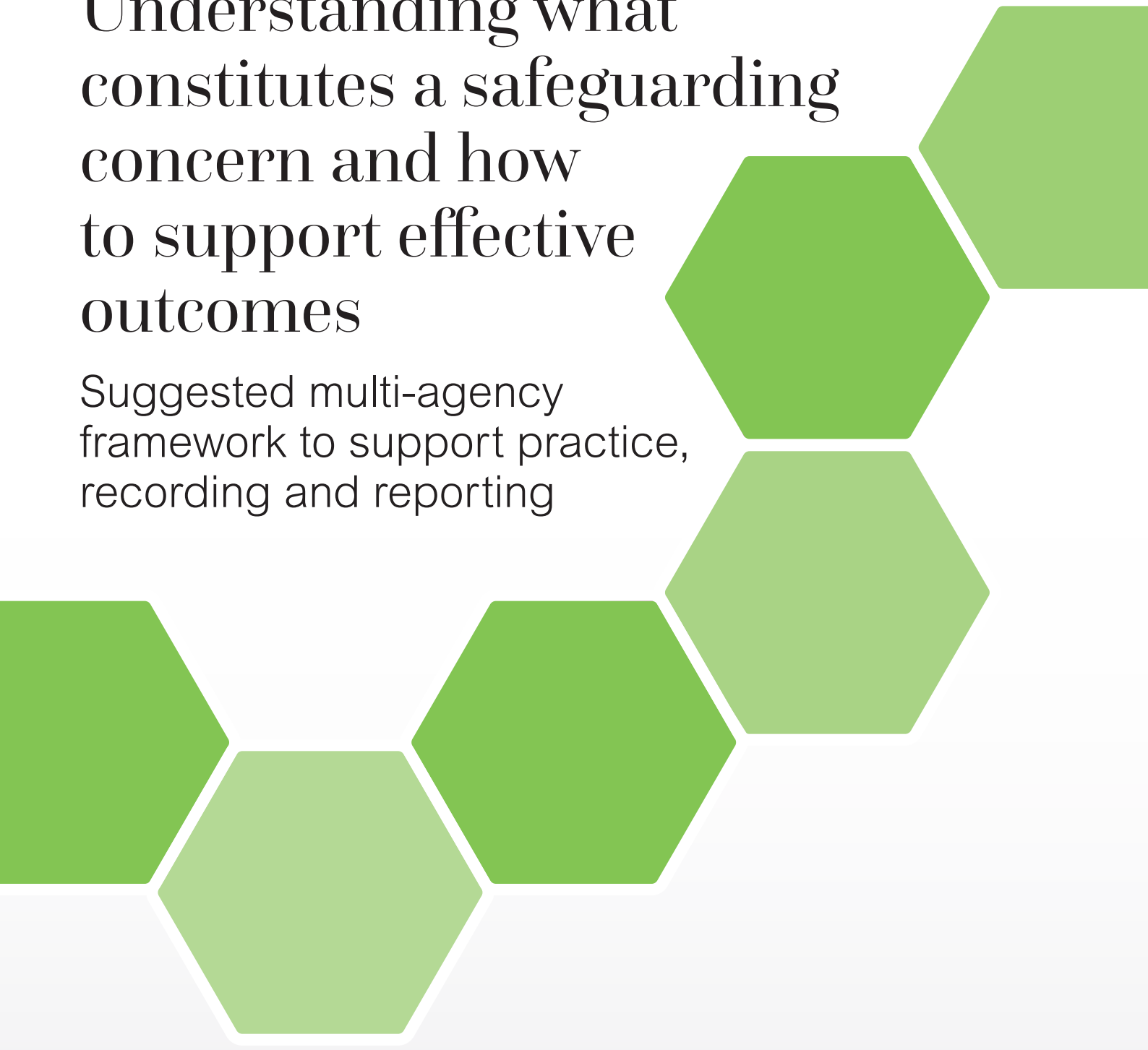
Local Government Association

directors of adass adult social services

Understanding what constitutes a safeguarding concern and how to support effective outcomes

Suggested multi-agency framework to support practice, recording and reporting



Making Safeguarding Personal

The purpose of this framework is to offer support in making decisions about safeguarding concerns. It offers a framework to support practice, recording and reporting, in order to impact positively on outcomes for people and on the level of accountability for those outcomes.

This framework will be reviewed in January 2021

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Appendices

The appendices which support this report can be found with other Making Safeguarding Personal resources on the LGA website: www.local.gov.uk/understanding-what-constitutes-safeguarding-concern-and-how-support-effective-outcome-appendices

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1 Introduction and purpose

This framework connects with the framework on 'Making decisions on the duty to carry out Safeguarding Adults enquiries.[1] (LGA/ADASS, August 2019). It is based on work at three LGA/ADASS multi-agency workshops (facilitated by Making Connections, Isle of Wight Ltd) in November and December 2019 together with a follow up workshop in January 2020 which clarified the emerging findings and themes from the earlier workshops.

The multi-agency framework proposes a shared, cross sector understanding of what constitutes a safeguarding concern. It promotes across all organisations collective and transparent accountability and responsibility for decisions and actions in respect of safeguarding concerns. Its purpose is to help achieve effective multi-agency outcomes that address risks to wellbeing and safety whether through a safeguarding response or through another pathway.

The framework is part of the adult safeguarding workstream of the Care and Health Improvement Programme (CHIP). This programme provides support to councils in England for social care, integration and health and digital improvement, as well as supporting the Transforming Care programme for people with learning disabilities and/or autism. It is the sector-led improvement programme for care and health co-produced and delivered by the Local Government Association (LGA) and the Association of Directors of Adult Social Services (ADASS), funded by the Department of Health and Social Care (DHSC).

The framework is summarised in sections one and two. Sources of evidence for the framework include:

a) Four workshops attended by over 200 practitioners from a wide range of organisations. A summary of the workshop findings can be found in appendix 1.

b) Conversations with 17 people currently using care and support services, including older people living in a care home and disabled people with a range of experiences.

c) Recorded conversations with researchers involved in a user-led qualitative research study which explored the experience of targeted violence and abuse and of adult safeguarding with 23 people who have been victimised because of their mental health status.[2]

d) A range of resources contributed by Safeguarding Adults Boards (SABs) and other multi-agency partners together with conversations about how these resources were developed and being used. Descriptions of some of these resources can be found in appendices 4 and 5.

e) Conversations with 29 advocacy providers (across regions) within parallel work which is about how advocacy support can be facilitated in support of safeguarding adults. These included discussion about defining safeguarding concerns, when to raise these with the local authority, and the nature of the challenges encountered in this context.

f) Feedback from a group of critical readers who provided a view on an initial framework draft. They are listed in the acknowledgements at the end of this report.

1 Referred to throughout this safeguarding concerns framework as the safeguarding enquiries framework

2 Research Study: Carr S, Hafford Letchfield T, Faulkner A, et al. 'Keeping Control': A user led exploratory study of mental health service user experiences of targeted violence and abuse in the context of adult safeguarding in England. Health Soc Care Community. 2019;27: e781–e792. https://onlinelibrary.wiley.com/doi/10.1111/hsc.12806 Podcast produced with Sarah Carr, Tina Coldham independent mental health user consultant, trainer and researcher; produced by Esi Hardy, Disability Inclusion Trainer and Consultant https://soundcloud.com/rip-ripfa/safeguarding-concerns-a-service-user-perspective

Aims and objectives of the suggested framework

All organisations working with adults need a common understanding of the circumstances that should lead to making a referral about a safeguarding concern to adult social care, and the circumstances where other actions, outside of safeguarding processes, may be required. The aims of this framework are to support:

- the whole range of sectors and organisations in making appropriate referrals of concerns to adult social care, by promoting a consistent and shared understanding of what constitutes a safeguarding adults concern.
- a consistent response by adult social care to safeguarding concerns referred to them
- a shared responsibility across all organisations for addressing risks to wellbeing and safety, either as a safeguarding concern, or by jointly agreeing alternative pathways for support where it is decided that the presenting issue does not constitute a safeguarding concern
- a shared understanding of what to report as a safeguarding concern in the Safeguarding Adults Collection (SAC).[3]

What are we seeking to address? The rationale for this work

Workshop participants identified a lack of clarity and consistency in respect of safeguarding concerns including:

- A potential lack of equal access to adult safeguarding support dependent upon how safeguarding concerns are defined and addressed in a particular local authority area and across sectors.
- The need for collaborative decision making and support, as well as joint accountability, in both preventing and finding responses to abuse and neglect, whether within the responsibilities set out in S42 of the Care Act (2014), or through other powers or multi-agency arrangements.
- The need for support for collaborative working including clear guidelines, shared language and definitions, opportunities for dialogue, mutual respect between all organisations and understanding of roles and responsibilities. Leadership of a culture that supports this is seen as fundamental.

The current wide variation in practice and decision-making is reflected in the NHS Digital Safeguarding Adults Collection data (as set out in appendix 6) regarding reporting of concerns.

3 Safeguarding Adults England, NHS Digital December 2019 https://digital.nhs.uk/data-and-information/publications/statistical/safeguarding-adults

In support of its aims this framework proposes the following agreed way forward in defining adult safeguarding concerns:

Where there is reasonable cause to suspect[4] that all three criteria in S42 (1) Care Act (2014)[5] are met (namely that an adult with care and support needs, is experiencing or at risk of abuse or neglect and is unable to protect themselves) this must trigger a safeguarding adults enquiry, led by the local authority.

However, neither the Care Act (2014) nor the associated Care and Support Statutory Guidance (DHSC, 2020) state that these three criteria must all be fulfilled in order for **all organisations** to conclude (from available information) that an issue constitutes a safeguarding concern and to refer it to the local authority. Note that 14.17 of the Care and Support Statutory Guidance (DHSC, 2020) advises **local authorities** to consider the three criteria and to explore concerns raised in a person-centred way.[6]

In addition, there may be considerable complexity and time involved in deciding whether there is reasonable cause to suspect that, as a result of care and support needs the adult is unable to protect himself or herself against the abuse or neglect or the risk of it (the third criterion in S42(1c), Care Act (2014).

This framework suggests therefore that where it appears that criteria a and b of s42(1) are met and the referring worker/ organisation believes that the circumstances amount to a safeguarding concern a referral is made to the local authority.

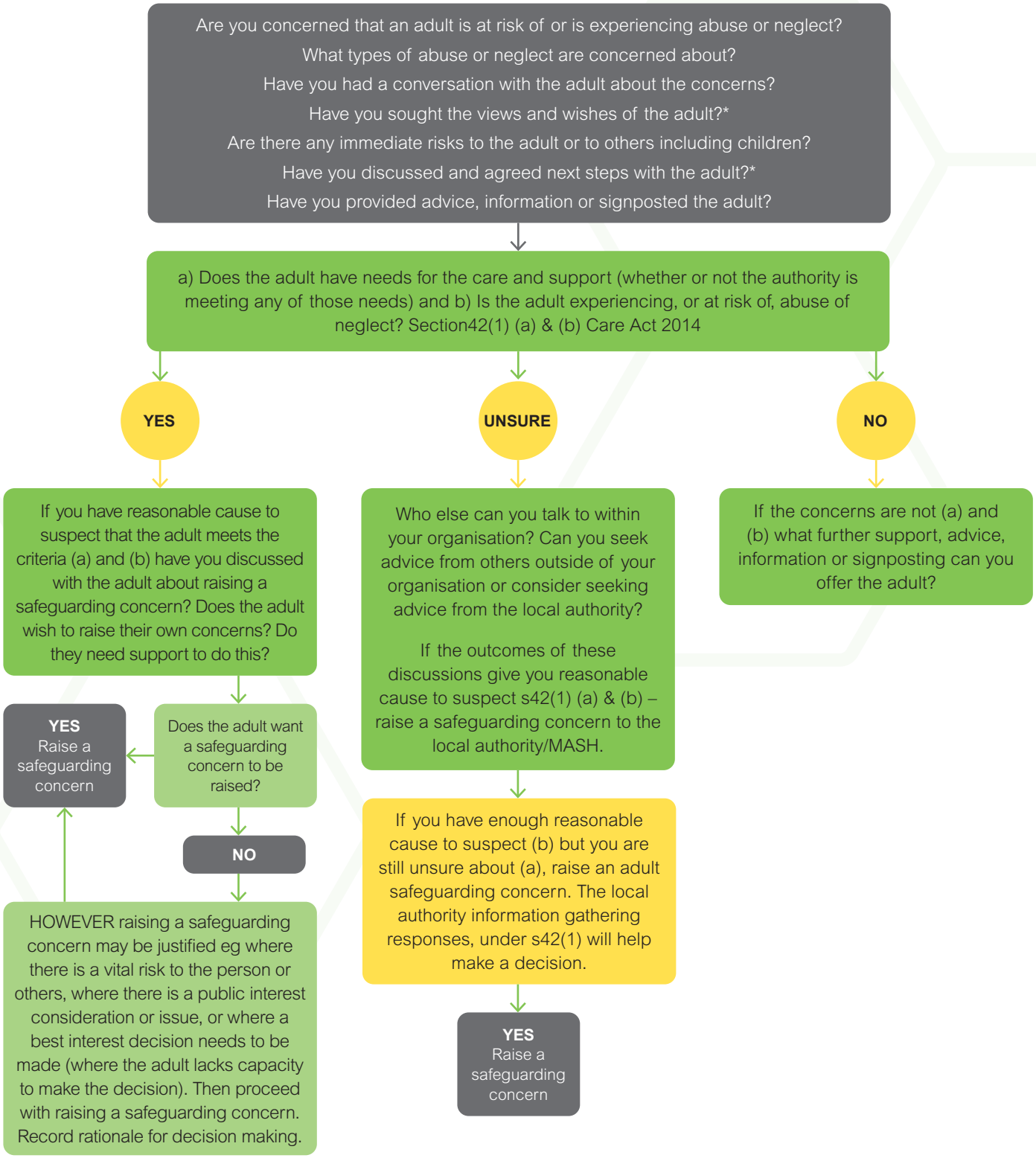
This means that only reasonable cause to suspect that S42(1) (a) and (b) apply is needed in deciding whether to refer a safeguarding concern to the local authority. The local authority will take all such referrals seriously and consider S42 (1a and b) alongside the third criteria under S42(1c) of the Care Act (2014) with the referrer and in gathering further information. Local authorities should not be rigid in deciding to reject all but those referrals that meet all three of the criteria in S42(1).

