior staff responsible for coordinating all aspects of safeguarding adults work, including training and the monitoring and reviewing of policies and procedures.

All managers must be aware that all allegations of abuse or neglect must be reported to the local Adult Social Care Office.

All managers must also ensure that they also contact the police where they believe that a crime has or may have been committed.

**Managers must report the alert - see Chapter 4.**

General Practitioners, surgery staff, Community Pharmacists, dentists and opticians have a vital role to play in highlighting concerns about the possible abuse or neglect of patients. Each practice should have procedures in place so that all staff are aware of what to do should they have concerns or suspicions. Practices should have contact details for staff within NHS Cumbria whom they can contact for advice and support.

The British Medical Association has just issued guidance on safeguarding adults at risk. Visit [ethics@bma.org.uk](mailto:ethics@bma.org.uk) for more information

**Remember, decisions by staff regarding whether or not to report concerns of abuse are not a matter of individual conscience but are considered a professional duty.**

## Voluntary organisations

All voluntary organisations must have policies in place which clearly set out the organisations' commitment to safeguarding adults and which reflect their own individual ethos. Procedures should include the organisations' policy on recruitment and selection, vetting, with clear reference to legal requirements laid down by the Independent Safeguarding Authority (ISA).

As a basic minimum the procedure should tell staff and volunteers:

- What to look for and what should raise their concerns
- What to do and who to tell
- What steps to take to ensure the immediate safety of an individual at risk or abuse or neglect
- All safeguarding concerns must be reported to your local Adult Social Care Office

## The Role of the Police

The role of the Police in Safeguarding Adults is to:

- Investigate criminal activity;
- To offer advice when a decision needs to be made about whether the safeguarding concern is a crime
- Keep the Safeguarding Manager fully informed of the progress of any criminal investigation that is being managed under the Cumbria Safeguarding Adults Procedures, at all stages.

**The role of the Police DOES NOT include acting in the role of Safeguarding Manager. The Police will only carry out the 'criminal investigation'**

- The Police will always take reports of allegations of crimes.
- Any concerns that an adult at risk may have been the victim of abuse or neglect and that a crime may have been committed must be reported to the Police in the relevant Public Protection Unit (PPU) immediately.

In the case of adults at risk, they will seek to investigate crimes in a manner which is sensitive to the needs of the victim and, to this end, will seek to provide support to victims and witnesses as laid out in Part II of the Youth Justice and Criminal Evidence Act 1999. (see Achieving Best Evidence and the Crown Prosecution Service).

In addition, the Police will seek to provide appropriate advice and support in relation to other matters which may not necessarily present themselves as a crime, especially in relation to safeguarding adults or where abuse of an adult at risk is suspected.

The Police in Cumbria are committed to working with other agencies to solve problems which affect the quality of life of all people living in Cumbria.

## Accessing Police Help

In an emergency, the Police should be contacted by using the 999 system. The use of this system should be preserved for those most serious cases where the immediate attention of the Police is necessary. This should include circumstances where:

- it is life threatening,
- a crime is in progress,
- an offender is still present or
- vital evidence will be lost.

In those cases where a response is required as soon as possible, but it is not an emergency, the local Police station should be contacted using the numbers provided in Chapter 1, page 12.

**When making contact with the Police, remember to indicate your call relates to the Safeguarding Adults Procedures and that, in addition to any other action taken, it should be brought to the attention of the PPU**

## The Police Investigation

The overall aim of the Police in Cumbria is to ensure that Cumbria is a safe place for everyone. Their priority is to tackle crime effectively, in a way that reflects and caters for the needs of victims and witnesses.

The Police will investigate all crimes reported by or on behalf of adults at risk in a sensitive and thorough manner.

**Good communication between the investigating agencies is essential and will enable all parties to remain informed.**

**It is the responsibility of the Police to keep the Safeguarding Manager fully informed of the progress of the criminal investigation.**

If there is an allegation that a criminal offence has taken place, the officer responsible for investigating should attend the Safeguarding Strategy Discussion/Meeting and Safeguarding Planning Meeting.

