**BRIEF DESCRIPTION OF PROCEDURE:**

This document outlines the procedure and practice for the management of safeguarding adult concerns and Enquiries in Luton.

<table>
<thead>
<tr>
<th>Document Tracking</th>
<th>Name and Post</th>
<th>Date</th>
</tr>
</thead>
<tbody>
<tr>
<td>Prepared By</td>
<td>Patricia Jennings</td>
<td>March 2015</td>
</tr>
<tr>
<td>Consultation With</td>
<td>Luton Safeguarding Adults Board</td>
<td>April 2015</td>
</tr>
<tr>
<td>Approved by</td>
<td>Michael Preston-Shoot</td>
<td>June 2015</td>
</tr>
</tbody>
</table>

**RELATED REFERENCE DOCUMENTATION**

1.1 **Change Record**

<table>
<thead>
<tr>
<th>Version</th>
<th>Details E.g. Updated or full review</th>
<th>Date</th>
<th>Author</th>
<th>Change details</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Summary of changes made to last approved version
List of Contents

Introduction
- Who should be safeguarded?
- Types of Abuse and Neglect

The Safeguarding Principles

The Safeguarding Adult Process
- Pre Reporting Stage
- Accessing people who may be at risk of abuse to gain their views
- The Safeguarding Adult Concern Stage
- The Referrer Stage
- Objectives of an Enquiry
- Decision Making as to the Duty to Enquire
- The Enquiry under Section 42 of The Care Act 2014
- Safeguarding Plans
- Appropriate Person
- Advocacy
- Criminal Offences and Safeguarding under the Care Act 2014
- Safeguarding plans
- Section 42 enquires that are not carried out by Luton Borough Council
- What should an agree action plan contain?
- Person alleged to be responsible for abuse or neglect
- Employment Practices
- Legal Duty for Employers to Refer to Regulatory and Statutory bodies

Record Keeping

Appendix 1: Pre Alert Flowchart
Appendix 2: Duty to Enquire Flowchart
Appendix 3: Capacity, Consent & Decision Making
Appendix 4: Agency Roles & Responsibilities for Safeguarding Enquiries
Appendix 5: Definitions
Appendix 6: Contact Details for the Luton Borough Council Safeguarding Adults Team

Please note that Safeguarding Adults is not a substitute for:

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

It is important to recognise that there are occasions where customers and their families may be provided with support and help to manage risks around their safety that do not involve abuse. In these circumstances it may be more appropriate to follow alternative paths, for example, care management, complaints or serious incident processes.
PRACTICE GUIDANCE FOR THE MANAGEMENT OF SAFEGUARDING CONCERNS.

INTRODUCTION

The Care Act 2014 replaces the “No Secrets” guidance. The Act has introduced new duties with regard to the Safeguarding of Adults and for the first time puts Safeguarding Adult Boards on a statutory footing.

The Safeguarding duties outlined in the Care Act 2014 apply to an adult 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.

“Safeguarding adults means protecting an adult’s right to live in safety, free from abuse and neglect. It is about people and organisations working together. It is about people and organisations working together to prevent and stop both the risks and experience of abuse or neglect, while at the same time making sure that the adult’s wellbeing is promoted including, where appropriate, having regard to their views, wishes, feelings and beliefs in deciding on any action.” Care and Support Statutory Guidance October 2014.

In order to respond appropriately to allegations of abuse anyone in contact with an adult, whether in a voluntary or professional capacity, must understand their role and responsibility and have access to practical and legal guidance. This includes understanding the local multi agency policy and procedure.

Who should be safeguarded?

The local authority’s statutory safeguarding adults duties apply equally to those adults with care and support needs regardless of whether those needs are being met; whether the adult lacks capacity or not; regardless of setting other than prisons and approved premises where prisoners and National Offender Management Service (NOMS) respectively have responsibility.

The decision to carry out a safeguarding enquiry does not depend on the person’s eligibility, but should be taken wherever there is reasonable cause to think that the person is experiencing, or is at risk of abuse or neglect.

Whether or not the adult has capacity to give consent, action may need to be taken if others are, or will, be put at risk if nothing is done or where it is in the public interest to take action because a criminal offence has occurred.

The types and forms of abuse or neglect are broad and it is important that where people have concerns about abuse that they raise these concerns. However growing
awareness of adult abuse has led to an increase in reports of concerns and subsequent safeguarding work. Many concerns are sent to safeguarding when they should be dealt with through contractual, managerial, complaints or disciplinary procedures. Some concerns require complex social work case management rather than a formal safeguarding response.

**Types of Abuse and Neglect**

*Physical abuse* – including assault, hitting, slapping, pushing, misuse of medication, restraint or inappropriate physical sanctions.

*Domestic violence* – including psychological, physical, sexual, financial, emotional abuse; so called ‘honour’ based violence.

*Sexual abuse* – including rape, indecent exposure, sexual harassment, inappropriate looking or touching, sexual teasing or innuendo, sexual photography, subjection to pornography or witnessing sexual acts, indecent exposure and sexual assault or sexual acts to which the adult has not consented or was pressured into consenting.

