



York Safeguarding Adults Board Local Multi-Agency Operational Guidance for responding to Safeguarding Concerns



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1. Introduction

The following Local Operational Guidance has been jointly produced for the workforce across York who are required to undertake action in accordance with the Combined Area Safeguarding Adults Policy and Procedures. This Guidance will support the workforce to implement this Policy and Procedures in a way which fits with local systems and resources, and a way which emphasizes the need to balance a person's safety with their views on quality of life and personal wellbeing.

1.1 Status of York's Local Operational Guidance

The Local Operational Guidance was agreed by the York Safeguarding Adults Board on 1st June 2018. This document **must not be used** as a substitute for the Joint Area Safeguarding Adults Policy and Procedures (adopted by the York Safeguarding Adults Board on 1st December 2017)

Local Partners will need to ensure their own Safeguarding Adults policy and procedures are updated to ensure consistency with the Care Act 2014 and the Joint Area Multi-agency Safeguarding Adults Policy and Procedures.

Partners, who are seeking to use this local operational guidance to develop Safeguarding Adults protocols in their areas of work, should refer to the [York Safeguarding Adults Board website](#) to ensure they are working in accordance with the latest version.

1.2 The Legal Context of this Guidance

The key pieces of legislation underpinning Safeguarding Adults work are the Human Rights Act 1998, The Mental Capacity Act 2005, and Part One of The Care Act 2014 (implemented April 2015).

The main Section of the Care Act 2014 which outlines the Safeguarding duties is Section 42. However, the need to consider how we safeguard adults from experiencing, or being at risk of abuse and neglect is considered throughout the Act, and it is useful to consider this when thinking about our wider responsibilities as a workforce (see Box 1 below).

Box 1: An Overview of Safeguarding Adults Duties

Section 1: The Local Authority has an overriding duty to promote individual wellbeing which also covers the protection from abuse or neglect (please see **Appendix A** for more information on the wellbeing principle).

Section 2: There is a duty to reduce dependency on state intervention through preventing, delaying and reducing needs for care and support which includes preventing needs that arise from experiencing, or being at risk of abuse and neglect;

Section 4: The promotion of independence is supported by the duty to provide information and advice which includes information around staying safe and who to contact if people are concerned about not being able to maintain their own safety;

Section 6: Both statutory and non-statutory organizations have a general duty of cooperation, which include the duty upon all organizations to work together to safeguard adults who are experiencing, or at risk of abuse and neglect;

Section 11: The refusal of a s9 needs assessment by an adult, allows the Local Authority to discharge its duty of assessment. However the Local Authority will be under a specific duty to undertake an assessment (when an adult is refusing) if there is reasonable belief that the adult is under coercion, or experiencing, or at risk of abuse or neglect;

Section 42: Duty of enquiry by Local Authority applies when there is a reasonable belief that an adult in its area:

(a) has care and support needs

- (b) is experiencing, or at risk of experiencing abuse and neglect
- (c) is unable to safeguard themselves as a result of their care and support needs

When the above conditions are satisfied the Local Authority **must** make, or cause whatever enquiries it deems necessary to determine what actions (if any) are necessary to safeguard the adult. **NB it is UNLAWFUL to decline an enquiry on the grounds that someone is not receiving or eligible for ongoing paid support.**

Section 43: Requires the Local Authority to establish a Safeguarding Adults Board (SAB) whose main objective is to protect adults from experiencing, or being at risk of abuse and neglect. The three main duties of the SAB are to produce an annual Strategic Plan, publish an Annual Report and undertake a Safeguarding Adults Review under certain circumstances.

Section 44: The SAB **must** commission a Safeguarding Adults Review when all of the following criteria are met :

1. The case involves an adult in CYC`s area;
2. The adult has needs for care and support (whether or not CYC has been meeting any of those needs); and
3. There is reasonable cause for concern about how the SAB, members of it or other persons with relevant functions worked together to safeguard the adult.

In addition, one of the following conditions must apply :

1. The adult has died and the SAB knows or suspects that the death resulted from abuse or neglect (whether or not it knew about or suspected the abuse or neglect before the adult died);or
2. The adult is still alive and the SAB knows or suspects that the adult has experienced “serious abuse or neglect”.

All partners **must** cooperate to ensure lessons can be identified to improve local multi agency safeguarding work.

Section 45: Enables the SAB to request specific information from an individual that is necessary to support the Board to meet its primary objectives of protecting adults from abuse or neglect.

Section 47: Outlines the circumstances under which a Local Authority has a duty to safeguard an individual's property when they are being cared for (temporarily or permanently) away from their home.

Section 68: Places a duty on the Local Authority to provide an independent advocate to support an adult who would experience significant difficulties participating in a S42 enquiry, or a Safeguarding Adults Review. The Local Authority is not under a duty to provide an advocate if they believe there is an appropriate independent person to support the adult.

Section 81: Places a Duty of Candour on those organisations providing regulated activity, to provide information when an adult's safety is affected during the course of being provided a service by their organisation.

The Care Act 2014 Statutory guidance (chapter 14 Safeguarding) replaces the guidance previously issued under “**No Secrets**”. Managers **must** ensure that all staff understand how this guidance relates to their specific role in Safeguarding. Organisations that are represented at the Safeguarding Adults Board will be required to provide assurance to the Board about the work they have undertaken to embed this across their workforce.

1.3 What is Safeguarding Adults?

Chapter 14.7 of the Care Act 2014 Statutory Guidance explains that “Adult Safeguarding means protecting an adult's rights to live in safety, free from the experience, or fear of abuse or neglect”.

It is about organisations working together to prevent and stop both the experience, and risk of experiencing abuse or neglect, whilst ensuring the adult's wellbeing is promoted at all times. “Staff should not be advocating safety measures that do not take account of the person's wishes or the individual wellbeing of the adult”.

Chapter 14.9 of the Care Act 2014 Statutory Guidance explains that Safeguarding Adults is not a substitute for –

- Providers' responsibilities to provide safe and high quality services;

- Commissioners' responsibilities to regularly assure themselves of the safety and effectiveness of commissioned services;
- The responsibilities of the Care Quality Commission to ensure that regulated providers comply with the fundamental standards of care, or the enforcement actions for the regulator;
- The core duties of the Police to prevent or detect crime and protect life and property.

For a list of the common types of abuse, please refer to pages 3-6 of the West Yorkshire, North Yorkshire and York Multi-agency Policy and Procedures. However, please also consider that Chapter 14.17 of the Care Act 2014 Statutory Guidance states that thinking about what constitutes abuse or neglect should not be limited to common types of abuse, as it can take many forms and the individual circumstances of each case should always be considered.

Box 2: A Note on Self Neglect

When the City of York Council are notified about concerns regarding *self neglect*, consideration needs to be given to the potentially long standing and deep seated nature of such concerns.

Self Neglect is an issue for the entire health and social care workforce, and services need to work together to address concerns that arise of this nature. As stipulated in the Statutory Guidance (update March 2016), self neglect might not prompt a section 42 enquiry.

A decision on whether a response is required under safeguarding will depend on the adult's ability to protect themselves by controlling their own behaviour (14.17). If it is felt that this maybe the case, then the concern should be referred to the Safeguarding Adults Team, who will then make a decision about whether a Safeguarding Enquiry is the appropriate course of action.

The safeguarding response should only be used when (a) it is evident that appropriate alternative responses have been tried and are unable to safeguard the person (b) the impact of the self neglect is such that there is an immediate risk to the person's vital interests.

