

Safeguarding Adults Procedures London Borough Tower Hamlets

Review Date: September 2014

1. Introduction

1.1 This Procedure summarises the key guidance in relation to the work in the borough to protect vulnerable Adults from Abuse.

The Boroughs guidance is in accordance with 'No Secrets' and 'Protecting Adults at risk: London multi-agency policy and procedures to safeguard adults from abuse' (otherwise known as the Pan London Safeguarding Adults Procedures).

This guidance applies to LBTH adult social care staff and ELFT staff in the integrated community mental health teams (including ELFT Older Peoples CMHT) and also the integrated CLD service where they are undertaking safeguarding work on behalf of the council.

1.2 This procedure will be reviewed and updated in line with any developments that occur through the year; including any learning from serious case reviews and in regard to legislative changes or case law. Staff will be informed of these updates.

1.3 The Safeguarding Adults and Mental Capacity Liaison Team (SAMCLT) is available to provide advice to staff and managers on any issues that arise in relation to Adult Safeguarding, inclusive of Mental Capacity Act (MCA) and Deprivation of Liberty Safeguards (DoLS).

2. Legal Context

No Secrets 2000, underpinned by the Community Care Act, remains the statutory guidance/legislation that gives the local authority the power to consider whether an abuse is occurring or likely to occur. It stipulates what is abuse and significant harm and who is eligible to be considered as a vulnerable adult or an adult at risk.

2.1 Definitions

- **Adult at Risk (AAR) – known as a Vulnerable Adult under ‘No Secrets’**

‘An adult aged 18 years or over ‘who is or may be in need of community care services by reason of mental or other disability, age or illness; and who is or may be unable to take care of him or herself, or unable to protect him or herself against significant harm or exploitation’ (DH, 2000)’.

- **Abuse**

Abuse is

... A violation of an individual’s human and civil rights by any other person or persons. (DH, 2000)

Abuse is about the misuse of power and control that one person has over another.

- **Significant Harm**
 - ill treatment (including sexual abuse and forms of ill treatment which are not physical)’
 - the impairment of, or an avoidable deterioration in, physical or mental health and/or
 - the impairment of physical, intellectual, emotional, social or behavioral development.

3. Procedures

3.1 The Pan London Safeguarding Adults procedures stipulates the process that should be followed in relation to safeguarding adults and it sets good practice timescales within which each part of the process should be completed.

3.2 The process does not have powers to coerce or intervene against a person’s wishes. Any such intervention can only take place through the use of other legal powers where the criteria is met, such as the Mental Health Act, National Assistance Act, Mental Capacity Act and the legally prescribed best

interests process (exceptions apply), Mental Capacity Act/Deprivation of Liberty Safeguards, or a Court Order.

3.3 Safeguarding Adults processes must take into account the statutory principles of the Mental Capacity Act and the requirements of the Act itself when making decisions about interventions to avert risk. Being proportionate in intervening in people's lives has always been a principle within the 1990 NHS & Community Care Act and related legislation.

4. Principles of the Mental Capacity Act

The five statutory principles of the Mental Capacity Act are:

4.1 A person must be assumed to have capacity unless it is established that they lack capacity.

4.2 A person is not to be treated as unable to make a decision unless all practicable steps to help them to do so have been taken without success.

4.3 A person is not to be treated as unable to make a decision merely because they make an unwise decision.

4.4 An act done or decision made, under this Act for or on behalf of a person who lacks capacity must be done, or made, in their best interests.

4.5 Before the act is done, or the decision is made, regard must be had to whether the purpose for which it is needed can be as effectively achieved in a way that is less restrictive of the person's rights and freedom of action.

4.6 Key Points to note

- Use the definitions provided by No Secrets to determine whether a safeguarding alert meets the criteria to proceed through to the Safeguarding Procedures
- Apply the principles of the Mental Capacity Act where a decision has to be made by the service user
- Carry out a mental capacity assessment where there are concerns about the person's ability to make a decision about an intervention to avert risk, even if they agree to it and follow the legally prescribed best interests process to determine what is in their best interests

- Be aware of the need to be proportionate in deciding the interventions that will be used to avert risk even where a capacitated individual is acquiescing
- Only intervene against a person's wishes and where applicable the family's wishes, where the law allows you to do so

5. Evolving requirements in Adult Safeguarding

5.1 The Department of Health (DOH) has performance returns that it requires Councils to submit in relation to safeguarding adults. These returns ensure that both MCA and DOLS activity are an integral element of adult safeguarding performance.