*Sexual Exploitation* - Sexual exploitation could be part of a seemingly consensual relationship, or be used for ‘payment’ for attention, affection, money, drugs, alcohol or somewhere to stay.

The person being exploited may believe their abuser is their friend, boyfriend or girlfriend. The abuser may:

- Physically or verbally threaten the victim;
- Take indecent photographs of them and circulate to others;
- Be violent towards them; and
- May try to isolate them from friends and family.

*Psychological abuse* – including emotional abuse, threats of harm or abandonment, deprivation of contact, humiliation, blaming, controlling, intimidation, coercion, harassment, verbal abuse, cyber bullying, isolation or unreasonable and unjustified withdrawal of services or supportive networks. Radicalisation could fall into this category of abuse.

*Financial or material abuse* – including theft, fraud, internet scamming, coercion in relation to an adult’s financial affairs or arrangements, including in connection with wills, property, inheritance or financial transactions, or the misuse or misappropriation of property, possessions or benefits.

*Modern slavery* – encompasses slavery, human trafficking, forced labour and domestic servitude. Traffickers and slave masters use whatever means they have at their disposal to coerce, deceive and force individuals into a life of abuse, servitude and inhumane treatment.

*Discriminatory abuse* – including forms of harassment, slurs or similar treatment; because of race, gender and gender identity, age, disability, sexual orientation or religion.
Organisational abuse – including neglect and poor care practice within an institution or specific care setting such as a hospital or care home, for example, or in relation to care provided in one’s own home. This may range from one off incidents to on-going ill-treatment. It can be through neglect or poor professional practice as a result of the structure, policies, processes and practices within an organisation.

Neglect and acts of omission – including ignoring medical, emotional or physical care needs, failure to provide access to appropriate health, care and support or educational services, the withholding of the necessities of life, such as medication, adequate nutrition and heating

Self-neglect – this covers a wide range of behaviour neglecting to care for one’s personal hygiene, health or surroundings and includes behaviour such as hoarding.

THE 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 take action before harm occurs.

“I receive clear and simple information about what abuse is, how to recognise the signs and what I can do to seek help.”

Proportionality – The least intrusive response appropriate to the risk presented.

“I am sure that the professionals will work in my interest, as I see them and they will only get involved as much as needed.”

Protection – Support and representation for those in greatest need.

“I get help and support to report abuse and neglect. I get help so that I am able to take part in the safeguarding process to the extent to which I want.”

Partnership – Local solutions through services working with their communities. Communities have a part to play in preventing, detecting and reporting neglect and abuse.

“I know that staff treat any personal and sensitive information in confidence, only sharing what is helpful and necessary. I am confident that professionals will work together and with me to get the best result for me.”

Accountability – Accountability and transparency in delivering safeguarding.

“I understand the role of everyone involved in my life and so do they
THE SAFEGUARDING ADULT PROCESS

**Pre Reporting Stage** *(Please refer to Appendix 1 for Pre-concern Flowchart)*
There is a concern that an adult is at risk of/ or is being abused; or the adult makes a disclosure or an allegation of abuse.

The first responses taken on discovering an incident has occurred or concern is raised are critical to any subsequent enquiry. In some cases the course of action is very clear, for example where a person has been subjected to a physical assault and needs immediate medical treatment for injuries, or there is an allegation of a crime.

You must have a discussion with the adult or with their representative to confirm the cause of the abuse and agree the actions they want and the actions taken.

Good safeguarding practice begins with talking to the adult about whom there is concern, unless there are exceptional circumstances that would increase the risk of abuse. That conversation will need to establish facts and, importantly, what the person wants to happen and how.

Practitioners need to make personal contact with the people they are working with and establish a relationship. The issue of access and ability of the person to talk freely is critical.

If you are unable to access the person whom you have the concerns about as a practitioner or you have difficulty in accessing them without the third party to whom the concern relates being present, you should consult the local authority appointed worker or if the person does not have an allocated worker, the Luton Safeguarding Adult Team for advice.

As part of this pre-concern phase; you may need to discuss the matter with other agencies such as the police; The Care Quality Commission; the adult’s GP; and the care commissioner.

If the issue cannot be resolved through these means or the adult remains at risk of abuse or neglect, then the local authority’s enquiry duty under Section 42 of The Care Act continues until it decides what action is necessary to protect the adult and by whom and ensures itself that this action has been taken. A Safeguarding Concern should be made at this point.

**Accessing people who may be at risk of abuse to gain their views**
There will be times when access to people for whom safeguarding concerns have been raised cannot be gained. As Safeguarding Adults has Empowerment as a core principle, it is therefore very important that they are involved right from the start.

Under Section 42 of the Care Act 2014, local authorities have a duty to make, or cause to be made, enquiries in cases where they reasonably suspect that an adult who meets the eligibility criteria is at risk of or is being abused.

This duty to make or to cause adult safeguarding enquiries to be made does not provide for a specific legal power of entry or right of unimpeded access to the adult...
who is subject to such an enquiry. Instead, there is a range of existing legal powers which are available to gain access should this be necessary.