4 Factors that might be considered in deciding whether there is 'reasonable cause to suspect' are set out in www.local.gov.uk/sites/default/files/documents/25.130%20Making%20Decisions%20on%20the%20duty_06%20WEB.pdf (LGA, August 2019, page 19)

5 Section 42, Care Act 2014 (referred to throughout this framework as S42).
Section 42: Enquiry by local authority
This section has no associated Explanatory Notes
(1) This section applies where a local authority has reasonable cause to suspect that an adult in its area (whether or not ordinarily resident there)
(a)has needs for care and support (whether or not the authority is meeting any of those needs),
(b)is experiencing, or is at risk of, abuse or neglect, and
(c)as a result of those needs is unable to protect himself or herself against the abuse or neglect or the risk of it.
(2) 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.

6 14.17 Local authorities should not limit their view of what constitutes abuse or neglect, as they can take many forms and the circumstances of the individual case should always be considered; although the criteria at paragraph 14.2 will need to be met before the issue is considered as a safeguarding concern….

Deciding if you need to raise a safeguarding concern to the local authority/Multi-Agency Safeguarding Hub (MASH)



*There may be circumstances where the safety of the adult or yourself prevent this from happening. If you still have concerns about abuse or neglect and it is not possible or within the scope of your role to have a conversation with the adult, then if in doubt continue with the process and raise a safeguarding concern.

2. Core messages within the safeguarding adults concerns framework

This framework is not intended as guidance to prescribe exactly what must be done but is offered as support to improve practice. It is written in the spirit of empowering practitioners working in all organisations. It is intended to support consistent decision-making about safeguarding concerns and confidence in the rationale for these, which are rooted in the legal framework and statutory guidance. That confidence and consistency will also support individuals and communities to understand what kinds of concerns might need to be discussed and reported.

Data recording will flow from these decisions and reflect practice and outcomes more clearly and consistently.

It is proposed that the following core messages might be adopted to support shared understanding, consistency and accountability in this area of practice and reporting.

Messages relating to shared values and principles[7] derived from the statutory framework

The first four messages are consistent across both this framework on safeguarding concerns and the safeguarding enquiries framework.

One For any decision-making to be effective it must be legally literate. Decisions must conform to legislation that supports and protects the rights and safety of citizens. Legal obligations are non-negotiable in making these decisions.

Two Decisions should be based on a shared understanding and application of fundamental principles that are at the heart of the Care Act (2014) and the associated Care and Support Statutory Guidance (DHSC,2020). This includes a duty to promote wellbeing and to adopt a flexible approach, focusing on what matters most to the individual.[8]

Three The six statutory safeguarding adults principles[9] (in the context of the Human Rights Act (1998)) underpin all aspects of adult safeguarding work. These should be clearly and openly addressed from the outset and placed at the heart of decision-making and action.

Application of these principles supports practice capable of achieving a wide range of responses tailored to meet the needs of the individual. Alongside this there must be transparency in applying the five principles of the Mental Capacity Act (2005).

Four There must be a strong focus on the person concerned, the outcomes they want to achieve and how these may be accomplished. This is at the heart of Making Safeguarding Personal. Adults must be involved in decision-making and where the adult has a 'substantial difficulty' in being involved the support of a suitable person or advocate must be offered. This requirement is clearly set out in the Care and Support Statutory Guidance (DHSC, 2020).[10]

7 Principles referred to here include: Human Rights Act (1998) principles; the six statutory principles for safeguarding adults, alongside Making Safeguarding Personal (Care and Support Statutory Guidance, 2020 14.13-14.15) and the five core principles of the Mental Capacity Act, 2005. (see section 3 of this framework)

8 Care and Support statutory Guidance, para 1.1, DHSC, 2020

9 Paragraph 14.13, Care and Support Statutory Guidance, DHSC, 2020 – Empowerment, Prevention, Proportionality, Protection, Partnership and Accountability.

10 Paragraphs 14.52 and 14.54

However, if a person declines safeguarding support and/or a S42 enquiry that is not the end of the matter.[11] Consideration should be given to ways in which the risk to the adult could be managed or mitigated, taking into account the impact of abuse or neglect on the person's wellbeing, including their 'vital interests' and the impact on others in the situation.

Messages relating to working collectively; consistency in defining, referring and responding to safeguarding concerns

This is underpinned by a shared interpretation of the Care and Support Statutory Guidance (DHSC, 2020).

Five Effective outcomes are supported by collective endeavour across sectors and organisations. There is mutual understanding of roles and a collective will to bring those roles to bear in finding the right response in individual situations. Joint responsibility and working alongside the person must be at the heart of a partnership approach. Agreement should be sought with the person and colleagues as to which is the most appropriate organisation to work alongside the individual.

Six People and organisations are more likely to raise concerns if they are clear what a 'safeguarding concern' is. In deciding whether or not to refer a safeguarding concern, referrers and the local authority need a common language and understanding of terms that are central to adult safeguarding.[12]

Seven Whilst a clear definition of 'safeguarding concern' is needed for reporting purposes, in practice this may need to be supported through conversations about individual circumstances.

Eight This is not a linear process. It may not be obvious that something is a safeguarding concern until a discussion and further information gathering takes place.

Whether or not a safeguarding response is pursued, there is transparency about the decisions made at all stages. Referrers of concerns receive feedback about the decisions made (consistent with data protection legislation).

Nine A commitment to collaboration underpinned by shared understanding and language should mean that there is no 'wrong front door' for raising concerns that may or not turn out to be safeguarding concerns.

Ten Safeguarding Adults Boards (SABs) and leaders across organisations have a significant role in nurturing cultures whose hallmarks are collaboration, including on support and assurance of mutual understanding of roles and responsibilities, collective responsibility and parity of esteem.

11 See Section 11 Care Act 2014

12 In section one and in section three of this framework (within support on putting core messages 7-12 into practice) we suggest an agreed way forward in adopting a shared definition of safeguarding concerns.

Messages relating to the breadth of adult safeguarding responsibilities

Eleven In considering circumstances that might constitute a safeguarding concern, there must be a focus on all aspects of adult safeguarding responsibilities.[13] This includes a focus on the prevention of abuse and neglect. A safeguarding concern can relate to risk of abuse or neglect.

Twelve A safeguarding concern is not the only route through which a multi-agency approach to identifying and managing risk to wellbeing and safety can be facilitated. Information gathering across organisations may lead to an alternative decision and pathway. A briefing on working with risk for safeguarding adults' boards offers help in this context.[14]

Messages relating to recording and reporting on decision-making about safeguarding concerns and outcomes for people

Thirteen Robust recording of decisions and the rationale for them is essential. This is the means through which defensible decision making[15] can be worked through and evidenced. Auditing of those recorded decisions supports development and improvement in decision making. Robust recording of single incidents enables a cumulative view where issues (which may not initially be viewed as safeguarding concerns) taken together, might need to be addressed through adult safeguarding responses.

Fourteen SABs have a responsibility to seek assurance across partnership organisations on the quality of decision making in identifying and referring a safeguarding concern. SABs can use the SAC data as a 'can opener' and supplement this with other local information (such as audits, peer reviews), asking questions about the effectiveness of decision making and practice across all organisations. Local information must include reflecting on the effectiveness of outcomes in situations not dealt with as a safeguarding concern but which nevertheless reflect organisations' activity in discharging broader safeguarding responsibilities.

Fifteen An agreed way forward for reporting the number of concerns to the annual SAC is to report all concerns received by the local authority where there is a clear case set out to show that these refer to the suspected abuse or neglect of an adult who is believed to have a need for care and support.[16]

These concerns may be identified by any organisation, the adult concerned or a member of the public, or by the local authority itself.

13 See for example 14.11 and 14.7, Care and Support Statutory Guidance (2020)

14 LGA/ADASS November 2018 www.local.gov.uk/our-support/our-improvement-offer/care-and-health-improvement/making-safeguarding-personal/working-risk See also White, E, 'Assessing and Responding to Risk', Chapter 6: Cooper, A and White, E (eds) "Safeguarding Adults Under the Care Act 2014", Jessica Kingsley publishing, 2017

15 Considerations in support of defensible decisions are set out in Kemshall, H, 2009. They are readily accessible and reproduced in DH, page 10, 2010 https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/215960/dh_121493.pdf

16 See section three of this framework (within support on putting core messages 7-12 into practice) where shared definitions of these terms are set out.

CASE STUDY

HOWARD

The following case study illustrates how these core messages relate to good practice as well as what can happen if these messages do not inform practice (see Safeguarding Adult Review www.iowsab.org.uk/wp-content/uploads/2019/01/2880-IoW-SAB-Howard-SAR-FINAL-FOR-PUBLICATION.pdf.) Issues at the heart of situations like this are explored in greater dept in section 3 of this framework.

Case outline

Howard is in his early fifties. He has been homeless for several years, either side of a short custodial sentence following a conviction for fraud. As a result of the proceedings that led to that conviction, he lost his home and his employment. He has been homeless ever since, living mainly in bus shelters, but with some sofa surfing, occasional stays in hostels for people recovering from substance misuse and some use of a night bus.

Howard has a long history of alcohol abuse. He has been unable to stop drinking when accommodated in hostels, as a result of which he has had to leave. He also has a heart condition for which he is prescribed medication. He has had several hospital admissions, again either side of his custodial sentence, because of chest pain. He has been assessed by housing authorities as not being owed a rehousing duty as a homeless person.

On many occasions ambulance crews and police officers have been called to assist Howard. Sometimes on these occasions he has been intoxicated and/or incontinent. He often appears unkempt. He frequently refuses their assistance, even when he has been the victim of financial and/or physical abuse from people he associates with.

There is evidence that his money and/or his medication have been stolen. Ambulance crews and police officers are concerned that Howard is unable to manage his personal needs and that he is at risk of abuse and neglect, including self-neglect. GPs who know Howard have been concerned about the difficulties tracking his compliance with medication, because of his homelessness, and have also diagnosed depression.

When ambulance crews and police officers have suggested a referral to adult social care for assessment and/or safeguarding, Howard has often declined. On most occasions at these times the professionals involved have respected Howard's wishes, believing that he has decisional capacity. However, the increasing number of incidents have prompted the sharing of concerns as it appears to those involved during these incidents that Howard has care and support needs and is unable to protect himself.

Suggested application of core messages to inform a decision about whether this constitutes a safeguarding concern

Definitions and legal literacy

Application of S42 (1 a and b)

a) has needs for care and support

b) is experiencing, or is at risk abuse or neglect

In respect of a) need for care and support

Howard is someone who misuses substances or alcohol to the extent that it affects his ability to manage day-to-day living.[17] He suffers with depression as well as physical health issues. These and other potential issues render him in need of care and support.