5.2 There is evolving case law in relation to DoLS, MCA and the Inherent Jurisdiction of the High Court in relation to Capacitated Vulnerable Adults. The outcome of such judgements will have an impact on how LBTH carry out its safeguarding activity.

It is the responsibility of each member of Adult social care staff to ensure that they keep up to date and are aware of any relevant information that ensures they undertake the role effectively and within the law.

Failure to apply current case law could potentially result in a range of outcomes, such as, unsafe or illegal plans for the individual at risk, legal challenge, reputation risk to the council, disciplinary action and professional misconduct.

6. The Safeguarding Process

6.1 Safeguarding Alert

- Anyone can raise a safeguarding alert
- Note that a contact that is not raised as a specific safeguarding alert, may also constitute a safeguarding issue
- Alerts are raised through the contact/CAOC form for the Community Learning Disability Service (CLDS) and Adult Social Care, and Datix for BARTS and ELFT.
ELFT progress their cases through the safeguarding process while BARTS on making a decision about whether the incident is an alert will

complete their own safeguarding alert form and send this to FRS or FRHT to progress.

- An alert where someone has been previously known to mental health services, even if they are no longer working with them, must be passed on to the appropriate Community Mental Health Team to progress
- A separate safeguarding alert form has been produced for third party referrals
- Any competent member of staff can gather information to determine whether the contact is a safeguarding issue
- A competent member of staff is one that understands and knows how to interpret the definitions given by No Secrets (as above)
- Any contact that is either a safeguarding alert or becomes a safeguarding alert is normally referred to a manager with Safeguarding Adults Manager (SAM) training to make the decision about whether to close the alert to safeguarding or to proceed to the next stage in the procedures.
- Any decision to operate outside this process needs to be approved by the relevant Service Manager.
- Feedback should be provided to the referrer within the bounds of confidentiality.
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6.2 Safeguarding Referral

(Refer to Guidance to accompany Forms – Appendix 1)

- At this stage the investigation begins and only a qualified professional who has had safeguarding investigation training can gather information and complete actions that apply to this part of the procedures
- Note that in order to be considered a Safeguarding Investigator, the qualified professional must have had the relevant training, and a refresher within three years, and thereafter within the next three years and so on. Anyone who has not had either safeguarding investigator training and/or a refresher within 3 years of carrying out a safeguarding investigation cannot perform this role.
- A SAM must be appointed
- The SAM has to have completed SAM training
- LBTH has lead responsibility for all safeguarding adults' issues that arise within its borough boundaries. All safeguarding adults referrals

whether they are residents of LBTH or not will be progressed by the team that receives the referral

- In order to find out whether an Adult at Risk (AAR) is the subject of a Deprivation of Liberty Safeguards (DoLS), contact the Safeguarding Adults team (SAMCLT). The DH wants to know whether the AAR has been subject to DOLS at any point in the Safeguarding process, so a check will be required at each stage of the process (**this will not be referred to in the remainder of this guidance so the SAM needs to ensure this check occurs.**) The form will alert you to ask this question as you move to each part of the process. Any care home should know if the AAR is subject to DoLS. If you have any difficulty with accessing this information contact the SAMCLT.
- When a person is in a care home and there are concerns for other residents, alerts do not have to be raised for each resident, unless you become aware of an incident that comes under the definition of an alert (as described under No Secrets). A SAM must invite the placing local authorities to the safeguarding strategy meeting and then a decision will be made about what actions need to be taken in relation to the other residents, if at all.
- Where the actions of the AAR place anyone else at risk, even if they are not vulnerable, the matter must be raised with the SAM. The Council and its statutory partners have wider duties other than No Secrets, to keep people safe. There are various panels such as MARAC, MAPPA and SARMP (see later for what cases these panels consider) where the concerns about risk to the person or to others that do not fit within No Secrets may in addition fall within the remit of these panels.

6.3 Mental Capacity

The Mental Capacity Act comes into play when an AAR has to make a decision.

In the case of safeguarding, it will relate to a suggested intervention to avert or manage risk.

The AAR must be presumed to have capacity to make the decision (Principle 1). A general statement about their lack of capacity is not permitted in law.

The onus is not on the AAR to prove they have capacity but on the professional to prove that they do not have capacity to make the decision.