The powers which may be relevant to adult safeguarding situations derive from a variety of sources including the Mental Capacity Act 2005 (MCA), the Mental Health Act 1983 (MHA) and the Police and Criminal Evidence Act 1984 (PACE), along with the common law including the inherent jurisdiction of the High Court and common law powers of the police to prevent or deal with a breach of the peace. The purpose of a safeguarding enquiry is for the local authority to clarify matters and then decide on what course of action (if any) is required in order to protect the adult in question from abuse and neglect.

If any action is necessary, then it is for the local authority to take the lead in coordinating what action is appropriate and by whom. Therefore in cases where it may be necessary to rely on legal powers of entry, Luton Borough Council practitioners must ensure that they seek advice from the Council’s Legal Team.

For further guidance practitioners and managers should refer to the Social Care Institute for Excellence (SCIE) Gaining access to an adult suspected to be at risk of neglect or abuse: a guide for social workers and their managers in England

BMA Adult safeguarding toolkit:
“…where a competent adult explicitly refuses any supporting intervention, this should normally be respected. Exceptions to this may be where a criminal offence may have taken place or where there may be a significant risk of harm to a third party. If, for example, there may be an abusive adult in a position of authority in relation to other vulnerable adults [sic], it may be appropriate to breach confidentiality and disclose information to an appropriate authority. Where a criminal offence is suspected it may also be necessary to take legal advice. Ongoing support should also be offered. Because an adult initially refuses the offer of assistance he or she should not therefore be lost to or abandoned by relevant services. The situation should be monitored and the individual informed that she or he can take up the offer of assistance at any time.”

IN ALL CASES Medical attention should be sought where there is a possibility that an injury may have occurred even where there are no visible signs.

Consent from the adult or their representative should be sought unless the adult is at serious risk of harm from injuries and requires medical attention.

Preserve all essential and vital evidence.

Aim to minimise the risk of further harm to the adult.

Reassure the adult.

Aim to minimise the risk of intimidation by any person alleged to be responsible for abuse or neglect whether known or unknown.
Obtain **only** sufficient information to be able to tell the police, medical personnel or management what is believed to have happened, when and where.

If a crime is being alleged contact the police ‘999’ for an emergency (e.g. rape, serious physical or sexual assault, robbery).

Contact the local police station or non-emergency number 101 for a crime where a safeguarding issue is not alleged/suspected.

**DO NOT** interview any person alleged to be responsible for abuse or neglect.

Notify manager or nominated senior person on duty as soon as practicable.

Removal of the adult from home should not be seen as the first option to address situations of abuse.

Relevant regulatory bodies must be notified when the concern relates to registered premises or services (e.g. CQC, Reporting of Injuries, Diseases & Dangerous Occurrences Regulations (RIDDOR).

**The Safeguarding Adult Concern Stage** (Please refer to Flowchart in Appendix 1)

The Concern is raised with the Luton Safeguarding Adults Team (LSAT) on the appropriate Safeguarding Adult Concern (SAR) form.

The SAR form should be completed and sent to the LSAT within 48 hours of the concern being raised. However completion of the form **should not** delay immediate action being taken where necessary to ensure the safety of the adult and the preservation of evidence if it is suspected that a crime has been committed.

Luton Safeguarding Adults Team will screen the concern to decide if further action is required under the Safeguarding Adults Section 42 duty. If a meeting is held then actions should be distributed within 5 working days from when the meeting took place.

Minutes of meetings held at this stage should be distributed within 10 working days.

Comments and accuracy to be returned within: 5 working days of receipt of the meeting minutes. If the concern is closed at this stage minutes of any meeting held should be signed by the practitioners and manager within five working days of the case being closed.

*The person raising the concern must be advised of outcome.*

Criminal activity must be reported to the police at this stage if this has not happened earlier.

Where the outcomes have been achieved, the Section 42 duty ends at this stage. There may be other actions agreed at this stage, such as a care plan review to be
arranged. These actions would then become the responsibility of the appropriate team or agency.

**The Referral Stage** *(Please refer to Flowchart in Appendix 2.)*
If further action under the Section 42 duty is required, the Concern will be treated as a Safeguarding Referral by the Luton Safeguarding Adults Team and a decision made as to whether an enquiry is necessary.

The local authority must make enquiries, or cause another agency to do so, whenever abuse or neglect are suspected in relation to an adult and the local authority thinks it necessary to enable it to decide what if any action is needed to help and protect the adult.

It should be agreed at this stage who is to take that action. This may require a strategy discussion or a strategy meeting and next steps should be planned and the adult's desired outcomes established.

However a Strategy Discussion must take place for all Safeguarding Referrals at this stage regardless of who will lead the enquiry; this will include discussion with the adult and their relevant representative.

Strategy Meetings should take place where the enquiry requires a multi-agency response and/or the outcomes required are complex.

Feedback should be given to relevant people about the next steps.

**Objectives of an Enquiry**
The objectives of an enquiry into abuse or neglect are to:

- establish facts;
- ascertain the adult's views and wishes;
- assess the needs of the adult for protection, support and redress and how they might be met;
- protect from the abuse and neglect, in accordance with the wishes of the adult;
- make decisions as to what follow-up action should be taken with regard to the person or organisation responsible for the abuse or neglect; and enable the adult to achieve resolution and recovery.

