



# Safeguarding Adults Procedure

## All Services - England, Wales, NI

### Introduction

All staff within the Polaris community have a duty and a responsibility to promote and safeguard the welfare of all children, young people and adults. We are committed to safeguarding and protecting the welfare of all who use our services. We will take appropriate action if we become aware of allegations or concerns about the adult's welfare and safety and/or allegations or concerns about inappropriate behaviours towards them.

Adults safeguarding arrangements apply to adults aged 18 or over. It applies to adults who need care or support, adults who are at risk of abuse or neglect or adults unable to protect themselves from harm or exploitation.

Our agencies provide services for children, adults and their families, and this work frequently involves working with adults who are vulnerable and accessing adult social care services. Those at risk may be individuals with whom we work during transitions to adult services, or they may be the parents or other relatives of the children with whom we work.

It is vital for our agencies to share information between services in a proportionate and timely way so that the young person who is approaching 18 receives access to any guidance, information and support so they can transition smoothly into adulthood. The young person should be involved in the decisions around information sharing. Legislation also gives local authorities/trusts a legal responsibility to cooperate and to ensure that services work together to get the transition right for a young person.

This procedure sets out the responsibilities of all staff, and also offers guidance to assist staff in identifying when to be concerned about an adult's welfare. This includes the Polaris 2024

identification of risk or harm, responding to allegations or disclosures, referrals and reporting of safeguarding concerns, working collaboratively with partner agencies to support the investigation of such concerns, and contributing to protection planning.

This procedure forms part of the Quality Management system ISO 9001.

Procedure Owner:	QA & Safeguarding Team
Approved by:	Operations Board
Date approved:	30/04/2024
Next review date:	April 2027
Version No:	02
Associated Policy and supporting documents:	Safeguarding Policy
	Out of Hours Procedure
	Monitoring and Notifiable Events Procedure

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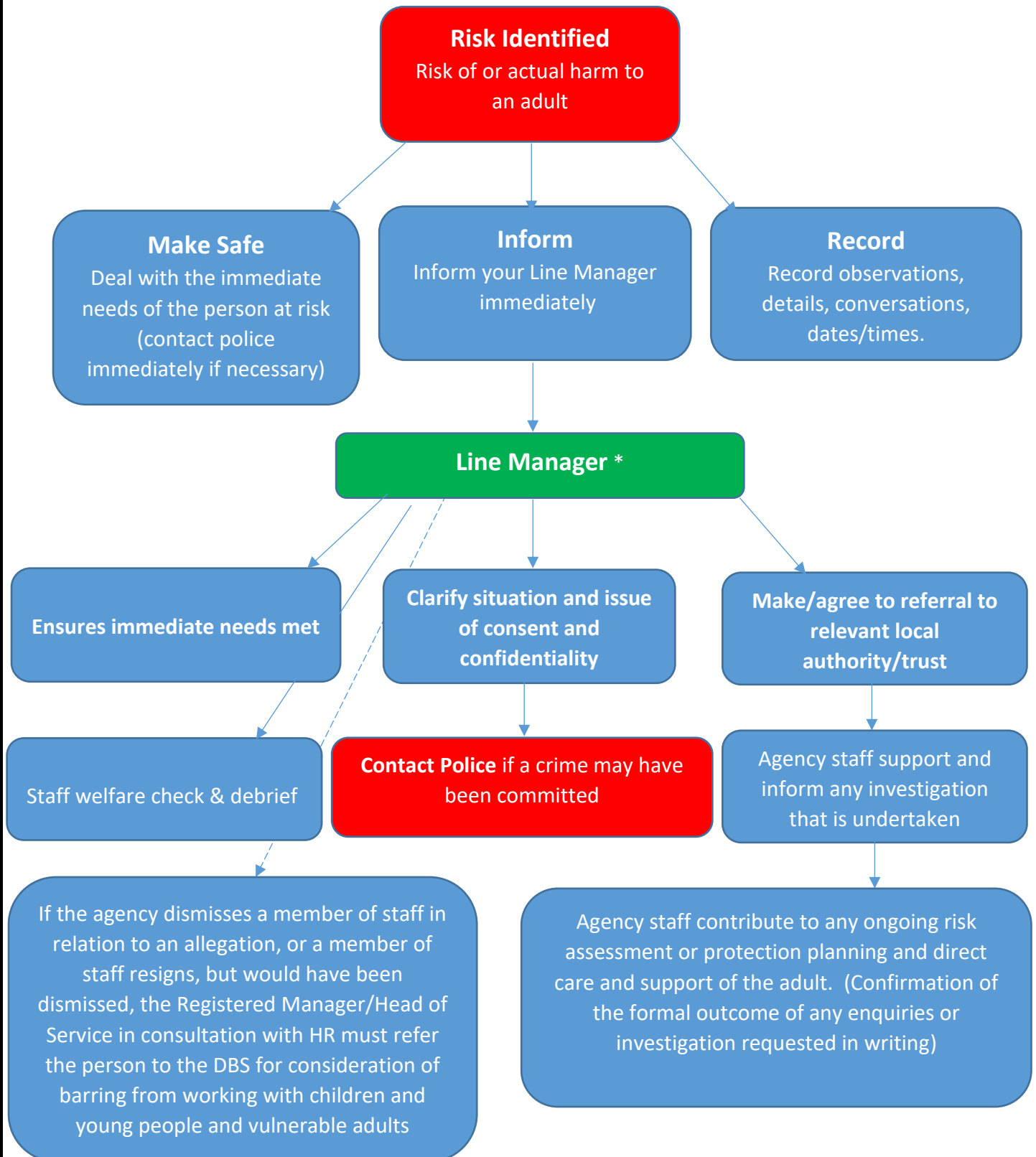
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\*The practitioner will speak with their line manager/another manager, but if not available a referral will be made to ensure that the person is safeguarded and then the manager informed.