The professional must complete and record a mental capacity assessment in relation to the specific decision that has to be made at that point in time (if the decision can wait until the person regains capacity then you are required to wait to allow them to make their own decision).

You have the duty to do what you reasonably can to enable the person to make their own decisions (Principle 2).

It must be acknowledged that people can be capacitated and make unwise decisions (Principle 3).

It does not follow that you should not proceed to a strategy meeting if the risks are medium to high or there is risk to others (as said before other partners may have duties) by proceeding to a multi-professional meeting the risk is shared.

If you have assessed the person as lacking capacity to make the decision re: the suggested intervention to avert risk, you are required to follow the best interests process to decide what is in their best interests (Principle 4); in making that decision you must consider whether the least restrictive option can be applied (Principle 5).

A new assessment and best interest's decision must be made for every safety measure that is being proposed where there are concerns about the person's capacity to make the decision.

A new mental capacity assessment and best interest's decision-making form has been compiled and must be used.

An Independent Mental Capacity Advocate (IMCA) can be appointed where a person is assessed as lacking capacity to make a decision, even if they have an advocate or a family representative involved.

This usually occurs when there is conflict in the decision-making or a conflict of interest, or the person representing them does not appear to be acting in the person's best interests.

An IMCA should be appointed where the decision is a significant one such as moving a person to alternative accommodation and they do not have family involvement or where a care review is proposed and they do not have anyone to represent them.

The SAMCLT is available to advise staff and managers on any matter related to the MCA 2005, whether it relates to Safeguarding or any other of your core functions such as care management, personalisation or mental health related work.

(The above section on MCA will not be repeated again through this form but remains relevant throughout – so keep it in mind all through the process)

- An AAR may accept or reject some of the measures suggested to them to avert risk; you should proceed to a strategy meeting if the risks are medium to high or there is risk to others – as said before other partners may have duties and further the risk is shared. You may also refer it to other panels such as MARAC, MAPPA and a new panel we are convening called The Safeguarding Adults Risk Management Panel.

- (A brief summary of the remit of these Panels is available at the end of this paper)

6.4 Deprivation of Liberty Safeguards

Some decisions that are made as part of this process may amount to a deprivation of liberty.

Some of these are:

- Moving a person to another care home or to a hospital setting and they are resisting the move
- Being stopped from leaving the home when they ask to do so often or make attempts to leave
- Applying restraints like constant supervision, 1:1, catches on windows, removing them to their room or a separate room thus restricting their freedom of movement and regularly stopping them from doing what they want to do on a regular basis
- Medicating them to control their resistance
- Restrictions on contact
- Moving someone to alternative accommodation against family wishes or their wishes
- Removing someone from the family home
- Not allowing someone to return to the family home

Depriving a person of their liberty outside of the legal framework is illegal. Some of these interventions may need a Court Order.

The SAMCLT undertakes the legislative duties in relation to DoLS on behalf of the Council. For any advice on these issues please contact the team,

Due to the low number of requests for authorisation, senior managers have made the decision that all cases for which placements are being considered whether local authority funded or continuing health care funded should be referred to the SAMCLT for scrutiny.

All cases that are being considered for decisions by the Court in relation to above must be discussed with the SAMCLT before proceeding to get legal advice or making an application to the Court except where an emergency order is required

Please heed above advice throughout the process – it will not be repeated, although will be relevant throughout

6.5 Strategy Discussion/Meeting(Refer to Guidance to accompany Forms – Appendix 1)

The guidance accompanying the forms clarifies when a strategy discussion or a strategy meeting should be held (Please refer to the guidance Appendix 1)

- The strategy discussion/meeting is **a multi-agency discussion** and must be recorded on the new form and circulated within 5 days. LBTH leads on the strategy meeting on behalf of BARTS but not EFLT.
- It can involve the AAR and must involve the IMCA if one has already been appointed but must also involve all agencies that can affect the investigation and action plan, including commissioning where the allegation involves commissioned service.
- Where the alleged perpetrator is also in receipt of community care services or eligible to receive community care services, their care co-ordinator/care manager/social worker must be invited to the strategy meeting and consideration must be given by the SAM to whether they need support or if a review of their needs is necessary.
- It determines the investigation plan and any other actions
- It should set the date for the case conference

In BARTS and EFLT, a dual process may ensue as a result of a safeguarding incident, so that the Trust may begin an investigation under their Serious Incident Procedures while the safeguarding process is being also progressed.

