

# Care Act 2014

## Bedford Borough and Central Bedfordshire multi agency safeguarding policies and procedures update briefing note.

From April 2015 the Care Act 2014 puts the Safeguarding Adults Board on a statutory footing. The safeguarding policies and procedures have been amended to reflect the changes in law, terminology and culture of safeguarding practice. This briefing note provides an introductory summary of the changes. It is important to refer to the full policy and procedure document for complete details.

The Care Act requires that each local authority must:

- make enquiries, or cause others to do so, if it believes an adult is experiencing, or is at risk of, abuse or neglect. An enquiry should establish whether any action needs to be taken to prevent or stop abuse or neglect, and if so, by whom;
- set up a Safeguarding Adults Board (SAB); the statutory members are the local authority, police and clinical commissioning group. Members of the SAB must appoint a designated adult safeguarding manager (DASM).
- arrange, where appropriate, for an independent advocate to represent and support an adult who is the subject of a safeguarding enquiry or Safeguarding Adult Review (SAR) where the adult has 'substantial difficulty' in being involved in the process and where there is no other suitable person to represent and support them. They must be informed of their rights to an independent advocate.
- co-operate with each of its relevant partners (as set out in Section 6 of the Care Act) in order to protect the adult. In their turn each relevant partner must also co-operate with the local authority.

A SAB may request a person to supply information to it or to another person. The person who receives the request must provide the information provided to the SAB if:

- the request is made in order to enable or assist the SAB to do its job;
- the request is made of a person who is likely to have relevant information and then either:
- the information requested relates to the person to whom the request is made and their functions or activities or;
- the information requested has already been supplied to another person subject to an SAB request for information.

### **Modern Slavery, Domestic Abuse and Self Neglect**

These categories of abuse have been added to the policies and procedures. Safeguarding procedures will apply where the person has care and support needs and may be a victim of Modern Slavery or Domestic Abuse. In most instances, concerns about self neglect are best supported by the agency responsible for the person's needs, whether they are environmental health, housing, Care Act 2014 Bedford Borough and Central Bedfordshire multi agency safeguarding policies and procedures update briefing note

physical health, mental health or other needs. The person should always be at the centre of any decisions made to support them.

## Enquiries

The safeguarding duties (three stage test) 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.

The Care Act States 2014 states that local authorities must make enquiries, or cause others to do so, if they reasonably suspect an adult with care and support needs is or is at risk of being abused or neglected.

A formal enquiry under section 42 of the Care Act 2014 may either 1. be coordinated by the local authority (previously known as a safeguarding investigation) or 2. be requested to be undertaken by another agency using formal procedures most relevant to the concern. When such a request is made under section 42 of the Care Act 2014, there is a duty to cooperate and respond.

The purpose of an enquiry is to decide whether or not the local authority or another organisation, or person, should do something to help and protect the adult.