## Procedure

All adults have a right to protection from exploitation, neglect, physical, emotional and sexual abuse but some may find it particularly difficult to prevent or stop harm happening to them. All staff and those undertaking work on behalf of the agency will immediately report allegations or suspicions of abuse or harm concerning adults.

## Adult at Risk

According to the Care Act 2014 (England) Social Services and Well-Being Act (Wales) 2014 Safeguarding duties apply to an adult who:

- Has needs for care and support (*are unable to safeguard their own well-being, property, rights or other interests*)
- Is experiencing, or at risk of abuse or neglect (*at risk of harm*)
- As a result of those care and support needs is unable to protect themselves from either the risk of or the experience of abuse and neglect (*if they are affected by disability, mental disorder, illness or physical or mental infirmity, are more vulnerable to being harmed than adults who are not so affected*)

The term 'adult at risk' is used to replace 'vulnerable adult'. This is because the term 'vulnerable adult' may wrongly imply that some of the fault for the abuse lies with the victim of abuse. We use 'adult at risk' as an exact replacement for 'vulnerable adult'.

### **An adult at risk can be a person:**

- With a mental health need (including dementia)
- With a physical disability
- With drug and alcohol related problems
- With a sensory impairment
- With a learning disability
- Who has a physical illness
- With an acquired brain injury
- Who is frail and/or is experiencing a temporary illness

In addition, the agencies recognise that some members of society are subject to negative discrimination as a result of age, gender reassignment, being married or in a civil partnership, being pregnant or on maternity leave, disability, race including colour, nationality, ethnic or national origin, religion or belief, sex, sexual orientation, etc., and that this disadvantage can increase vulnerability.

Any adult who is receiving support from the agency may potentially be deemed at risk of harm due to:

- Their particular history and ongoing needs and vulnerabilities e.g. past harmful experiences/attachment issues, risk of exploitation, learning difficulties or disability; or self-harm
- The 'normal' risks associated with increased independence and freedoms e.g. relationships with partners, peers, increased access to social media, money

### How to recognise if someone is being harmed or is at risk of harm:

There are a number of ways that risk of or actual harm to an adult may be identified. Staff and anyone employed within the agency working with adults through their day to day contact are in a strong position to notice physical, or behavioural changes, and to have natural opportunities for one to one conversations about their daily experiences and feelings.

In addition, other household members e.g. birth children, or other young adults or children placed in the household may also notice or become aware of information about the adult's life and experiences.

### How to respond if you have a concern that an adult has or is being harmed; or they make an allegation:

#### The first person to have cause for concern:

This person has **three key responsibilities**: to ensure the adult is safe, to inform a line manager, and to make a full record.

#### **Make Safe**

The person first aware of the situation must deal with the immediate needs of the adult at risk. This may include taking reasonable steps to ensure they are in no immediate danger, and seeking medical treatment or calling the Police if required as a matter of urgency. DO NOT discuss the allegation of abuse with the alleged perpetrator. DO NOT disturb or destroy articles that could be used in evidence, and where an assault of **any** kind is suspected. Do NOT wash or bathe the person unless this is associated with first aid treatment necessary to prevent further harm.