When self neglect presents an immediate risk to the 'life and limb' of the adult with care and support needs, immediate discussion should take place with the Safeguarding Adults Team and North Yorkshire Police. This will ensure any immediate actions to safeguard the adult can be effectively identified.

The response to all types of abuse or neglect should be made on a case by case basis, and demonstrate a proportionate response, that is informed by the views of the adult with care and support needs, and their advocate (where required). Where an adult is at risk of self-neglect the North Yorkshire and City of York Vulnerable Adults Risk Management policy should be considered as an alternative.

2. Stage 1- 'Tell us your concern'

When there is a reasonable belief that an adult with care and support needs in York, is experiencing, or at risk of experiencing abuse or neglect and is unable to safeguard themselves as a result of their care and support needs, a Safeguarding Adults Concern should be raised with the City of York Council using the Council's Safeguarding Adults Concern Form. This should be sent to the Council's Customer Access and Assessment Team (please see Appendix B for contact details).

Concerns noted by service providers across the City, should be raised, wherever possible, on the same day that the Concern comes to light, to ensure timely and appropriate actions can be taken to help safeguard the individual. This acknowledges the roles and responsibilities of individual organisations to provide high quality services that are safe.

All organisations are responsible for maintaining their own internal mechanisms to ensure the effective and proportionate management of safeguarding concerns, which is respectful of the expressed outcomes of individuals/their advocates (where required).

A flow chart to illustrate the decision making process when deciding to raise a safeguarding concern is included in the Joint Area Policy and Procedure at pg 76

It will be necessary to ensure that safeguarding concerns are raised in accordance with the principles of the Mental Capacity Act 2005 and as a general rule no decisions should be made, or actions taken without the consent of the adult you are concerned about. The Safeguarding Adults Concern Form should record how consent was gained.

There will however be occasions when it will be necessary to raise a concern without the adult's consent and this will include situations where:

- There is a risk of *serious* harm to the wellbeing and safety of the adult or others,
- Other adults or children could be at risk from the person alleged to be causing harm,
- It is necessary to prevent crime or you are concerned a crime may have been committed,
- The person lacks mental capacity to consent.
- Gaining consent would put the adult at further risk

When raising a concern without consent, you should inform the adult with care and support needs about this decision and the reasons for taking this action (unless telling them at the point of raising the concern would jeopardise their safety or the safety of others). This will ensure they understand why actions they have not consented to are being taken, and what will happen next.

If any person is unsure whether they should report a concern, they should contact the Customer Access and Assessment Team on 01904 555 111 for further advice.

When employees of the City of York Council's Adult Social Care directorate are notified of a Safeguarding Adults Concern by another employee of the Council, or by employees from an external organisation, they must direct those organisations to the process above for raising concerns with the Customer Access and Assessment Team. This will ensure the Council can manage concerns in a consistent manner and that information is accurately recorded at the first point of contact.

When employees of the City of York Council's Adult Social Care directorate identify their own Safeguarding Concerns, they are responsible for raising a safeguarding concern on the Council's electronic social care records. If staff do not have access to the Council's electronic social care records they must raise their concerns with the Customer Access And Assessment Team using the *safeguarding adults concern form*.

NB: It should be noted that adults with care and support needs, their families, informal carers and members of the wider public are not expected to follow the above process, and should contact ***either*** their allocated worker, or the Customer Access And Assessment Team by telephone on 01904 555111 to raise concerns about their own/another adult's safety.

Once a Safeguarding Concern has been raised with the City of York Council this must be entered onto the Council's Electronic Social Care System. Following this it will need to be forwarded to the duty worker within the City of York Council's Safeguarding Adults Team ***on the same working day***.

Officers in the Safeguarding Adults Team will be responsible for undertaking the initial enquiries to determine what immediate actions are necessary to respond to the risks presented, and to consider whether the conditions of S42 are met before deciding on the appropriate response to the concern.

If the person raising a concern believes there is a medical emergency or other danger to life; risk of imminent injury or if a crime is in progress (which requires an immediate response) they should call 999 for the appropriate emergency response.

When reporting a crime that does not require an immediate response or concerns about a potential crime, the person raising the concern should contact 101 to report those concerns. When a Safeguarding Concern is raised with the police it will also be necessary to ensure the City of York Council are notified of the concern by using the Safeguarding Adult's Concern Form, as outlined above.

For detailed guidance on raising a Safeguarding Concern please refer to

Stage 2— ‘We will consider how best to help you’

The Safeguarding Adults Duty worker will undertake initial enquiries to determine the most appropriate response to the safeguarding concern. This may involve:

- Gathering information to assist with decision making around the application of s42 safeguarding procedures (i.e. has the person got care and support needs; as a result of these needs, are they unable to keep themselves safe; and are they experiencing or at risk of experiencing abuse or neglect);
- Ascertaining the level of participation desired by the adult in the safeguarding process, their consent to the referral, and any expressed wishes at this stage; as per the principles of Making Safeguarding Personal
- Establishing the need for representation/independent advocacy;
- Instructing, where appropriate, a general advocate, an advocate under s68 of the Act or an Independent Mental Capacity Advocate.
- Checking the adult’s immediate safety has been secured, and if not, taking steps to do so, which includes immediate discussions with the police and health colleagues as required, within 24 hours of receipt of the concern.
- Considering the immediate safety of others (as above);
- Deciding what response within this procedure is appropriate and proportionate to the concerns raised in discussion with the individual and/or their representative.
- Establishing which organisation(s) currently fund(s) the person’s support (if relevant) and ensuring that they are notified about the safeguarding concern.

Due consideration should also be given to any previous safeguarding concerns in respect of the individual, relevant concerns about a particular provider of services, or repeated concerns about a person alleged to have caused harm.

Initial enquiries should be completed within 5 working days. The Safeguarding Adults Duty Worker will make recommendations about how the concerns should be progressed. The possible outcomes of an Initial Safeguarding Adults Enquiry are as follows -

1. **No further enquiries are needed** under S42 of the Care Act 2014 where the conditions are not met. However information might indicate further actions are required..
2. **No further action** under Safeguarding Adults procedures where the conditions under S42 of the Care Act 2014 are not met, and no action is required in response to the Safeguarding Concern. The need for additional information, advice and/or signposting is to be considered, as is the Council’s wellbeing duty to those who do not meet s42 conditions

These may be people without care and support needs and/or people who have mental capacity but are still at high risk (for example, in situations of domestic abuse). Our duty in these situations is to offer information and advice, consider issues such as coercion as well as MCA, and provide guidance to referrers about routes that they should consider (eg IDAS).

A Formal Safeguarding Adults Enquiry under S42 of the Care Act 2014 (where the conditions are met). An Enquiry Plan must be produced with the person/their representative to determine what actions are required to meet the person’s outcomes. **As part of this Enquiry, the City of York Council may cause another organisation to undertake enquiries on its behalf.** In such circumstances, the Safeguarding Adults Duty Worker will be responsible for liaising with the external agency to help initiate an enquiry plan with the person/their representative and agree how the actions will be fed back to the Council (see Appendices B&C for further information).

- 4 **5.A Formal Safeguarding Adults Enquiry without the person`s consent** under S42 of the Care Act 2014 where the conditions are met and the information indicates there is an overriding public or vital interest. The person should be made aware of this decision and where it is possible, their contribution should be included in an Enquiry Plan (set to determine the actions the Council needs to undertake to ensure the safety of the person and others).
- 5 **6.A criminal investigation.** This may run alongside a s42 Enquiry, but precedence should be given to liaising with the police so that no evidence is lost; and then to ensuring that a coordinated approach is undertaken. NB. although the police are responsible for leading on the criminal investigation, the City of York Council should consider the need for additional enquiries or actions to ensure the wellbeing of the person and others (these actions could be taken alongside, or at the conclusion of the police investigation).