The strategy meeting should take into account that an investigation is being carried out and not seek to double up on the investigation if it is adequate for the purpose of safeguarding.

They must however inquire about timescales for completion of said investigation as this could have implications for meeting Pan London timescales and the SAM will need to record this digression from usual timescales.

It needs noting that the NHS London and the Police signed up to the procedures and therefore, it can be assumed that they concurred with the timescales

6.6 Safeguarding Investigation(Refer to Guidance to accompany Forms – Appendix 1)

The investigation report should

- Gather facts
- Get the views of the AAR/ advocate
- Show, if relevant, how the person was supported to participate in the interview
- Identify who else they spoke to, and their role, and their views
- List dates of all interviews
- Provide an evidenced based report that will stand up to scrutiny in a Court.

6.7 Safeguarding Case Conference(Refer to Guidance to accompany Forms – Appendix 1)

- This is a very important meeting as the AAR or AAR/Advocate must be invited to the meeting
- It is here that they will hear about the outcome of what has been done to address the abuse and how it is intended that they will be enabled to be safe
- They will be able to voice their views
- Interpreters should be invited, if required
- The AAR/Advocate should be briefed in advance by the SAM about what to expect at the meeting
- At the end of the meeting, the SAM should check how they are feeling about the outcome of the meeting
- If the case is going to be closed to the safeguarding process then the SAM must take this opportunity to ask the AAR/Advocate their experience of the process, what could have been better and whether they are satisfied with the outcome, and if not why (this information is required to be recorded in the Safeguarding Conclusion Form)

- The SAM should invite the relevant Council commissioning monitoring officer to the meeting, whenever a residential/nursing care home or other commissioned service is implicated in the alleged abuse.

6.8 Safeguarding Case Conference Review(Refer to Guidance to accompany Forms – Appendix 1)

(As Case Conference)

The SAM can arrange as many reviews as necessary until the risks are reduced or removed.

The AAR and/or advocate should be invited to the reviews.

6.9 Safeguarding Conclusion Form(Refer to Guidance to accompany Forms – Appendix 1)

The SAM completes this form.

This is vitally important as it helps us to improve the safeguarding process, the services people receive and the overall responses of the Council and other agencies

7. Safeguarding Adults and Commissioning

All services that LBTH commissions are required to comply with No Secrets, the MCA and DOLS where relevant.

7.1 Safeguarding adults

- Check the incident log and ascertain whether the incident should have been reported as a safeguarding alert and whether it was reported to LBTH and CQC
- Check how many incidents have been logged as safeguarding issues and whether these have been reported to LBTH and CQC
- Review case files to ascertain parity between incidents and reporting
- Review cases where there are concerns about mental capacity and ensure that MCA assessments and Best Interests Decision Making paperwork from Care Management are in files, and that staff are working to guidance provided to them by care managers

- When talking to staff or managers or reviewing files, use the DoLS checklist to check if clients may be being deprived of their liberty
- Check how many requests for DoLS have been made, and where an authorisation has been granted, check whether the care home has reported this to CQC

7.2 Commissioning and Prevention

- Check how many previous contacts have been made with LBTH that may highlight the overall quality of service delivered.
Early intervention to prevent deterioration in service may prevent future safeguarding issues
- Respond to concerns about service delivery as they arise along with the member of staff that undertook the assessment and arranged the support plan with the person.
All social care is commissioned by the Council in line with a support plan, a set of commissioning standards and a requirement to adhere to the law.
Any person arranging their care via a cash personal budget should be meeting their needs as identified in their support plan.

7.3 Commissioning and Safeguarding Adults Procedures

- It is helpful to invite the commissioning monitoring officer to the strategy meeting/case conference where the provider that is commissioned by LBTH is implicated in the abuse.
They will be able to provide information about their monitoring visits.
They will be able to inform on details of the service, numbers of people receiving services etc. They will be able to support the planning of the investigation.
They cannot investigate a safeguarding case but they can look into the wider compliance issues that relate to that provider.
- The requirement upon the SAM to invite the Commissioning Monitoring Officer to the safeguarding meetings is to ensure that specific contractual concerns are addressed.