17 See section 3 of this framework and suggestion to rely for this definition of care and support needs on Adult safeguarding practice questions, SCIE, July 2018 www.scie.org.uk/safeguarding/adults/practice/questions

In addition he is, as a result of identified needs, an adult who is unable to achieve specified outcomes[18], including in relation to basic daily needs and care (The Care and Support (Eligibility Criteria) Regulations, 2014). (**Note**: Howard does not need to meet eligibility criteria to receive safeguarding support).

In respect of b), experiencing or at risk of abuse or neglect

Howard is, in the context of the definition in the Care and Support Statutory Guidance (DHSC, 2020)[19] experiencing abuse or neglect This is the shared definition we promote in this framework on safeguarding concerns. Howard is, at the least a victim of financial, material and physical abuse. He is unable to manage his personal needs and is at risk of neglect and self-neglect.

This indicates that any one of those who come into contact with Howard should have a conversation with the local authority about Howard and indicate that this in their view constitutes a safeguarding concern.

Criteria S42(1c), as a result of those needs is unable to protect himself

This will be part of the conversation with the local authority. Those who regularly come into contact with Howard are beginning to piece together information to inform this question. This will be a consideration for multi-agency discussion with the local authority. If it is met, then the local authority will proceed in practice with a safeguarding concern and this will trigger a S42(2) safeguarding adults enquiry to decide what action is necessary and if so by whom.

Legal literacy is important in respect of the duty under s42 of the Care Act (2014). An understanding of wider powers and duties across the legal framework will also support partner organisations to work together effectively in assisting Howard. This may include exploring obligations under the Care Act (2014), homelessness legislation and, if he declines to engage with assessments, consideration of duties under the Mental Capacity Act (2005) and s11(2) Care Act (2014). This will be especially important where practitioners remain concerned that Howard may be at risk of abuse or neglect.

Howard's situation would now require an assessment and for the local authority to seek to agree with him a personalised housing plan.[20] Ideally, this would recognise the need for multi-agency input, including from the voluntary sector with whom he may have developed a rapport and who may know how best to engage him. Applying a human rights based approach to any plan will mean having to observe public bodies' positive obligations to act to protect life (article 2) and prevent inhuman and degrading treatment (article 3) whilst making careful judgements about his right to respect for his privacy (article 8) in the context of the presenting risks. Risks to his life might fluctuate and as they become more severe (eg severe weather conditions or his own health deteriorating such that he requires hospital admissions), these should result in a multi-agency review and may well enable any risk management to consider a more interventionist response (eg utilising powers under legislation to offer and, if applicable, compel him to accept support that reduces risks).

18 2.—(1) An adult's needs meet the eligibility criteria if—
(a)the adult's needs arise from or are related to a physical or mental impairment or illness; (b)as a result of the adult's needs the adult is unable to achieve two or more of the outcomes specified in paragraph (2); and (c)as a consequence there is, or is likely to be, a significant impact on the adult's well-being.
(2) The specified outcomes are—
(a)managing and maintaining nutrition; (b)maintaining personal hygiene; (c)managing toilet needs; (d)being appropriately clothed; (e) being able to make use of the adult's home safely; (f)maintaining a habitable home environment; (g)developing and maintaining family or other personal relationships; (h)accessing and engaging in work, training, education or volunteering; (i)making use of necessary facilities or services in the local community including public transport, and recreational facilities or services; and (j)carrying out any caring responsibilities the adult has for a child.

19 Paragraphs 14.16-14.17 Care and Support Statutory Guidance, 2020
www.gov.uk/government/publications/care-act-statutory-guidance/care-and-support-statutory-guidance#safeguarding-1

20 S198A Housing Act

Shared values and principles derived from the statutory framework

The six safeguarding principles will be applied. (See appendix two). Howard must be involved in discussion and decision making but, as in core message four above, his declining of an assessment of needs and/or a safeguarding assessment must not be the end of the matter.[21] The risk to him is perceived by a number of professionals to be significant. Consideration should be given to ways in which the risk to him could be managed or mitigated. Conversations with him should seek to understand the underlying reasons for this refusal and ways that these might be addressed.

Working collectively

Whether or not Howard's situation was defined as a safeguarding concern (here it is indicated that it is defined as such) involved organisations need to come together to assess and mitigate substantial risk. The core message about collective responsibility and endeavour come into sharp focus in this situation.

Reporting in the SAC

Howard's case helps to illustrate points in relation to SAC reporting. This framework supports a view that where it appears that criteria a and b (s42(1)) are met and the referring worker/organisation therefore believes that the circumstances amount to a safeguarding concern then, where there is a clear case set out to show this, the local authority will report it in the SAC as a safeguarding concern. This is not a linear decision. There are some clear-cut decisions that can be made in any sector at the front line. Others will need to be made after referral, consultation and further information gathering. It may not be obvious to all that this is a safeguarding concern until a discussion and/or further information gathering, takes place.

21 See Section 11 Care Act 2014

3. Achieving a shared understanding about safeguarding concerns, informed by the statutory framework[22]

This section enlarges on each 'cluster' of core messages.

Putting shared values and principles into practice in defining and working with safeguarding concerns.

Core messages one to four

These core messages have a focus on:
- legal literacy
- application of the range of legal principles
- Making Safeguarding Personal.

What helps and how?

A human rights framework

The Care Act (2014) provides a legal basis for safeguarding adults from abuse or neglect within the context of broader reforms. These introduced a duty to promote wellbeing and to 'adopt a flexible approach that allows for a focus on which aspects of wellbeing matter most to the individual concerned'.[23] The suggested approach in this framework needs to be seen within the context of these broader aspirations of the Care Act (2014) and the need to act in accordance with human rights legislation.

Making Safeguarding Personal[24] will support effective decision making and responses to safeguarding concerns. Earlier work identifies four areas where development will support making safeguarding personal: leadership and culture; staff development and support; engaging with people and supporting early intervention/prevention; working in partnership across organisations.[25] This development can support appropriate person-centred referrals of safeguarding concerns and consistent responses to those referrals.

Development under all four areas is needed to support best practice in working together with adults and across the safeguarding partnership in order to:

- identify safeguarding concerns and make referrals
- identify alternative effective responses where the S42 duty is not indicated but some other action outside of a safeguarding concern/ enquiry is needed
- prevent circumstances from escalating to the point where a person is abused or neglected
- develop collaborative cultures and leadership that enable and support responses that reflect human rights and safeguarding adults principles.

However, **Making Safeguarding Personal does not mean 'walking away' if a person declines safeguarding support and/or a S42 enquiry. That is not the end of the matter.[26] Empowerment must be balanced for example, with Duty of Care and the principles of the Human Rights Act (1998) and of the Mental Capacity Act (2005)**. The need for balance on this issue is illustrated elsewhere within the Care Act (2014), in section 11, where it is explicit that although the local authority duty to carry out a needs assessment (S9) may be removed if the adult does not consent, this does not apply where the adult is experiencing or at risk of abuse or neglect. S11(2)(b)'.[27]

22 Including the Human Rights Act (1998), The Care Act (2014) and the supporting statutory guidance, the Mental Capacity Act (2005)
23 Paragraph 1.1, Care and Support Statutory Guidance, DHSC, 2018
24 Care and Support Statutory Guidance (DHSC) 2020 14.15
25 www.local.gov.uk/our-support/our-improvement-offer/care-and-health-improvement/making-safeguarding-personal/resources . A set of resources (LGA/ADASS Dec 2017) on 'What good looks like' in MSP across a range of sectors explores these essential steps for developing MSP in greater depth.
26 This and other key messages for MSP are set out in 'Myths and realities about Making Safeguarding Personal'(LGA/ADASS November 2019) www.local.gov.uk/sites/default/files/documents/25.144%20MSP%20Myths_04%20WEB.pdf
27 Care Act, 2014, S 11 Refusal of assessment (1) Where an adult refuses a needs assessment, the local authority concerned is not required to carry out the assessment (and section 9(1) does not apply in the adult's case). (2) But the local authority may not rely on subsection (1) (and so must carry out a needs assessment) if: (a)the adult lacks capacity to refuse the assessment and the authority is satisfied that carrying out

In the event that there is no duty under S42 to make enquiries, the practitioner must still consider how any identified risk will be mitigated and how that will be communicated to the adult concerned and the person accused of causing harm. Best practice in working with risk must be considered.[28]

Six key principles underpin all adult safeguarding work

At the centre of all efforts to make safeguarding personal are the six core principles of adult safeguarding. These should inform the ways in which all professionals and staff work with adults. They should underpin frontline approaches and strategic partnerships.

The six principles provide a framework for ensuring that a range of responses is considered collaboratively to reflect individual circumstances. They are set out in the Care and Support Statutory Guidance.[29] Examples of their application in frontline and strategic adult safeguarding are set out in appendix 2. The principles are: empowerment, prevention, proportionality, protection, partnership, and accountability

Legal literacy

What do the Care Act (2014) and the Care and Support Statutory Guidance (DHSC,2020) say? How can this inform definition and decisions about safeguarding concerns?

This framework is intended to support all referrers and adult social care decision makers to work in a way that is legally literate. The following excerpts of the Care Act (2014) and the Care and Support Statutory Guidance DHSC (2020) set out a clear expectation that, as well as identifying risk, there is a continuing responsibility to work collectively to ensure risks are properly understood and addressed.

These legal duties, guidance and the principles above must inform decisions and practice in relation to safeguarding concerns.

Section 42 Care Act (2014). Enquiry by local authority

This section has no associated Explanatory Notes

1. This section applies where a local authority has reasonable cause to suspect that an adult in its area (whether or not ordinarily resident there)—
   a) has needs for care and support (whether or not the authority is meeting any of those needs),
   b) is experiencing, or is at risk of, abuse or neglect, and
   c) as a result of those needs is unable to protect himself or herself against the abuse or neglect or the risk of it.
2. 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.

Section 11 Care Act (2014)

Sets out circumstances where, even in the face of a refusal of assessment by the adult, there is a continuing duty under S9 Care Act (2014). This enables practitioners to pro-actively work together to understand a person's care and support needs and how this might impact on their ability to protect themselves. This will be helpful if a person is experiencing or at risk of abuse or neglect but refuses a needs assessment.

the assessment would be in the adult's best interests, or (b) the adult is experiencing, or is at risk of, abuse or neglect.

28 www.local.gov.uk/our-support/our-improvement-offer/care-andhealth-improvement/making-safeguarding-personal/working-risk offers support in balancing risks to wellbeing and safety

29 Paragraph 14.13, Care and Support Statutory Guidance, DHSC, 2020

1) Where an adult refuses a needs assessment, the local authority concerned is not required to carry out the assessment (and section 9(1) does not apply in the adult's case).

(2) But the local authority may not rely on subsection (1) (and so must carry out a needs assessment) if—

(a)the adult lacks capacity to refuse the assessment and the authority is satisfied that carrying out the assessment would be in the adult's best interests, or

(b)the adult is experiencing, or is at risk of, abuse or neglect.

Care and Support Statutory Guidance (DHSC 2020)

14.17 Local authorities should not limit their view of what constitutes abuse or neglect, as they can take many forms and the circumstances of the individual case should always be considered; although the criteria at paragraph **14.2** will need to be met before the issue is considered as a safeguarding concern….

14.36 Workers across a wide range of organisations need to be vigilant about adult safeguarding concerns in all walks of life including, amongst others in health and social care, welfare, policing, banking, fire and rescue services and trading standards; leisure services, faith groups, and housing. GPs, in particular, are often well-placed to notice changes in an adult that may indicate they are being abused or neglected. Findings from serious case reviews have sometimes stated that if professionals or other staff had acted upon their concerns or sought more information, then death or serious harm might have been prevented…

14.43 No professional should assume that someone else will pass on information which they think may be critical to the safety and wellbeing of the adult. If a professional has concerns about the adult's welfare and believes they are suffering or likely to suffer abuse or neglect, then they should share the information with the local authority and, or, the police if they believe or suspect that a crime has been committed.

14.18 Incidents of abuse may be one-off or multiple and affect one person or more. Professionals and others should look beyond single incidents or individuals to identify patterns of harm, just as the CQC, as the regulator of service quality, does when it looks at the quality of care in health and care services. Repeated instances of poor care may be an indication of more serious problems and of what we now describe as organisational abuse. In order to see these patterns, it is important that information is recorded and appropriately shared….