7.No further action as the adult concerned (with mental capacity) **does not consent** to further action under Safeguarding, and there is no information to indicate an overriding public interest, or concerns about the adult`s vital interests. Information, advice and/or signposting offered, as per our wellbeing duty highlighted above.

The completed Initial Enquiry should be sent to the Safeguarding Adult`s Service Manager (role descriptor on the Councils electronic social care records which refers to the assistant service manager/service manager in the Safeguarding Adults Team) who is responsible for authorising the decision about how a Safeguarding Concern should be progressed.

8. Discretionary Safeguarding enquiries

The local authority may undertake enquiries in situations where the S42 criteria are not met, but it is appropriate to look further into the circumstances pertaining to an individual and their care/support or lack of care and support, eg when an individual has died unexpectedly and/or there are reasons to suspect possible abuse or neglect.

The target timescale for identifying risk issues, immediate actions in response to identified risks, and actions that will follow from the Initial Enquiry is **48 hours** from the time the Safeguarding Adults Concern was received by the Council. Information that indicates immediate risks to the adult with care and support needs will require a same day response.

For detailed guidance on how to undertake an initial enquiry please refer to pages 76-81 of the Joint Safeguarding Policy and Procedures

2.1 Safeguarding Adults Enquiry (S42 duty)

When the conditions of S42 Care Act 2014 are met, the City of York Council is under a duty to undertake whatever enquiries it deems necessary.

The *‘Safeguarding Adult`s Service Manager’* will be responsible for identifying the appropriate individual/team to undertake the S42 enquiry. For information about individual team roles and responsibilities please refer to **Appendix B**.

Once the decision has been reached to undertake an Enquiry, or cause one to occur by another agency, it will be necessary for the allocated worker to ensure the adult with care and support needs (and/or their advocate where appropriate) is engaged at the earliest opportunity. This will ensure the safeguarding enquiry is directly informed by the views and outcomes of the adult with care and support needs.

The objectives of an Enquiry are outlined in Section 14.94 of the Care and Support Guidance and in Section of the West Yorkshire, North Yorkshire and York Multiagency Procedure.

The planning process can be undertaken as a series of telephone conversations, visits or meeting/s with relevant people and agencies. In some cases the complexity or seriousness of the situation will require a planning process to include a formal meeting/series of meetings with all concerned individuals and relevant agencies invited to contribute to the discussion.

When a formal meeting is required, it is the City of York Council's responsibility to chair such meetings in accordance with the duty outlined in S42 of the Care Act 2014 and this specific function will sit with the allocated Safeguarding Adults Enquiry Lead Manager (role descriptor for service managers in adult social care).

The response to any Safeguarding Adults Concern should be the least intrusive option available, which is proportionate to the seriousness of the concerns raised and the level of risk to the individual/others.

Planning processes should be tailored to the individual circumstances of the case, but should cover the following aspects:

- Gaining the views, wishes, consent, and desired outcomes of the adult (or planning how these views and wishes will be gained)
- Deciding if an independent advocate is required, or planning how information will be gained to enable this decision to be made (see box below for further information about this);
- Gathering and sharing information with relevant parties;
- Agreeing what enquiries are needed and who will do these;
- Assessing risks, and formulating an interim Safeguarding Plan to promote safety and wellbeing while enquiries are undertaken.
- Considering how the person alleged to have caused harm is to be involved in the enquiry process

Safeguarding Adults Enquiries should always be informed by the views and wishes of the adult with care and support needs, unless there are reasons why doing this would cause increased risk of harm.

In some circumstances, gaining the views and wishes of the adult will be the only enquiry needed to enable the City of York Council to decide what actions are required to meet their outcomes. In other circumstances, gaining the views and wishes of the adult will be the starting point to determine a much wider range of enquiries.

Box 4: The Use of Advocacy

The City of York Council is under a duty to involve the adult with care and support needs in a Safeguarding Enquiry and as part of the planning process **must** consider and decide if the adult has "substantial difficulty" in participating in the enquiry. This will include making all reasonable adjustments to enable them to participate in the process before deciding the person has "substantial difficulty". It is recognised that an adult's mental capacity could fluctuate throughout the process and that their capacity to consent to different aspects of the safeguarding process may also change.

If the adult is likely to experience substantial difficulty it will be the duty of the City of York Council Officer undertaking the enquiry to ensure the adult with care and support needs has access to effective advocacy, or paid support through an Independent Mental Capacity Act Advocate (if the situation requires). The duty on City of York Council to appoint an advocate also applies when they have caused other organisations to undertake enquiries.

This will ensure this individual receives the necessary support to decide how they would like their wishes, views and outcomes represented in any safeguarding processes and decisions are made in their best interests.

Please see Section 7.5.2 of the West Yorkshire, North Yorkshire and York Multiagency Policy and Procedure for further information.

2.2 Safeguarding Adults Plan

City of York *Safeguarding Enquiry Lead Managers* who are responsible for managing and coordinating the safeguarding response, should note that a Safeguarding Plan may not always be required.

For example, the outcome of the Enquiry may be that no further steps under a Safeguarding Plan are required, or that ongoing risks can be managed or monitored through single agency processes, e.g. Assessment and support planning processes, community policing responses or health service monitoring.

Where no Safeguarding Plan is required in order to manage ongoing risk of abuse or neglect to the adult, the safeguarding process will end and it will be necessary to record the agreed outcomes.

Provision of information, advice, signposting and other actions may need to continue under other processes, for example, addressing potential risks from people who are employed in Positions of Trust, referrals to the Disclosure and Barring Service, ongoing contract compliance or regulatory inspection/action.

It should be noted that a Safeguarding Plan will usually be required in the following situations:

- Where the risk of abuse or neglect is ongoing, complex and unstable;
- Where the risk of harm to the adult or others is significant;
- Where other factors such as coercion, undue influence, or duress add to the complexity and uncertainty of the risk; and
- Where the risk cannot be managed appropriately or adequately by other processes.

These types of situations will require a greater level of scrutiny and review, usually within a multi-agency context.

Stage 4- Outcomes, 'We will check we have addressed your concerns,'

The purpose of a Safeguarding Adults Plan is to formalise and coordinate the range of actions to protect the adult, and to support the adult to recover from the experience of abuse or neglect. Safeguarding Adults Plans should be individual, person-centred and outcome-focused, following the direction in section 14.111 of the Statutory Guidance.

Outcomes for Safeguarding Adults responses, should aim to be as close as possible to the desired outcomes of the individual. The identified lead professional should monitor the plan on an ongoing basis in accordance with the views and outcomes of the adult concerned and within the timescales agreed on the plan. The purpose of the review process is to:

- Evaluate whether the plan is continuing to meet/achieve the adult's outcomes;
- Evaluate levels of ongoing risk

Following a review of the Safeguarding Adults Plan the Safeguarding Adults Enquiry Lead Manager should consider one of the following outcomes:

- **The Safeguarding Adults Plan is no longer required;**
- **The Safeguarding Adults Plan needs to continue.** Any changes or revisions to the plan should be made, new review timescales set and the lead professional to monitor and review the plan must be identified;
- **The Safeguarding Adults plan can be incorporated into other care and support processes.** For example, it may be appropriate to integrate safeguarding interventions into the person's ongoing support plans.

Safeguarding Adults Enquiries and/or Plans can be closed in the following circumstances:

- Information identifies the safeguarding process is no longer required;
- At any time where the Safeguarding Adults Plan is no longer required;
- An adult with capacity who has care and support needs removes consent to continue with the safeguarding Enquiry and/or Plan and there are no overriding public or vital interest considerations that would overrule their wishes.

