



Adult safeguarding information for all CQC registered adult social care providers in Sheffield

Guidance Information

Practice Development Team

Sheffield City Council

Adult safeguarding guidance for CQC registered providers in Sheffield

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1. Introduction

This document is intended to be a supportive local addition for adult social care providers in Sheffield to compliment the following information:

The current adult safeguarding procedures, **Safeguarding Principles and the approach for South Yorkshire**, issued in accordance with Sheffield Adult Safeguarding Partnership:

https://www.sheffieldasp.org.uk/assets/1/sy_principles_and_approach_v8_final_2.pdf

There are also 3 key practice guidance documents for safeguarding which are essential reading for all managers of adult social care providers:

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

<https://www.local.gov.uk/publications/understanding-what-constitutes-safeguarding-concern-and-how-support-effective-outcomes>

‘Making Safeguarding Personal’

<https://www.local.gov.uk/our-support/our-improvement-offer/care-and-health-improvement/making-safeguarding-personal>

‘Making decisions on the duty to carry out Safeguarding Adults enquiries’

<https://www.local.gov.uk/making-decisions-duty-carry-out-safeguarding-adults-enquiries-resources>

This document is not intended to summarise the information within the above procedures and guidance although it is informed by them. Instead, it aims to offer some additional localised information for regulated providers in Sheffield to help:

- avoid jeopardising any criminal investigation in response to safeguarding concerns

- support the appropriate referral of adult safeguarding concerns relating to the provider's regulated activities
- explain how Sheffield City Council will usually respond to a safeguarding concern involving a provider's regulated activities
- outline expectations for regulated providers to work collaboratively with Sheffield City Council in response to safeguarding concerns.

2. What are the aims for safeguarding and what is a safeguarding concern?

Safeguarding means protecting an adult's right to live in safety, free from abuse and neglect. **It is about people and organisations working together to prevent and stop both the risks and experience of abuse or neglect, whilst at the same time making sure that the adult's wellbeing is promoted.** Professionals should work with the adult to establish what being safe means to them and to determine how that can be best achieved.

The aims for adult safeguarding include:

- Preventing harm and reducing the risk of abuse or neglect
- Stopping abuse or neglect wherever possible
- **Safeguarding adults in a way that supports them in making choices and having control about how they want to live**
- Concentrating on improving life for the adults concerned
- Addressing what has caused the abuse or neglect.

A safeguarding concern arises where anyone has a reasonable cause to suspect the risk or occurrence of abuse or neglect. It is important to note, however, that **there is no overarching definition or threshold to identify what might qualify as abuse or neglect.** The individual circumstances which might give rise to a safeguarding concern can occur in different ways and take different forms. Views should not, therefore, be unduly limited in terms of what might constitute abuse or neglect. Each potential case requires careful consideration of the individual circumstances and context for the situation as everyone has their own personal histories, lifestyles and preferences.

The Social Care Institute for Excellence (SCIE) has provided further information on the different types of abuse and neglect along with suggested signs and indicators for each. This information can be found at:

<https://www.scie.org.uk/safeguarding/adults/introduction/types-and-indicators-of-abuse>

Further information to support the recognition of a safeguarding concern is also available in one of the ADASS documents listed at the start of this guidance and this can be found at:

<https://www.local.gov.uk/publications/understanding-what-constitutes-safeguarding-concern-and-how-support-effective-outcomes>

3. Suspected criminal activity – avoiding compromising a police investigation

It is recognised that most safeguarding concerns involving a provider's regulated activity are unlikely to contain a criminal element. However, any safeguarding adult concern which includes suspected or actual criminal offences may require investigation by the police.

Where information on alleged abuse suggests that a criminal offence may have been committed, it is imperative the police are informed at the earliest opportunity and that any possible evidence is preserved. It may also be important to avoid giving an alleged source of harm forewarning of the possibility of criminal investigation, particularly where there are suspicions of 'grooming'.

Please note that the issues considered by criminal investigations and adult safeguarding procedures are different. The focus of a police investigation is criminal justice. The focus of safeguarding adult procedures are to protect an adult's right to live in safety, free from abuse and neglect in accordance with their view, wishes, feelings and beliefs. **Any safeguarding incident involving suspected criminal activity still needs to be referred as a safeguarding concern to the local authority as well.**

The primary duty of the provider remains to prevent any immediate risk of harm to the adult and therefore **the provider's protection planning arrangements for an adult at risk should proceed without delay. However, wherever practicable, the police must be consulted in relation to any protection arrangements which could forewarn an alleged source of harm of a possible criminal investigation.**

Care must also be taken to ensure that a criminal investigation/prosecution process is not undermined through information sharing. The police should be consulted, and their permission obtained, in relation to how information is to be used and shared with others, including the source of harm and the adult at risk.