7.4 Commissioning and SAMCLT

- The SAMCLT will also monitor the number of safeguarding alerts that are being progressed through safeguarding from specific services that are commissioned by LBTH and highlight concerns to commissioners
- Where there appears to be persistent abuse or recurrent themes the SAMCLT will take the lead on arranging a high-level strategy meeting as per the Pan London Procedures

7.5 CCGs and Commissioning

- The CCG commissions Hospital and Healthcare services. They are responsible for ensuring their compliance with safeguarding, MCA and DoLS. Where within the care management or the safeguarding process you identify poor practices within these services, you will need to raise these with your manager who in turn can raise the issues with the CCG. These include safe discharges where they do or do not meet the remit of safeguarding adults referrals.

7.6 Care Management and Commissioning

- Care Management for the purpose of this procedure is the process of commissioning and monitoring of a care package in relation to an assessment and identified and eligible needs. Where a provider does not meet the specification of the care package that has been purchased (including quality of care), the care manager has the responsibility to call the provider to account, and has responsibility to ensure that the care plan is being adhered to through a review. Note that not meeting their eligible needs could place the council at risk of a legal challenge.
- Care Managers are also responsible for ensuring that mental capacity assessments are completed in relation to eligible needs where there are concerns about their ability to make the specific decision. These assessments and the best interests decision must be given to the provider and guidance should be given to the provider about how to manage this need in a proportionate way. Failure to do so may result in staff not being compliant with MCA and therefore a safeguarding concern could result.

- Care Managers must also identify if they are placing a client in a situation where they are deprived of their liberty, or they see a deprivation of liberty occurring in a home, and support the home to make a request for DoLS, or themselves make third party applications. Contact the SAMCLT for guidance.

7.7 Overall Concerns about Care Provision

Concerns about overall care in an establishment falls within the remit of contract monitoring and not safeguarding.

These concerns should be raised with the Commissioning Monitoring Team where they pertain to LBTH commissioned services and the CCG where they relate to care in hospitals or in community health care

Situations can occur where

- 1) Several safeguarding incidents, including one's with a recurring theme, are occurring in a particular ward/care home/provision or
- 2) Incidents involve a particular staff member
- 3) An incident occurs that causes harm and is raised as an alert, following a series of low level incidents that have occurred that weren't raised as a Safeguarding issue.

In response to the above

- i) Retrospective alerts can be raised for each individual, provided that an investigation took place and plans to manage risk were identified. These can be considered at a high level strategy meeting (as per PAN London Procedures) (in relation to 1 only). This will be led by the LBTH SAMCLT.
- ii) Regarding 2 and 3, these clearly would come under the Safeguarding procedures. At least one alert for an individual must be raised. The strategy meeting will be led by the First Response Service. Other relevant concerns can be raised at the strategy meeting.

8 Safeguarding Adults and Audits

8.1 The SAMCLT will carry out an audit on 15 cases each quarter. Improvements that are required will be highlighted to the Service concerned and a quarterly report will be made available to Provider Services Senior Management Team.

8.2 Mental Capacity Assessments and Best Interests Decision Making processes will also be audited.

9 Safeguarding Adults and Wider Responsibility to Protect and Safeguard the Community

Various Panels receive referrals to address risk

SARMP – This is a new panel that will consider cases that other panels do not have a remit to deal with. These can be service users that do not fit the criteria to be considered under the safeguarding procedures and also people that do i.e. capacitated individuals that pose a risk to themselves or others (see terms of reference)

MARAC – considers cases where people are at risk of family/domestic violence

MAPPA – Considers cases where risks are associated with serious harm by sexual and violent offenders.

10SAMLCT (Safeguarding Adults and Mental Capacity Liaison Team)

This Team is a scrutiny and advisory team.

It considers the quality of safeguarding work through audits and from performance data provided by the Strategy and Performance Team and supports managers to support frontline staff to improve practice

It works with training and also directly provides briefings and workshops to ensure that staff have the right knowledge base to continue to work effectively to safeguard adults

It sources new information (good practice and case law) relevant to safeguarding adults work and also mental capacity and DoLS and disseminates this to managers to distribute to staff

It ensures that the tools that staff need to carry out safeguarding work are fit for purpose

It provides advice to frontline staff and managers on issues related to safeguarding adults, MCA and DoLS

It has the role to scrutinise all paperwork being submitted for a decision by the Court where these relate to people who lack capacity to make the decision in question or where a decision is being sought in relation to safeguarding a capacitated individual.