The Safeguarding Adults Plan will no longer be required when the adult is no longer at risk of abuse or neglect, or risks have reduced to the level that they can adequately and appropriately be managed or monitored through single agency processes, e.g. assessment and support planning processes, community policing responses or health service monitoring.

Decisions about concluding the Safeguarding Adults Enquiry should be made by the allocated City of York Council *Safeguarding Adults Enquiry Lead Manager*. Their decision making must be informed by the wishes and feelings of the adult concerned and take into account feedback from other concerned and involved parties.

The outcomes should be clearly recorded with the rationale for the decision. When the Safeguarding Adults Enquiry is concluded, feedback on the outcomes should be shared with agencies/individuals as appropriate, and in accordance with usual data protection rules.

Consideration should be given as to what information is fed back to whom (for example, it may not be appropriate to feedback the full enquiry findings to the person/agency who raised the concern in certain circumstances).

When there is an identified and significant delay in concluding the Safeguarding Enquiry/Safeguarding Plan the situation must be discussed with the Head of Service for Safeguarding Adults. This will ensure the City of York Council can effectively discharge its duty to protect the adult with care and support needs during periods of significant delay, and concerns around application of local guidance can be escalated to the Safeguarding Adults Board.

For detailed guidance for managing and undertaking a formal enquiry (S42) please refer to pages 82-100 of the Joint Safeguarding Adults Policy and Procedure Causing Enquiries by others

The City of York Council has the lead role for undertaking Enquiries; it may however require other partners (including managers of Council run service provision) to undertake specific enquiries (i.e. *cause enquiries to be made*) under S42 of the Care Act 2014.

It should be noted that whilst the City of York Council can cause an Enquiry to be undertaken by individuals/organisations, it cannot delegate this function in its entirety, the overall decision making, or the need to ensure the enquiries and actions have been undertaken, remains with The City of York Council.

The City of York Council **must** satisfy itself that the enquiry has been concluded effectively and determine if it needs to undertake any further enquiries under S42 of the Care Act 2014.

The City of York Council will be responsible for ensuring that when it causes an Enquiry to occur, it is referred to the right place and is acted upon. This will include:

- Clearly communicating the request to complete an Enquiry to an accountable person in the organisation;
- Confirming the legal context of the request, the statutory nature of the duty to cooperate under S6, and the duty of Candour under S81 of the Care Act 2014 (see Appendix C);
- Agreeing upon the timescale within which the Enquiry should be completed;
- Agreeing upon the actions that should be undertaken and *initiating* the Enquiry Plan;
- Confirming how the Enquiry outcomes will be fed back to the Council (e.g. by written report, verbal account, or meeting), and to whom;

When Service Managers across the City of York Council cause Enquiries to occur by individuals/organisations external to the Council, they will demonstrate that they have effectively discharged the Council's duties by undertaking the following steps:

- Ensuring the Enquiries have taken place in accordance with the agreed Enquiry Plan and expressed outcomes of the adult/representative/advocate (where required);
- Ensuring agreed actions have concluded or systems are in place to ensure they will occur – an example of this will be to seek evidence that referrals have been made to the Disclosure and Barring Service when required.
- Considering if additional Enquires or actions are required by the City of York Council in accordance with the Council's duties under S42 of the Care Act 2014.

The City of York Council will reserve the right to challenge the body making the Enquiry if it considers that the process and/or outcomes are unsatisfactory.

When causing Enquires by other agencies the City of York Council will use the "causing an enquiry letter" which can be found in **Appendix C**. For examples of parallel Enquires that could be undertaken to support the Safeguarding Adults response see [section of the West Yorkshire, North Yorkshire and York Multiagency Procedures](#).

N.B. For guidance to CYC safeguarding team on when to delegate an enquiry, please see Appendix

2.1.1 Employer's Responsibilities and Regulated Settings

Where abuse or neglect is carried out by people providing a service to an adult with care and support needs the first responsibility to act is with the employing organisation as provider of the service, as they have a contractual and moral obligation to provide high quality and safe services.

When the information indicates a potential crime has occurred managers will be responsible for liaising with North Yorkshire Police to ensure actions can be planned in a manner that does not prejudice a potential criminal investigation.

When an employer is aware of abuse or neglect in their organisation they are under a duty to correct this and protect the adult from harm as soon as possible and inform the City of York Council, Care Quality Commission (if a regulated provider), the Vale of York Clinical Commissioning Group where the latter is the commissioner, other agencies who have commissioned the service and any family members/representatives who are acting on behalf of an adult with care and support needs who lacks mental capacity.

The general principle is that the provider service should undertake enquiries, in the first instance, into concerns that arise in their service (and provide any additional support that the adult may need) unless there is a compelling reason why it is inappropriate or unsafe to do this (see Sections [14.70-14.71 of the Statutory Guidance](#)).

The City of York Council retains the lead role for overseeing Enquires and this will include providing support to organisations to plan their Enquiries; and assuring itself that they have provided all necessary information to inform the Council's s42 decision making.

When the City of York Council causes an Enquiry to be undertaken by an organisation it commissions services from, the expectations of the organisation to undertake such Enquires are set out in the [City of York Council contractual requirements](#). Concerns around how such organisations undertake their Safeguarding Adult duties will be discussed with the appropriate commissioning team as a contracts compliance concern

2.2 Criminal Investigations

When information arises as part of a Safeguarding Enquiry which indicates that a criminal investigation is required, it will be the responsibility of the relevant City of York Council Safeguarding Adults Enquiry Lead

Manager or their delegate (staff member in receipt of the information) to consult with North Yorkshire Police **on the same day they become aware of a potential crime**. This will ensure the subsequent criminal investigation can be coordinated in a timely manner that will prevent additional criminal acts against the person and enhance the likelihood of successful prosecutions.

North Yorkshire Police may require additional information to be gathered before they can make a final decision about whether a criminal investigation will be necessary. When this is requested it will be the responsibility of the allocated City of York Council *Safeguarding Adults Enquiry Lead Manager* to ensure they clearly capture the additional enquiries being requested, the time line for completing such enquiries and when they should be fed back to the police.

This information must be recorded on the individual's electronic social care records and should also include information about how risks will be managed in the interim period.

It should be noted that criminal investigations by the police take priority over all other enquiries that are being considered. Where there is concern about the safety of a person with care and support needs, the Enquiry Lead Manager should liaise with the Police about what action to take so as to ensure the adult is protected and the police investigation is not jeopardised.

The welfare of the adult and others, including children, is of paramount importance and requires continued risk assessment to ensure the outcome is in their best interests and enhances their wellbeing.

During the course of a criminal investigation the City of York Council *Safeguarding Adults Enquiry Lead Manager* will retain the lead role for coordinating the multi-agency approach to ensure that the wellbeing and wishes of the adult will be considered throughout, especially when they do not wish to provide any evidence or support a prosecution.

Involving the person alleged to have caused harm

Involving the person or organisation who is alleged to have caused harm can be a difficult decision to make, but it is important to remember that the purpose of the Safeguarding Enquiry is not to substantiate if abuse or neglect has occurred, but to determine what actions are necessary to support the adult with care and support needs to recognise and manage risks in accordance with their own views on individual wellbeing.

Therefore, it will be necessary to seek the views of the adult with care and support needs about how the person or organisation that is alleged to have caused harm should be involved in the safeguarding process. This is particularly pertinent when the concerns surround an individual who is, or has been, an intimate partner or family member. The individual's views on this should be ascertained and recorded at the earliest opportunity.