14.99 It is important, when considering the management of any intervention or enquiry, to approach reports of incidents or allegations with an open mind. In considering how to respond the following factors need to be considered:

- the adult's needs 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 and increasing risk to the adult

- the risk of repeated or increasingly serious acts involving children, or another adult at risk
- the responsibility of the person or organisation that has caused the abuse or neglect
- research evidence to support any intervention' (DHSC, 2020)

Working collectively; consistency in defining, referring and responding to safeguarding concerns

Core messages five to ten

These core messages have a focus on:

- Collective endeavour. Shared responsibility, mutual understanding, parity of esteem across sectors.
- Shared definitions: 'concern', 'abuse and neglect', 'need for care and support'. This empowers all partners and supports shared and transparent decision making.
- Partnership and organisational cultures that support working together and joint accountability for effective outcomes.

What helps and how?

Common language and collective understanding; definitions underpinning the question 'what is a safeguarding concern?'

Referrers of safeguarding concerns who attended the national workshops[30] reported experiencing confusion and uncertainty about whether or not something was 'a safeguarding concern'. Referrers reported that the guidance provided by SABs emphasised 'social care' language which risked further confusing or alienating referrers unfamiliar with social care jargon.

Definitions need to be understood by a range of organisations, and to be accessible to people using services as well as the public in general. These definitions need to be clarified locally, consulting with a range of stakeholders to achieve definitions that are clear and accessible to all.

Appendix 8 includes some examples of generic and cross sector resources that support understanding what is abuse and neglect? And what is a need for care and support? There is a clear need to build on these resources at a national and local level to support front line understanding. An example of clear definitions and support is available on the Birmingham Safeguarding Adults Board website www.bsab.org/what-is-abuse/who-is-at-risk Other local areas may wish to use this and other examples in the appendix to develop local practice support tools.

The definitions set out in this framework can form a basis for such shared definitions and for clarification in public awareness information.

30 LGA/ADASS workshops about safeguarding concerns November-January 2019/20

Support in defining a safeguarding concern

This framework proposes the following agreed way forward in defining adult safeguarding concerns:

Where there is reasonable cause to suspect[31] that all three criteria in S42 (1) Care Act (2014)32 are met (namely that an adult with care and support needs, is experiencing or at risk of abuse or neglect and is unable to protect themselves) this must trigger a safeguarding adults enquiry, led by the local authority.

However, neither the Care Act (2014) nor the associated Care and Support Statutory Guidance (DHSC, 2020) state that these three criteria must all be fulfilled in order for **all organisations** to conclude (from available information) that an issue constitutes a safeguarding concern and to refer it to the local authority. Note that 14.17 of the Care and Support Statutory Guidance (DHSC, 2020) advises **local authorities** to consider the three criteria and to explore concerns raised in a person-centred way.33

In addition, there may be considerable complexity and time involved in deciding whether there is reasonable cause to suspect that, as a result of care and support needs the adult is unable to protect himself or herself against the abuse or neglect or the risk of it (the third criterion in S42(1c), Care Act, 2014.

This framework suggests therefore that where it appears that criteria a and b of s42(1) are met and the referring worker/ organisation believes that the circumstances amount to a safeguarding concern a referral is made to the local authority.

This means that only reasonable cause to suspect that S42(1) (a) and (b) apply is needed in deciding whether to refer a safeguarding concern to the local authority. The local authority will take all such referrals seriously and consider S42 (1a and b) alongside the third criteria under S42(1c) of the Care Act (2014) with the referrer and in gathering further information. Local authorities should not be rigid in deciding to reject all but those referrals that meet all three of the criteria in S42(1).

Further definition to help with deciding about whether a person has needs for care and support and is at risk of or is experiencing abuse or neglect.

Defining needs for care and support

The term 'needs for care and support' is not precisely defined within legislation or statutory guidance. Common ingredients used in defining a need for care and support consider both the nature of care and support and the circumstances in which an adult may need care and support.

We suggest that the following is helpful and can be used widely to support consistent understanding of where a person has needs for care and support. It embraces other available definitions also included below.

31 Factors that might be considered in deciding whether there is 'reasonable cause to suspect' are set out in www.local.gov.uk/sites/default/files/documents/25.130%20Making%20Decisions%20on%20the%20duty_06%20WEB.pdf (LGA, August 2019, page 19)

32 Section 42, Care Act 2014 (referred to throughout this framework as S42). Section 42: Enquiry by local authority, this section has no associated Explanatory Notes (1)This section applies where a local authority has reasonable cause to suspect that an adult in its area (whether or not ordinarily resident there)— (a)has needs for care and support (whether or not the authority is meeting any of those needs), (b) is experiencing, or is at risk of, abuse or neglect, and (c)as a result of those needs is unable to protect himself or herself against the abuse or neglect or the risk of it. (2)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.

33 14.17 Local authorities should not limit their view of what constitutes abuse or neglect, as they can take many forms and the circumstances of the individual case should always be considered; although the criteria at paragraph 14.2 will need to be met before the issue is considered as a safeguarding concern….

The suggested definition is:

'Safeguarding duties apply regardless of whether a person's care and support needs are being met, whether by the local authority or anyone else. They also apply to people who pay for their own care and support services. An adult with care and support needs may be:

- an older person
- a person with a physical disability, a learning difficulty or a sensory impairment
- someone with mental health needs, including dementia or a personality disorder
- a person with a long-term health condition
- someone who misuses substances or alcohol to the extent that it affects their ability to manage day-to-day living.' (Adult Safeguarding Practice Questions, SCIE, July 2018)[34]

Consideration of this need for care and support must be person-centred (for example, not all older people will be in need of care and support but those who are 'frail due to ill health, physical disability or cognitive impairment' may be). **The above is not an exhaustive list and it must be considered alongside the impact of needs on the individual's wellbeing.**

This issue of impact of care and support needs on wellbeing is dealt with in the Care and Support (Eligibility Criteria) Regulations, 2014.[35] However this is cited here only because it shines a light on the need to consider the impact of care and support needs on the person's life when considering whether the criteria for referring a concern are met. **It must be noted that an individual does not have to be eligible for care and support under the eligibility regulations for a safeguarding concern to be raised or for the local authority S42 duty to apply**. These regulations in defining care and support needs say simply that adults who have care and support needs are those where 'the adult's needs arise from or are related to a physical or mental impairment or illness'.

These regulations refer to circumstances where, as a result of identified needs an adult is unable to achieve specified outcomes, including in relation to basic daily needs and care as well as in developing and maintaining relationships and engaging in activity and with the community. The regulations say that as a consequence of this, there is likely to be an impact on their wellbeing. The 'outcomes' referred to are listed in the regulations.[36]

What about carers?

Guidance on carers and safeguarding is set out in the Care and Support Statutory Guidance (DHSC,2020).[37] This sets out circumstances in which a carer (for example, a family member or friend) could be involved in a situation that may require a safeguarding response. This statutory guidance (14.46) states that

'Assessment of both the carer and the adult they care for must include consideration of the wellbeing of both people. Section 1 of the Care Act includes protection from abuse and neglect as part of the definition of wellbeing. As such, a needs or carer's assessment is an important opportunity to explore the individuals' circumstances.'

34 www.scie.org.uk/safeguarding/adults/practice/questions

35 www.legislation.gov.uk/ukdsi/2014/9780111124185

36 2.—(1) An adult's needs meet the eligibility criteria if— (a)the adult's needs arise from or are related to a physical or mental impairment or illness; (b)as a result of the adult's needs the adult is unable to achieve two or more of the outcomes specified in paragraph (2); and (c)as a consequence there is, or is likely to be, a significant impact on the adult's well-being. (2) The specified outcomes are— (a)managing and maintaining nutrition; (b)maintaining personal hygiene; (c)managing toilet needs; (d)being appropriately clothed; (e)being able to make use of the adult's home safely; (f)maintaining a habitable home environment; (g)developing and maintaining family or other personal relationships; (h) accessing and engaging in work, training, education or volunteering; (i)making use of necessary facilities or services in the local community including public transport, and recreational facilities or services; and (j)carrying out any caring responsibilities the adult has for a child.

37 14.45-14.50 Care and Support Statutory Guidance 2020

Finally in respect of carers 14.44 of the Care and Support statutory Guidance (DHSC, 2020) applies: 'Local authorities may choose to undertake safeguarding enquiries for people where there is not a section 42 enquiry duty, if the local authority believes it is proportionate to do so, and will enable the local authority to promote the person's wellbeing and support a preventative agenda'. See also case study A in appendix 3.

Defining 'is experiencing, or at risk of, abuse or neglect'

This is defined in the Care and Support Statutory Guidance (DHSC, 2020) and is the shared definition promoted in this framework on safeguarding concerns.[38] Importantly this includes that 'Local authorities should not limit their view of what constitutes abuse or neglect, as they can take many forms and the circumstances of the individual case should always be considered.' And 'This is not intended to be an exhaustive list but an illustrative guide as to the sort of behavior which could give rise to a safeguarding concern'.

Responses and decisions should be based on personal circumstances and take into consideration the actual or potential impact on the adult's wellbeing together with the adult's views on the impact that the abuse or neglect has had upon them. The factors listed in 14.99 of the Care and Support Statutory Guidance (DHSC, 2020) are helpful in thinking through the person's circumstances. The above reference to aspects of an individual's 'wellbeing' as set out in the Care and Support (Eligibility Criteria) Regulations, 2014[39] also offer a reminder to think broadly about what is important to people, the outcomes that matter to them and why, in thinking about whether they are experiencing abuse or neglect.

This was reflected in conversations with advocacy providers who underlined that need for definition but set alongside an understanding of the individual and their context, referring to:

'The need to know what is abuse and neglect, who is in need of care and support and how that impacts on the individual.'[40]

Support in defining 'Reasonable cause to suspect that, as a result of those [care and support] needs an adult is unable to protect himself or herself against the abuse or neglect or the risk of it'.[41]

It may be possible for a referrer to ascertain that the adult is unable to protect themselves because of their care and support needs, but this criteria is often only understood once the local authority and others undertake further information gathering under the S42(1) duty as described in the statutory guidance[42]. This includes having a conversation with the adult about how able they are to protect themselves and what their wishes are. It is sufficient for potential referrers to understand who might be an adult with care and support needs and what constitutes abuse or neglect when making a referral of a safeguarding concern.

Referrers from all organisations should however work with the individual and the local authority offering as much support and information as is available to assist understanding of whether this criterion is met. The following might help with this:

38 Paragraphs 14.16-14.17 Care and Support Statutory Guidance, 2020 www.gov.uk/government/publications/care-act-statutory-guidance/care-and-support-statutory-guidance#safeguarding-1
39 www.legislation.gov.uk/ukdsi/2014/9780111124185
40 Comment from advocacy provider in conversations about safeguarding adults and the role of advocacy support
41 S42 (1c) Care Act, 2014
42 14.92 Care and Support statutory Guidance 2020

Potential barriers to an adult's ability to protect themselves might include:

- they do not have the skills, means or opportunity to self-protect
- they may have disabilities which impair their capacity to make decisions about protecting themselves or need support to enact decisions
- they live in a group setting where they lack control over the way they are treated or the environment; there is a power imbalance
- they may not understand an intention to harm them
- they may be trapped in a domestic situation which they are unable to leave or where coercion and control means they cannot make a decision about making change
- their resilience and resourcefulness to protect themselves from harm is eroded by for example, coercive control and/or a high risk environment.

Collaborative partnerships typified by collective endeavour and responsibility; safeguarding is everyone's business.

The Care Act (2014)[43] clearly lays out the duties of relevant partners to cooperate in achieving the aims of adult safeguarding. Partnerships between frontline staff are key in achieving effective outcomes for adults, and these will need support at a strategic level in the arrangements made by all the partner organisations of the local Safeguarding Adults Board (SAB).

The Care and Support Statutory Guidance (DHSC, 2020) sets out what needs to be done[44] in order to achieve the preventative and responsive aims of adult safeguarding[45] (detailing the tasks for SABs and leaders across the safeguarding partnership) including:

- creating strong partnerships that are effective in responding to and preventing abuse and neglect
- ensuring there is clarity as to roles and responsibilities
- an emphasis on supporting the broad range of safeguarding responsibilities including, tackling the issues that increase risk of abuse and neglect (for example social isolation) and providing clarity about responding to safeguarding concerns that arise from poor quality of care.

Successful collaborative working at the frontline

'health and social work professionals sometimes "pass the buck" resulting in long response delays and lack of support'. 'No one took ownership and so nothing happened'.[46]

'All SARs talk about passing the buck. That's a real issue. Not being afraid to go further up the line is important (escalation)'.[47]

An absence of collective responsibility can lead to adults losing trust in services, reducing the likelihood of reporting abuse and increasing the likelihood of the adult disengaging and risking exposure to harm.