It carries all duties in relation to the Council's legislative duties as the Supervisory Body in relation to DoLS.

It works with the Commissioning services in LBTH to ensure effective monitoring of safeguarding issues, MCA and DOLS in services that have been commissioned by LBTH.

It works with internal and external partners to support them to meet their responsibilities to safeguard adults at risk.

It leads on high level strategy meetings and case conferences.

It also contributes to the Safeguarding Adults Board annual work plan.

11. Role of the Safeguarding Adults Board

The role of the board is to have strategic overview of how people are being safeguarded in LBTH

It meets 6 times a year,

Its membership includes statutory agencies and representatives from the third sector

Each year it sets priorities in a work plan based on any major issues that have arisen nationally and issues relevant to LBTH. All staff will be provided with a copy of the work plan.

Key documents / References

No Secrets 2000

<https://www.gov.uk/government/publications/no-secrets-guidance-on-protecting-vulnerable-adults-in-care>

Protecting Adults at Risk: London multi-agency policy and procedures to safeguard adults from abuse

<http://www.scie.org.uk/publications/reports/report39.asp>

MCA Case Law/other resources

www.39essex.com/newsletters

www.copcasesonline.com

www.mentalhealthlaw.co.uk

www.scie.org.uk

Mental Capacity Act Code of Practice

<http://www.justice.gov.uk/protecting-the-vulnerable/mental-capacity-act>

Deprivation of Liberty Safeguards Code of Practice

http://webarchive.nationalarchives.gov.uk/20130107105354/http://www.dh.gov.uk/en/Publicationsandstatistics/Publications/PublicationsPolicyAndGuidance/DH_085476

Appendix 1

Practice Guidance to Accompany Safeguarding Adults New Forms MARCH 2013, Updated July 2013

REVIEW DATE: March 2014

Key changes

- Forms have been aligned with the 'Protecting adults at risk: London multi-agency policy and procedures to safeguard adults from abuse.' (Referred to as the PAN LONDON PROCEDURES from here on)
- Forms take you to the process from beginning to end
- The process can end at any of the stages and at each stage a conclusion form must be completed
- Timescales are applied to all parts of the procedures and are reported on from the referral stage to the conclusion to Safeguarding Adults Board and included in the Safeguarding Adults Annual Report that is published and is publicly available.
- Forms have taken into account findings of the recent Serious Case Review
- Mental Capacity is threaded through the process to ensure compliance with the law
- Some decisions that are made under safeguarding can amount to a deprivation of liberty which would be unlawful if enacted outside of a legal framework, therefore DOLS is included in the forms
- The audit process that was carried out at the referral stage and at the end stage have been removed. Sample audits will be carried out instead.
- It is no longer the role of the Safeguarding Adults and Mental Capacity Liaison Team to notify the police if a crime has been committed or is alleged to have been committed (IT IS THE ROLE OF THE SAM)
- A person that is assessed as lacking capacity to make a decision about a safety measure, must be represented by an advocate, be it family, friend, or other advocate, or an IMCA

Key Issues

Failure to accurately assess whether the matter pertains to safeguarding adults at the alert stage or to properly follow procedures throughout, can lead to

- Serious risk to the individual or others
- Non-compliance with our statutory duties under 'No Secrets' 2000 and MCA, MCA/DOLS that can place the council at risk of litigation and results in an inappropriate and illegal outcome for the service user
- Failure to adhere to the Pan London Procedures
- Reputational risk to the council
- Disciplinary action
- Suspension or barring from practice

Key Definitions

Definition of Adult At Risk (AAR) – known as Vulnerable Adult under ‘No Secrets’

An adult aged 18 years or over ‘who is or may be in need of community care services by reason of mental or other disability, age or illness; and who is or may be unable to take care of him or herself, or unable to protect him or herself against significant harm or exploitation’ (DH, 2000).

Abuse

Abuse is

... A violation of an individual’s human and civil rights by any other person or persons. (DH, 2000)

Abuse is about the misuse of power and control that one person has over another.

Significant Harm is

- ill treatment (including sexual abuse and forms of ill treatment which are not physical)
- the impairment of, or an avoidable deterioration in, physical or mental health and/or
- The impairment of physical, intellectual, emotional, social or behavioural development.

(PAN LONDON PROCEDURES)

Decision Making Framework

Where a decision needs to be made the principles of the Mental Capacity Act 2005 apply (irrespective if the person is presumed to have capacity or otherwise)

The five statutory principles are:

A person must be assumed to have capacity unless it is established that they lack capacity.