#### **Inform**

You must Inform your line manager immediately if you have any concerns – or another line manager if their line manager is implicated in the allegation.

If the allegation concerns a member of staff of any organisation, ensure that procedures for managing allegations against members of staff or volunteers are followed. If it is thought that a crime has been committed, contact the police.

The senior member of staff/Line Manager will refer the concern/allegation to the relevant local authority/trust team. They may also ask you to make the referral and agree the reasons for making the referral.

If the Line Manager is unavailable, the practitioner will make the referral to ensure that the person is safeguarded and then inform the line manager/another manager.

### Out of Hours

If the safeguarding issues becomes known outside of usual office hours then the senior member of staff/Line Manager of the Out of Hours Service will refer the concern/allegation to the relevant local authority/trust team, and inform the Registered Manager/Head of Service if the concern relates to a young person who is living within one of our settings.

### Record

Record any observations, conversations or details of the allegation and the actions taken. Include dates and times of the incident, disclosure or complaint, what the adult at risk has said, the appearance and behaviour of the adult at risk, and any injuries observed.

### You must ensure the following:

- Do not give any promises of confidentiality. The wishes of the adult at risk will be respected but they must be informed that the information given to an individual member of staff is not confidential to that member of staff and that there is a duty to report a concern to their line manager or direct to Social Services and/or the Police.
- Explain that you have a duty to report what you have been told to your line manager and their concerns may be shared, especially if other young people/adults are at risk.
- The records kept should be factual. If the record does contain an opinion or an assessment, that should be supported with factual evidence. Opinion should be stated as such, and facts differentiated from hearsay, which is something that has not been seen or heard first hand by a witness.
- If the victim of abuse is taken to hospital because s/he needs emergency medical treatment and there is the possibility that a crime has been committed, the examination should be carried in line with locally agreed protocols.
- If medical treatment is not immediately required, medical examinations should NOT be arranged until the investigation by the police or Social Services has started. Social

Services or the police will then arrange an examination if this is considered appropriate.

- If physical or sexual assault is alleged or suspected advise the person not to wash (unless for urgent first aid) or remove clothing until the police have been contacted and advise how to proceed. Preserve clothing and footwear and handle them as little as possible.
- Secure the room, if appropriate and where possible and do not allow anyone to enter.
- Preserve any evidence using a clean bag or envelope being careful not to contaminate it.
- If the alleged perpetrator is an employee, the line manager will need to discuss with HR and refer to internal operational policies so that action is taken in line with operational and disciplinary procedures. Action to protect the adult at risk from abuse under these procedures should not be halted while other internal investigations and disciplinary procedures are being undertaken and referred to the LA/Trust where appropriate when involving a person in a position of trust.
- Regulated services must notify the relevant regulatory bodies (e.g. CQC, Ofsted, CIW).
- Commissioned services should notify the commissioning team for the service.
- Immediately inform the appropriate local authority if there are concerns that a child or young person living in the same household as the adult at risk could also be at risk.

### Line Manager:

The line manager also has three key responsibilities:

#### **Immediate Needs**

The line manager should ensure that any immediate needs of the adult have been met. They must ensure that no potential forensic evidence is lost.

#### **Clarify**

The line manager should clarify the facts stated by the member of staff, but should NOT in any circumstances discuss the allegation with the alleged perpetrator. The line manager should clarify issues of consent and confidentiality.

#### **Referral**

The line manager must make a referral immediately without delay (unless the referral has already been made by practitioner) but within a maximum period of 24 hours to the local authority/trust within which the adult at risk lives. The Police should be contacted if it is thought that a crime may have been committed. Referrals made verbally must be followed up in writing within 24 hours.



**Referrals must follow the published Procedures of the relevant Safeguarding Boards for the area in which the adult at risk are resident.** These can be accessed on the Internet under the relevant local authority/trust or Safeguarding Board.

Where there are indications that the foster parent/adopter or a household member may be implicated in the concerns or allegations, including other adults or birth/looked after children this information should be shared immediately including reference to any actions taken or planned by the agency. The relevant safeguarding procedures must also be followed.