The first priority should always be to ensure the safety and well-being of the adult. The adult should experience the safeguarding process as empowering and supportive and practitioners should wherever practicable seek the consent of the adult before taking action. However, there may be circumstances when consent cannot be obtained because the adult lacks the capacity to give it, but it is in their best interests to undertake an enquiry.

Whether or not the adult has capacity to give consent, action may need to be taken if others are or will be put at risk if nothing is done or where it is in the public interest to take action because a criminal offence has occurred.
It is the responsibility of all staff and members of the public to act on any suspicion or evidence of abuse or neglect and to pass on their concerns to a responsible person or agency.

**Decision Making as to the Duty to Enquire**
The decision making process around which agency will lead on an enquiry will take into account the following:

- What outcomes does the adult want to achieve and which agency is best placed to achieve these outcomes;
- The adult’s need for care and support;
- The adult’s risk of abuse or neglect;
- The adult’s ability to protect themselves or the ability of their networks to increase the support they offer;
- The impact on the adult, their wishes;
- The possible impact on important relationships;
- Potential of action in increasing risk to the adult;
- The risk of repeated or increasingly serious acts involving children, or another adult at risk of abuse or neglect;
- The responsibility of the person or organisation that has caused the abuse or neglect; and
- Research evidence to support any intervention.

If there is cause for concern that a crime has or is being committed the Police will lead on the investigation into this matter and there may be a need for safeguarding action to ensure the person is not at risk.

If there is an employment issue then the employer should carry out their employment responsibilities under, for example, disciplinary proceedings.

Regulatory Bodies should lead on enquiries concerning matters of regulatory infringement.

**The Enquiry under Section 42 of the Care Act 2014**
Once the wishes of the adult have been ascertained and an initial enquiry undertaken, discussions should be held with them as to whether further enquiry is needed and what further action could be taken.
That action could include disciplinary, complaints or criminal investigations or work by contracts managers and CQC to improve care standards.

The adult should be helped to understand what their options might be and how their wishes might best be realised. Social workers must be able to set out both the civil and criminal justice approaches that are open and other approaches that might help to promote their well-being, such as therapeutic or family work, mediation and conflict resolution, peer or circles of support.

In complex domestic circumstances, it may take the adult some time to gain the confidence and self-esteem to protect themselves and take action and their wishes may change. The police, health service and others may need to be involved to help ensure these wishes are realised.

**Appropriate person**

Under the Care Act, the local authority is required to consider whether there is an appropriate person who can facilitate the adult’s involvement in the safeguarding process. There are three requirements:

1. **Someone who is already providing care and treatment in a professional capacity or on a paid basis cannot** be the appropriate person. This includes a GP, nurse, key worker or care and support worker involved in the adult’s care and support.
2. **The adult subject to the safeguarding enquiry or Safeguarding Adults Review has to agree to the person supporting them, if they have capacity to make this decision.** A relative cannot be an appropriate person if the adult with capacity does not wish to be supported by them. If the adult does not have capacity to consent to being supported by a particular person, the local authority must be satisfied that it is in the adult’s best interests.
3. **The role of the appropriate person is to actively support the adult’s participation in the process.** In some cases it is unlikely that they will be able to do this: for example:
   a. There is a conflict of interest;
   b. They live at a distance or only have occasional contact with the individual;
   c. They find it difficult to understand the Local Authorities processes themselves;
   d. They express their own opinions rather than those of the individual concerned.

If it becomes clear that the appropriate person has difficulty supporting the adult’s involvement, the Local Authority must arrange for an independent advocate to do so.

If it is not immediately clear whether there is an appropriate person, the local authority may need to arrange for an advocate to support the adult in the initial stages of the process, who may hand over to the appropriate person once they are identified.

Where an advocate has been appointed, a family member or friend should still be appointed to offer support to the person.
**Advocacy**
Under the Care Act, the local authority or their agent must arrange for an independent advocate to represent and support an adult who is the subject of a safeguarding enquiry or Safeguarding Adult Review, where the adult has “substantial difficulty” in being involved in the process and where there is no other suitable person to assist. A person who is engaged to provide care or treatment for the adult in question in a professional capacity cannot be an advocate.

The adult must consent to being represented and supported by the advocate. If the adult lacks capacity, the local authority must follow the Mental Capacity Act Guidance in relation to determining that it is in the adult's best interests to be represented and supported by the advocate.

The local authority has a separate duty to provide an Independent Mental Capacity Advocate (IMCA) in safeguarding enquiries if someone lacks capacity to fully participate. An adult with dementia, significant learning disabilities, a brain injury or mental ill health is likely to need an IMCA. The IMCA can support and represent an adult at risk of abuse and neglect where necessary and appropriate. The local authority does not have to provide two separate advocates and it is not likely to be in the adult's best interests to do

**Criminal Offences and Safeguarding under the Care Act 2014**
Although the local authority has the lead role in making enquiries, where crimes are suspected then early involvement of the police will have benefits.

For the purposes of the courts, a witness is competent if they can understand the questions and respond in a way that the court can understand. Under legislation police have a duty to support vulnerable or intimated witnesses. A range of special measures are available to assist and consideration of these must be given in the first instance (Crown Prosecution Service).