43 S6 and s7 CARE Act 2014
44 Paragraph 14.12 Care and Support Statutory Guidance, DHSC, 2020
45 Paragraph 14.11 Care and Support Statutory Guidance, DHSC, 2020
46 A podcast includes messages from research which explored experiences of people who have been victimised because of their mental health status. https://soundcloud.com/rip-ripfa/safeguarding-concerns-a-service-user-perspective Based on Carr S, Hafford-Letchfield T, Faulkner A, et al. 'Keeping Control': A user-led exploratory study of mental health service user experiences of targeted violence and abuse in the context of adult safeguarding in England. P7 Health Soc Care Community. 2019;27:e781–e792.
47 Comment from advocacy provider in conversations about safeguarding adults and the role of advocacy support

Effective collaborative working will feature:

- opportunities built into everyday frontline practice to have dialogue about responses to concerns, this may be supported by the co-location of frontline staff, or by regular face to face meetings or telephone contacts
- frontline staff who know the range of organisations who can respond to prevent harm or will help to problem solve
- everyone understanding each other's role and what they have to offer. There is parity of esteem; everyone's role is significant
- front line staff who have relationships across organisations focused on working together for the benefit of the adult. Staff are aware of a range of options to help in responding to situations when a safeguarding concern does not need to be referred, but the adult still needs support
- conversations and decisions about safeguarding concerns that are supported by clear and commonly owned language and guidelines
- escalation pathways that are used to constructively challenge decision making and develop partnership working
- practices that reflect collective responsibility in action:
  - feedback to referrers on safeguarding decisions is the norm
  - person centred approaches engage everyone involved with the person in achieving the best outcome
  - organisations do not attempt to attribute responsibility to another organisation, they work together.

Conversations with 32 advocacy providers across regions revealed the value of dialogue and decisions made together rather than predetermined 'thresholds' imposed on the referrer:

'We found before that nothing we raised seemed to reach the bar, so a conversation helps.[48]

The role of the SAB in supporting and developing successful collaborative working at the frontline is significant. This is expanded upon at the end of section six of this framework.

Making decisions about what constitutes a safeguarding concern; the breadth of safeguarding responsibilities[49]

Core messages 11 and 12

These core messages have a focus on;

- responding to the breadth of safeguarding responsibilities including prevention
- ensuring that responses address risks to safety and wellbeing whether through a safeguarding response or through another pathway.

Conversations with advocacy providers[50] underlined these messages:

'There is a need for clear guidance on when something constitutes a safeguarding concern and what you do if it isn't 'safeguarding' but nevertheless someone is at risk'.

48 Comment from advocacy provider in conversations about safeguarding adults and the role of advocacy support

49 See for example 14.11 Care and Support Statutory Guidance (2020)

50 Comment from advocacy provider in conversations about safeguarding adults and the role of advocacy support. Briefing on advocacy and making safeguarding personal will be made available on www.local.gov.uk/our-support/our-improvement-offer/care-and-health-improvement/making-safeguarding-personal

'What to do in more 'murky', less clear-cut situations that don't sit neatly anywhere? What helps is being able to call the safeguarding team and talk through the situation before making a decision about referral'.

What helps and how?

A significant focus on the role in prevention and supporting wellbeing

Adult safeguarding is the responsibility of all organisations working with adults, with an emphasis on '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.'[51]

Effective outcomes for adults are supported by partnerships which promote collective responsibility in preventing abuse or neglect in addition to ensuring that concerns about adults with care and support needs are referred to council safeguarding teams for consideration of the S42 duty.

Understanding 'wellbeing' helps all organisations take action in their everyday role to prevent harm and support the improvements in an adult's life which can increase their independence and resilience to harm. In appendix 2, 'wellbeing in practice' the meaning of the 'wellbeing' principle is explored in more detail.

Local authorities have a duty to promote the person's wellbeing Care Act (2014, S1:1-40) when carrying out any of their care and support functions. This may sometimes be referred to as the 'wellbeing principle'.

Other organisations have a duty to cooperate with the local authority in their duty to promote wellbeing as well as the duty to protect adults from abuse and neglect (Care Act 2014 S6.1-8).

A focus on the range of safeguarding responsibilities

The SAB must support and seek assurance on decision making and responses relating to the whole range of safeguarding responsibilities.[52] There needs to be assurance, for example that:

- where there is a clear case set out that a presenting issue is a safeguarding concern, it is addressed as such by the local authority
- the appropriate pathway is found for an effective response when an issue is raised that does not constitute a safeguarding concern, but nevertheless there are risks present in the situation. For example, there might be a need for an assessment of need for care and support (Section 9, Care Act, 2014) or a response from commissioners about quality issues, or referral to a multi-agency pathway to support people experiencing domestic abuse or hate crime. These responses may contribute to keeping an individual safe and / or to an individual's wellbeing
- when a series of issues about the quality of a specific service are raised, recording and partnership working are sufficiently robust for patterns to be identified that might ultimately constitute a safeguarding concern.

Individual organisations are in turn accountable for those front-line decisions and need to develop and support responses so that all issues are addressed well, the rationale for decisions is recorded and safeguarding concerns are consistently understood.

51 Paragraph 14.7 Care and Support Statutory Guidance, DHSC, 2020
52 See for example 14.133-14.135 Care and Support statutory Guidance, 2020

Addressing risk, whether or not as a safeguarding concern

The core messages in this framework in relation to safeguarding concerns will inform effective working within all pathways aimed at addressing risk, whatever the issue at the centre. A framework for working with risk (LGA/ADASS, 2018) also offers support along with local examples from the associated workshops.[53]

Formal local pathways with a focus on identifying and mitigating risk (in the form of multi-agency meetings, panels, forums) are already followed in many local authority areas to address risks to wellbeing and safety.[54] These risk focused pathways create a common framework that can be activated and used by any concerned organisation, they do not rely on adult safeguarding services to initiate actions or convene meetings. Appendix 4 case study A details how the Bournemouth/Dorset/Poole multi-agency risk assessment meetings (MARM) operate.[55] A multi-agency risk management meeting can be convened by any agency (including provided health or social care services, council services, emergency services, housing agencies, third sector organisations, probation services, environmental health) where there are challenges about addressing risk and input from partner organisations might help.

Other examples are given in appendix 4 (case studies B-C) of risk forums that have been created to support 'creative solutions' when all routes have been tried and serious risks remain. Principles of collaborative and collective responsibility and person-centred approaches are at the heart of these forums.

Hallmarks of these forums and their value in making a significant difference to outcomes for people are reflected in a briefing on homelessness and safeguarding. 'One component of working effectively together is use of multi-agency meetings, whether framed as high-risk panels, complex case panels, harm reduction forums or multi-agency risk management meetings. They are a necessary response to the often-reported difficulty of getting the right people around the table to engage in problem-solving. The focus is on shared responsibility, working flexibly across service and organisational boundaries and offering ideas and solutions. Respectful of each other's expertise, no handoffs are allowed. Plans should be agreed, with clear lines of responsibility, contingency planning and mechanisms for reviewing outcomes.' Preston- Shoot, M (LGA/ ADASS, 2020)[56]

An absence of collaborative attention to addressing risk is illustrated in the Safeguarding Adult Review in respect of Howard, on which the case study outlined in section 2 of this framework is based.[57] This underlines both the importance of establishing multi-agency risk forums and the need to monitor their effectiveness, especially in following through risk management plans and through undertaking and responding to multi-agency audit of these arrangements.

53 LGA/ADASS November 2018 www.local.gov.uk/our-support/our-improvement-offer/care-and-health-improvement/making-safeguarding-personal/working-risk

54 See several examples in www.local.gov.uk/our-support/our-improvement-offer/care-and-health-improvement/making-safeguarding-personal/working-risk

55 Bournemouth, Poole and Dorset Multi Agency Risk Management; Principles and Guidance for agencies (2018) www.bcpsafeguardingadultsboard.com/uploads/7/4/8/9/74891967/multi_agency_risk_management__marm__guidance_15_03_18.pdf

56 Adult Safeguarding and homelessness; A briefing on positive practice, Preston-Shoot, M, (2020, LGA/ADASS) p22

57 www.iowsab.org.uk/wp-content/uploads/2019/01/2880-IoW-SAB-Howard-SAR-FINAL-FOR-PUBLICATION.pdf

4. What are the key issues that need addressing to improve consistency in recording and reporting safeguarding

Core messages thirteen to fifteen

These core messages have a focus on:

- Recording defensible decisions including the rationale for the pathways identified for addressing presenting issues.
- A focus on the quality of decision making. Using national data and local information to understand effectiveness of outcomes whether or not the presenting issues are identified as safeguarding concerns.
- An agreed way forward for reporting safeguarding concerns in the SAC.

This framework suggests that a concern is reported for SAC purposes where there is a clear case set out to show that on referral to the local authority an issue meets the first two criteria set out in S42(1a and b), Care Act (2014). This may well be before information gathering under s42 (1) progresses beyond initial stages and before all three criteria for the s42 duty can be understood and applied in making a decision about how to proceed in practice.

The local authority will, in partnership with others, consider all the individual circumstances and may at a later stage decide that all three criteria are not, after all met. Initially however the issue will have been defined as a safeguarding concern for reporting purposes and relevant details recorded. Ultimately the local authority will decide whether a S42(2) enquiry is triggered and/or what other kind of response is appropriate in individual situations.

This framework suggests that this is a helpful interpretation of the Care and Support Statutory Guidance (DHSC, 2020) in that it indicates a move away from an approach that limits organisations to having to apply all of the S42(1) criteria before raising a safeguarding concern with the local authority. It encourages any necessary conversations and information gathering that will facilitate finding the most effective pathway to address the presenting issues in a range of scenarios. These conversations will inform the local authority decision as to whether to proceed in practice with the safeguarding concern referred to it and take this forward through a safeguarding enquiry, based on deciding whether all three criteria are met.

This approach means that the number of safeguarding concerns is most unlikely to match the number of safeguarding enquiries triggered within the S42 duty. It means that initial responses when an issue is first identified are included in the SAC. In this way early work will now be acknowledged and valued as part of safeguarding responses.

The SAC data will reflect a broader range of activity within the scope of safeguarding responsibilities. In addition, clear recording of issues that ultimately are not pursued in a single instance as a safeguarding concern, facilitates identification of cumulative patterns that may later require a safeguarding response. Robust recording of decisions will facilitate developing practice through local case file audit.

5. Supporting decision making in relation to provider concerns in social care and health; linking this to the core messages

There are specific circumstances that present particular challenges in relation to defining safeguarding concerns. One, the relationship between homelessness and safeguarding concerns, has been explored elsewhere in this framework. A case example is offered in section two above.[58]

The following two issues were discussed at length in the safeguarding concerns workshops during November 2019 and January 2020[59] and merit consideration here. The issues relate to care provision, including in residential care homes; nursing homes; day care settings; health care (community and inpatient settings); domiciliary care including care in supported living environments.

The key messages below are relevant for all partners who have a role in relation to these settings and issues, not just for providers.

Differentiating between safeguarding concerns and quality of care concerns; what helps?

'Poor practice is not reaching the standards expected for the job description'.

'The staff were not doing as I felt was correct.'

'Abuse in the situation would be someone who regularly did not fulfil the necessary care for one or more residents or was pilfering.'

'Poor practice to me means that action is not taken instantly to put things right.

Staff not doing things they should be doing or doing it the wrong way'.[60]

These aspects of conversations with service users reflect reports from workshop participants, that the distinction between poor practice, a quality concern and a safeguarding concern is not fully understood. As a result concerns may be misdirected down a pathway intended to support improvements in the quality of a service when in fact there is a risk and impact on people using the service which should be considered under the S42 Care Act (2014) duty. Alternatively, minor incidents that are indicative of the need to improve the quality of a service may be referred as a safeguarding concern and local authority adult safeguarding teams can become overwhelmed.

There are specific practice areas which present particular challenges in deciding upon the most effective pathway through which to pursue problems and issues. These include medication errors; pressure ulcers; falls; manual handling; use of restrictive practices. The same key considerations apply in these specific areas as well as in wider quality issues, in making decisions about whether a safeguarding response is indicated and would add value in terms of outcomes.