A person is not to be treated as unable to make a decision unless all practicable steps to help him to do so have been taken without success.

A person is not to be treated as unable to make a decision merely because he makes an unwise decision.

An act done, or decision made, under this Act for or on behalf of a person who lacks capacity must be done, or made, in his best interests.

Before the act is done, or the decision is made, regard must be had to whether the purpose for which it is needed can be as effectively achieved in a way that is less restrictive of the person's rights and freedom of action.

(Mental Capacity Act 2005)

Alert

- The alert will come through as a contact for new or current cases and on Datix for Barts and EFLT
- A decision about whether the contact is a safeguarding concern has to be made within 4 hours
- A decision about whether it is a safeguarding referral should be made within 24 hours
- The police should be alerted if a crime has been committed or is alleged to have been committed.

What's new in this form?

- Additional information has been included in the contact form pertaining to Safeguarding Adults which must be completed
- Some cases will be straightforward and based on definitions above, you will be able to conclude quickly whether the alert should proceed through the safeguarding procedures
- Where it is unclear, it is at this stage you will gather information to decide whether the case should proceed to become a referral. You should record information and the decision in the case notes
- Information can be gathered by any professional that is competent to assess safeguarding concerns.
- Where the contact relates to a Safeguarding Adults issue, a manager who has had Safeguarding Adults Managers Training (post 3rd May) ideally must sign off whether the concern should proceed to a referral or end there.

NB: If the person is deemed not to be eligible for community care services and therefore fails to meet the threshold for safeguarding procedures and their actions could place themselves or others at risk, then a discussion must take place with the manager or/and the Safeguarding Adults and MCA Liaison Team about what other actions that may be taken

(A page from the Protecting Adults at Risk: Multi-Agency Pan London Procedures is attached to this guide on the alert process – you are required to adhere to it)

Safeguarding Referral Form

When a decision has been made that a safeguarding concern is a referral, then the Safeguarding Adults Manager (SAM) has 24 hours within which to make the decision about whether to proceed to a Strategy Meeting or Strategy Discussion. We have added together the time that it takes to make the decision about whether to proceed with the alert through the procedures and the time that is allowed to make a decision that a strategy discussion/meeting will be held, thus this stage should be completed within 48 hours. In order to make that decision, the referral form has

- Been written in such a way that it guides you through the process to gather the information required.
- Provides “hidden” guidance that explains questions that staff may need clarity about
- This form must be completed by a professional with safeguarding investigation training
- It must be signed off by a manager who had SAM training

What is new in this form?

- A new risk assessment tool has been compiled
- Explicit reference is made to requirements by law to carry out capacity assessments where there are concerns about someone’s ability to make a decision
- Explicit Reference is made to Best Interests Decision Making as required by the Mental Capacity Act 2005
- Decisions made within the safeguarding process to protect an individual who has been assessed as lacking capacity can result in a Deprivation of Liberty, therefore reference is made to the Deprivation of Liberty Safeguards

FAQ

How are we expected to complete these forms within 48 hours given the level of detail required?

- In many cases all the information can be gathered by phone.
- In many cases a risk assessment can be carried out on the phone.
- It is really only when an intervention to avert risk has to be put in place where the client (P) has to make a decision, you will need to see them in person
- You will need to carry out a capacity assessment in person but you only need to do this if P has to make a decision and there are concerns about P’s ability to make that decision. (NOTE: that even if P agrees

with your suggested intervention, if there are concerns about their ability to make that decision you absolutely must carry out a capacity assessment)

- You can carry out the best interests decision making process over the phone (you do not have to arrange a meeting), but you will need to follow the checklist as required by S4 of the MCA 2005 to reach the decision

Carrying out a Mental Capacity Assessment can take a lot of time, how can we then be expected to meet this timescale?

- As staff become more confident in carrying out capacity assessments they will find that they do not necessarily take as much time. Much of the work that has to be done is at the preparation stage. Further Mandatory MCA/DOLS training will be provided shortly.
- The mental capacity assessment should ideally be carried out by a professional that knows P, unless there will be a conflict. The SAM must own the outcome and also ensure that the best interests process has been properly followed, as ultimately they are the decision maker for the case.
- Sometimes you may need to go back to see P a second time to make a decision about whether they have capacity to make the decision and this will take time
- Sometimes you find that gathering information to make a best interests decision is not as easy because a significant person who should be consulted is away on holiday or the like.