**Safeguarding plans**
Once the facts have been established, a further discussion of the needs and wishes of the adult should take place. This could be focused safeguarding planning to enable the adult to achieve resolution or recovery, or fuller assessments by health and social care agencies (e.g. a needs assessment under the Care Act). This will entail joint discussion, decision taking and planning with the adult for their future safety and well-being. This applies if it is concluded that the allegation is true or otherwise, as many enquiries may be inconclusive.

The local authority must determine what further action is necessary. Where the local authority determines that it should itself take further action (e.g. a protection plan), then the authority is under a duty to do so bearing in mind its legal obligations under The Mental Capacity Act 2005.

In order to make sound decisions, the adult's emotional, physical, intellectual and mental capacity in relation to self-determination and consent and any intimidation, misuse of authority or undue influence will have to be assessed.
Section 42 enquires that are not carried out by Luton Borough Council

When enquiries that have been allocated to other agencies are completed, the outcome should be notified to the local authority Safeguarding Adults Team. A template for enquiry reports will be developed by the LSAB Policy and procedure subgroup and the expectation will be that providers will use this to complete their Sec 42 enquiry reports.

The Luton Safeguarding Adults Team will then determine with the adult what, if any, further action is necessary and acceptable.

It is for the local authority to determine the appropriateness of the outcome of the enquiry.

One outcome of the enquiry may be the formulation of an agreed action for the adult which should be recorded on their care plan. This will be the responsibility of the relevant agencies to implement.

What should an agreed safeguarding plan contain?

The Safeguarding Plan should set out:

− what steps are to be taken to assure their safety in future;
− the provision of any support, treatment or therapy including on-going advocacy;
− any modifications needed in the way services are provided (e.g. same gender care or placement; appointment of an Office of the Public Guardian deputy);
− how best to support the adult through any action they take to seek justice or redress;
− any on-going risk management strategy as appropriate; and,
− any action to be taken in relation to the person or organisation that has caused the concern.

Person alleged to be responsible for abuse or neglect

Staff: When a complaint or allegation has been made against a member of staff, including people employed by the adult, they should be made aware of their rights under employment legislation and any internal disciplinary procedures. The employer is responsible for carrying this out. Where the employer is an adult at risk they should be supported, if they want to be, to have this conversation with their employee.

Employers who are also providers or commissioners of care and support not only have a duty to the adult, but also a responsibility to take action in relation to the employee when allegations of abuse are made against them. Employers should ensure that their disciplinary procedures are compatible with the responsibility to protect adults at risk of abuse or neglect.

Employment Practices

Robust employment practices, with checkable references and recent Disclosure and Barring Service (DBS) checks are important. Reports of abuse, neglect and misconduct should be investigated and evidence collected.
Legal Duty for Employers to Refer to Regulatory and Statutory bodies
Where appropriate, employers should report workers to the statutory and other bodies responsible for professional regulation, such as the General Medical Council and the Nursing and Midwifery Council. If someone is removed from their role providing regulated activity following a safeguarding incident, the regulated activity provider (or if the person has been provided by an agency or personnel supplier, the legal duty sits with them) has a legal duty to refer to the Disclosure and Barring Service.

The legal duty to refer also applies where a person leaves their role to avoid a disciplinary hearing following a safeguarding incident and the employer/volunteer organisation feels they would have dismissed the person based on the information they hold.

The standard of proof for prosecution is ‘beyond reasonable doubt’. The standard of proof for internal disciplinary procedures and for discretionary barring consideration by the DBS and the Vetting and Barring Board is usually the civil standard of ‘on the balance of probabilities’. This means that when criminal procedures are concluded without action being taken, this does not automatically mean that regulatory or disciplinary procedures should cease or not be considered. In any event there is a legal duty to make a safeguarding referral to DBS if a person is dismissed or removed from their role due to harm to a child or a vulnerable adult (Disclosure and Barring Service).

People who have care and support needs: Where the person who is alleged to have carried out the abuse themselves has care and support needs and is unable to understand the significance of questions put to them or their replies, they should be assured of their right to the support of an ‘appropriate’ adult if they are questioned in relation to a suspected crime by the police under the Police and Criminal Evidence Act 1984 (PACE). Victims of crime and witnesses may also require the support of an ‘appropriate’ adult. Where there is a Sec 42 Enquiry that does not involve questioning by the police, the person leading the enquiry should ensure that the alleged person with care and support needs, is supported by friends or family if they agree to this or an advocate if they are befriended.

People who lack capacity: Under the MCA, people who lack capacity and are alleged to be responsible for abuse, are entitled to the help of an Independent Mental Capacity Advocate, to support and represent them in the enquiries that are taking place. This is separate from the decision whether or not to provide the victim of abuse with an independent advocate under the Care Act.

RECORD KEEPING
Good record keeping is a vital component of professional practice. Whenever a complaint or allegation of abuse is made, all agencies should keep clear and accurate records and each agency should identify procedures for incorporating, on receipt of a complaint or allegation, all relevant records into a file to record all action taken.
When abuse or neglect is raised practitioners need to look for past incidents, concerns, risks and patterns. We know that in many situations, abuse and neglect arise from a range of incidents over a period of time.

