



Causing Others to make Enquiries



This guidance has been agreed by Coventry Safeguarding Adult Board and is for use by staff who manage or undertake statutory Safeguarding Adult Enquiries under Section 42 (S42) of the Care Act 2014. It comes into effect once a decision has been reached by the Local Authority that the criteria has been met. This guidance is in addition to Chapters 7-11 of the Adult Safeguarding Multi-Agency policy and procedures for the protection of adults with care and support needs in the West Midlands.

https://www.coventry.gov.uk/downloads/file/31335/west_midlands_adult_safeguarding_policy_and_procedures

Not every safeguarding adult concern will be best dealt with by referral to the Local Authority, or meet the criteria for a Section 42 Enquiry. Where they do not, other courses of action may need to be taken dependent on the circumstances of each case and the views of the adults the concern is about or their advocate.

This document outlines the framework which should be followed when responding to safeguarding concerns and undertaking enquiries. It sets out the expectations regarding the standards, roles and responsibilities of agencies and organisations and practice of staff and managers involved in safeguarding work.

Contents

Overview of the Safeguarding Process	3
Responding to Safeguarding Concerns	4
Who should conduct the Enquiry?	4
When it will be not appropriate to cause an Enquiry	5
Safeguarding Enquiry	5
Duty of the Local Authority causing an Enquiry to be carried out	6
Duty of the organisation identified to undertake an Enquiry	7
The Mental Capacity Act 2005	8
Secondary Mental Health Services	8
Appendix 1- Template letter	9
Appendix 2 – Section 42 Report Checklist	11

Overview of the Safeguarding Process

Safeguarding Concern



Decision making whether the Section 42 duty is triggered



Not progressed to Adult Safeguarding Enquiry. Consideration of other Care Act duties and/or signposting



Commence Adult Safeguarding Enquiry



PLANNING

- » Gains views, consent and desired outcome of adult
- » Consider duty to refer to Care Act advocate if required
- » Gather and share information (report criminal activity to police, service quality issues to CQC and commissioners as appropriate)
- » Agree what actions are needed and who will do this
- » Risk assess and agree interim safeguarding plan/safety measures while enquiries are undertaken

ENQUIRY

- » Make enquiries or cause them to be made
- » Establish facts and gather information in relation to the concern
- » Assess the needs of the adult for protection, support and re-dress
- » Carry out relevant assessments, such as a needs assessment or mental capacity assessment
- » Work with the person or service thought to be the cause of risk to ensure a full right of reply
- » Work to enable the adult to achieve resolution and recovery

OUTCOMES REVIEW

- » Evaluate outcomes of enquiries with the adult and involved others
- » Review desired outcomes and what action the adult wishes to be taken
- » Identify ongoing risks, specifically risk of harm through abuse/neglect and agree a safeguarding plan
- » Feedback to relevant people
- » Identify any other actions to be taken to support the adult



Conclude Adult Safeguarding Enquiry

Responding to Safeguarding Concerns

When the Local Authority receives a safeguarding concern it will initially check if any action is required to address immediate risks, for example by contacting emergency services if there is an imminent serious or life threatening risk to the adult or others.

The Care Act 2014 places a duty on the Local Authority to undertake a Safeguarding Enquiry where a Local Authority has reasonable cause to suspect that an adult in its area (whether or not ordinarily a resident there):

- ›› has needs for care and support (whether or not the Authority is meeting any of those needs);
- ›› is experiencing, or is at risk of, abuse or neglect; and
- ›› as a result of those needs is unable to protect himself or herself against the abuse or neglect or the risk of it.

If the information received gives the Local Authority reasonable cause to suspect that these three key tests are met, then the duty to enquire is triggered.

If the information received is not sufficient to enable the Local Authority to make a reasonable judgement as to whether the duty is triggered, then it may seek further information until there is sufficient information to make a decision.