In the last two scenarios, you will need to ascertain how quickly a decision has to be made in order to avert risk – if you can wait you must and if you cannot because of the level of risk, for the former you will make a decision on the balance of probabilities and the latter you will note the absence of the significant person and involve an advocate or an IMCA.

Where you can wait to make a more accurate assessment and a best interests decision, then you may transgress timescales. This would be an acceptable reason to give for why you did not meet timescales as it is in P's interests to delay.

NOTE: Staffing issues would not be a good enough reason to delay the process or timescales

When all information is gathered the SAM has to make the decision about whether to proceed to a strategy meeting or strategy discussion.

A decision not to proceed with the meeting may be because:-

- The person is not at risk of abuse or neglect and there is no need to investigate or take further action under the procedures. The decision will be recorded with the reasons and an alternative plan formulated if necessary

- No formal investigation is needed and a protection plan can be put in place to remove or reduce the risk to the adult. The adult at risk agrees with this decision and with the plan. The plan should specify a method and time for review and indicators of risk that might trigger further action under the procedures

A best interests decision has been made following the best interests checklist and measures are in place to remove and reduce the risk to P, and these arrangements do not amount to a Deprivation of Liberty

The SAM decides who MUST be invited to the meeting.

Strategy Meeting/Discussion Form

(It must be convened within 5 working days from the decision that this is a safeguarding referral and may include the AAR if appropriate and may include an IMCA if one has been instructed)

Strategy Discussion

A strategy discussion is a **multi-agency discussion** and may be held

- to avoid delay due to risks
- where fewer organisations are involved
- a meeting is not necessary to ensure that a protection plan is put in place

This meeting may be held by phone or secure email but minutes must be recorded using the Strategy Meeting Form, and circulated within 5 days

A strategy meeting should be held depending on

- the potential risk to the person being harmed
- the risks to others from the person causing harm
- where there are various organisations working with the individual
- where several organisations have concerns and need to share information
 - where there may be a number of investigations by different organisations
 - where there may be legal or regulatory actions
- whether the allegation involves a member of staff/volunteer or the safety of a service
 - Whether the situation could attract media attention.

What's new?

- There is a specific form to minute strategy meetings and discussions
- It is pre-populated with previous information that has been recorded and is relevant and all you will be required to do is update it
- It also includes the agenda for the strategy meeting or discussion
- The minutes must be sent out within 5 days of the strategy meeting having taken place

The SAM can close the case to safeguarding at this stage if the discussion or meeting decides that

- No investigation is needed
- It is not a safeguarding adults issue
- A plan is in place to remove and reduce risk and the Adult at Risk (AAR) agrees with it
- A best interests decision has been made following the best interests checklist and measures are in place to remove and reduce the risk to P and these arrangements do not amount to a Deprivation of Liberty

Investigation Form

(The investigation must be completed within 20 days of the receipt of the referral)

This form has merely been simplified

The SAM can close the case to safeguarding procedures if there is no evidence that abuse has occurred, otherwise they must proceed to the case conference

Case Conference Form

(The case conference must be held within 5 working days, of receipt of the investigation report by the SAM)

What is new?

- This is a new form that has been created
- It has been prepopulated with information that must be considered in the conference
- It requires that a decision on whether a review will be convened

The SAM can close the case to safeguarding procedures at this stage but if there are outstanding safeguarding actions that have not been resolved or will not be resolved in another arena, they must hold a review. They should set

the date at the conference and it has to be within 3 months from the date of the conference.

Safeguarding Review Form

(The Review must be held within three months of the conference or at a time agreed by the conference, however this cannot be later than 3 months from date of conference)

What is new?

- This is a new form
- It is prepopulated with what you must consider in a review

The SAM can close the case to safeguarding procedures at this stage unless there are outstanding safeguarding issues that need to be reviewed at a further review. As many reviews can be held as needed unless the matters have been resolved

Safeguarding Conclusion Form

The form is completed by the SAM. It is self explanatory.

There is a section in that asks about the AAR's experience of the process. It is advised that the SAM takes some time out with the AAR to discuss this with them

Where the AAR was assessed to lack capacity to make decisions about the safety intervention/s then their view should still be gauged, and also that of their advocate.