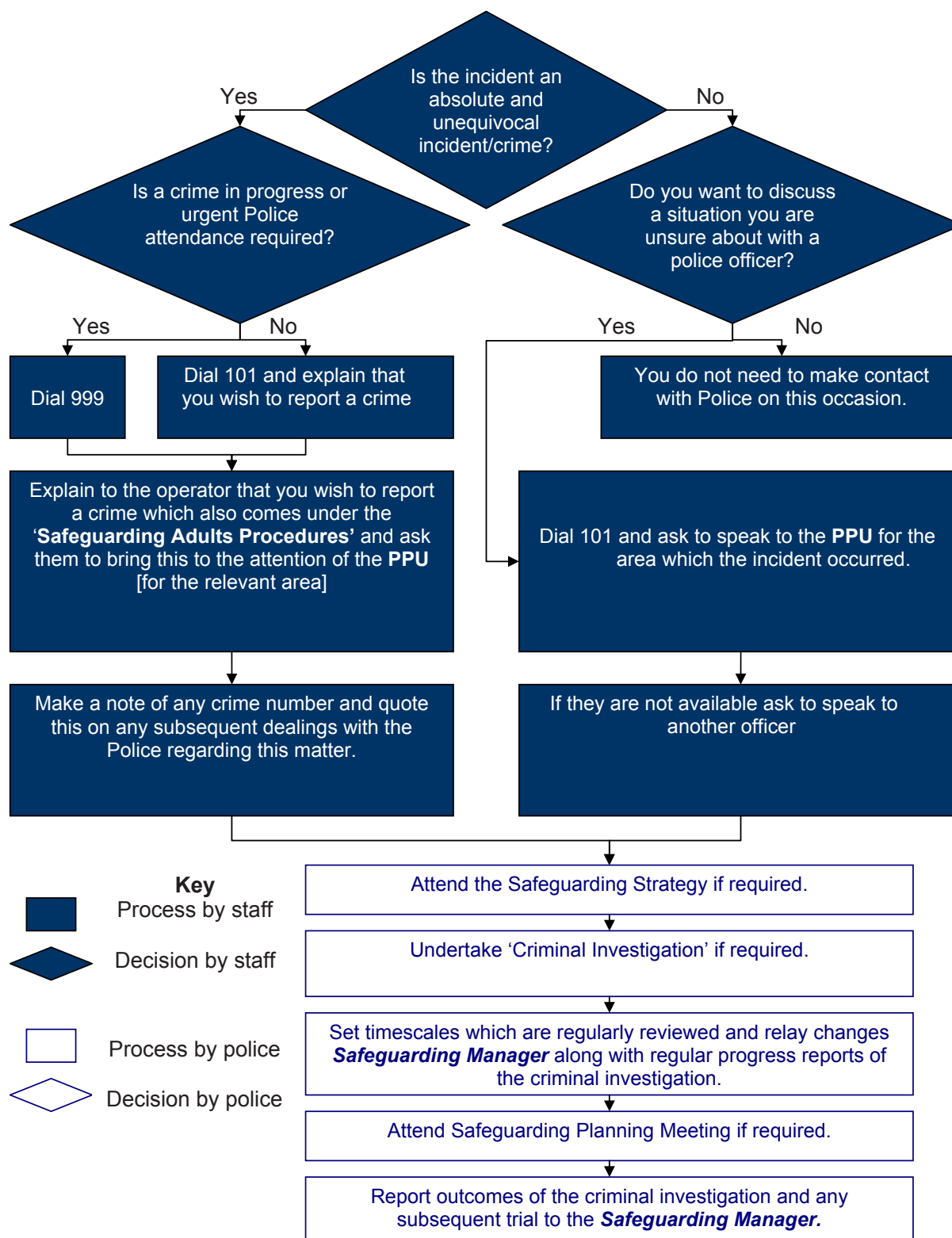
## Adults at Risk as Alleged Offenders

Effective liaison between service providers, police, and courts should be maintained in order to ensure satisfactory support to alleged offenders who may be (or have been in the past) identified as adult or adults at risk. Quick and appropriate advice for such people should be determined at the earliest possible stage in their contact with the Criminal Justice System and an 'appropriate adult' should be considered.



## Responding to Sexual Assaults:

- The police have a team of 'First Responders' whose role it is to secure early evidence in cases of sexual assault. This service can be accessed via the relevant PPU during office hours. If contact is required out of hours, please ring the police on 0845 3300247
- Once the early evidence is secured, a specially trained officer (STO) will take on the role of dealing appropriately and sensitively with victims of sexual assault.
- Consider the need to meet with relatives and carers



## The Role of the Care Quality Commission (CQC)

The Care Quality Commission, CQC is the independent regulator of health and adult social care in England. Whether care services are provided by the NHS, local authorities or voluntary organisations, they are tasked to make sure that people get better care. This includes protecting people who are detained under the Mental Health Act 1983. CQC do this by registering, and therefore licensing, providers of care services if they meet essential standards of quality and safety.

CQC has a statutory duty to monitor all registered services to make sure they continue to meet these standards by undertaking inspections. If CQC are concerned that care providers are putting people at risk, they will look into the matter and take immediate action where necessary.