The expectation is that the views of the person or organisation alleged to have caused harm will need to be considered and included in any safeguarding response for the process to be effective.

If the person alleged to have caused harm is also an adult with care and support the following issues must be considered: -

- Their right to the support of an Appropriate Adult if the issue is being considered as a potential criminal act;
- Their right to support from an advocate if they are assessed to lack mental capacity in relation to the specific concern;
- An assessment of the adults support needs under S9 of the Care Act 2014 to ensure that issues relating to their wellbeing are being considered.

For further information please refer to *chapter of the West Yorkshire, North Yorkshire and York Multi Agency Policy and Procedures*.

3. Responding to non-recent Allegations of Abuse and Situations Where the Adult is Deceased.

A key element of the criteria for undertaking a safeguarding enquiry under S42 of the Care Act is that the adult is “experiencing, or is at risk of, abuse or neglect”. Therefore the duty to make an Enquiry under S42 relates to abuse or neglect, or a risk of abuse or neglect that is *current* and *ongoing*.

Concerns relating to non-recent abuse or neglect where the person is no longer at risk, will not be the subject of statutory Enquiry under S42 of the Care Act 2014, but consideration must be given to the appropriate course of action that may be required.

To ensure that concerns surrounding historical allegations of abuse or neglect (including where there is concern that the abuse or neglect may have contributed to the death of an adult with care and support needs) are addressed effectively, the following **must** be considered through an Initial Safeguarding Adults Enquiry:

- Whether a potential crime has occurred. If so this must be referred immediately to the police;
- Whether other adults with care and support needs are experiencing, or are at risk of experiencing abuse or neglect. If so, this needs to be raised as a Safeguarding Adults Concern for those affected to determine what actions are required under S42 of the Care Act 2014;
- Whether action is required under parallel/alternative processes for example complaints, inquests, regulatory, commissioning and health and safety investigations;
- Whether the issue was an isolated incident and there are no ongoing risks but information indicates a Risk Management response is required;
- Whether there is a need for a single agency management review/serious incident review/mortality review/multi agency management review into the relevant circumstances;
- Whether the Safeguarding Adults Board needs to consider a lesson learnt review, including a Safeguarding Adult Review under S44 of the Care Act 2014? See [Guidance available on the City of York Safeguarding Adults Board website.](#)

4. Signatories

Produced by: CYC Head of Safeguarding, Service Manager, Safeguarding CYC, Designated Lead Nurse, Safeguarding, Vale of York CCG and Safeguarding Adults Lead, North Yorkshire Police, May 2018

Review date:

Michael Melvin Assistant Director (ASC)

Kevin McAleese SAB Independent Chair

Date:

Date:

Appendix A: The Wellbeing Principle

The Care Act 2014 introduces a duty to promote wellbeing (S1) when carrying out any care and support functions in respect of a person.

This is sometimes referred to as “the wellbeing principle” because it is a guiding principle that puts wellbeing at the heart of care and support. In the context of Safeguarding Adults this will include:

- Staff have a duty to promptly report any concerns or suspicions that an adult at risk is being, or is at risk of being abused.
- Actions to protect the adult from abuse should always be given high priority by all organisations involved. Concerns or allegations should be reported without delay.
- Organisations working to safeguard adults with care and support needs should make the dignity, safety and wellbeing of the individual a priority in their actions.
- As far as possible organisations must respect the rights of the person causing, or alleged to be causing, harm. If the person alleged to have caused harm is also an adult at risk they must receive support and their needs must be addressed. Staff should fully understand their role and responsibilities in regard to the policy and procedures.
- Every effort must be made to ensure that adults with care and support needs are afforded appropriate protection under the law.
- Organisations will have their own internal operational procedures which relate and adhere to the policy and procedures, including complaints by service users and by staff who raise concerns (‘whistleblowers’), always in compliance with the Public Interest Disclosure Act (PIDA) 1998.
- Organisations will ensure that all staff and volunteers are familiar with policies relating to Safeguarding Adults, that they know how to recognise abuse and how to report and respond to it.

Appendix B: Roles & Responsibilities of Agencies & Teams within Organisations

1. The Role of City of York Council

The City of York Council are the lead agency for Safeguarding Adults and the Director for Adult Social Care is responsible for ensuring the development, implementation and maintenance of effective systems and process to safeguard adults with care and support needs across the City of York.

Staff working in the Directorate of Adult Social Care will be responsible for discharging the Director’s responsibilities and specific statutory duties of the City of York Council. These duties are discharged by a number of distinct teams.

1.1. Customer Access and Assessment Team

This team comprises a number of social workers and customer contact workers. The main responsibility of this team (in the area of Safeguarding Adults) is to act as the first point of contact when a Safeguarding Concern is raised by external agencies. Staff within this team will be responsible for undertaking the following actions:

- a. Ensuring Safeguarding Adults Concerns are recorded accurately on the City of York’s electronic social care system and on the same day that the information is received;
- b. Ensuring missing information is collected at the first point of contact;
- c. Where information indicates an immediate risk of harm, Customer Contact Workers are expected to seek advice from the Safeguarding Duty worker as to how this risk could be addressed, and to relay this to the appropriate parties.
- d. Ensuring Safeguarding Concerns are passed to the Safeguarding Adults Duty officer without delay (for action) to ensure a timely response;

- e. Bringing information to the immediate attention of the Safeguarding Adults Duty officer where it indicates a potential crime has occurred;
- f. Qualified social workers in the team are also responsible for undertaking an initial Social Care Assessment to determine if someone is eligible for social care support, and carrying out Safeguarding Adults Enquiries when they are the person's allocated worker

Contact details:

T: 01904-555111 or E adult.socialsupport@york.gov.uk or adult.socialsupport@york.gcsx.gov.uk. (From secure accounts only)

1.2. Safeguarding Adults Team

This team comprises staff who are responsible for undertaking specific Safeguarding Adults work on behalf of the City of York. It should be noted that the team does not accept direct Safeguarding Adults Concerns from external organisations but will accept direct contact from adults with care and support needs, their family and members of the public. External organisations who want to raise a Safeguarding Adults Concern with City of York should do so by contacting the Customer Access and Assessment Team. The team's main responsibilities are:

- a. Providing a duty response to safeguarding concerns Monday to Friday which will involve (a) determining if the conditions in S42 of the Care Act 2014 are met (b) determining how the Safeguarding Adults Concern should proceed;
- b. Initiating Enquiry plans where the conditions of s42 have been met, and the Enquiry is work is to be completed by members of others teams within the Directorate, or by professionals within partner or regulated provider organisations.
- c. Undertaking all S42 enquiries for adults with care and support needs who privately fund their own care;
- d. Undertaking all S42 enquiries for adults with care and support needs who are not eligible for ongoing paid support (as a result of a S9 needs assessment) but are eligible for a safeguarding response under S42 of the Care Act 2014;
- e. Undertaking all S42 enquiries for adults with care and support needs who are placed in the City of York by other Local Authorities or NHS establishments; where the abuse or neglect has occurred within the authority boundary (as per the ADASS cross boundary protocol);
- f. Undertaking all S42 enquiries when the Safeguarding Adults Service Manager makes a decision that there is an identified conflict of interest that would prevent the allocated social worker, responsible team, or provider agency from undertaking the Safeguarding Adults Enquiry. This is likely to include situations when the role and function of City of York staff (outside of the Safeguarding Adults Team) are within the scope of the Safeguarding Enquiry.
- g. Undertaking S42 Enquiries where the Safeguarding Adults Service Manager agrees the concerns are of such complexity that it requires the specific skills of a specialist safeguarding adult's worker. Decisions on the complexity of the enquiry will be determined by the Safeguarding Adults Service Manager and whilst each case will differ, some examples of what would be considered complex could include; large scale enquiries in response to multiple safeguarding concerns; situations where the adult is experiencing, or is at risk of experiencing domestic violence, human trafficking, or risk of radicalisation (in conjunction with North Yorkshire Police);
- h. Acting as "domestic abuse champions" and working work with the domestic abuse coordinator in North Yorkshire Police to ensure that safeguarding concerns as a result of domestic abuse are responded to appropriately in terms of (a) enquiries under S42 of the Care Act 2014 and (b) referrals to MARAC are made when the individual is assessed to be high risk (c) attendance at MARAC
- i. The Safeguarding Adults Service Management team will assure themselves that Enquiries which they have caused to occur within the directorate, have taken place and that no further Enquiry or action is necessary, through processes such as audit, caseload management and supervision.
- j. Advising on what actions should be undertaken (including any Enquiries needed under S42 of the Care Act 2014) when an unlawful deprivation of liberty has been identified.
- k. Providing specialist advice and guidance to internal and external partners about Safeguarding Adults.
- l. Supporting Colleagues in business intelligence and the commissioning team to provide analysis around the Safeguarding Adults intelligence, to assist in the identification of patterns, themes and trends. This will support the effective sharing of information with CQC and other key stakeholders (as patterns highlighted will be taken to quarterly information exchange meetings or ad hoc general concerns meetings), and support the SAB to understand all levels of intelligence relevant to Safeguarding Adults.

m. Providing front line specialist support to MARAC and MAPPA.

Contact details:

T: 01904 553800 or E: adult.socialsupport@york.gov.uk

1.3. The Adult Social Care Directorate Management Team

1.3.1. Service Managers within Adult Social Care will be responsible for:

- a. Providing management support and management decision making (which includes chairing any safeguarding meetings) on Safeguarding Enquiries and Risk Management Responses within their team. This may be done through routine supervision, or through distinct safeguarding caseload management, as appropriate;
- b. Allocating safeguarding work within their team on the basis of risk and resource, and documenting decision making around this;
- c. Seeking assurance that any Safeguarding Adults Enquiry work within their teams is completed and directing any further enquiries or work required by the City of York Council.
- d. Causing enquiries to be made by others where appropriate (for example, by regulated care providers) and seeking assurance that the agreed Enquiry and actions have taken place and effectively discharged the Council's statutory duties;
- e. Raising any concerns about organisations failing to cooperate in safeguarding adults with the Head of Safeguarding for appropriate escalation
- f. Discussing any concerns regarding issues such as a possible conflict of interest with the Safeguarding Adults Service Manager, who is responsible for deciding upon the appropriate party to continue with the Safeguarding Adults Enquiry
- g. Participating in an Enquiry Lead Manager rota, to provide support to other teams when Service Managers are absent from work; or where it is deemed necessary to have an independent manager to oversee a Safeguarding Enquiry (this decision will be made by the Safeguarding Adults Service Manager).

1.3.2. Assistant Service Managers will be responsible for:

- a. Providing supervision to staff they line manage, which includes supporting staff to raise Safeguarding Concerns and to undertake s42 Enquiries and Risk Management Responses;
- b. Causing enquiries to be made by others where appropriate (for example, by regulated case providers) and seeking assurance that the agreed Enquiry and actions have taken place and effectively discharged the Council's statutory duties;
- c. Discussing any concerns regarding issues such as a possible conflict of interest with the Safeguarding Adults Service Manager, who is responsible for deciding upon the appropriate party to continue with the Safeguarding Adults Enquiry
- d. Taking delegated responsibilities from service managers where this is felt necessary and appropriate.

1.4. Social Work teams across the City of York Council

There are a number of social work teams across the City of York Council, made up of social workers and other experienced and qualified workers who will be responsible for (a) raising Safeguarding Concerns that have been identified as a result of general social care functions; and (b) undertaking or contributing to specific enquiries in accordance with S42 of the Care Act 2014.

Embedding Safeguarding activity across the Directorate is essential to ensuring that we deliver an effective service which aims to both *prevent* abuse and neglect, and *protect* and help where abuse and neglect has occurred. It should ensure that the right people are *accountable* for safeguarding practise, as Chapter 14 of the Care Act 2014, states that in many cases the best person to undertake the Enquiry is the professional who knows the individual best.

The following social work teams are covered in the section:

- Adult Learning Disability Team
- Long Term Social Work Team

- Mental Health Social Workers (Employed By City Of York Council)
- Intensive Support Service;
- Rehabilitation Service;
- Hospital Social Work Team

Specific safeguarding responsibilities of these teams include:

- Ensuring all Safeguarding Concerns that are identified through general social care functions are progressed to the Safeguarding Adults Team on the City of York Council's electronic social care records or via the Safeguarding Adults Concern Form if they do not have access to the system;
- Undertaking S42 Enquiries (when the Safeguarding Adults Team has determined the conditions have been satisfied) for adults with care and support needs who are allocated to a social worker in the team, or who the team are responsible for. Wherever possible, this should be done by an allocated worker, to avoid multiple professionals dealing with a situation. However, the decision regarding allocation is to be made by team management, dependent upon risk assessment and resource at the time;
- Undertaking Risk Management Responses (where the Safeguarding Adults Team has determined conditions have been satisfied);

NB. Where a Safeguarding Enquiry is started within one team within the Directorate, and the care management of that Customer is then passed to a different team; there is an expectation that the Safeguarding Enquiry is also passed to the new team, so that the customer has as much consistency as possible.

CONTACT DETAILS BY TEAM (opening times 08:30-17:00hrs)

Hospital Social Work Team

T: 01904 551673 E: cshospocialwork@york.gov.uk or cshospadminstaff@york.gov.uk

Intensive Support & Rehabilitation Service

T: 01904 554064 or E: ASCIntensiveSupportService@york.gov.uk ASCRehabilitations@york.gov.uk

Learning Disability Team

T: 01904 294900 or E: sue.newton@york.gov.uk / ruth.walsh@york.gov.uk

Long Term Social Work Team

T: 01904 555858 or E: LTTduty@york.gov.uk

Mental Health Social Workers

T: 01904 551149 or E: mentalhealthduty@york.gov.uk

1.5. Occupational Therapy (Physical Disability and Sensory Impairment) Team

The PD&SI team is made up of HCPC registered Occupational Therapists and Occupational Therapy Assistants. As there are no HCPC registered social workers in the team the main responsibility for responding to Safeguarding Adults Concerns is as follows:

- Ensuring all Safeguarding Concerns that are identified through general social care functions are progressed to the Safeguarding Adults Team on the City of York Council's electronic social care records or via the Safeguarding Adults Concern Form if they do not have access to the system;
- Undertaking specific enquiries that staff within City of York Council have caused to occur, which could include but is not exclusive to offering professional opinion/assessment to inform the Safeguarding Enquiry (please refer to Appendix C for further guidance on how this will be undertaken).
- Providing specific technical advice on responses to Safeguarding Concerns that will help meet the adult's outcomes.

Contact details:

Gill Hughes (Service Manager) T: 01904 553710 or E: gill.hughes@york.gov.uk
 Anne Ward (Senior Practitioner) T: 01904 555143 or E: anne.ward@york.gov.uk

1.6. CYC Business Support Services

The Adult Social Care Directorate has a pool of Business Support officers who can provide administrative support to the Council's Safeguarding Adults Service, including the setting up and recording of formal Safeguarding meetings, and the distribution of reports, notes etc both ahead of and following such meetings.