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

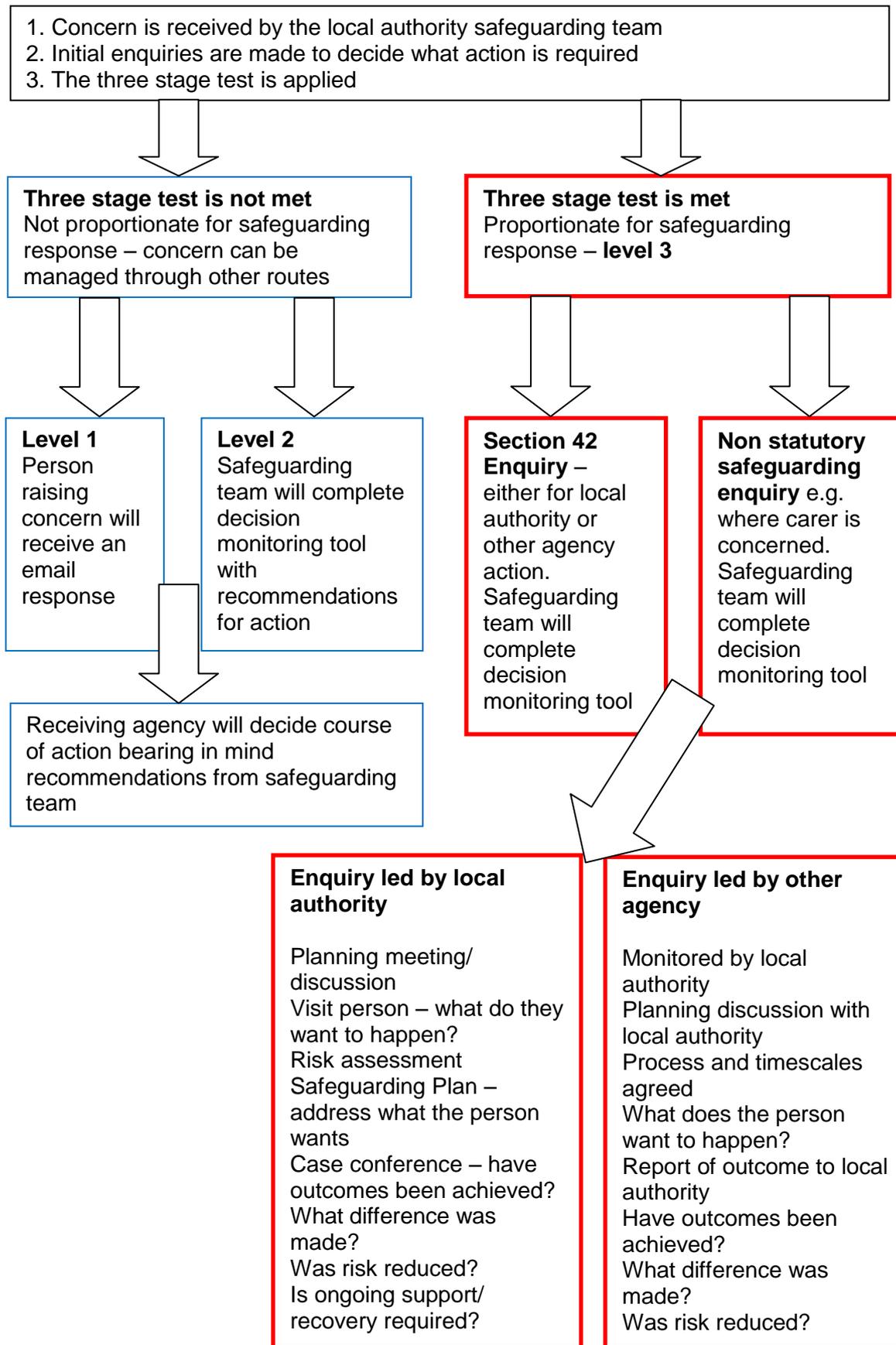
- establish facts;
- ascertain the adult's views and wishes;
- assess the needs of the adult for protection, support and redress and how they might be met;
- protect from the abuse and neglect, in accordance with the wishes of the adult;
- make decisions as to what follow-up action should be taken with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

Who leads an enquiry?

The nature and timing of the intervention and who is best placed to lead will be determined by the circumstances. For example, where there is poor, neglectful care or practice, resulting in pressure sores for example, then an employer-led disciplinary response may be more appropriate. When the local authority causes an enquiry to be carried out by an agency, the process will be agreed with the local authority and could be the agencies' own internal investigation processes, such as, an incident investigation, serious incident, internal management review, HR procedures, complaints, root cause analysis. If the local authority decides that another organisation should make the enquiry, for example a care provider, then the local authority retains responsibility for the enquiry, for agreeing the timescales and the overall quality of the enquiry. The local authority will need to know the outcomes of the enquiry and agree when the enquiry is concluded.