Any action taken depends on the risks posed to service users and the seriousness of any breach of the law. They may take the following action:

- increase the frequency of inspections of a particular provider
- work with other organisations, such as the police and safeguarding teams
- publish reports about how the provider is improving (or not)
- use our powers to enforce standards

Triggers that might alert us to a potential problem include:

- concerns from service users, the public, staff or the media
- issues brought to light during our regulatory activities
- statistical data, such as mortality outliers
- information from other organisations including safeguarding.

## The Role of CQC in Safeguarding Adults

Go to [www.cqc.org.uk](http://www.cqc.org.uk) for a copy of the document “Our safeguarding protocol”, CQC 2010

- When CQC receives information about a possible Safeguarding Adults alert or issue, then that information must be immediately brought to the attention of the compliance inspector for the service, or the duty inspector.
- If on a review of the information, there appears to be a Safeguarding Adults concern, CQC will pass the information to the local authority through the locally determined referral point and in line with the timeframes in this document.
- Following the referral, CQC will provide information to the Safeguarding Lead on the current status of the registration and any aspects of non-compliance known to the CQC participate in any strategy meeting/ discussions to consider ongoing risk factors and the implications for the well being for the people who use the service and contribute to the agreement of a protection plan
- CQC must always be made aware of a Safeguarding Adults concern within a regulated service.
- If the concern is reported to the local authority, the local authority must notify CQC even though the regulated service also has a duty to do so.
- The CQC will be directly involved with a Safeguarding Adults process where:
  - o one or more registered people are directly implicated
  - o urgent or complex regulatory action is indicated
  - o a form of enforcement action has been commenced or is under consideration in relation to the service involved
- CQC would expect that registered providers and managers who are not implicated in the alleged abuse, people who use the service and/or their representatives are invited to attend meetings or participate in the discussions.

CQC must be invited to each strategy meeting and if they attend or not they must be sent copies of minutes of meetings as the outcome may inform regulatory action.. Attendance at strategy meetings will be in line with their protocol which outlines when they will attend.

- Where the allegation suggests breaches of regulation and standards, CQC may conduct enquiries or initiate a review, in which case they will inform the relevant manager in the local authority.
- If the police are investigating, CQC will coordinate their action with them.
- The outcome of any assessment/investigation must also be shared with CQC if it is related to a regulated service.
- CQC have a role in ensuring adherence to any part of a Safeguarding Adult plan that relates to service compliance with regulation and standards.
- Where CQC have not undertaken any activity in relation to the initial concerns, they should be notified of the outcome of the Safeguarding process.
- If the allegation is substantiated and indicates a breach of regulation or standards, CQC will consider whether any further regulatory activity is required and will inform the relevant manager in the local authority of their decision.

## The Role of the Crown Prosecution Service (CPS)

- The CPS is the principle public prosecuting authority for England and Wales and is headed by the Director of Public Prosecutions.
- The CPS has produced a policy on prosecuting crimes against older people which is equally applicable to adults at risk, who may also be vulnerable witnesses.
- Support is available within the judicial system to support adults at risk to enable them to bring cases to court and to give best evidence.
- If a person has been the victim of abuse that is also a crime, their support need can be identified by the police, the CPS and others who have contact with the adult at risk. Witness Care Units exist in all judicial areas and are run jointly by the CPS and the police.
- The CPS has a key role to play in making sure that special measures are put in place to support vulnerable or intimidated witnesses to give their best evidence.

See [Guidance on Achieving Best Evidence in Criminal Proceedings](#)

## The Role of the Coroner

**Coroners are the independent judicial officers who are responsible for investigating violent, unnatural deaths or sudden deaths with an unknown cause, and deaths in custody, which must be reported to them.**

The Coroner may have specific questions arising from the death of an adult at risk. These are likely to fall within one of the following categories:

- where there is an obvious and serious failing by one or more organisations
- where there are no obvious failings, but the actions taken by organisations require further exploration/explanation
- where a death has occurred and there are concerns for others in the same household or other setting (such as a care home), or
- deaths that fall outside the requirement to hold an inquest but follow-up enquiries/actions are identified by the Coroner or his/her officers

In the above situations, the Cumbria Safeguarding Adults Board should give serious consideration to instigating a Serious Case Review

## The Role of the Probation Service

The Probation Service protects the public by working with offenders to reduce re-offending and harm.