It is expected that any notes taken in meetings capture the key points under discussion and the actions set (including the person responsible for the action and the timescale in which it is to be undertaken). They should be sent to the meeting Chair in a timely manner for checking, ahead of being sent out to invitees (or parties as stipulated by the Chair), using secure communication methods.

The business support function is based at West Offices, but where possible, can offer services across the City where appropriate and where resources allow.

2. York Teaching Hospital Safeguarding Team

York Teaching hospital have a team of qualified health care practitioners who are responsible for undertaking specific enquiries (which are caused by the City of York Council) when a concern is raised about an incident of possible abuse or neglect within hospital settings across the City of York.

To cause an enquiry to be made by the Hospital Safeguarding Team, the City of York Council must identify a specific health care aspect that is beyond the knowledge, competence and skill set of qualified social workers.

The role of the Hospital Safeguarding Team will include:

- a. Responsibility for raising Safeguarding Adults Concerns on behalf of hospital staff;
- b. Working with the City of York Council to develop effective Enquiry Plans in response to the Safeguarding Adults Concern;
- c. Undertaking specific health related Safeguarding Enquiries that have been caused to be made by the City of York Council;
- d. Providing feedback to the City of York Council about the outcome of the Enquiry and identified actions, in accordance with the process agreed with the City of York at the point the Enquiry was caused;
- e. Identifying additional Safeguarding Adults Concerns that require a specific response under S42 of the Care Act 2014.

Opening times: 8am – 5pm

Contact details:

3. North Yorkshire Police

North Yorkshire Police are the lead agency responsible for all Criminal Investigations which, in relation to Safeguarding Adults, tend to relate to behaviours including assault, theft, fraud, hate crime, domestic violence and abuse, and wilful neglect of a person lacking capacity (this list is by no means exhaustive).

Safeguarding concerns may be dealt with by any officer employed by NYP. However, there is a specialist Vulnerability Assessment Team, who will screen concerns raised, and offer advice or attend Enquiry planning Meetings where appropriate, to determine the need for NYP involvement.

Opening times: 24 hours 7 days per week

Contact details:

T: 101 (for reporting a crime or potential crime where there is not an immediate risk to life or limb) or 999 (for emergency situations **only** where there is an immediate threat to life or limb as a result of a crime that is in progress).

E: VATenquiries@northyorkshire.pnn.police.uk

4. Commissioners

The City of York Council, NHS England, Vale of York Clinical Commissioning Group, Tees, Esk and Wear Valley NHS Foundation Trust, Leeds and York Partnership Foundation Trust, and the Patients Commissioning Unit are responsible for commissioning a number of services across the City of York. The Care Act 2014 Statutory Guidance places a number of distinct responsibilities on commissioners with regards to Safeguarding Adults experiencing, or at risk of abuse or neglect.

The main responsibilities of commissioners are as follows –

- a. Ensuring all service specifications, invitations to tender, service contracts and service level agreements make clear the commissioners` expectations in terms of the providers` responsibilities to provide (a) a safe and high quality service (b) details of the actions that **must** be undertaken by providers to ensure safe and high quality services in response to an indentified Safeguarding Concern;
- b. In accordance with paragraph 14.9 of the Care Act 2014 Statutory Guidance all commissioners are responsible for developing, implementing and maintaining proactive arrangements that regularly assure them of the safety and effectiveness of commissioned services;
- c. Ensuring Safeguarding Adults issues are included in the monitoring arrangements for contracts and service level agreements;
- d. Ensuring that managers in contracted services are clear about their specific leadership role and associated responsibilities in the area of Safeguarding Adults;
- e. Ensuring services are commissioned in a safe manner and can evidence the required skills, knowledge and experience to safeguard adults;
- f. Ensuring contracted services routinely provide information in an accessible manner about how to make a complaint and what will happen as a result of raising a complaint;
- g. Ensuring contracted services provide information in an accessible manner about abuse and neglect to ensure people know what to do if they are concerned about their safety;
- h. Ensuring managers in contracted services regularly review incidents and near misses, which evidence how the services might reduce the likelihood of abuse and neglect in the future;
- i. Undertaking specific Enquiries requested by the Local Authority in accordance with S42 of the Care Act 2014 to provide assurance on the outcome of enquiries and actions undertaken by contracted services, to ensure high quality and safe services;
- j. Providing technical advice to social workers across the City of York Council who are undertaking specific enquiries, or seeking assurance on enquiries it has caused others to undertake in accordance with S42 of the Care Act 2014.

It should be noted that NHS England ensures the health commissioning system as a whole is working effectively to safeguard adults and children at risk of abuse or neglect, and is the policy lead for NHS safeguarding, working across health and social care, leading and defining improvement in safeguarding practice and outcomes (see '*Safeguarding Vulnerable People in the NHS – Accountability and Assurance Framework*', NHS England July 2015 for further details).

NB. The Safeguarding Adult's response cannot be used as a substitute for the responsibilities of the commissioners, or as a means of attempting to inappropriately engage contracted services.

CONTACT DETAILS BY TEAM

City of York Council Commissioning Team:

Opening times: Monday to Friday 9.00am to 5.00pm

Contact details: T: 01904 554661 or E: adultscommissioning@york.gov.uk

Leeds and York Partnership Foundation Trust

T: 0113 305 5000

NHS England:

Opening times: Monday to Friday 9.00am to 5.00pm

Contact details: Director of Nursing, Yorkshire and Humber T: 0113 825 3361

Partnership Commissioning Unit

Opening times: Monday to Friday 9.00am to 5.00pm

Contact details: T: 01904 694747 or SCRCCG.AdultSafeguarding@nhs.net

Tees, Esk and Wear Valley Mental Health Trust

Email: TEWV.safeguardingadults.nhs.net

Vale of York Clinical Commissioning Group:

Opening times: Monday to Friday 9.00am to 5.00pm

Contact details: T: 01904 555870 or Email: valeofyork.contactus@nhs.net

5. The Role of all Service Providers

There is a wide and diverse range of organisations that provide services to adults with care and support needs, and it is not possible to list all these services and provide relevant contact details within the scope of this document.

The main responsibilities of all service providers to safeguard adults from experiencing, or being at risk of experiencing abuse or neglect are as follows:

- a. Ensuring that safe recruitment practices are developed, implemented, reviewed and maintained to include (a) ensuring relevant references are taken up before the offer of employment (b) ensuring relevant DBS checks are undertaken in accordance with the guidance issued by the Disclosure and Barring Service (c) developing checks so that gaps in employment history are clearly understood;
- b. To provide safe and high quality care and support (Para14.9 of the Statutory Guidance);
- c. Maintaining an up to date policy (in accordance with the West Yorkshire, North Yorkshire and York Multi agency safeguarding policy) that ensures all staff understand what to do when they are concerned an adult with care and support needs is experiencing, or is at risk of experiencing abuse or neglect, and the roles and responsibility of staff within the service to safeguard adults;
- d. Ensuring they have a clear policy on “whistle-blowing” and that staff understand how this policy applies to them in the context of safeguarding adults;
- e. Paragraph 14.69 of the Care Act 2014 Statutory Guidance states that when an employer becomes aware of abuse or neglect in their organisation, then they are under a duty to correct this and protect the adult with care and support needs. This will include (a) informing the City of York Council of a safeguarding concern (b) informing the relevant commissioners of the service (c) informing CQC if the service provides regulated care (d) informing the individual’s family/informal carers, in accordance with the adult’s wishes and in cases where the adult does not have the mental capacity to make this decision but it is considered to be in the adult’s best interests to do so;
- f. Paragraph 14.69 of the Care Act 2014 Statutory Guidance states that service providers should undertake enquiries into concerns that arise in their own organisation and take the necessary restorative actions to ensure safe and high quality care is provided. This will include enquires that the Local Authority has caused to occur under S42, where the service provider is under a duty to work with the City of York Council and inform them of the outcome of enquires and actions taken;
- g. When the service provider is required to undertake a disciplinary investigation into a staff member’s conduct as a result of a Safeguarding Concern paragraph 14.75 of the Care Act 2014 Statutory Guidance explains that the service provider is under a legal duty to inform the Disclosure and Barring Service in the following circumstances:
 - i. When the person is dismissed from their role providing regulated care;
 - ii. When a person is redeployed from their role regulated care to a non-regulated activity;
 - iii. When the person leaves their role (through resignation or retirement) to avoid a disciplinary hearing following a safeguarding incident and the organisation believes they would have dismissed the person based on the available information.