This framework aims to offer support so that staff are empowered to make informed decisions, rather than simply defaulting to a safeguarding concern where there is uncertainty or where a staff member or professional is not informed about alternative pathways to address concerns about the quality of a service. The range of alternative pathways includes:

- mobilising resources to support improvements in health or social care providers, for example quality or contracts monitoring procedures or specific teams or similar
- the existence of a specific pathway to resolve issues regarding care, including clinical care,

58 Adult Safeguarding and homelessness; A briefing on positive practice, Preston-Shoot, M, (LGA, 2020)
59 www.local.gov.uk/our-support/our-improvement-offer/care-and-health-improvement/making-safeguarding-personal
60 Comment from conversations (as a follow up to the workshops in November/Dec 2019) with 17 people at three different services across Cheshire East; either older adults or adults with learning disabilities.

for example in relation to pressure ulcer care

- a response from the regulator
- a complaint process
- a referral for advocacy support[61]
- a review of the person's care and support or health care plan.

Reference to relevant parts of the Care and Support Statutory Guidance (DHSC 2020) including paragraph 14.99 (as set out in section three above), will support decisions about whether a service quality or a safeguarding pathway is needed.

Quality of care issues and safeguarding concerns are not however, entirely separate matters. It is important to record and collaborate effectively in respect of individual, possibly quality, issues so as to gain an overview that indicates where wider organisational abuse might be present.[62]

Why is this important?

Conversations with service users[63] about safeguarding and quality issues in provider settings showed that whilst some feel secure in the knowledge that issues will be dealt with robustly, for example:

'I always feel able to speak about anything on my mind and staff are always happy to listen. In other words, it doesn't fall on deaf ears'.

'I'd tell someone I trusted like staff. It helps if I trust them'.

'Staff here are very caring and always prepared to listen'.

'The staff are very approachable and welcome any concerns we have no matter how small.

It is clear to me that staff want to hear about any worries I might have for myself or others'.

Others were not quite so confident.

'If scared I would keep it private'.

In respect of speaking to someone in a care provider setting, a service user said… 'it depends on the staff member and how they behave towards you and it's really difficult when the abuser is the staff member. …Helpful things are when you trust a staff member and staff are encouraged to listen, take note and provide more support'

'I am more likely to talk about situations where I am not scared of the abuser'

'Staff only want to listen to things they want to hear. If they don't believe me, they are not interested.'

A conversation reflecting on research about mental health service users' experience of safeguarding adults support included: "Of particular concern was the emerging finding on experiences of mental health-related violence, abuse or victimisation within mental health services and inpatient wards, sometimes by staff. In such cases, victims described being too afraid to report the incident because they believed their mental health support would be compromised or that they would be told they were 'in the wrong'."[64]

61 A statutory requirement as set out in S67 and S68 Care Act (2014)

62 14.18 Incidents of abuse may be one-off or multiple, and multiple and affect one person or more. Professionals and others should look beyond single incidents or individuals to identify patterns of harm, just as the CQC, as the regulator of service quality, does when it looks at the quality of care in health and care services. Repeated instances of poor care may be an indication of more serious problems and of what we now describe as organisational abuse. In order to see these patterns, it is important that information is recorded and appropriately shared.… Paragraph 14.18 Care and Support Statutory Guidance (DHSC, 2020)

63 Comment from conversations (as a follow up to the workshops in November/Dec 2019) with 17 people at 3 different services across Cheshire East; either older adults or adults with learning disabilities.

64 Research as cited on p4 (above) available here https://onlinelibrary.wiley.com/doi/10.1111/hsc.12806

What needs to happen?

These experiences of people who use services indicate the importance of all those operating in provided health and social care settings to work together to pick up on all issues[65], whether related to quality or safeguarding, take them seriously, identify any potentially harmful patterns, and find effective responses. There must be clear and transparent decision making and recording against all factors, bearing in mind all available pathways for addressing presenting issues (core message 13).

Recording and reporting on this decision making (core messages 13 and 14) should form the basis of assurance and practice development for leaders including the SAB.

There was a clear message from the safeguarding concerns workshops[66] about the significance of the organisational and partnership cultures which are the context in which decisions are made. There was a consensus as to the importance of developing a culture of collaboration, not blame, promoting parity of esteem, trust, honesty and transparency. Possible measures to support developing such a culture are set out in appendix 5 of this framework[67] and referred to in section six below in relation to steps that SABs and leaders in all organisations can take to support effective and collaborative responses to safeguarding issues.

There is a wide range of local protocols to support decisions on what is or is not a safeguarding concern. These local protocols often offer extensive lists of specific examples of what might constitute a safeguarding concern and many of these relate to provider settings.[68] These examples are helpful to an extent but greater emphasis on core ingredients to be applied in each decision, would add value to these protocols. The core messages in this framework can form a basis to help local protocols to achieve this, so that they offer support in in every set of circumstances. There are helpful examples of practice support below (from Oxfordshire) and in appendix 4. Whilst none of the protocols offered to date reflect all the core messages in this framework, each illustrates a particular strength and, together with this framework can inform the basis for local development.

The Oxfordshire Safeguarding Adults Board decision making support matrix[69] underlines several aspects of the core messages outlined in section 2 (above). For example: encouraging consultation with the local authority in some, not all, situations on whether to refer a safeguarding concern; supporting legal literacy in practice; indicating other possible pathways through which issues might be addressed if not through safeguarding; recognising the importance of recording what on the surface may not be identified as significant concerns, towards enabling identification of patterns of concerns that taken together might constitute a safeguarding concern.

The Care Quality Commission (CQC) has advised there will be some helpful clarity in its forthcoming revised guidance on statutory notifications. Regulated services are responsible for reporting incidents that indicate abuse or neglect. The revised guidance will assist providers in determining what is and is not safeguarding. This forthcoming guidance will have a focus on providers assessing risk and facilitating understanding of the range of pathways available for addressing identified risk. That guidance and this safeguarding concerns framework should be mutually supportive and help front line staff.

65 Including having effective whistleblowing protocols
66 LGA/ADASS, November 2019-January 2020
67 See appendix 4, case study C and appendix 5, case studies B and C
68 See for example www.osab.co.uk/wp-content/uploads/OSAB-Threshold-of-Needs-Matrix-December-2018-MASTER.pdf www.iowsab.org.uk/wp-content/uploads/2020/02/IOW-Adult-Safeguarding-Decision-Guidance-Version-2-Jan-2020.pdf
69 www.osab.co.uk/wp-content/uploads/OSAB-Threshold-of-Needs-Matrix-December-2018-MASTER.pdf

The emergence of Covid-19[70] (at the time of writing this safeguarding concerns framework) and the challenges this has raised for regulated services will, CQC has advised, lead to a review of CQC's inspection framework and regulatory approach. Alongside this the CQC is introducing a risk framework which will assist in identifying and monitoring where risks are in health and social care services. The development of monitoring tools and increased sharing of data with key partners should lead to a safer and more responsive system.

Reporting of safeguarding concerns from health provider settings was reflected as an issue to be addressed at the safeguarding concerns workshops.[71]. Some participants were concerned about an under reporting of safeguarding concerns from health provider settings, or a lack of transparency about how decisions about appropriate pathways were made.

'On the ward it seemed it was a free for all in there and that we were locked up out of sight and we had no rights and that this was a land that time forgot'.[72]

There were examples given of protocols and practice in health Trusts that actively encourage outward reporting to the local authority.[73] However, there were also examples of incidents that might be referred to the local authority being dealt with inhouse, and inconsistency as to which issues are addressed through Serious Incident procedures or safeguarding adults procedures or both.

Organisations may have their own processes so that alongside people they can resolve issues and address needs and risks to wellbeing, for example through the Care Programme Approach used in mental health Trusts.

Health organisations have robust internal procedures to investigate and identify learning from incidents which endanger patient safety. The Serious Incident framework, NHSE (2015) describes the process and procedures 'to help ensure serious incidents are identified correctly, investigated thoroughly and, most importantly, learned from to prevent the likelihood of similar incidents happening again'.[74]

Whenever such approaches are used a key consideration must be whether a third party has caused harm to an adult with care and support needs, whether intentionally or unintentionally, either by action or inaction. In other words, does the presenting issue meet the criteria in S42(1a and b), Care Act (2014) and should it therefore be referred to the local authority as a safeguarding concern?

Coordinated action across agencies is needed in order to address this, through:

- development of guidance around external reporting of safeguarding concerns by health provider trusts under the leadership of NHS England and NHS Improvement (NHSEi)
- Clinical Commissioning Groups seeking assurance from health provider Trusts that transparency and partnership are hallmarks of addressing incidents that might constitute a safeguarding concern and to report on this to SABs
- SABs seeking assurance on the interface between the serious incident process and local safeguarding procedures. This can make use of available data, including data from local and national NHS reporting systems, and may require a memorandum of understanding.

70 See appendix 7

71 LGA/ADASS safeguarding concerns workshops, November 2019 and January 2020

72 Quote from expert by experience in Carr S, Hafford-Letchfield T, Faulkner A, et al. 'Keeping Control': A user-led exploratory study of mental health service user experiences of targeted violence and abuse in the context of adult safeguarding in England. P7 Health Soc Care Community. 2019;27:e781–e792. https ://doi.org/10.1111/hsc.12806

73 For example in East Suffolk and North Essex NHS Foundation Trust

74 https://improvement.nhs.uk/documents/920/serious-incidnt-framwrk.pdf NHS England Serious Incident Framework (2015) p5

In this context the NHS Serious Incident Framework, NHSE (2015) specifies that:

'The interface between the serious incident process and local safeguarding procedures must therefore be articulated in the local multi-agency safeguarding policies and protocols. Health providers and commissioners must liaise regularly with the local authority safeguarding lead to ensure that there is a coherent multi-agency approach to investigating and responding to safeguarding concerns, which is agreed by relevant partners. Partners should develop a memorandum of understanding to support partnership working wherever possible'.[75]

Some SABs require health provider Trusts to provide data on the number of Serious Incidents and safeguarding incidents addressed in house. This can then be compared to local data on, for example, the number of safeguarding concerns referred by provider Trusts to the local authority and the number of statutory safeguarding adults enquiries relating to health provider settings. This provides a basis on which to understand and develop local practice.

The same core messages for making decisions about safeguarding adults concerns should apply in health provider settings as elsewhere and this is an area on which SABs can seek assurance.

Those who have a presence in provider Trusts, for example advocacy providers and Healthwatch can provide qualitative information to the SAB alongside the above sources of quantitative data. In addition, the CQC intends to begin to address this issue of a perceived under reporting of safeguarding concerns to the local authority by health providers in its forthcoming statutory notifications guidance.

75 https://improvement.nhs.uk/documents/920/serious-incidnt-framwrk.pdf NHS England Serious Incident Framework (2015) p19

6. Supporting confident and competent responses; what helps?

Developing local support for decision making, including a significant focus on the core messages in this framework

This will include:

- local guidelines to support decision making for cross-sector staff and professionals
- guidelines for the public, including people who have care and support needs
- confident referrers: guidelines on what a good referral looks like and what supports this
- connecting this framework on safeguarding concerns and the safeguarding enquiries framework, LGA/ADASS (August 2019)
- the role of SABs, alongside leaders from the range of sectors in supporting collaborative working at all levels.

'We want staff who are confident and competent, who understand and listen, who know what options there are' 'All decision makers need to understand and present options, there is too much focus on eligibility and not on what will help'.[76]

Appendix 4 case studies D to F detail the decision support tools used in three local SAB areas, Oxfordshire, the Isle of Wight and Solihull. These may be useful as local areas begin to think through how to put this framework into practice. Each tool has a particular strength as described in the appendix. None yet embraces all of the core messages in this framework, but each has a positive contribution to support others.

Top tips for producing local guidelines/decision support tools

Wherever possible guidelines should be co-produced with the organisations who make referrals and consulted on widely. They should be reviewed at intervals. This ensures:

- that the expertise of all organisations is valued and drawn on, including that of third sector and health and social care providers, so that issues relating to the people and environments with whom and within which they work are addressed
- promoting common aims, a common language and understanding of safeguarding concerns
- a shared commitment to making the guidelines work
- there is ongoing development of guidelines informed by everyone's experience of using them.

In appendix 5 case studies A1, 2 and 3 are examples of how the principles of collaborative working were used to co-produce, consult on and review guidelines. This includes social care providers, and adults with care and support needs.

Referrers in all organisations need clear and consistent guidelines to support them to make decisions about concerns. Local guidelines must include clarity about when and who to refer to the council for a decision about:

- whether the presenting issue constitutes a safeguarding adults concern
- whether another response may be helpful, where the criteria in S42(1) are not met
- when referrals for non-safeguarding responses should be made.