In the case of providers registered with CQC, records of these should be available to service commissioners and the CQC so they can take the necessary action.

Staff should be given clear direction as to what information should be recorded and in what format.

The following questions are a guide:

- What information do staff need to know in order to provide a high quality response to the adult concerned?
- What information do staff need to know in order to keep adults safe under the service’s duty to protect people from harm?
- What information is not necessary?
- What is the basis for any decision to share (or not) information with a third party?

Records should be kept in such a way that the information can easily be collated for local use and national data collections.

All agencies should identify arrangements, consistent with principles and rules of fairness, confidentiality and data protection for making records available to those adults affected by, and subject to, an enquiry.

If the alleged abuser is using care and support themselves, then information about their involvement in an adult safeguarding enquiry, including the outcome, should be included in their case record. If it is assessed that the individual continues to pose a threat to other people then this should be included in any information that is passed on to service providers or other people who need to know.
Appendix 1: Pre-Concern Flowchart

Discussion with individual or representative
Confirms cause for concerns and agrees outcomes wanted and action to be taken

- Talk to CQC or other regulator
- Contact local authority or voluntary organisation for advice
- Discuss with / report to police
- Talk to GP or other health professional
- Use a helpline or internet support
- Talk to organisation commissioning or giving care and support e.g. NHS, Care Home, Housing Provider
- Contact Office of the Public Guardian or DWP
Appendix 2 Section 42 Duty to Enquire Flowchart

Diagram 1B

- Agree who will do what
- Timescales to be agreed
- The local authority retains accountability and oversight of the enquiry and outcomes.

**Principles**
- Empowerment - Presumption of person led decisions and informed consent.
- Prevention - It is better to take action before harm occurs.
- Proportionate and least intrusive response appropriate to the risk presented.
- Protection - Support and representation for those in greatest need.
- Partnership - Local solutions through services working with their communities.
- Communities - have a part to play in preventing, detecting and reporting neglect and abuse.
- Accountability and transparency in delivering safeguarding.
- Feedback to relevant people

- Outcomes achieved. Section 42 duty ends. Agree other actions e.g. review care plans
- Outcomes not achieved
Diagram 18

**Safeguarding Plan:**
- Timescales for review and monitoring to be agreed
- Agree who will be the lead professional to monitor and review the plan? Ensure all professionals clear about their roles and actions

**Decide on actions:**
- Advice and information
- Assessment and support planning

**Sections 42 duty continues**

**Outcomes achieved, no further Sec 42 required, agreed by local authority**

**Evaluate need for other actions as necessary, e.g. advice**

**Yes**

**Further action needed if adult deemed to be at continuing risk of harm**

**Continue to work with individual(s) and develop strategies to reduce/manage risk**

**Final evaluation of outcomes**

**Review Plan**

**Evaluation of outcomes and actions**

**Principles**
- Empowerment - Presumption of person led decisions and informed consent
- Prevention - It is better to take action before harm occurs.
- Proportionate and least intrusive response appropriate to the risk presented.
- Protection - Support and representation for those in greatest need.
- Partnership - Local solutions through services working with their communities.
- Communities - have a part to play in preventing, detecting and reporting neglect and abuse.
- Accountability and transparency in delivering safeguarding.
- Feedback back whenever possible.
Appendix 3: Capacity, Consent & Decision Making

Section 2 of The Mental Capacity Act 2005 states:
(1) ‘For the purposes of this Act, a person lacks capacity in relation to a matter if at the material time he is unable to make a decision for himself in relation to the matter because of an impairment of, or a disturbance in the functioning of, the mind or brain.’
(2) It does not matter whether the impairment or disturbance is permanent or temporary.
(3) A lack of capacity cannot be established merely by reference to –
   (a) A person’s age or appearance, or
   (b) A condition of his, or an aspect of his behaviour, which might lead others to make unjustified assumptions about his capacity.

Mental Capacity Act 2005 - Code of Practice states:
“Mental Capacity is the ability to make a decision”

- This includes the ability to make a decision what affects daily life – such as when to get up, what to wear or whether to go to the doctor when feeling ill – as well as more serious or significant decisions.
- It also refers to a person’s ability to make a decision that may have legal consequences – for themselves or others. Examples include agreeing to have medical treatment, buying goods or making a will.

The starting point must always be to assume that a person has the capacity to make a specific decision. Some people may need help to be able to make or communicate a decision but this does not necessarily mean that they lack capacity to do so. What matters is their ability to carry out the processes involved in making the decision – and not the outcome.”

The expressed wishes of vulnerable adults should, where possible, be paramount in the decision making process. However, there remains a fundamental duty to balance the person’s right to autonomy with their, or the public need for protection.

The principles of the Mental Capacity Act should be followed at all times where lack of capacity of an individual is assessed. An Independent Mental Capacity Advocate (IMCA) should be appointed in line with the guidance in Section 6.6 of this policy, (Chapter 10 of the Code of Practice MCA - http://www.justice.gov.uk/protecting-the-vulnerable/mental-capacity-act) in order to support people who lack capacity through the safeguarding process.