Any criminal investigation takes priority and must not be prejudiced by any other enquiries carried out by other organisations. Other investigations should not commence therefore without the prior knowledge and agreement of the police. Employers will need to establish with the police whether any disciplinary or complaints investigations can be undertaken whilst the criminal investigation is ongoing. On conclusion of a criminal investigation a written application may be made to South Yorkshire Police legal services requesting disclosure of information (copies of statements and interviews) to assist with any disciplinary processes.

4. What about poor practice and poor care?

Risks to wellbeing and safety do not always involve abuse or neglect and not all situations involving risk will qualify as a safeguarding concern. For example, some incidents involving falls, pressure sores, wrongly administered medication or poor nutritional care may occur from an isolated incident of poor practice or poor-quality care rather than from abuse or neglect. It is therefore important to examine the individual circumstances present within each case to distinguish between those cases of poor practice which do not involve suspected abuse or neglect and other cases which will need to be regarded as safeguarding concerns. Issues can then be addressed in the most appropriate way.

To better understand the difference between infrequent, isolated incidents of poor care and safeguarding concerns, please see the case study examples included in appendix A.

Poor practice which is unlikely to constitute abuse or neglect can usually be identified from the following common factors within the incident:

- It was a 'one-off' and isolated occurrence.

- It was unintentionally caused.
- It did not result in any significant impact or detriment to the person.
- It can be quickly put right.
- No attempt was made to deliberately ignore, to conceal or to knowingly provide dishonest information regarding the incident.

A 'one-off' and isolated incident of poor practice in which there is no indication of possible abuse or neglect would not normally require referral as a safeguarding concern. In this situation, the provider should act to prevent any further instances by urgently addressing the cause(s) of the poor practice. This would typically be achieved through additional training and staff supervision and the improvement of policies or procedures. An apology and reassurance to the adult should also be given.

An appropriate response from providers to 'one-off' and isolated poor practice helps local authority adult safeguarding teams and the police to concentrate their resources towards responding to malicious behaviour and potentially criminal acts. However, it should be noted that any poor care thought to be caused intentionally or recklessly, or where an attempt was made to conceal or to provide a dishonest account, must **always** be referred as a safeguarding concern as this **would** constitute abuse and/or neglect.

Providers should also record and monitor the types and frequency of any incidents of poor practice as part of their normal quality assurance activities. Good recording and analysis for all incidents is essential for providers to identify where their service might be improved. It also serves as an essential function for the detection of any underlying or ongoing issues within the service which can indicate the possibility of more widespread safeguarding risks as detailed in the following section.

5. When might 'one-off' poor care become a safeguarding issue?

Poor care within a service becomes a safeguarding concern when there are unusually high numbers or repeated instances of poor practice or where a consideration of single incidents reveal patterns of harm. Reasons for concern might typically be indicated by a high number of incidents (especially if these tend to involve a particular aspect of care-delivery) or any trends within incidents such as often occurring at specific locations, at particular times of the day or during certain shifts or which involve particular care-workers or affect a particular person(s).

To ensure that appropriate and proportionate action is taken to keep people safe, providers must therefore take **all** incidents seriously. Details for all incidents, whether initially identified as poor care or safeguarding, should each be recorded and collectively analysed on a frequent basis. Individual providers will need to determine a reasonable and proportionate threshold for both the number and type of incidents occurring within its service which would suggest the possibility of more widespread issues of concern.

Where a cumulative view suggests that adults may be at increased risk from the overall standards of care, providers must take immediate action including notifying the local authority of the safeguarding concern. The referral should include detail on how the provider aims to address the wider issues identified within the service.

Both the Care Quality Commission (CQC) and Sheffield City Council may request evidence of a provider's activities for undertaking appropriate incident recording and analysis to help identify any ongoing or more widespread risks within its service.

6. Empowering the person at risk

Please note the information in section 3 of this guidance relating to avoiding compromising a police investigation for any concerns in which a crime is suspected, particularly where there may be 'grooming' issues.

Safeguarding should be person-led and outcome-focused. It is important for providers to involve the person as soon as safeguarding concerns are established to ensure their views, wishes and desired outcomes are included throughout the process. Involving the person is key in understanding what would help make the person feel safer and will also help the provider to focus better on the actions which matter most to the person. Providers will usually know the person well from providing their care and so will normally be well placed to undertake a conversation with the person to obtain their views. These views should directly inform what happens next.