**The following information should be included in the referral:**

- The name of the adult at risk
- Date of birth and age
- Address and telephone number
- Why they are considered to be at risk
- Whether consent has obtained for the referral, and if not the reasons
- Whether the adult has a learning disability, mental health or communication difficulties or whether there are any concerns about their capacity to understand what is happening to them
- The immediate arrangements made for the protection of the person deemed to be at risk
- Any considerations relating to gender, language, race, cultural back ground and whether an interpreter will be required
- Details of the alleged perpetrator, including whether the perpetrator is also an adult at risk
- Whether the police are aware of the allegation, and whether a police investigation is underway
- Information on whether the adult is subject to any legal orders
- Whether a notification has been made to the inspectorate (this incorporates Ofsted (England), Care Inspectorate Wales, NI Adult Safeguarding Partnership)

Once a referral has been made the key role and responsibility for all staff is to support and inform any investigation that is undertaken by working in partnership with the local authority/trust and other agencies including attending meetings, ongoing record keeping and contributing to any plans to reduce risk and protect the adult.

Confirmation of the formal outcome of any enquiries or investigation should be requested in writing from the local authority/trust concerned.

There may be circumstances where the information obtained from or about an adult may not meet the threshold for a safeguarding investigation. Where the local authority/trust decides this is the case the agency will decide what other actions need to be taken, depending upon the nature of the concerns that were raised. In all circumstances it will be important for staff to be alert to any themes or patterns that emerge.

For Fostering, the agency may consider further internal investigation, increased visiting or early review for 'Staying Put' arrangements (England) and 'When I am Ready' arrangements in Wales and 'Going the extra mile' (NI).

### Concerns or allegations relating to a member of Staff/employee:

This information must be shared immediately including reference to any actions taken or planned by the agency. Action to protect the adult should not be delayed while other internal investigations and disciplinary procedures are being undertaken.

Allegations against people who work with children and adults at risk involve three separate processes which must be coordinated by the local authority/trust where the child resides.

These are:

- Safeguarding of the child or adult at risk.
- A criminal inquiry.
- The disciplinary process of the alleged perpetrator's employing/approving agency.

In relation to a staff member, the agency's Human Resources department should be immediately consulted for advice regarding disciplinary action, including suspension. A referral is made to the local authority/trust area in which the member of staff resides and they will coordinate the investigation.

In relation to a foster parent a discussion will need to be held with relevant local authorities/trust by agency managers to determine whether adults or children should be moved to another appropriate home. If this is a foster placement, 'Staying Put' placement (England) 'When I'm ready' (Wales) 'Going the extra mile' (NI) and deemed appropriate the foster parent should be placed on hold until investigations are concluded.

### Barring referrals to the DBS

If the agency dismisses a member of staff in relation to an allegation, or a member of staff resigns, but would have been dismissed, the Registered Manager/Head of Service has a statutory duty to refer the person to the DBS for consideration of barring from working with children and young people and vulnerable adults. Referrals to DBS in relation to members of

staff will be made by the Registered Manager/Head of Service in consultation with the Head of Safeguarding and Human Resources.

This also applies to foster parents, whether they resign or have their approval status terminated by the Agency Decision Maker.

<https://www.gov.uk/guidance/making-barring-referrals-to-the-dbs>

### Disclosures of Historical Abuse or Harm

Historical disclosures or allegations should be managed in the same way as a contemporary concern. The member of staff/line manager receiving the information must share the information with the senior members of staff with responsibility for safeguarding **immediately** and the same processes for reporting and referral followed. It is important to remember that a criminal prosecution could still be possible, if the allegation is dealt with carefully and appropriately.

(See next page for accompanying guidance and supplementary information)

## [Supplementary Information & Guidance](#)

### What is Harm/Abuse? Definitions of abuse:

The list below is not exhaustive and no category of harm/abuse is excluded simply because it is not listed. Harm/abuse can be accidental or intentional.