Please refer to MCA code of practice and also to local procedures.
Appendix 4: Agency Roles & Responsibilities For Safeguarding Enquiries

The Care Act states that roles and responsibilities should be clear and collaboration should take place at all the following levels:

- Operational;
- Supervisory line management;
- Designated Adult Safeguarding Managers (DASMs);
- Senior management staff;
- Corporate/cross authority;
- Chief officers/chief executives;
- Local authority members and local police and crime commissioners;
- Commissioners;
- Providers of services;
- Voluntary organisations, and;
- Regulated professionals.

<table>
<thead>
<tr>
<th>Role</th>
<th>Responsibility</th>
</tr>
</thead>
<tbody>
<tr>
<td>Operational front line staff</td>
<td>Identifying and responding to allegations of abuse and substandard practice. Staff at operational level need to share a common view of what types of behaviour may be</td>
</tr>
<tr>
<td>Line Managers’ Supervision</td>
<td>Managers have a central role in ensuring high standards of practice and that practitioners are properly equipped and supported. Skilled and knowledgeable supervision focused on outcomes for adults is critical in safeguarding work.</td>
</tr>
<tr>
<td>Designated Adult Safeguarding Manager</td>
<td>Each member of the SAB should have a Designated Adult Safeguarding Manager (DASM) responsible for the management and oversight of individual complex cases and coordination where allegations are made or concerns raised about a person, whether an employee, volunteer or student, paid or unpaid.</td>
</tr>
<tr>
<td>Senior managers</td>
<td>Each agency should identify a senior manager to take a lead role in the organisational and in inter-agency arrangements, including the SAB.</td>
</tr>
<tr>
<td>Corporate/cross authority roles</td>
<td>To ensure effective partnership working, each organisation must recognise and accept its role and functions in relation to adult safeguarding.</td>
</tr>
<tr>
<td>Chief Officers and Chief Executives</td>
<td>As chief officer for the leading adult safeguarding agency, the Director of Adult Social Services (DASS) has a leadership and challenge role to play in adult safeguarding.</td>
</tr>
<tr>
<td>Local authority member level</td>
<td>Local authority members need to have a good understanding of the range of abuse and neglect issues that can affect adults and of the importance of balancing safeguarding with empowerment. They need to understand prevention, proportionate interventions, and the dangers of risk adverse practice and the importance of upholding human rights.</td>
</tr>
<tr>
<td>Local Authority Health &amp; Scrutiny Functions, such as the Council’s Health Overview and Scrutiny Committee, Health and Wellbeing Boards (HWBs) and Community Safety Partnerships</td>
<td>These bodies have a role in assuring local safeguarding measures, and ensuring that the LSAB is accountable to local communities. Similarly, local Health and Wellbeing Boards provide leadership to the local health and wellbeing system; ensure strong partnership working between local government and the local NHS; and ensure that the needs and views of local communities are represented.</td>
</tr>
<tr>
<td>Commissioners</td>
<td>Local Authority, NHS and Luton CCG Commissioners are all vital to promoting adult safeguarding. Commissioners have a responsibility to assure themselves of the quality and safety of the organisations they place contracts with and ensure that those contracts have explicit clauses that holds the providers to account for preventing and dealing promptly and appropriately with any example of abuse and neglect.</td>
</tr>
<tr>
<td>Providers of services</td>
<td>All service providers, including housing and housing support providers, should have clear operational policies and procedures that reflect the framework set by the SABs in consultation with them. This should include what circumstances would lead to the need to report outside their own chain of line management, including outside their organisation to the local authority. They need to share information with relevant partners such as the local authority even where they are taking action themselves.</td>
</tr>
<tr>
<td>Voluntary organisations</td>
<td>Voluntary organisations need to work with commissioners and the SAB to agree how their role fits alongside the statutory agencies and how they should work together.</td>
</tr>
<tr>
<td>Regulated professionals</td>
<td>Staff governed by professional regulation (for example, social workers, doctors, allied health professionals and nurses) should understand how their professional standards and requirements underpin their organisational roles to prevent, recognise and respond to abuse and neglect.</td>
</tr>
</tbody>
</table>
Appendix 5: Definitions

Allegation
An allegation is an assertion by the adult, or other person(s) that the adult is or has been a victim of abuse.

Anti-Social Behaviour
Anti-social behaviour is any aggressive, intimidating or destructive activity that damages or destroys another person’s quality of life.

Case Management
The resolution of the risks identified by use of a personal support plan implemented and monitored by a care manager or social worker.

Concern
A concern is defined as a feeling of anxiety or worry that an adult may have been, is, or might be, a victim of abuse. This would be the first contact between the source of the referral and the local authority safeguarding team/service about the alleged abuse.

Disclosure
A disclosure occurs when the adult says or implies that they are being, have been, or are at risk of being abused. Disclosure may be direct, or may take the form of odd hints or veiled comments.

Disclosure and Barring Service (DBS) helps employers make safer recruitment decisions and prevent unsuitable people from working with vulnerable groups, including children. It replaces the Criminal Records Bureau (CRB) and Independent Safeguarding Authority (ISA).

Exploitation
Exploitation can be seen as taking advantage of an adult in an unjust or unethical way for one's own gain, to the detriment of that person. For example, using someone’s vulnerability in order to attain personal benefit at the expense of the adult(s). This can include Sexual Exploitation of adults and or children.