Care must obviously be taken to avoid any possible conflict of interest, however, and conversations with the adult should not be conducted by anyone who may be implicated within a safeguarding concern or which might forewarn an alleged source of harm of a possible criminal investigation.

In line with the Mental Capacity Act 2005, people must be assumed to have capacity to make their own decisions, to be best-placed to judge their own wellbeing and to know their preferred wishes. The person should therefore be helped to express their views through any reasonable means. Providers should be guided in their engagement with the adult by the following points:

- Start by thinking the person **has** capacity and consider if anything might be needed to **help support the person to make decisions.**
- **Enable and empower people to talk about what is important to them** – talk through the options the person has and discuss what they want to do about their situation. Seek to enable people to resolve their circumstances, to recover from any abuse or neglect and to achieve what matters most to them by asking '**what do you want to be different and how?**'
- Ensure the person's wishes (outcomes) are discussed and agreed with them at an early stage. **Don't assume** the person does not have capacity just because you may feel their decision seems unwise.

If an adult has substantial difficulty in understanding what has happened to them, in communicating their views or in making decisions, they should be appropriately supported so their views can still be represented. Support can normally be provided by an existing representative of the adult such as a family member, friend or advocate. **However, it is obviously important there must be no conflict of interest ie. the person offering support as the adult's representative must not be implicated within the safeguarding concern.** If the adult at risk needs support but does not have anyone appropriate to support them, Sheffield Advocacy Hub can be contacted on telephone 0114 2261674 or by email to referrals@sheffieldadvocacyhub.org.uk

People must be assumed to have capacity to make their own decisions and be given all practicable help to do so before anyone treats them as being unable to make their own decisions. Where an adult is found to lack capacity to make a decision then any action taken, or any decision made for, or on behalf of, the adult must be made in their best interests.

Further information to help support providers understand and implement best practice in 'Making Safeguarding Personal' is available in one of the ADASS documents listed at the start of this guidance and this can be found at:

<https://www.local.gov.uk/our-support/our-improvement-offer/care-and-health-improvement/making-safeguarding-personal>

7. Balancing empowerment with the care provider's Duty of Care responsibilities

If an adult has the capacity to make decisions in context to the relevant area of their life, this may limit some of the actions that professionals can take in response. However, providers will still need to balance the person's right to make choices about their own life with their Duty of Care responsibilities to safeguard the person (and others) from risk of harm.

If the person at risk declines support or withholds their consent for action in response to a safeguarding concern, this **does not** mean that the provider can just ignore the situation. Under a provider's Duty of Care responsibilities, there will **always** be a need to consider what action(s) may need to be taken to protect the person (or others) who may be at risk of harm. When a provider is aware of abuse or neglect, they are under a duty to protect the adult(s) from harm as soon as possible and to inform the local authority. Where the source of abuse or neglect is a member of staff (similarly for volunteers and or students), the employer must take immediate action and record what they have done and why.

It would be good practice to explain to the person or their representative where the provider needs to undertake actions arising from their Duty of Care responsibilities and to record the reasons for all actions (particularly where consent may not have been given).

8. Referring a Safeguarding Concern to Sheffield City Council

Any incident suspected to involve the risk or occurrence of abuse or neglect must be referred to Sheffield City Council. As safeguarding is equally applicable to the prevention of harm and in minimising potential risks, a safeguarding referral is also required where a **risk** of abuse or neglect has been identified. **It is not necessary for 'harm' or 'significant harm' to have occurred as part of the concern.**

If there is uncertainty as to whether or not a safeguarding referral should be made, providers may consult with Sheffield City Council (tel. 0114 2734908). If this is not possible or causes delay, providers should make the referral ('if in doubt, refer').

It is useful to include within the referral any information already known about the concern but it is not expected that all facts will have been fully established. Sheffield City Council requires the prompt notification of any safeguarding concerns and recognises that additional information will often become available later – the referral must not be delayed.

The form for referring a safeguarding concern to Sheffield City Council is available at: <https://www.sheffieldasp.org.uk/sasp/sasp/for-professionals/professionals-report-an-adult-safeguarding-concern>

It is important to understand that the referral of a safeguarding concern to a local authority does not impact on any of the provider's responsibilities to prevent or address risk. Providers must still take action to manage any immediate risks to protect the adult or others and any action already undertaken should be detailed within the referral along with any other intended further action.