**Decision making flow chart**





**Levels of safeguarding response**

| Level 1   | Level 2   | Level 3  |
|---|---|--|
| <p>Where reports or concerns are made which do not identify that abuse, maltreatment or neglect has occurred, or there has been minimal impact, the following actions will be taken</p>   | <p>Where reports or concerns are made identifying risk or possible abuse maltreatment or neglect, informal enquiries will be made to establish impact, risk to others and the views of the person concerned. Where risk is low and it would not be proportionate for S42 (Care Act) enquiry and the issue can be managed through other appropriate routes, the following action will be taken.</p>  | <p>Where reports or concerns are made identifying risk or possible abuse maltreatment or neglect, informal enquiries will be made to establish impact, risk to others and the views of the person concerned. Where risk is high, or abuse maltreatment or neglect has occurred , and the most proportionate response is to initiate enquiries under S42 (Care Act), the following action will be taken:</p>  |
|   |   |  |
| <ul style="list-style-type: none"> <li>• complaint – action required</li> <li>• referral for assessment of need – action required</li> <li>• quality assurance information for contracts management – action required</li> <li>• care planning/ risk management for provider – action required</li> <li>• disciplinary process for provider – action required</li> <li>• information sharing about a vulnerable person - no further action required<br/>inappropriate contact – no further action required</li> </ul> | <p>Safeguarding team will provide a written report using the decision tool with recommendations for action.</p> <p>These may include:</p> <ul style="list-style-type: none"> <li>• An assessment of care and support needs or supportive action by the local authority</li> <li>• An assessment of health needs by the relevant health provider</li> <li>• A referral/ signposting. Information and advice to the relevant statutory or voluntary agency</li> <li>• Action for the care provider which might be an internal review/ report, HR processes, reviews of care plans or risk assessments with the person concerned.</li> </ul> | <p>Safeguarding team will provide a written report using the decision tool with recommendations for action under S42 (Care Act). The local authority will coordinate responses which will be one of two enquiries:</p> <ul style="list-style-type: none"> <li>• S42 (Care Act) Enquiry undertaken by the local authority will follow the process outlined in section 7 of these policies and procedures</li> <li>• S42 (Care Act) Enquiry undertaken by other agencies will follow formal procedures most relevant to the concern.</li> <li>• Where a crime is being investigated the police will lead.</li> <li>• Non statutory safeguarding enquiry for example where someone is an informal carer.</li> </ul> |



## **Advocacy**

Under the Care Act 2014 the local authority has the duty to provide independent advocacy to people (adults and carers) with care and support needs. The advocate's role is to facilitate the person's involvement, not merely be consulted about it.

## **Making Safeguarding Personal**

Making Safeguarding Personal (MSP) is a sector led initiative which aims to develop an outcomes focus to safeguarding work, and a range of responses to support people to improve or resolve their circumstances. It is about engaging with people about the outcomes they want at the beginning and middle of working with them, and then ascertaining the extent to which those outcomes were realised at the end.

[http://www.local.gov.uk/web/guest/adult-social-care/-/journal\\_content/56/10180/6074789/ARTICLE](http://www.local.gov.uk/web/guest/adult-social-care/-/journal_content/56/10180/6074789/ARTICLE)

The Care Act 2014 statutory guidance states that safeguarding should be personal; it should be person led and outcome focussed; it should enhance involvement, choice and control as well as improving quality of life, wellbeing and safety.

The person should always be involved from the beginning of the enquiry unless there are exceptional circumstances that would increase the risk of abuse. Thinking about outcomes in adult safeguarding means focusing on what people who have experienced the process say, and the extent to which the outcomes they wanted (their wishes) have been realised. It is vital that the views of the person are sought and recorded. These should include the outcomes that they want, such as feeling safe at home, access to community facilities, restricted or no contact with certain individuals or pursuing the matter through the criminal justice system

The focus of safeguarding work is not about proving an allegation. It is about whether:

- the wishes of the person have been achieved
- risk has been addressed
- a difference has been made

It is important that these are addressed at the safeguarding case conference in order to establish whether the desired outcomes of the enquiry were reached. This must be recorded as part of case closure.

## **Carers and safeguarding**

Assessment of both the carer and the adult they care for must include consideration of both their wellbeing. Section 1 of the Care Act includes protection from abuse and neglect as part of the definition of wellbeing. The local authority has a responsibility towards carers where there are safeguarding concerns. A safeguarding enquiry concerning a carer would constitute a non-statutory safeguarding enquiry.

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# Care Act 2014

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The safeguarding policies and procedures have been amended to reflect the changes in law, terminology and culture of safeguarding practice.

This presentation highlights the key changes – please see supplementary briefing note and the updated multi agency policies and procedures.

# Safeguarding adults: culture change

- ❖ Wellbeing is paramount
- ❖ Emphasis on personal control (making safeguarding personal)
- ❖ Outcome focused
- ❖ Reduced emphasis on timelines
- ❖ Professional judgement and flexibility of approach
- ❖ Joint working – cooperation and partnership
- ❖ Poor care is not (normally) safeguarding

# The principles underpinning safeguarding

The Care Act is a major change in practice – a move away from the process led tick box culture to a **person centred** approach which achieves the **outcomes** that people want.