Hate Crime
Hate crime is a term used to describe an offence committed against a person because of hate or prejudice. It affects such a range of people it is difficult to define but we describe it as, any incident, which may be a criminal offence, motivated by prejudice or hatred towards a particular social group because of their:

- Race, Colour, Ethnic origin and Nationality
- Religion and Faith
- Gender or Gender Identity
- Sexual Orientation
- Disability and Learning Difficulties
- Mental Health

Hate crimes can take many forms which can include:

- Physical attacks – physical assault, damage to property, offensive graffiti, neighbour disputes and arson
– Threat of attack or bullying – offensive letters, abusive telephone calls, malicious complaints
– Verbal insults or abusive gestures

**Incident**
An occurrence or event that gives rise to a concern or allegation

**Indicators**
An indicator is a sign, symptom or behaviour that should alert the person noting / observing it, that the adult may have been, is or might be a victim of abuse

**Safeguarding Adult Team (Luton Borough Council)**
The team responsible for receiving all safeguarding concerns about residents of Luton. The team oversees the safeguarding enquiry process and provides key information to the Luton Safeguarding Adults Board. Contact detail can be found in Appendix 6.

**Serious Incident**
All NHS organisations have a mechanism for reporting all clinical, non- and near miss incidences; all incidences deem very high risk and/or serious, go onto be deemed a Serious Incident (SI) and under all NHS organisations do this under a local SI policy.

Locally in the NHS, incident reporting is undertaken via an electronic system. This feeds into the framework for the management of those incidences deemed Serious Incident. This is in accordance with best practice and in line with the expectations of Clinical Commissioning Groups (CCG) and in adherence to the National Patient Safety Agency (NPSA), The NHS Litigation Authority (NHSLA), the Care Quality Commission (CQC) and Monitor. This process will occur for all incidences; some of which will also be deemed a Safeguarding Adults Incident reportable under these guidelines to the Local Authority for investigation, however time frames for an SI investigation that are serious enough to require application of the full process are longer at 45 days.

**Self-Neglect**
Self-neglect may or may not be a safeguarding issue, however agencies must assess concerns raised under their statutory duties; having consideration for an individual’s right to choose their lifestyle, balanced with their mental health or capacity to understand the consequences of their actions.

Once identified as a situation that cannot be managed through regular case management, high risk or self-neglect situations will be managed through the safeguarding process following receipt of a Safeguarding alert outlining the risks involved.

**Special Measures**
The Youth Justice and Criminal Evidence Act 1999 (YJCEA) introduced a range of measures that can be used to facilitate the gathering and giving of evidence by vulnerable and intimidated witnesses. The measures are collectively known as "special measures".

Special measures are a series of provisions that help vulnerable and intimidated witnesses give their best evidence in court and help to relieve some of the stress associated with giving evidence. Special measures apply to prosecution and defence witnesses, but not to the defendant and are subject to the discretion of the court.
Referral
Cases which do not meet the SET Guidelines safeguarding threshold and are therefore not fully investigated should not be counted as a referral and are therefore considered ‘alerts’.

Risk
Risk is not, in itself, a safeguarding issue. Risks are hazards that could have a negative impact on an individual. Social Care has a strong focus on enabling adults to live independently by giving them a choice of services, such as individual budgets which enables them to take control of their life. This will inevitably involve a degree of risk, and whilst not all risk can be eliminated, it can be managed.

Undue Influence
Undue influence occurs when:

The unduly influenced adult has the mental capacity to make the decision in question but their will has been overborne not just by influence but by the undue influence of somebody else.

The adult is influenced to enter into a transaction concerning a gift, or a will, in such a way that it is not of their own free will or that the person lacked capacity at the relevant time.

There are two types of undue influence:

(i) “Express”, when there is evidence of coercion or undue pressure
(ii) “Presumed” when there is no such evidence but it has occurred when the relationship is of an unequal nature and one person is taking unfair advantage of another

What is the role of the practitioner and the safeguarding interventions that can be offered in incidents of undue influence:
If it is before the transaction occurs and it is appropriate, the practitioner can suggest that independent advice is required e.g. via a solicitor or an accountant.
If a criminal offence seems to have been committed then police involvement should be considered and sought. The basis for undue influence is the establishment of dishonesty and this can relate to a living or dead person.

Vulnerable adult witness (S16 YJCEA)
All child witnesses (under 18); and
Any witness whose quality of evidence is likely to be diminished because they:

- Are suffering from a mental disorder (as defined by the Mental Health Act 1983):
  - have a significant impairment of intelligence and social functioning; or
  - have a physical disability or are suffering from a physical disorder.

Some disabilities are obvious, some are hidden. Witnesses may have a combination of disabilities. They may not wish to disclose the fact that they have a disability during initial and subsequent needs assessments. Different witnesses on the autistic spectrum may have very different needs.
Appendix 6: Contact Details for the Luton Borough Council Safeguarding Adults Team

Email: adultsafeguarding@luton.gov.uk

Telephone: 01582 547730 or 01582 547563

Emergency Duty Team (for out of hour advice and guidance): 0300 300 8123