

Section 42 enquiry: potential actions for providers

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1 All about a Care Act 2014 Section 42 enquiry

When a safeguarding adults concern is reported to it, the local authority will decide if a Care Act Section 42 enquiry should take place. Section 42 of the Care Act 2014 says:

“Where the local authority has reasonable cause to suspect that an adult in its area (whether or not ordinarily resident there)

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

The local authority must make (or cause to be made)

- whatever enquiries it thinks necessary
- to enable it to decide whether any action should be taken in the adult’s case...
- and, if so, what and by whom.”

Durham County Council leads on safeguarding adults; it cannot give up the legal duty. The Council may ask other organisations to gather information or carry out specific tasks for Section 42 enquiries when they are the most appropriate to undertake them.

The relevant partners with a duty to cooperate in a safeguarding enquiry include:

- other local authorities
- Police
- NHS Trusts and services
- Department of Work and Pensions
- Her Majesty’s Prison Service
- The Probation Service
- Registered social housing
- Commissioned providers.

The shape of each Section 42 safeguarding adults enquiry will depend on the individual circumstances and responses should be proportionate. This guide lists actions that are frequently appropriate to carry out and tasks that the local authority may request, in order to support a S42 enquiry into a safeguarding adults concern.

2 Actions and tasks that may be appropriate or requested

- Check what you should do in line with your organisation's safeguarding policy and procedures, and as relevant, your organisation's whistleblowing policy and procedures, complaints processes, and disciplinary procedures
- Work with your organisation's safeguarding lead if it is not you
- Uphold Human Rights, the Care and Support Statutory Guidance six safeguarding principles, the five Mental Capacity Act (MCA) principles, and Making Safeguarding Personal
- Closely liaise with the S42 enquiry safeguarding lead in Durham County Council (DCC) eg DCC Adult Protection team / DCC Practice Improvement Officer / DCC Social Care Direct / DCC Community Coordinator
- Make use of DSAP multi-agency procedures
[Policies, procedures and forms - Durham Safeguarding Adults \(safeguardingdurhamadults.info\)](https://safeguardingdurhamadults.info)
- and DSAP single topic resources eg Self-neglect briefing
[Good practice guidance for professionals - Durham Safeguarding Adults \(safeguardingdurhamadults.info\)](https://safeguardingdurhamadults.info)

Safeguarding Adults in Care Homes NICE Guidance February 2021

This detailed guidance is useful for all employers and managers in all care settings

- Open to refer to during the Section 42 enquiry

Visit [Recommendations | Safeguarding adults in care homes | Guidance | NICE](#)

Information gathering and enquiry actions good practice tool

- This tool should be used from the start - see Appendix 1 below
- Use the suggested headings to make your own form and records.

Check what has already been done, what information gathered and the outcome

- does the adult need support, medical help, someone to be with them?
- check your safeguarding incident log for any history
- the [Provider Checklist.pdf](#) for dealing with a safeguarding concern may be helpful.

Plan

- what other information should be gathered and from whom?
- using the 'Information gathering and enquiry actions tool'.

Liaise with police as appropriate

If a crime is suspected or becomes a possible finding during the S42 enquiry, support the adult to report to police if they have not already done so, or report yourself if not reported already, and liaise with police if has been reported.

- Do not prejudice any police investigation.

Preserve evidence

Depending on the situation, evidence may be required by the police, by the Courts, by the Care Quality Commission, and for your disciplinary processes

- ensure evidence is not damaged
- ensure **No Cleaning** of physical or forensic evidence before police presence
- if there is CCTV or other recording ensure it is saved not deleted
- take steps to ensure records, file notes, logs, care notes, medication administration record (MAR) charts, hydration and nutrition charts, etc, both paper and electronic, are kept safe, backed up, and are not damaged, removed, or deleted, especially by whoever is alleged to have caused harm.

Support for the adult

See [NICE guidance section 1.8: Support during a safeguarding enquiry](#)

- Making Safeguarding Personal is an approach to put into practice
- Ensure the adult's communication needs are met
- Ensure conversations with the adult are held in a sensitive and non-judgemental way
- Similarly hold conversations with the carer or family members as relevant
- Find out what the person's wishes are in relation to safeguarding where possible and what they would like to happen – what outcomes they would like
- Continue to ask about the adult's wished-for outcomes with each conversation
- Find out how involved they want to be and ensure they are invited to meetings / informed of what happens as appropriate
- Clarify when and what consent is required for safeguarding intervention
- The person's capacity may need to be assessed, including to understand risk, keep themselves safe from abuse and neglect, and potentially to agree to a care and support needs assessment
- When considering capacity be aware of underlying causes for self-neglect and of the impact of hidden disability, acquired brain injury

[What should I say...? Advice for Starting Difficult Conversations - Ann Craft Trust](#)

Adults who are reluctant to engage

- Use motivational interviewing techniques – gaining trust and engagement
- Who else might have a trusted relationship? Involve them as appropriate
- New DSAP workshop on motivational conversations is in development.

Staff

See [NICE guidance section 1.9: Support for staff](#)

Hold discussions and interviews with staff (and or volunteers) as appropriate

- Follow your disciplinary procedures e.g. ask if staff to be interviewed want to be accompanied / have union representation etc; what and when in writing
- Move staff to other duties / suspend as appropriate
- Support staff who are the subject of a safeguarding enquiry
- Ensure whistle-blowers are protected, supported and informed
- Be as open with other staff as possible but maintaining confidentiality
- Seek agreement with the local authority over what can be shared.