This could include:

- ›› reviewing previous records,
- ›› gathering further information from the person who raised the concern.

Once the duty to enquire is triggered any following actions undertaken are taken under Section 42 of the Care Act 2014, where each Local Authority must make enquiries or cause others to do so. An Enquiry should establish whether any action needs to be taken to prevent or stop abuse or neglect and if so, by whom. An Enquiry must take into account the adult's views as to what actions, if any, they wish to happen as part of the Enquiry.

Who should conduct the Enquiry?

Section 42 of The Care Act 2014 states 'the Local Authority must make (or cause to be made) whatever enquiries it thinks necessary to enable it to decide whether any action should be taken in the adult's case (whether under this Part or otherwise) and, if so, what and by whom'.

When considering who should conduct the Enquiry the following points should be considered:

- ›› Who has the relationship with the individual? This could be a care provider, health professional etc.
- ›› Has a crime been committed? If a crime is suspected the police must lead the criminal investigation.
- ›› Who has the necessary skills and knowledge? Specific skills may be required such as treatment of pressure ulcers, medicines management etc.
- ›› Are there any employment responsibilities? Allegations about staff may be best undertaken by the employer.

When it will be not appropriate to cause an Enquiry

The Local Authority as the lead agency for making enquiries will not cause another person, agency or organisation to undertake an Enquiry when:

- » There is a serious conflict on the interest on the part of the employer.
- » There are or have been concerns about non-effective past enquiries.
- » It is not clear they have the necessary skills and knowledge to undertake what is required.
- » The situation relates to organisational abuse or it requires a Large-Scale Enquiry.

Safeguarding Enquiry

A Safeguarding Enquiry is any action taken or instigated by the Local Authority in response to a concern that abuse or neglect may be taking place.

The purpose of the Safeguarding Enquiry is to establish with the adult and / or their representative(s) what action, if any, is required in relation to the concern and who should take such action. The first priority should always be to ensure the safety and well-being of the adult. However, this should be carefully balanced with the adult's views and wishes and any risks to others. The adult should experience the safeguarding process as empowering and supportive.

The specific objectives of an Enquiry into abuse or neglect are to, where possible:

- » Establish facts.
- » Ascertain the adult's views, wishes and desired outcomes.
- » Protect the adult from abuse or neglect, in accordance with their wishes.
- » Assess the needs of the adult for protection, support and redress, and how these might be met.
- » Make decisions as to what action should be taken with regard to the person or organisation thought to be the cause of risk.
- » Enable the adult to achieve resolution and recovery.

It may transpire it was reasonably suspected the concern regarding the adult met the three key tests, but after closer examination as part of the Enquiry, they do not. In these instances the Enquiry can be concluded.

Duty of the Local Authority causing an Enquiry to be carried out

Where the Managing Officer responsible for a Section 42 Enquiry within the Local Authority identifies that another agency is best placed to undertake that Enquiry, or an element of it, they must:

- ›› Inform the organisation of this responsibility, firstly verbally and then in writing, (See Appendix 1 for template letter), clearly setting out the Enquiry's terms of reference.
- ›› Explain to the organisation why they are best placed to undertake the Enquiry.
- ›› Be satisfied that the organisation being caused to undertake the Enquiry is competent to do so and that there is no conflict of interest in this organisation (or the person they appoint as Enquiry Officer) fulfilling this role.
- ›› Agree a reasonable timescale for receiving a report of its outcome.
- ›› Ensure the organisation knows how the Managing Officer can be contacted.
- ›› Ensure the organisation knows of the appointment and contact details of any Independent Advocate or other person acting on the adult's behalf where they have substantial difficulty in taking part in the Enquiry.
- ›› Make any amendments to the terms of reference necessary as the Enquiry progresses or the adult's desired outcomes change or develop.
- ›› Ensure the Enquiry report has addressed the terms of reference and require rectification to be made where it does not.
- ›› Resolve any disagreement regarding the commissioning of the Enquiry at the lowest level possible within the organisation, only escalating within the organisation and Local Authority where issues remain unresolved and proportionate to the disagreement. (N.B. where the organisation is the best placed to undertake the Enquiry and its terms of reference are within the scope of its jurisdiction, the organisation has a legal duty under the Care Act 2014 to cooperate).