- **Physical** - A form of abuse which may involve hitting, shaking, throwing, poisoning, burning or scalding, drowning, suffocating or otherwise causing physical harm. Physical harm may also be caused when a parent or foster parent/carer fabricates the symptoms of, or deliberately induces, illness.
- **Emotional / psychological** - can include being made to feel scared or ridiculed, being intimidated or bullied including cyber bullying, constantly criticised, not being allowed to see or talk freely to other people e.g. coercive control (depriving someone of contact with someone else), isolation or unreasonable and unjustified withdrawal of services or support networks, threats of harm or abandonment, humiliation, blaming, controlling, putting pressure on someone to do something, harassment, verbal abuse.
- **Neglect and acts of omission** – failure to meet basic needs e.g. medical, emotional or physical care needs, or failure to provide access to appropriate services. Neglect also includes ‘self- neglect’ such as self-harm or attempted suicide.
- **Sexual abuse** can include sexual assault or sexual acts the adult did not consent to, understand or was coerced into. This also includes online chat or grooming, rape, indecent exposure, sexual harassment, inappropriate looking or touching, sexual teasing or innuendo, taking sexual photographs, making someone look at pornography or watch a sexual act.
- **Modern slavery** - This covers slavery (including domestic slavery), human trafficking and forced labour. Traffickers and slave masters use whatever they can to pressurise, deceive and force individuals into a life of abuse and inhumane treatment
- **Discriminatory** - This includes types of harassment or insults because of someone’s race, gender or gender identity, age, disability, sexual orientation or religion
- **Organisational** - This includes neglect and poor care in an institution or care setting such as a hospital or care home, or if an organisation provides care in someone’s home. The abuse can be a one-off incident or repeated, on-going ill treatment. The abuse can be through neglect or poor professional practice, which might be because of structure, policies, processes and practices within an organisation.
- **Financial** - can include fraud, misuse or stealing of property, possessions or benefits and internet scamming, putting pressure on someone about their financial arrangements (including wills, property, inheritance or financial transactions)
- **Self-neglect** - This covers a wide range of behaviour, which shows that someone is not caring for their own personal hygiene, health or surroundings. It includes behaviour such as hoarding. Abuse can take many forms. It might not fit comfortably into any of these

categories, or it might fit into more than one. Abuse can be carried out by one adult at risk towards another. This is still abuse and should be dealt with. The adult at risk who abuses may also be neglecting him/herself which could also be reason for a safeguarding referral

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

**Controlling behaviour** is: a range of acts designed to make a person subordinate and/or dependent by isolating them from sources of support, exploiting their resources and capacities for personal gain, depriving them of the means needed for independence, resistance and escape and regulating their everyday behaviour.

**Coercive behaviour** is: ‘an act or a pattern of acts of assault, threats, humiliation and intimidation or other abuse that is used to harm, punish, or frighten their victim.’ The government definition, which is not a legal definition, includes so called ‘honour’ based violence, female genital mutilation (FGM) and forced marriage, and is clear that victims are not confined to one gender or ethnic group.

- **Female Genital Mutilation (FGM)** is a procedure where the female genitals are deliberately cut, injured or changed, but there is no medical reason for this to be done. It is also known as **female circumcision** or cutting.
- **Honour Based Violence** is a crime or incident which has or may have been committed to protect or defend the honour of a family and/or community. Violence can occur when perpetrators perceive that a relative has shamed the family and/or community by breaking their honour code.
- **Forced Marriage** is a marriage in which one or more of the parties is married without their consent or against their will. A marriage can also become a forced marriage even if both parties enter with full consent if one or both are later forced to stay in the marriage against their will.
- **Hate crime** a range of criminal behaviour where the perpetrator is motivated by hostility or demonstrates hostility towards the victim's disability, race, religion, sexual orientation or transgender identity.
- **County Lines** As set out in the Serious Violence Strategy, published by the Home Office, a term used to describe gangs and organised criminal networks involved in exporting

illegal drugs into one or more importing areas within the UK, using dedicated mobile phone lines or other form of 'deal line'. They are likely to exploit vulnerable adults to move and store the drugs and money, and they will often use coercion, intimidation, violence (including sexual violence) and weapons.

- **Cuckooing** Professional criminals are targeting the homes of Adults with care and support needs so that the property can be used for drug-dealing – a process known as 'cuckooing' using the homes of victims to manufacture and sell drugs. These criminals are very selective about who they target as 'cuckoo' victims and are often entrepreneurial. A lot of the time victims are lonely, isolated, frequently drug users themselves and are already known to the police. Dealers often approach the victim offering free drugs to use their home for dealing.

'Cuckooing' means the criminals can operate from a discreet property, which is out of sight, making it an attractive option. They can then use the premises to deal and manufacture drugs in an environment under the police radar, usually staying for just one day.

When the criminals use the victim's property for criminal enterprises, the inhabitants become terrified of going to the police for fear of being suspected of involvement in drug dealing or being identified as a member of the group, which would result in their eviction from the property. (Cuckooing definition from Derbyshire safeguarding adults board [derbyshiresab.org.uk](http://derbyshiresab.org.uk))

People with learning disabilities may also be at risk of cuckooing.