- The Probation Service works jointly with other public and voluntary services to identify, assess and manage the risk in the community of offenders who have the potential to do harm.
- Probation Officers use the Offender Assessment System (OASys) to assess risk and identify factors that have contributed to offending.
- The Probation Service also has a remit to be involved with victims of serious sexual and other violent crimes.
- The Probation Service share information and work in partnership with other agencies including local authorities and health services, and contribute to local MAPPA to help reduce the re-offending behaviour of sexual and violent offenders in order to protect the public and previous victims from serious harm.
- Although the focus of the Probation Service is on those who cause harm, they are also in a position to identify offenders who themselves are at risk from abuse and to take steps to reduce the risk to those offenders in line with the principles of the Cumbria Safeguarding Adults Multi-Agency Policy and Procedures .

## The Role of the Independent Mental Capacity Advocate (IMCA)

See ADASS, SCIE guide 32 Practice guidance on the involvement of IMCA in safeguarding by visiting [www.scie.org.uk](http://www.scie.org.uk)

Criteria for the use of Independent Mental Capacity Advocates (IMCAs) in Safeguarding Adults Cases.

The Mental Capacity Act 2005 provides the legal framework for acting and making decisions on behalf of individuals who lack the mental capacity to make particular decisions for them. The Act introduces the Independent Mental Capacity Advocate Service to help particularly vulnerable people who lack capacity, make important decisions about serious medical treatment and changes of accommodation, and who have no family or friends that it would be appropriate to consult about those decisions.

The Department of Health extended the Act through Regulations to cover two additional circumstances:

- where a safeguarding adult's allegation has been made, and
- in care reviews.

This guidance focuses on circumstances in which an eligible individual under the adult protection procedures would benefit from having the involvement of an IMCA, ensuring that the available resources are targeted to those in most need.

### Who is eligible?

The regulations specify that Local Authorities and the NHS have powers to instruct an IMCA if the following requirements are met:

- where safeguarding measures are being put in place or being considered in relation to the protection of a vulnerable person from abuse or mistreatment; and
- where the person lacks capacity

Where the qualifying criteria are met, it would be unlawful for the Local Authority or the NHS NOT to consider the exercise of their power to instruct an IMCA for Safeguarding Adults cases.

The Local Authority may instruct an IMCA to represent the person concerned if it is satisfied that it would be of benefit for the person to do so.

In Safeguarding Adults cases only, access to IMCAs is not restricted to people who have no one else to support or represent them. Therefore, people who lack capacity who have family and friends can still have an IMCA to support them through the safeguarding process.

The Regulations equally apply to a person:

- Who may have been abused or mistreated
- Who has been neglected and
- Who is alleged to be the abuser?

## Assessing Capacity in relation to Safeguarding Adults Issues.

Someone is said to lack capacity if they are unable to make a particular decision at a specific time. This inability must be caused by an impairment or disturbance of the mind or brain, whether temporary or permanent.

In order to make a decision a person needs to be able to:

- Absorb basic information about the pros and cons of an issue
- Retain the information for long enough to process it
- Weigh up the pros and cons against their own value system and arrive at a decision
- Communicate that decision

Please see the Mental Capacity Act Code of Practice for the two-stage test of capacity.

## At what point in the process should an IMCA become involved?

Consideration should be given as to the most appropriate time to instruct an IMCA in Safeguarding Adults cases. This will be dependent on the decisions to be made and the risks to those involved. In some cases it will be appropriate to involve an IMCA at the Interagency Strategy Meeting stage. This would need to happen for cases where the wishes/decisions made by the individual would have a significant impact on the investigative process or where immediate actions need to be taken to safeguard the individual prior to further investigation taking place.

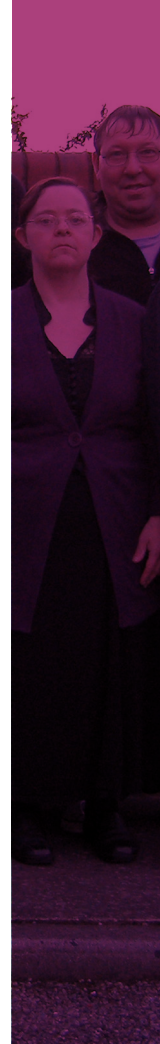
In other cases, it may be more appropriate for an IMCA to become involved at the strategy/planning stage so that they can provide input into the adult protection plan. This would be more appropriate in cases where decisions need to be made as a result of the findings of the investigation.

Where an IMCA has been involved at any stage of the safeguarding process, they should be invited to attend meetings, as appropriate, including any subsequent protection plan reviews.

Once the situation which prompted the referral has been resolved, the continued involvement of the IMCA should be reviewed.