The referral of a safeguarding concern is the method by which a provider must promptly share information about a safeguarding situation. Sheffield City Council has a duty to oversee any safeguarding concerns which occur in its area (and to collect and record information on these) but its duties do not reduce the provider's responsibilities for the ongoing management of risk to adults in their care. The provider continues to hold Duty of Care responsibilities for all adults receiving its services and there is no transfer or 'hand-off' of these through making a referral.

At the time of referring a safeguarding concern, all regulated services must also submit a Statutory Notification 18(e) to CQC. Records must also be retained regarding all safeguarding decision-making so they may be viewed by CQC or other commissioning bodies visiting the service.

Sheffield City Council will normally initially respond to the receipt of a safeguarding concern involving a provider's service with a telephone call to the provider. This provides an opportunity to share any update on developments since the referral was sent and to discuss in more detail:

- What happened?
- Why did it happen?
- What has the provider done to safeguard the person (and any others) who may be at risk and to prevent the issue from happening again?
- What does the adult affected or at risk of being affected think about the issue - how might they like things to be different in future?

This information will also be used by the council to determine if a safeguarding enquiry may be necessary as explained in the next section.

9. Safeguarding enquiries under The Care Act (2014)

The Care Act authorises local authorities "... to 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... and, if so, what and by whom." (Care Act 2014, Section 42 (2))

As a local authority, Sheffield City Council has a legal duty to arrange a safeguarding enquiry (also known as a 'Section 42' or 'S.42' enquiry) if it decides that one is needed. It also holds a legal authority to be able to involve other agencies within the enquiry.

Please note that decision-making for providers on what requires referral as a safeguarding concern is separate and very different from the decision to be made by Sheffield City Council regarding whether an enquiry is needed.

Every safeguarding concern must always be referred to Sheffield City Council. However, it is unlikely that Sheffield City Council will require a safeguarding enquiry to be undertaken in response to every safeguarding concern referral it receives.

An enquiry is likely to be required if the council feels it needs further information (or action) in response to any of the following:

- Is it clear what happened and why?
- Are the causes of any abuse or neglect fully understood?
- Have appropriate actions been undertaken to keep the adult (or others) safe in future including the revision of any existing plans?
- Are any other actions necessary to address the source of harm?

If the council decides an enquiry is needed, it is good practice for the council to instruct the provider to undertake the enquiry where the concern is connected to the provider's activities and where the provider knows the adult well. **Providers have both a legal duty and a regulatory obligation to co-operate with this instruction.** Sheffield City Council will need to have satisfied itself that the provider will act appropriately in conducting the enquiry and that there are no conflicts of interest which might compromise the provider's ability to do so.

If there is an ongoing criminal investigation in relation to the concern, the council will contact the police in advance for their permission for the safeguarding enquiry to begin as any criminal investigation takes precedence over all other investigations or enquiries. **Where there is (or may be) a criminal investigation, specific permission from the police must be sought before other investigative actions can take place, particularly with regards to the undertaking of any interviews.** However, a safeguarding enquiry can otherwise usually be undertaken alongside other procedures such as human resources (HR) or complaints investigations and the safeguarding enquiry itself can be informed by any facts which are established within these investigations.

The council's lead safeguarding worker for the case will discuss the enquiry's remit and agree a suitable timescale for its completion with the provider either through a planning discussion (which may be conducted over the telephone or via email) or at a planning meeting. The adult and/or their representative may also be involved in planning the enquiry.

The aims for the enquiry will be to fully identify the causes of abuse or neglect and to ensure that these are properly and fully addressed by the most appropriate person or organisation(s). The purpose of the enquiry is not to substantiate whether abuse or neglect occurred but to

- establish facts;
- ascertain the adult's views and wishes;
- assess the needs of the adult for protection, support and redress and how these might be met;

- protect from the abuse and neglect, in accordance with the wishes of the adult;
- make decisions as to what follow-up action should be taken with regard to the person or organisation responsible for the abuse or neglect;
- enable the adult to achieve resolution and recovery.

The enquiry's outcomes will depend on what has happened or already been established, how serious any ongoing risk might be and what else might need to happen to protect the ongoing safety of the adult (or others) at risk. If any further follow-up actions are required, then a protection plan will need to specify the actions still required and to identify the most appropriate organisation(s) to complete them. It may be determined as the provider's responsibility to implement the protection plan which might typically include:

- Agreed further actions needed to support the adult's desired outcomes;
- Any further steps needed to assure the adult's safety (or that of others) in future;
- Any changes needed in the way services are provided to the adult (or to others) with the necessary details recorded in all relevant care plans;
- How best to support the person through any action they might take to seek justice or redress, and any on-going risk management strategy, as appropriate;
- Timescales for action and for any further review as deemed appropriate.