**Some examples of how potential or actual harm may be identified are (please note this is not an exhaustive list):**

#### **Possible Indicators of Physical Abuse**

- Multiple bruising
- Fractures
- Burns
- Bed sores
- Fear
- Depression
- Unexplained weight loss
- Assault (can be intentional or reckless)

#### **Possible Indicators of Neglect and Acts of Omission**

- Malnutrition
- Untreated medical problems
- Bed sores

- Confusion
- Over-sedation
- Deprivation of meals may constitute “wilful neglect”

#### **Possible Indicators of Psychological and Emotional Abuse**

- Fear
- Depression
- Confusion
- Loss of sleep
- Unexpected or unexplained change in behaviour
- Deprivation of liberty could be false imprisonment.
- Aggressive shouting causing fear of violence in a public place.

#### **Possible Indicators of Sexual Abuse**

- Loss of sleep
- Unexpected or unexplained change in behaviour
- Bruising
- Soreness around the genitals
- Torn, stained or bloody underwear
- A preoccupation with anything sexual
- Sexually transmitted diseases
- Pregnancy
- Rape
- Indecent Assault

#### **Possible Indicators of Financial and Material Abuse**

- Unexplained withdrawals from the bank
- Unusual activity in the bank accounts
- Unpaid bills
- Unexplained shortage of money
- Reluctance on the part of the person with responsibility for the funds to provide basic food and clothes etc.
- Fraud
- Theft

#### **Possible Indicators of Organisational Abuse**

- Inflexible and non-negotiable systems and routines
- Lack of consideration of dietary requirements
- Name calling; inappropriate ways of addressing people
- Lack of adequate physical care – an unkempt appearance
- Deprivation of Liberty

### **Possible Indicators of Self-Neglect**

This includes various behaviours; disregarding one's personal hygiene, health or surroundings resulting in a risk that impacts on the adult's wellbeing, this could consist of behaviours such as hoarding.

### **Possible indicators of Modern Slavery**

#### Physical Appearance

Shows signs of physical or psychological abuse, look malnourished or unkempt, anxious/agitated or appear withdrawn and neglected. They may have untreated injuries

#### Isolation

Rarely be allowed to travel on their own, seem under the control, influence of others, rarely interact or appear unfamiliar with their neighbourhood or where they work

Relationships which don't seem right - for example a young teenager appearing to be the boyfriend/girlfriend of a much older adult

#### Poor Living Conditions

Be living in dirty, cramped or overcrowded accommodation, and/or living and working at the same address

#### Restricted Freedom of Movement

Have no identification documents, have few personal possessions and always wear the same clothes day in and day out. What clothes they do wear may not be suitable for their work

Have little opportunity to move freely and may have had their travel documents retained, e.g. passports

#### Unusual Travel Times

Be dropped off/collected for work on a regular basis either very early or late at night

Unusual travel arrangements - children being dropped off/picked up in private cars/taxis at unusual times and in places where it is not clear why they would be there

### **Possible indicators of Domestic Abuse**

The [NICE Domestic abuse quality standard \(QS116\)](#) highlights symptoms or conditions which are indicators of possible domestic violence or abuse:

- symptoms of depression, anxiety, post-traumatic stress disorder, sleep disorders
- suicidal tendencies or self-harming
- alcohol or other substance misuse
- unexplained chronic gastrointestinal symptoms
- unexplained gynaecological symptoms, including pelvic pain and sexual dysfunction
- adverse reproductive outcomes, including multiple unintended pregnancies or terminations
- delayed pregnancy care, miscarriage, premature labour and stillbirth or concealed pregnancy
- genitourinary symptoms, including frequent bladder or kidney infections



- vaginal bleeding or sexually transmitted infections
- chronic unexplained pain
- traumatic injury, particularly if repeated and with vague or implausible explanations
- problems with the central nervous system – headaches, cognitive problems, hearing loss
- repeated health consultations with no clear diagnosis. The person may describe themselves as ‘accident prone’ ‘silly’
- intrusive 'other person' in consultations, including partner or spouse, parent, grandparent or an adult child (for elder abuse).

### **Possible indicators of Discriminatory Abuse**

- The person appears withdrawn and isolated
- Expressions of anger, frustration, fear or anxiety
- Lack of respect shown to the individual
- Repeated exclusion from rights afforded to citizens such as health, education, employment and criminal justice

The list below shows different forms of discrimination towards people because of their protected characteristics.