In some situations a case may start out as a Safeguarding Adults case, where consideration is given whether or not to involve an IMCA, but this subsequently becomes a case where the allegations or evidence give rise to the question of whether the person should be moved in their best interests.. The case then becomes one where an IMCA must be involved if there is no one else appropriate to support and represent the person in this decision.

In those cases involving Lasting Powers of Attorney, where there is reasonable belief that the person holding the LPA is not acting in the best interests of the person lacking capacity, an application should be made to the Court of Protection for either a best interest decision or to displace the LPA before an IMCA is considered.





## What are the criteria for referring someone to the IMCA service?

As the IMCA service is a limited resource it is important that the use of IMCAs focuses on cases where other arrangements are not robust enough to support the necessary decision-making for the individual. An external opinion (IMCA) will give a more defensible and person-centred outcome.

In order to ensure that the IMCA service is targeted to those in most need it is recommended that referrals to the IMCA service are made in cases where one of the following applies:

For the alleged victim:

- Where there is a serious exposure to risk
- Risk of death
- Risk of serious physical injury or illness
- Risk of serious deterioration in physical or mental health
- Risk of serious emotional distress
- Where a life-changing decision is involved and consulting family or friends is compromised by the reasonable belief that they would not have the person's best interest at heart
- Where there is a conflict of views between the decision makers regarding the best interests of the person

For the alleged perpetrator:

- Where a life-changing decision is involved and consulting family or friends is compromised by the reasonable belief that they would not have the person's best interests at heart
- Where there is a conflict of views between the decision makers regarding the best interests of the person.

## Complaints

There may be times during the Safeguarding Adults process where concerns about the process itself are raised. It is hoped that professionals will be able to work together to resolve these problems before they become a complaint. However, there may be some occasions when this is not possible. In these instances, follow the guidance below, depending on the nature of the complaint.

### Complaints about the Safeguarding Process

- All complaints about the Safeguarding Adults Process, for example if timescales are not met or if you do not agree with the outcome of an investigation, should be sent to the relevant Manager for that investigation with a copy to the Safeguarding Adults Manager; Adult Social Care
- Managers should comply with their internal guidelines on complaints, meeting timescales and informing the relevant people.

### Complaints about Individual Organisations involved in the Safeguarding Process

- All complaints about individual organisations, for example the conduct of the Police or Adult Social Care in relation to a safeguarding assessment, should be sent to that organisation's complaints department with a copy to the Safeguarding Adults Board.

# The Role of the Independent Safeguarding Authority

The Safeguarding Vulnerable Groups Act 2006 was passed as a result of the Bichard Inquiry arising from the Soham murders in 2002, when the schoolgirls Jessica Chapman and Holly Wells were murdered by Ian Huntley (a school caretaker).

The Inquiry questioned the way employers recruit people to work with vulnerable groups, and particularly the way background checks are carried out. Recommendation 19 of the Inquiry Report highlighted the need for a single agency to vet all individuals who want to work or volunteer with children or adults at risk and to bar unsuitable people from doing so.

The Act was created in response to recommendation 19 and the Independent Safeguarding Authority (ISA) was set up to fulfil this role across England, Wales and Northern Ireland.

Full details of the Act are available on the Office of Public Sector Information website and can be downloaded as a pdf.

The role of the ISA is to help prevent unsuitable people from working with children and adults at risk. Referrals are made to the ISA when an employer or an organisation, for example, a regulatory body, has concerns that a person has caused harm or poses a future risk of harm to children or adults at risk. In these circumstances the employer or regulatory body must make a referral to the ISA. The range of organisations who are able to make referrals include;

- Regulated activity providers;
- Personnel suppliers;
- Local authorities;
- Education and Library Boards;
- Health and Social Care (HSC) bodies;
- Keepers of Registers named in the legislation; and
- Supervisory authorities named in the legislation.

Additionally the ISA can take referrals from members of the public. However as they do not have investigatory powers they will always advise any individual considering making such a referral to first contact the police and/or the relevant local authority's children and adults safeguarding team or social services within a Health and Social Care Trust in Northern Ireland.

The Vetting and Barring Scheme Guidance was published in March 2010.

Since then the Government has reviewed the Scheme and has announced significant changes to make the Scheme more proportionate.

It is important to note that the ISA Registration and Continuous Monitoring features of the Scheme have been scrapped and will not be introduced.

The referral duty to the ISA also continues to apply as does ISA decision making and the ISA barred lists. For more information on the changes to disclosure and barring arrangements proposed by the Government please see the Home Office website.

For more information about the ISA visit [www.isa-gov.org.uk](http://www.isa-gov.org.uk)