Employers who determine that any member of staff – **whether currently or previously employed** - has either caused harm or is thought to pose a risk of harm to any vulnerable group **must** make an appropriate referral to the Disclosure and Barring Scheme (DBS) and any other applicable professional bodies such as the Nursing and Midwifery Council. **The provider's responsibility to make an appropriate DBS and/or NMC referral remains even if the person is no longer employed by the organisation (ie. following a resignation or dismissal).**

Sheffield City Council will retain legal responsibility for the enquiry and therefore must be provided with all findings and updated on progress towards achieving the outcomes. Where these are not provided as agreed, the council may seek to involve regulators to secure them. In addition, the council's Quality and Performance ("contracts") team may seek further assurances regarding a provider's action in response to any safeguarding concerns.

Before deciding on whether the safeguarding concern can be closed, the council's lead safeguarding manager for the case will need to consider to what extent the adult's identified outcomes have been met (fully, partially or not at all), to what extent the risk to the adult has changed (risk removed, risk remaining or risk increased) and whether there are any further actions which should be taken. In some cases, an Outcome Meeting may be needed to explore these issues further through a discussion with the adult, a meeting facilitated by Sheffield City Council with the provider, other partners and/or the adult or an independently chaired meeting facilitated independently of the council's lead safeguarding manager.

Further useful information regarding safeguarding enquiries is available in one of the ADASS documents listed at the start of this guidance and this can be found at:

<https://www.local.gov.uk/making-decisions-duty-carry-out-safeguarding-adults-enquiries-resources>

10. Summary of some key safeguarding responsibilities for managers of providers

- You should undertake all necessary actions needed to address any immediate risks, including any action with regards to the alleged source of harm. You may also need to devise an interim protection plan or revise existing risk assessments in order to keep the adult (or others) safe from harm.
- The police must always be immediately notified of any suspected criminal activity.
- Wherever practicable the police must be consulted in relation to any protection arrangements which could forewarn an alleged source of harm of a possible criminal investigation.
- If, in your professional opinion, you feel that an adult in your care may be experiencing, or is at risk of experiencing, abuse or neglect (even if any consequences were not intentional), you have a lawful duty to refer this to Sheffield City Council as a safeguarding concern as soon as possible. You should include as much information as is currently known within the safeguarding concern form which is available at: <https://www.sheffieldasp.org.uk/sasp/sasp/for-professionals/professionals-report-an-adult-safeguarding-concern>
- The referral of a safeguarding concern to Sheffield City Council does not transfer or reduce any of the provider's responsibilities which the provider continues to retain.
- You should also notify the CQC of all incidents of suspected abuse and neglect occurring within a regulated setting. Further referral requirements may also apply beyond notifications to Sheffield City Council and CQC.
- If you feel an incident occurring in your service did not constitute a safeguarding concern, all details of the incident should still be recorded to support your organisation's quality assurance processes. You should regularly review all incidents to examine whether there are emerging trends or any repetition of factors involved. The presence of these may indicate possible abuse or neglect which will need to be referred as a safeguarding concern. Sheffield City Council and CQC may request evidence of your organisation's recording and analysis of incidents and your actions arising from this activity.
- Under your duty of candour, you need to notify and consult the adult concerned, their representative or advocate regarding any incident involving the adult.
- If the adult lacks capacity, has substantial difficulty in understanding what has happened to them and/or in communicating their wishes and does not already have an appropriate representative, please contact Sheffield Advocacy Hub on telephone 0114 2261674 or email to referrals@sheffieldadvocacyhub.org.uk
- You may be requested by Sheffield City Council to undertake an enquiry to ensure the causes of abuse or neglect have been fully identified and will be addressed. You have a legal and regulatory duty to comply with any such request. Sheffield City Council will explain to you the remit and aims for the enquiry and agree with you a suitable timescale for its completion.
- You may also be instructed to undertake some or all tasks identified within a further protection plan which will set out any further follow-up action(s) as might be required.

- If you determine that a member of staff has either caused harm or is thought to pose a risk of harm to vulnerable groups, you must report these concerns to the DBS and any other applicable bodies (e.g. Nursing and Midwifery Council). Concerns must be reported even if the member of staff is no longer employed by the organisation.

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