- **Direct discrimination** – treating someone less favourably than others
- **Indirect discrimination** – putting rules or arrangements in place that apply to everyone, but that puts someone at an unfair disadvantage
- **Harassment** – unwanted behaviour that violates someone’s dignity or creates an offensive environment for them
- **Victimisation** – treating someone unfairly because they have complained about discrimination or harassment.

### **Possible indicators of Sexual Exploitation**

Sexual exploitation is a subset of sexual abuse. It involves exploitative situations and relationships where people receive 'something' (e.g. accommodation, alcohol, affection, money) as a result of them performing, or others performing on them, sexual activities.

Signs of sexual exploitation (this is not an exhaustive list):

- evidence or suspicions of sexual assault
- self-harm or significant changes in emotional wellbeing
- developing inappropriate or unusual relationships or associations, including relationships with controlling or significantly older people
- displaying inappropriate sexualised behaviour, language or dress
- being isolated from peers and social networks
- unexplained absences, including persistently being late or going missing
- unexplained acquisition of money, clothes and mobile phones.

- using more than one phone, especially if both are used to communicate with different people (for example, if one phone is used exclusively to communicate with a specific group of 'friends')
- receiving an excessive amount of texts or phone calls – these may be from multiple callers, some of whom may be unknown.

An adult may disclose they are being harmed or they may make a comment which leads you to suspect they are being abused or neglected. There could be an incident or behaviour which a staff member observes. There may be a complaint or allegation made by another adult, e.g. a foster parent/adopter; another member of staff; a member of the family; a member of the public, or another service user etc.

The above are only examples. Harm may be identified through one single significant incident or could become apparent over time through a series of more minor incidents or indicators. Foster parents/adopters, practitioners and staff working within the agency are in an ideal position, through their day to day observations of young people and adults to be attuned to changes, or deterioration in behavior or wellbeing. Staff should be alert to any worrying patterns and trust their 'practice wisdom' (based upon their knowledge and experience of the person), so that these can be shared and acted upon at the earliest opportunity.

### **Information sharing and Consent**

Where there are safeguarding concerns staff have a duty to share information. It is important to remember that in most Safeguarding Adults reviews, a lack of information sharing can be a significant contributor when things go wrong. Information should be shared with consent wherever possible.

Individuals may not give their consent to the sharing of safeguarding information. A person's right to confidentiality is not absolute and may be overridden where there is evidence that sharing information is necessary to support an investigation or where there is a risk to others e.g. in the interests of public safety, police investigation, implications for regulated service.

1. Remember that the Data Protection Act is not a barrier to sharing information but provides a framework to ensure that personal information about living persons is shared appropriately
2. Be open and honest with the person from the outset about why, what, how and with whom information will, or could be shared, and seek their agreement, unless it is unsafe or inappropriate to do so

3. Seek advice if you are in any doubt, without disclosing the identity of the person where possible
4. Share with consent where appropriate and, where possible, respect the wishes of those who do not consent to share confidential information. You may still share information without consent if, in your judgment, that lack of consent can be overridden in the public interest. You will need to base your judgment on the facts of the case
5. Consider safety and well-being: Base your information sharing decisions on considerations of the safety and well-being of the person and others who may be affected by their actions or the actions of the perpetrator
6. Sharing should be necessary, proportionate, relevant, accurate, timely and secure: Ensure that the information you share is necessary for the purpose for which you are sharing it, is shared only with those people who need to have it, is accurate and up-to-date, is shared in a timely fashion, and is shared securely
7. Keep a record of your decision and the reasons for it – whether it is to share information or not. If you decide to share, then record what you have shared, with whom and for what purpose

Any information disclosed should be:

- clear regarding the nature of the problem and purpose of sharing information
- based on fact, not assumption
- restricted to those with a legitimate need to know
- relevant to specific incidents
- strictly limited to the needs of the situation at that time
- recorded in writing with reasons stated

#### **Sharing information when someone lacks mental capacity**

- Can the person give consent to disclosure of information?
- You have a responsibility to explore approaches to help them understand
- In some instances the individual will not have the capacity to consent to disclosure of personal information relating to them. Where this is the case any disclosure of information needs to be considered against the conditions set out in the Data Protection Act and a decision made about whether it is in their best interests to be shared.