Duty of the organisation identified to undertake an Enquiry

The organisation that is caused to undertake a Section 42 Enquiry must:

- » Appoint an Enquiry Officer to undertake the Enquiry and provide the Enquiry report, ensure they are competent to do so, that they receive the support necessary to satisfactorily complete it, and that there is no conflict of interest in their undertaking this role.
- » Satisfy themselves that the Enquiry terms of reference are clearly understood and within the remit of the organisation to undertake.
- » Make the Managing Officer aware of any circumstances where the organisation is not the appropriate body to undertake the Enquiry.
- » Resolve any disagreement regarding the commissioning of the Enquiry at the lowest level possible within the organisation, only escalating where issues remain unresolved.
- » Agree a reasonable timescale for receiving a report of its outcome.
- » Conduct the Enquiry in line with the principles of Making Safeguarding Personal, by ensuring that:
 - » The Enquiry reflects the outcomes that the adult wishes to achieve.
 - » The adult (or their representative or Independent Advocate) is included as far as possible throughout the process.
 - » That if in the progress of the Enquiry the adult alters their view of their desired outcomes, this is reflected in the Enquiry and that the Enquiry's Commissioner is informed of this.
 - » The adult (or their representative or Independent Advocate) are informed of the outcome of the Enquiry.
 - » Keep in contact with the Managing Officer and inform them of any changes or developments during the Enquiry.
 - » Ensure the Enquiry report has addressed the terms of reference and is delivered to the Managing Officer within the agreed timescale.

The Section 42 Report Checklist is a useful checklist for organisations undertaking enquiries. (Appendix 2)

The Mental Capacity Act 2005

The Mental Capacity Act 2005 (MCA) sets out in law how people over the age of 16, who may lack mental capacity, can be assessed, provided with the care they need and protected.

The MCA provides a test for people to use to make a judgment about whether a person has capacity. To assess whether a person has capacity to make their own decisions, an assessor must look at whether the person:

- » Can understand information given to them about the decision.
- » Retain that information.
- » Balance or weigh up information about options and then communicate their decision.

When it has been established that an individual does not have capacity to make a particular decision, then someone else must make this decision.

Secondary Mental Health Services

If the adult is open to Secondary Mental Health Services, then the NHS Act 2006 Section 75 responsibilities apply. Section 75 Partnership Agreements allow budgets to be pooled between local health and social care organisations and authorities. This means the responsibility for safeguarding adults who are open to Secondary Care Mental Health Services lies with Coventry & Warwickshire Partnership Trust (CWPT).



Appendix 1 - SG5b Covering letter template for requesting Enquiry Report

Guidance: To be used in conjunction with the SG5a Enquiry Report template and completed by the Enquiry Officer when requesting a partner to make a safeguarding enquiry, as part of the Section 42 Care Act 2014 safeguarding adults enquiry into abuse/harm/neglect of an adult with care and support needs.

SG5b (Covering Letter) should always be used along with **SG5a (Enquiry Report)** and can include **SG5c (Chronology)** if required.

Enquiry Officers should have already spoken with the partner to agree the SG5a Enquiry Reports completion and scope of the enquiry. SG5b letter should not be the first contact.

Text in red requires information to be inserted.

The letter needs to be sent on Council headed paper or copied and pasted onto an email.

Also see: 10.5.7 of the West Midlands Adult Safeguarding Multi-agency Policy and Procedures.

[DATE]

Dear **[eg Manager of Provider/Organisation]**

RE: Request for Section 42 Enquiry

A safeguarding adult concern has been received alleging that the adult named below was subject to abuse as defined in Section 42 of the Care Act 2014 and statutory guidance.