Indicators of organisational abuse and neglect

Check with [the NICE guidance section 1.42](#) for indicators of possible organisational neglect or abuse. It sets out:

- When to 'consider' abuse or neglect may be an explanation

- When to 'suspect' abuse or neglect is taking place
- Actions in both cases.

Involve others as necessary

- Other professionals or organisations may be vital in both gathering information and in follow up action/safety planning e.g. hold a Multi-Disciplinary Team (MDT) meeting
- DSAP 'relevant partners' have a duty to cooperate in safeguarding enquiries.

Analyse your findings and the information you have gathered

- Create a chronology or timeline of events; a calendar format may be helpful
- Triangulate your evidence – is it corroborated / could it be?
- Assess the impact and future risk
- Follow up lines of enquiry generated by the information e.g. someone else to speak to.

Develop action plan to address the adult's situation

- With the adult and or their carer/family and or professionals maybe in an MDT
- Focus on safety, removal of risk, harm reduction, proportionate action
- Set a review date and process.

Develop action plan for your organisation

- Identify learning and key lessons
- What might be required next? e.g. training, quality standards, audits, new procedures
- Incorporate learning into your organisation's culture at all levels
- Set a review process and dates.

Accountability and regulation

- Record decisions and your reasons / rationale for them throughout
- Timely and ongoing reports and feedback to DCC
- Notify regulatory bodies as and when appropriate eg CQC, Disclosure and Barring Service, Office of the Public Guardian, Charity Commission, professional bodies...

3 Further resources

- DSAP free training course, Roles and Responsibilities for Providers, visit the webpage
[Training - Durham Safeguarding Adults \(safeguardingdurhamadults.info\)](http://safeguardingdurhamadults.info)

4 Appendix 1 Information gathering and enquiry actions good practice tool

Safeguarding Adults: Information Gathering and Enquiry Actions Good Practice Tool

Part 1 Basic Information:

Adult at risk
Name/other info

Person/s/organisation alleged to have caused harm
Name and contact details of all

Enquiry details

Date of incident
Date reported

Safeguarding adults manager – name and contact details

DCC safeguarding enquiry officer lead - name and contact details

Any other officers contributing to this enquiry
Name/s job title/s and contact details

Other relevant people involved eg social worker/s key worker/s, family, neighbours
Name/s job title/s and contact details

Part 2 Information about the adult(s) at risk:

Summary of the person for example, their current circumstances, relevant information about support needs, services received, support networks, family relationships. Include the adult's or their representative's views and wishes in relation to undertaking the enquiry actions you have assigned.

Mental Capacity of the Adult at risk – Details of any concerns around specific issues relating to the capacity of the adult at risk. Include details of any capacity assessments undertaken and what steps have been taken to arrange for a representative or advocate to be involved. Does the person need an advocate?

Is an advocate involved?

Yes / no

If yes name and contact details of advocate

Desired outcomes of the Adult at risk – Desired outcomes are those changes that the adult at risk wants to achieve from the support they receive, such as feeling safe at home, access to community facilities, restricted or no contact with certain individuals or pursuing the matter through the criminal justice system.

If the person lacks capacity, then the desired outcomes will need to be decided in the adult's best interests, including what the adult wishes for or would have wanted as far as can be ascertained.

Part 3 Information leading to this enquiry (Precis to the Concern/s)

Any information pertinent to the concern, history of previous concerns, escalation of any risk, and the types of abuse.

Details of the allegation (if more than one allegation please detail them separately with types of alleged abuse).

Be specific – give dates, times, places.

Include any other relevant background information that was sought during the Initial Enquiry or at the strategy meeting.

Include details of previous allegations of abuse or patterns of abuse and outcomes. (Include dates, details of alleged abuser)

Circle all types and patterns of abuse identified

Physical abuse
Domestic violence or abuse
Sexual abuse
Psychological abuse
Financial/material abuse
Modern slavery

Discriminatory abuse
Organisational abuse
Neglect/acts of omission
Self-neglect
Sexual exploitation

Part 4 Chronology

Details of dates and times and general description of each activity undertaken during the enquiry, e.g. statements, interviews, visits, meetings, telephone calls, paperwork/files checked, i.e. everything you have undertaken as part of the enquiry.

Additional information can be attached separately but should be clearly marked, for example, where evidence/reports/statements are available these should be attached as an appendix.

Chronology suggested headings

Date	Time	Source: e.g. Case record, interview, visitors book, phone call	Detail of activity
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Part 5 Findings

Should be a summary of the information obtained from the enquiry including any interview with person alleged to have caused harm e.g. staff member. Indicate fact from opinion.

Highlight any inconsistencies or evidence which contradicts another piece of evidence where this may occur.

Also include details of any information you were denied access to or were unable to obtain, the reasons for this and any judgement that you have made regarding this.

Include impact of adult at risk and/or others and intent of person alleged to have caused harm if known.

Have you spoken to the adult at risk?

Yes/no

If no record reason

Have you spoken to the person alleged to have caused harm, if directed to do so?

Yes/no

If no record reason

Summary of findings

Part 6 Conclusion

What the organisation intends to do, to keep the person safe and inform any safeguarding plan?

Whether the organisation thinks there is sufficient information to determine whether or not the incident/events occurred?

What will this mean for any paid staff or volunteers e.g. Disciplinary action, informing professional bodies, DBS referrals, training?

Signatures(s) Dates, if typed and emailed, is the email sufficient to confirm signatory (check with your own organisation)