76 A podcast including messages from research which explored experiences of people who have been victimised because of their mental health status. https://soundcloud.com/rip-ripfa/safeguarding-concerns-a-service-user-perspective Based on Carr S, Hafford-Letchfield T, Faulkner A, et al. 'Keeping Control': A user-led exploratory study of mental health service user experiences of targeted violence and abuse in the context of adult safeguarding in England. P7 Health Soc Care Community. 2019;27:e781–e792.

Applying the core messages in this safeguarding concerns framework supports those judgements.

The principles of 'when in doubt consult' and, if timely consultation is not available, 'when in doubt refer' are important. However, this framework is designed to empower across sectors and to support everyone in deciding what constitutes a safeguarding concern. Referral should not be a blanket default position. Local protocols, when based on this multi-agency framework will provide a firm basis for mutual challenge on decision making.

Protocols must not imply set 'thresholds' that have to be met before a situation can be defined as a safeguarding concern. These decisions need to be made in the context of individual stories and situations.

The Oxfordshire SAB decision making support matrix[77] cited in section five of this framework has achieved a level of success in striking the balance between having conversations to aid decision making in situations where there are marked dilemmas and achieving greater confidence and autonomy in decision making across sectors. Crucial to its success has been a commitment to developing the understanding of referring organisations.

Protocols can offer support in respect of addressing dilemmas, such as differentiating between safeguarding concerns and welfare concerns, or safeguarding concerns and issues about quality of care. This will help alongside the core messages set out in this framework. There are examples offered in protocols and decision support tools across all categories of abuse and neglect as set out in the Care and Support Statutory Guidance DHSC (2020),[78] including in those cited in this framework.

Reference to other specialist advice and guidance should be cross referenced in decision making protocols, for example the national guidance on pressure areas.[79]

Local guidelines for the public, including people who have care and support needs

Local guidelines for people who have care and support needs and the public are essential. Existing advice may well need to be revised in the light of this framework, with an emphasis on defining the two criteria that are important to think about in talking to someone about a concern.[80] [81] It is important to make sure that people know who to contact to discuss their concerns and that when in doubt they should speak to someone.

Guidelines should be co-produced and/or developed in consultation with adults with care and support needs. In appendix 5 case study A3 there are links to multi-agency procedures and guidance for professionals produced with nine service user groups in Leeds.

Guidelines will not be enough, mini awareness sessions can increase confidence in people with care and support needs to recognise and report concerns. Being listened to and taken seriously is important. This will work best when the development of these guidelines is in the context of a wider commitment to engagement with communities and people with care and support needs. See LGA/ADASS (December 2017)[82]

77 www.osab.co.uk/wp-content/uploads/OSAB-Threshold-of-Needs-Matrix-December-2018-MASTER.pdf
78 14.17 Care and Support Statutory Guidance, DHSC (2020)
79 DHSC 2018 Safeguarding Adults protocol: pressure ulcers and the interface with a safeguarding enquiry access at www.gov.uk/government/publications/pressure-ulcers-safeguarding-adults-protocol
80 S42 (1a and b) Care Act (2014)
81 See appendix eight for examples as well as example from Birmingham SAB www.bsab.org/what-is-abuse/who-is-at-risk
82 www.local.gov.uk/making-safeguarding-personal-supporting-increased-involvement-services-users

'Having attended the safeguarding awareness session put on here at the care home, I feel confident to know what to look out for, who to report it to and how to keep myself and my neighbours safe'.[83]

Confident referrers: what do referrers need to consider before deciding to refer an adult safeguarding concern?

Guidelines for referrers within local protocols are necessary. These will be legally literate and based on person-centred approaches, using the principles which inform all adult safeguarding activity. Where there is uncertainty referrers should be encouraged to consult with their local safeguarding team, but if this is not possible they should not be discouraged from making a referral, 'if in doubt refer'.

The following areas for consideration are based on guidelines shared by Shropshire Council.[84] Issues and questions for referrers include:

- Am I concerned about the adult's welfare, or about risk of or actual abuse or neglect?

Concerns about the adult's welfare can be referred separately to adult social care for an offer to the person of a needs assessment.

- Does the adult appear to me to meet the definition of being an adult with care and support needs?

If they do not, but I am still concerned that they are being harmed, who will I contact to engage with the adult and/or support me to help to problem solve? Options may include the police, their GP, local housing provider, trading standards or any non-safeguarding multi- agency risk sharing group as specified in local guidance OR if they do not appear to meet the definition but I am still concerned I may wish to discuss this with the local safeguarding team or MASH for further problem solving.

- How does the adult want to participate in raising the concern?

You will need to explain your concerns to the adult, unless doing so will increase the risk to them. Do they want to raise the safeguarding concern themselves? If not, do they want you to support them to raise the concern? If not, do they want you to raise the concern on their behalf?

- Having explained your concerns, does the adult consent to a concern being raised?

If the person does not consent to you making a referral there are further questions you can ask to help you clarify whether or not you should override their wishes and make a referral without their consent. Are the person's 'vital interests' at stake, is their life at risk? Are they being subject to inhuman and degrading treatment which is having a serious impact on their wellbeing? Legislation supports information sharing when an adult meets the criteria for the s42 duty or when their vital interests are at risk[85] If other adults or children are at risk of being abused there is likely to be a public interest in preventing that abuse, and the adults right to respect for private life may also be over-ridden.

There is a positive duty on the state and organisations commissioned by the state to take reasonable steps to protect life (HRA article 2) and/or to protect people known to be at risk of inhuman and degrading treatment (HRA article 3). If the referrer believes these vital interests are under threat a concern can be referred without the adult's consent.

83 Comment from conversations (as a follow up to the workshops in November/Dec 2019) with 17 people at 3 different services across Cheshire East; either older adults or adults with learning disabilities.
84 Adapted from Shropshire Council's The First Seven Essential Adult Safeguarding Questions
85 Schedule 10 (3) and 10(4) of the Data Protection Act 2018 at www.legislation.gov.uk/ukpga/2018/12/schedule/10/enacted

It may be that concerns about abuse which has or is likely to have a less serious impact are not referred without consent in order to protect the adult's right to respect for private life (article 8 HRA), but it will be important to record why it was felt that sharing information was not necessary, particularly in light of the guidance at pg14.43[86] (as set out in section 3 of this document).

However, the referrer may have a dilemma if they believe that consent has been withheld because the adult is afraid and is subject to coercion and control or another form of duress. It may be reasonable to discuss the situation with the local safeguarding team and/or refer without consent in these situations. Any referral should clearly set out the person's views and any perceived risks that might be associated with further information gathering activities that safeguarding practitioners would be expected to carry out. When making a referral consider if you can agree with the adult, and/ or other professionals involved with them, safe methods of communication.[87]

Careful record should be kept about why the referrer felt it was necessary to make the referral to protect against the risks of abuse, despite the lack of consent.

What needs to be included in a referral and in discussions about a concern?

Participants at the national workshops identified areas that they felt should be considered in discussions and referrals about safeguarding concerns. In order to understand the situation and represent the views of the adult and referrer well, these will begin to explore the factors described in the statutory guidance.[88]

They include (in addition to more generic details required in referrals):

- What is working well in supporting the adult's wellbeing, what are the strengths in their life?
- What are you concerned about? Why are you referring now? What is the current impact on the adult and/or others in the situation? Including on their wellbeing?
- What does the adult want to happen?
- Does the adult have care and support needs? Are they experiencing or at risk of abuse/ neglect?
- What are the complicating factors? For example, is the adult experiencing duress, are they being controlled?
- What is your perception of risk and level of risk – to the person, children, others? What are the perceptions of the adult or others in the situation?
- What actions have been taken so far?
- Any relevant historical information.
- Any reasonable adjustments (eg to support effective communication) or additional support/ advocacy input that might be needed to enable the adult to understand and be involved in the safeguarding enquiry.

If the referrer begins to cover these questions at referral stage, this can be built upon as actions (inside or outside of the S42 duty) progress. This can have a positive impact on outcomes for people.

86 Care and Support Statutory Guidance, DHSC, 2020
87 See principles of safe enquiry LGA/ADASS (2015) www.local.gov.uk/sites/default/files/documents/adult-safeguarding-and-do-cfe.pdf
88 14.99 Care and Support Statutory Guidance, DHSC, 2020

Connecting this framework with the framework supporting 'Making decisions on the duty to carry out Safeguarding Adults enquiries. (LGA / ADASS, August 2019)[89]

Core aspects of the safeguarding enquiries framework connect closely with this framework on working with safeguarding concerns. Reference to both offers robust support across the entire decision-making pathway. For this reason, the following excerpt from the safeguarding enquiries framework is set out again here (in the grey box) for ease of cross referencing.

In common with the safeguarding enquiries framework, this work on safeguarding concerns draws on the Care Act (2014) and accompanying Care and Support Statutory Guidance (DHSC, 2020); the Human Rights Act (1998); and the Mental Capacity Act (2005).

Summary of the core aspects of the suggested framework 'Making decisions on the duty to carry out safeguarding adults enquiries

S42 (Care Act 2014) is the environment within which local authorities operate when a safeguarding concern is referred. This ensures support to keep people safe who may be at risk of or experiencing abuse or neglect. That support may be required within the S42(2) duty to make enquiries, or outside of it.

The Section 42 duty requires consideration of the following criteria under Section 42 (1) and (2) of the Care Act (2014):

S42(1)

Whether there is 'reasonable cause to suspect' that an adult

a) has needs for care and support
b) is experiencing, or is at risk abuse or neglect, and
c) as a result of their needs is unable to protect themselves.

S42(2) 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.

Information gathering is done under the duty described in S42(1), and if the criteria in this part are met then the enquiry and decision on what action to take (including taking no action) will follow under the duty to make enquiries described in S42(2).

Where there is reasonable cause to suspect that points a-c above are met then the S42(1) duty continues with the duty to make enquiries. S42(2) indicates activity that is required in connection with that duty, ie to make enquiries to inform the decision on what action needs to be taken and by whom.

A S42(2) enquiry will take many forms by conforming to the six key safeguarding adults principles and Making Safeguarding Personal.[90]

From the start, robust information gathering (including that set out in 14.92, Care and Support Statutory Guidance (DHSC, 2020) will establish whether there is reasonable cause to suspect that the three statutory criteria for a

89 Available at www.local.gov.uk/making-decisions-duty-carry-out-safeguarding-adults-enquiries
90 Paragraphs 14.13-14.15, Care and Support Statutory Guidance, DHSC, 2020

S42 enquiry are met (S42(1)). Depending on the findings, this activity may or may not be reported ultimately as within a S42(2) enquiry.

From a prevention point of view, conversations within this early information gathering can themselves make a valuable contribution in informing and empowering people to keep themselves safe.

Although the points above are numbered, this is not a linear process. The decision-making needs to be dynamic.

Practitioners might change their mind as information unfolds about whether or not the situation meets the statutory criteria for undertaking an enquiry under the S42(2) duty.

There is no fixed point during the early phase of an enquiry when a practitioner must determine how to report activity within the SAC return.[91] It may be that this is determined, and therefore recorded and reported as a S42(2) enquiry, after the practitioner has already done part of it. Reporting and recording reflect practice decisions.

Information gathering to determine whether the criteria in S42(1) have been met, must be recorded robustly to evidence/support the local authority decision whether to progress to a S42 enquiry (S42(2)) or not. In the event that there is no S42(2) duty to make enquiries, the practitioner must still consider and record how any identified risk will be mitigated (including through communication and working with partner agencies) and how that will be communicated to the adult concerned and the person accused of causing harm.

How decisions are reported will depend on the conclusion as to whether there is reasonable cause to suspect that the situation meets the three statutory criteria (S42(1)). At that point, in line with the reporting requirements of NHS Digital reflected in the SAC[92], there are three options for reporting the activity:

As a safeguarding enquiry under the S42(2) duty (where there is reasonable cause to suspect that the three statutory criteria are met).

As an 'Other'[93] safeguarding enquiry using the local authority's powers but not under the S42(2) enquiry duty.

As not requiring any further action under adult safeguarding (although support might be offered through other powers). Such cases will remain reported as a safeguarding concern. The decision that the duty under S42 is not met must be properly recorded in local practitioner records and show how any residual issues/risks will be addressed or prevented.

Safeguarding adults boards are encouraged to set up local ways of reporting and analysing activity related to safeguarding adults concerns that do not meet the duty to carry out a S42(2) enquiry, so that they can assure themselves of the types of concerns being received, the responses made and the outcomes for the adults concerned.