6. The Care Quality Commission

The CQC are the independent regulator of health and social care services across England. The main roles of the Care Quality Commission are to:

- a. Register Care providers by ensuring they meet the fundamental standards of care;
- b. Monitor, inspect and rate services in accordance with the Health and Social Care Act 2008 (Regulated Activity) Regulations 2014;
- c. Take action to protect adults through the following range of powers –
 - i. Issuing a requirement or warning notice to set out the specific improvements that are required;
 - ii. Place the regulated service provider in special measures;
 - iii. Issue regulated services with simple cautions;
 - iv. Issue regulated services with fines;
 - v. Pursue prosecutions where people have experienced harm or have been placed in danger;
 - vi. Seek Court Warrant to close regulated services;
- d. The Care Quality Commission will be invited to attend meetings where there is concern regarding a service but cannot usually attend about a named individual.

Contact Details: 03000 616161

Website: cqc.org.uk

Appendix A Considerations re causing an enquiry (Entrusted Enquiries) CYC Staff

When CYC staff are considering delegating an enquiry to a provider, the following factors **must** be taken into account:

- i) The capacity and ability, i.e. previous training and experience within the organisation to undertake the enquiry in a timely manner.
- ii) Whether there has been more than one similar safeguarding concerns recently raised against this provider
- iii) Whether there are any ongoing concerns about the provider by Contracts and Commissioning, Health or CQC.
- iv) Whether there is a risk of a conflict of interest
- v) Whether there are outstanding entrusted enquiries from this provider
- vi) Whether the gravity or complexity of the concerns suggests that the enquiry/enquiries would more appropriately be undertaken by the Safeguarding Team.

Appendix B: Causing an Enquiry Letter



Adult Social Care	Dear
Safeguarding Adults Team	As
West Offices	discussed
Station Rise	on the
York	telephone
YO1 6GA	today, a

Tel: 01904 551809/555858

Fax: 01904 554055

safeguarding

concern has been raised with me regarding <<insert customers name (DOB)>>.

The City of York Council is required by S42 of the Care Act 2014 ('The Act'), to make enquiries, or cause another agency to do so, when a concern is raised in relation to an adult with care and support needs, who is experiencing or is at risk of abuse or neglect; and is unable to safeguard themselves as a result of their care and support needs.

The purpose of an enquiry is to enable the City of York Council to decide what (if any) action is needed to help and protect the adult from the experience, or risk of abuse or neglect. We have a duty to work together to determine this (section 6 of the Act) and as a regulated organisation, your duty of candour applies to your input in any Enquiry undertaken (Section 81 of the Act).

As agreed on the telephone today, the City of York Council are requesting that you undertake enquiries in respect <<insert name of adult>> because you <<oversee/commission the care and support provided to them or provide care and support to him/her>> (delete whichever is not applicable).

The safeguarding concern that has been raised in respect of <<insert customer's name>> is outlined in the attached document. Please see the section entitled 's42 short enquiry plan' for an outline of the actions that we agreed today.

As part of this enquiry the City of York Council expects you to notify <<insert name of adult>> that a safeguarding concern has been raised, and good practice would also require you to notify the person or organisation alleged to have caused harm that a concern has been raised about them. This will ensure that the safeguarding response takes account of, and where possible, follows <<insert name of adult>> wishes, and allows us to protect the rights of all involved parties.

If you are concerned that doing this will increase the risk to <<insert name of adult>>, or is likely to prejudice a potential criminal investigation, please contact me for further guidance on how to proceed.

If you would like further information about the objectives of a Safeguarding Enquiry, and the sort of information it should take into account, please refer to the Care and Support Statutory Guidance, section 14.94-14.99.

<<only use this paragraph for regulated care providers>> As a regulated care provider, you have a duty under regulation 18 of the Care Quality Commission (Registration) Regulations 2009 to notify the CQC of this concern. Please confirm with me that you have done this as soon as possible.

As agreed, the anticipated completion date for your enquiries is <<insert date>>. Please contact <<insert name>> by this date to advise them of the outcome. In the event of an unexpected delay, please let <<insert name>> know as soon as the delay becomes apparent, so that we can consider the need for any further actions and agree a revised timeframe.

If you are not able to complete your enquiries, please speak with us about this. Failure to cooperate in this process may require us to escalate the concern to the commissioners of your service (and regulator if you provide regulated care); or a senior member of your organisation (who is likely to represent your organisation at the Safeguarding Adults Board). If these actions do not result in a successful resolution, we will discuss our concerns with the Safeguarding Adults Board in accordance with S45 of the Act.

Once your Enquiry report has been returned to <<insert name>>, they will be responsible for ensuring the Council's statutory duties are discharged effectively. This may require them to consider additional enquiries or actions which need to be undertaken by involved parties. We will let you know if this involves you.

Yours sincerely,

<<insert signature>>

<<insert name>>

<< insert team >>

Appendix D: How To Make A Complaint About An Adult Safeguarding Response.

The City of York Council is the lead agency for safeguarding adults and has the legal duty to ensure statutory safeguarding responsibilities under S42 of the Care Act 2014 are effectively discharged.

If you are unhappy with the safeguarding adults response, or wish to make a comment/pass on a compliment about your experience of how the Council undertook its safeguarding adults duty please contact the “customer complaints and feedback team” via the following methods:

Postal Address: Customer complaints and feedback team, City of York Council, West Offices, York, YO1 6GA

Telephone: 01904 554145

Online: The City of York Council also provides an online process for notifying the Council of compliments, comments or complaints, through the “have your say” pages which can be found by using the following link:

https://www.york.gov.uk/info/20243/contact_us/1566/make_a_complaint_or_suggestion

The Safeguarding Adults Board has a website which has a ‘Feedback’ section, which can be used to raise a complaint about a decision made by the Board:

<https://www.safeguardingadultsyork.org.uk/the-board/feedback/>

If you wish to make a complaint about how another agency has undertaken their duties in the safeguarding adults process, you can obtain information about their own complaints procedures by (a) making direct contact with the organisation to ask for a copy of their complaints procedure (b) contacting the allocated worker who is undertaking the safeguarding work to request they obtain this information for you; (c) contacting the Council’s commissioning team (see contact details in Appendix B) if your complaint is about a service that the City of York Council commissions.

You can also contact the Care Quality Commission (anonymously if you wish) to pass on compliments, comments and concerns about any of the following services –

- Hospitals;
- Care homes;
- Doctors;
- Dentists;
- Services provided in your own home.

Telephone: 03000 616161

Email: enquiries@cqc.org.uk

Website address: cqc.org.uk