Responses must **focus on the person** which accounts for the possibility that people can change their mind on what outcomes they want through the course of the intervention

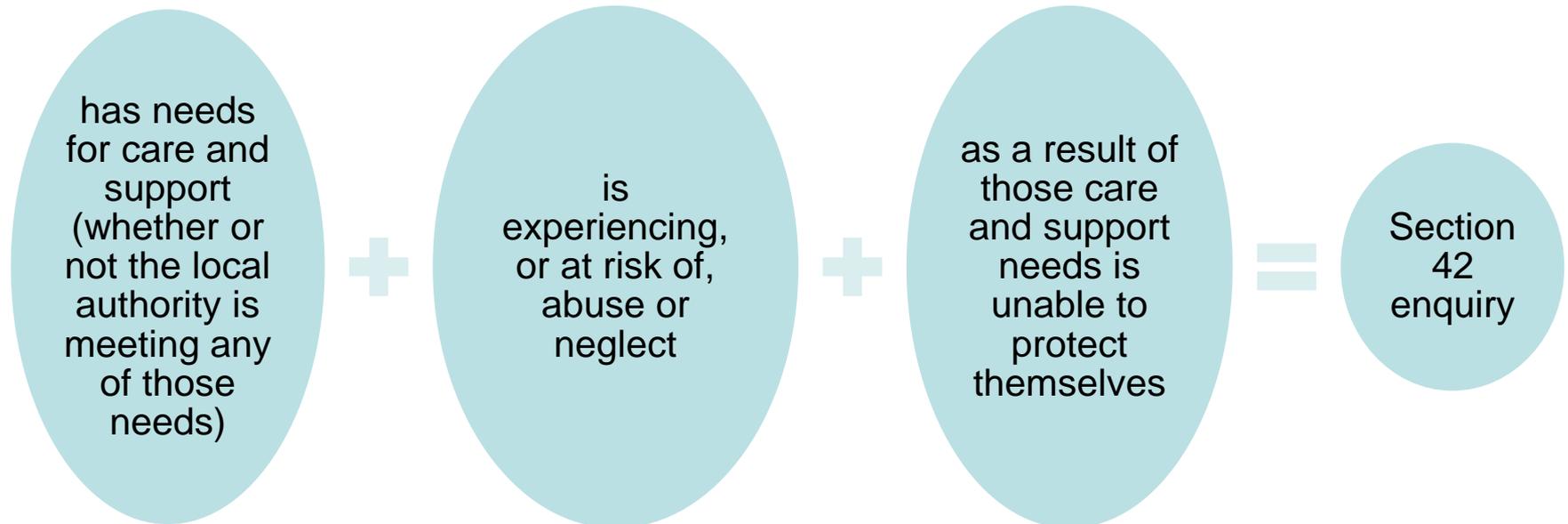
# Local authorities must:

- ❖ Promote the physical mental and emotional well being of individuals
- ❖ Make or arrange safeguarding enquiries
- ❖ Set up safeguarding adults boards
- ❖ Arrange for independent advocacy when needed
- ❖ Cooperate with each of its relevant partners

# Types of abuse

- ❖ Physical abuse
- ❖ **Domestic violence or abuse**
- ❖ Sexual abuse
- ❖ Psychological or emotional abuse
- ❖ **Modern Slavery**
- ❖ Discriminatory abuse
- ❖ Organisational or institutional abuse
- ❖ Neglect or acts of omission
- ❖ **Self neglect**

# The safeguarding duties (three stage test) apply to a person who:



# Safeguarding enquiries

A formal enquiry under section 42 of the Care Act 2014 may either

1. be coordinated by the local authority (previously known as a safeguarding investigation) or
2. be requested to be undertaken by another agency using formal procedures most relevant to the concern. When such a request is made under section 42 of the Care Act 2014, there is a duty to cooperate and respond.

The purpose of an enquiry is to decide whether or not the local authority or another organisation, or person, should do something to help and protect the adult.

# Independent Advocacy

The local authority has the duty to provide independent advocacy to people with care and support needs:

- ❖ Who may have capacity but would have substantial difficulty (understanding, retaining, weighing up, communicating) in being involved in safeguarding
- ❖ When there is no other appropriate individual to support them
- ❖ Advocacy must be independent of the local authority

The advocate's role is to facilitate the person's involvement, not merely be consulted about it

# Making Safeguarding Personal

The Care Act 2014 statutory guidance states that safeguarding should be personal; it should be person led and outcome focussed; it should enhance involvement, choice and control as well as improving quality of life, wellbeing and safety.

The focus of safeguarding work is not about proving an allegation. It is about whether:

- ❖ the wishes of the person have been achieved
- ❖ risk has been addressed
- ❖ a difference has been made