The details of the concern are outlined below:-

Adults Full Name (ASC ID Number)	
Date concern was reported	
Details of concern (including category of abuse)	
Location of alleged harm/abuse	
Name of person alleged to have caused the harm/abuse (e.g. care worker) & relationship to adult with care and support needs	

Under Section 42 of the Care Act 2014 the Local Authority must make enquiries, or cause another agency to do so, whenever abuse or neglect are suspected to enable it to decide what (if any) action is needed to help and protect the adult.

We are requesting that your organisation undertakes an enquiry under Section 42 of the Care Act 2014 to establish whether harm occurred, and to ensure appropriate measures are implemented to minimise the risk of reoccurrence.

A template **[and chronology template]** for your report are attached. Please ensure that relevant supporting documentation as described in your report are included as appendices. This could include daily records, care/support plans, risk assessments, accident/incident forms.

Please submit the completed report and supporting documentation to me by **[DATE]**. If you are unable to meet this timescale you **MUST** contact me, as Lead Enquiry Officer, as soon as possible with your reasons.

Your enquiry report may be one of several reports/documents requested. Upon receipt of all information the Lead Enquiry Officer will analyse and evaluate all information relevant to the enquiry. A discussion will then take place and we will explain what will happen next, including any required actions.

Should you have any queries in the meantime, please do not hesitate to contact me directly.

Yours sincerely

[Name Lead Enquiry Officer]

Social Worker & Lead Enquiry Officer

[Team]

[Contact details Email & Phone]

Appendix 2 – Section 42 Report Checklist

When writing your Section 42 **Enquiry Report** please use this checklist to ensure all the information the Local Authority needs to assure itself that the Enquiry satisfies its duty under Section 42 of the Care Act 2014 is present and enables it to decide what action (if any) is necessary to help and protect the adult.

The Section 42 Enquiry Report must include:	
The correct adult with care and support needs details: Name; Address; Date of Birth; Date of Death (if applicable); Gender; Religion; Ethnic Origin	
The author of the report: Name; Job title; Organisation; Date Enquiry report was submitted to the Lead Enquiry Officer	
Details of the Safeguarding Concern(s): Provided on the covering letter template, it will include: How and when the concern came to light; What happened; Where the alleged harm take place; The severity of the alleged harm/potential harm; Impact on the adult; Injuries sustained; Is the harm likely to continue/recur?	
Background information: Brief description of the adult including their care and support needs; Strengths and protective factors; Brief history of your organisation's relationship with the adult; Timescales of that involvement and details of any support provided; The date of concern; Location of abuse; Name of alleged source of risk & relationship; Any other issues you consider relevant to the Enquiry.	
Details of any immediate risks and safeguards taken to protect the adult (and other adults): E.g. staff member suspended or removed, training, etc. Include rationale for actions or non-actions.	
Adults wishes, feelings and views about what they want to happen: What the adult is worried about; What they want to do to see resolution; What they think is working well and what they would like to see continue; What support is available to the adult; Can family, friends or neighbours offer support; What other protective factors are there?	
Where the Adult lacks capacity to understand and participate in the enquiry how have they or their representative been supported to make a contribution?	
Enquiry methodology: Include methodology, sources and detail of evidence obtained: e.g Interviews and witness statements; Dates and times, Who was involved and role, Limitations or areas not looked into.	
Report Authors Findings: Use the following subheadings for each allegation/type of abuse – Description of abuse/harm; Facts & findings; Information gathered to support allegation; Reference to documents	
Chronology of significant events in date order:	
Supporting information (for referencing documentation and any appendices):	
Conclusion Summary and Outcome(s) from enquiry: A) Have the Adults identified wishes been taken into account B) Have they been met, partially met or not met (specifying reasons) C) Any recommendations, actions and learning points for your organisation	
Report must be dated:	