91 Guidance on the SAC return is available at https://digital.nhs.uk/binaries/content/assets/legacy/pdf/0/m/sac-guidance-2018-19-v1.pdf

92 Safeguarding Adults England, NHS Digital December 2019 https://digital.nhs.uk/data-and-information/publications/statistical/safeguarding-adults

93 This is a voluntary element of the SAC but authorities are encouraged to record such activity. 'Other' safeguarding adults enquiries are reported within the SAC where an adult does not meet all of the Section 42 criteria but the council considers it necessary and proportionate to use its powers to make enquiries.

How does the safeguarding enquiries framework link to the safeguarding concerns framework? Points one to eight below help with this.

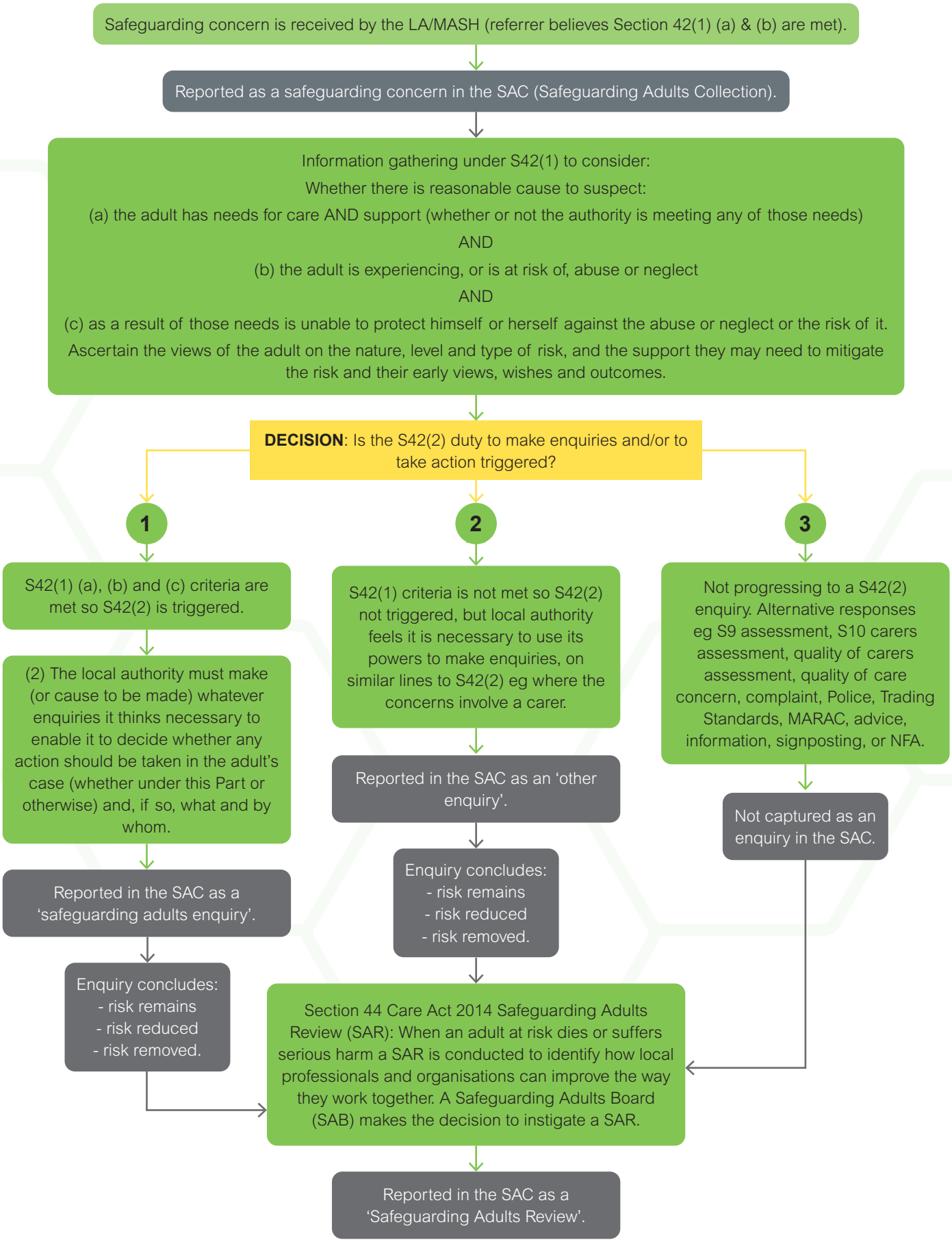
The decision making as to what constitutes a safeguarding concern is not on the same basis as it is for triggering a safeguarding adults enquiry. However, understanding how the local authority makes the decision to trigger an enquiry will support cross-sector decisions about safeguarding concerns at the front line. The core ingredients for decision making in the two frameworks overlap.

The above core aspects of the safeguarding enquiries framework influence decision making in relation to safeguarding concerns in the following way.

1. It is made clear in the safeguarding enquiries framework that when the local authority decides that there is reasonable cause to suspect that all three of the criteria in S42(1a-c) are met then this triggers a S42(2) safeguarding enquiry.
2. Where any worker in any sector can clearly show reasonable cause to suspect that all three of those criteria are met, then they will refer the situation to the local authority as a safeguarding concern. However, in many situations this will be challenging at this early stage because…
3. Determining whether the three criteria are met is not a linear process. Thinking may change as new information is gathered. Absolute clarity as to whether all three criteria are met may not be possible until after referral to and discussion with the local authority. This may be especially true of criterion 'c' in S42(1).
4. For this reason, this framework suggests that where it appears that criteria a and b (s42(1) are met and the referring worker/organisation therefore believes that the circumstances amount to a safeguarding concern this is then referred to the local authority.
5. From a prevention point of view, conversations within this early information gathering can themselves make a valuable contribution in informing and empowering people to keep themselves safe and informing an effective pathway for agencies to address presenting issues.
6. The local authority will, as it talks to the referrer and gathers information following referral of a concern, ultimately decide if S42(2) is triggered and/or what kind of response is appropriate in individual situations to an issue that has been referred as a safeguarding adults concern.
7. In the event that conversations conclude that the circumstances should be addressed outside of the safeguarding framework set out in S42, Care Act (2014) there must be clarity about how any identified risk will be mitigated (including through communication and working together with partner agencies).
8. The six statutory safeguarding adults principles[94] support individualised responses and are at the core of both frameworks.

94 14.17 Care and Support Statutory Guidance, 2020

Safeguarding concern received by the local authority/ Multi-Agency Safeguarding hub (MASH)



A supportive safeguarding adults board: what can a SAB, alongside leaders from the range of sectors do to support collaborative working at all levels?

These steps and reference to the examples of good practice will support SABs and leaders across all organisations in helping to secure the kind of responses that encourage people to seek help and generate confident and effective responses.

- Support the development and review of local guidelines about defining and referring concerns against the core messages offered in this framework. This includes guidelines for the public and people who have care and support needs. In particular, promote the suggested shared definitions. Seek assurance that these are adopted across the partnership.
- Develop local guidelines to support understanding safeguarding adults concerns, alongside developing local practice based on the safeguarding enquiries framework, LGA/ADASS (August 2019). The two go hand in hand.
- Support and seek assurance on development of local and national guidelines on what is 'abuse and neglect'? and what is a 'need for care and support'? There need to be clear guidelines within and across organisations. See examples in appendix eight. These examples shed light on significant gaps in post Care Act (2014) guidelines in some sectors.
- Support and seek assurance on development of legal literacy in safeguarding adults across the partnership.
- Seek assurance that clear information sharing protocols exist and are used effectively in discussing and responding to concerns.
- Involve people who need care and support across the SAB's work. (see examples, LGA/ADASS (2017)[95], ensuring that there is transparency and accountability both to the wider public and to significant stakeholders. Appendix 4 case studies C and D offer further examples of how SABs have involved adults in their core business activities, including creating local information. Development of this safeguarding concerns framework has engaged with the views of service users.
- Create and maintain collaborative partnerships. Recognise enablers and barriers to collaborative frontline practice in the local area in response both to issues that may constitute a safeguarding concern and to other situations reflecting significant risk (see LGA/ADASS November 2018).[96]
- Model the required culture to support this local development. This includes a culture, of collaboration, parity of esteem, trust, honesty, and transparency and not of blame.

Appendix 5 case study B gives an example of a SAB (Plymouth) that is focusing on a culture shift to support collaborative working, and in appendix 4 case study C an organisation (Bristol Golden Key) whose work also suggests principles that SABs can use to develop cultures that support collaborative multi- agency partnerships.

SABs can thread the theme of collaborative partnership through all audits and self-assessments, as a stand-alone theme for a meeting or as a regular report.

95 www.local.gov.uk/making-safeguarding-personal-supporting-increased-involvement-services-users A resource aimed at supporting safeguarding adults boards to do more to engage service users in planning and shaping safeguarding services. This report gives examples of where and how this is already being achieved.

96 www.local.gov.uk/our-support/our-improvement-offer/care-and-health-improvement/making-safeguarding-personal/working-risk

Devon SAB has developed a Safeguarding Multi -Agency Case Audit Protocol (see appendix 5 case study C) to enable recommendations to be made to improve the way that agencies work together to support adults, develop safeguarding practices and improve adults experience of safeguarding.

- Create escalation pathways that are non-adversarial. For example, in appendix 5 case study D the Gloucestershire SAB sets out a number of key principles it has adopted to enable difficulties between agencies to be resolved quickly and openly in the best interests of the adult. These are intended to foster learning cultures of respectful challenge and parity of esteem between agencies. These protocols for resolving professional differences provide mechanisms for constructive challenge and escalation in situations where it is believed that, for example:
  - the local authority decides the criteria are not met for the safeguarding duty, and no other pathway is being used to address the risk, and the referrer is still concerned that the presenting risks have not been understood.
  - a partner organisation is repeatedly expressing a view that 'adult safeguarding is the local authority's business' and failing to show any understanding of the need for collective responsibility in addressing safeguarding issues.
- Have a focus on the core messages in this framework and with these in mind support development as well as seeking assurance. Assurance should include:
  - that decision support tools are in step with the core messages in this framework, reflecting the statutory framework
  - promoting accountability and transparency, including audit systems which look at early activity aimed at determining the right pathway in individual circumstances (whether pursuing a safeguarding concern route or not) and the extent to which those decisions support positive outcomes, preventing people from falling through the net. For example, in conversations with advocacy providers[97], one provider referred to having 'implemented a meeting with the safeguarding lead where we go through cases that have been batted back to us from the local authority to see what we can learn'.
- Have a focus for development on issues reflected on in section 5 of this framework, namely: serious incidents in health settings; quality concerns in all provided services; marginalised groups, including homeless people.

Summary of what needs to be addressed by cross sector leaders to support acting on the messages in this framework

Key points to ensure that this framework is reflected in local leadership of protocols and practice

Wide ownership of the following actions from cross sector leaders will strengthen practice. SAB chairs are well placed to support and seek assurance on this alongside Directors of Adult Social Services (DASSs), reviewing in particular whether the following are in place:

- Decision making reflects the Statutory Guidance and legislation and uses this framework to support this.

97 Comment from advocacy provider in conversations about safeguarding adults and the role of advocacy support

- There is equal access to safeguarding support. This is enhanced through consistency in defining both the circumstances which are considered within the S42 duty and in defining pathways for addressing those situations which fall outside of this (but where nevertheless there is risk to wellbeing and safety).
- There is consideration of the impact on outcomes, and the effectiveness of responses and of arrangements at the 'front door'.
- Development opportunities as well as guidelines to support interpreting the legal framework and a working understanding of the basic definitions which together promote the understanding of safeguarding concerns.
- Local guidelines for the public and for staff in all organisations at all levels is available to support rolling out the messages in this framework.
- Leaders listen to and act on what they hear from front line staff and service users in developing local guidelines and practice.
- There is parity of esteem and mutual understanding of roles across all organisations represented at the front line in adult safeguarding and at a strategic level.
- Local multi-agency safeguarding adults procedures as well as sector specific guidelines (local and national) fully reflect the spirit and meaning of the Care Act (2014) in relation to safeguarding adults and are not still fundamentally based on obsolete 'No Secrets' concepts.
- Strategy and practice are driven by the core statutory principles set out in this framework. (See appendix 2).
- Seek assurance that IT and reporting systems do not drive practice but produce data and information that flows from practice and informs development of practice.
- There is local information to supplement data available from the SAC. This includes audits, feedback from and about individuals who have received support and from practitioners across sectors, peer reviews.

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