**If a person does not have capacity and there are safeguarding concerns then this information must be shared and referred to the relevant Local Authority.**

If there are concerns that a person does not have capacity then this must be discussed with a Manager

## **Mental Capacity**

**The Mental Capacity Act (MCA) 2005** (England & Wales)

**The Mental Capacity Act** (Northern Ireland) 2016

5 Principles Which Underpin The Mental Capacity Act: In order to protect those who lack capacity and to enable them to take part, as much as possible in decisions that affect them, the following statutory principles apply:

- You must always assume a person has capacity unless it is proved otherwise
- You must take all practicable steps to enable people to make their own decisions
- You must not assume incapacity simply because someone makes an unwise decision
- Always act, or decide, for a person without capacity in their best interests
- Carefully consider actions to ensure the least restrictive option is taken

If a person does not have capacity and there are safeguarding concerns then this information must be shared and referred to the relevant Local Authority/Trust.

If a practitioner or foster parent has concerns that a person does not have capacity then they must discuss with a Manager.

### **Checking mental capacity**

Guidance provided by Gov.uk explains that:

A person may not have mental capacity because of a problem with the way their brain functions, for example:

- a serious brain injury
- an illness, such as dementia
- severe learning disabilities

Mental capacity can come and go (for example, with dementia and some mental illnesses). A person can also recover mental capacity (for example, following a severe stroke).

### **What you must check**

You must check that a person has mental capacity to make a decision at the time it needs to be made. They can make the decision if they can:

- understand the information they need - for example, what the consequences will be
- remember the information for long enough to make the decision
- weigh up the options and make a choice
- communicate their decision in any way - for example, by blinking or squeezing a hand

If the person cannot make a decision at a certain time, they may still be able to:

- make it at another time
- make decisions about other things

Do not make a decision for them if it can wait until they can do it themselves, however safeguarding will always take priority and a referral should not be delayed when safeguarding an individual.

More information and guidance can be found at:

<https://www.gov.uk/make-decisions-for-someone/assessing-mental-capacity>

## **Deprivation of Liberty Safeguards**

**England and Wales** have a process called deprivation of liberty safeguards (DoLS). **Northern Ireland** have safeguards in place under *The Mental Capacity Act (Northern Ireland) 2016*.

In **England and Wales** the Mental Capacity (Amendment) Act 2019, Deprivation of Liberty Safeguards will be replaced by Liberty Protection Safeguards (LPS).

- Deprivation of liberty is a legal term.
- Liberty means a person is free to do the things they want to do and live where they want to live.
- Deprivation of liberty means taking someone's freedom away.

If there is no alternative but to deprive a person of their liberty, the Deprivation of Liberty Safeguards say that an application must be made to the Supervisory Body (Council) for a Standard Authorisation under the Deprivation of Liberty Safeguards Legislation. The Supervisory Body (Council) will arrange for a number of statutory assessments to be undertaken to assess the person concerned.

### **When can someone be deprived of their liberty?**

It may be decided to take someone's freedom away to give them the care or treatment they need or to make them safe. If they are able to make an informed choice about this, it is their right to say no. The only time when their informed choice might be over-riden is if they need to be detained under the Mental Health Act.

Deprivation of liberty could take place anywhere such as - in a care home or hospital, but also in their own home. If they are unable to make an informed choice, the law says that whoever is looking after them cannot take their freedom away without independent checks that this is the best thing for the individual.

In order to ensure that we undertake our full role in safeguarding adults at risk within its work, we will:

- Work in active partnership with other agencies and the statutory authorities
- Be proactive in promoting the empowerment and well-being of those at risk through the services we provide
- Act in a way which supports the rights of the individual to lead an independent life based on self-determination and personal choice

- Recognise people who are unable to take their own decisions and/or to protect themselves, their assets and bodily integrity
- Recognise that the right to self-determination can involve risk and ensure that such risk is recognised and understood by all concerned, and minimised whenever possible (there should be an open discussion between the individual and the agencies about the risks involved)
- Ensure that when the right to an independent lifestyle and choice is at risk the individual concerned receives appropriate help, including advice, protection and support from relevant agencies
- Ensure that the law and statutory requirements are known and used appropriately so that those at risk receive the protection of the law and access to the judicial process

**Safer Recruitment**

The agency operates safer recruitment procedures in relation to Foster carers, adopters and employed staff (and deployment of self-employed individuals). All recruitment is in line with the regulations and national minimum standards that apply to all our settings. There are separate HR procedures which are followed for Safer Recruitment.