

Responding to Safeguarding Adult Concerns – Local Practice Guidance



This is an approved North Somerset Safeguarding Adult Board document and should not be edited in any way

Reference Number: NSSAB006
Target Audience: Council safeguarding adults decision makers and coordinators
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North Somerset Council's People and Communities Directorate is the lead agency for responding to safeguarding adults concerns when the location of the alleged abuse is North Somerset.

This document describes the action that will be taken when a safeguarding concern is raised and is based on the suggested framework "Making decisions on the duty to carry out Safeguarding Adults enquiries." (LGA/ADASS 2019). It describes the process that will be followed in terms of practice, recording and reporting safeguarding responses and activity.

1. Overall principles:

- Empowerment
- Prevention
- Proportionality
- Protection
- Partnership
- Accountability

We will adhere to the principles above and;

- Ensure the safeguarding response is personal to the individual
- Ensure the desired / negotiated outcomes for the adult are established, recorded and reviewed
- Ensure there is clarity as to whether there is legal duty to carry out a section 42(2) enquiry
- Ensure the response is proportionate

2. What is a Safeguarding concern?

Everyone has the responsibility to report signs of suspected or actual abuse or neglect of an adult who they believe may have care and support needs and could be unable to protect themselves as a result of these needs.

Any sign of suspected or actual abuse or neglect that is reported to the Council or identified by the Council will be treated as a safeguarding adults concern.

3. Who makes S.42(1) decisions?

The following table determines who the Section 42(1) decision maker is when a safeguarding concern is received:

Table 1

Commissioner for Alleged Adult at Risk	Team to make initial decision
Continuing Health Care (BNSSG)	Safeguarding Adults Team
North Somerset CTPLD	North Somerset CTPLD
North Somerset AWP, or open case to secondary mental health services within the last 12 months	AWP Mental Health Teams
Any commissioning team outside of North Somerset (Health or Social Care)	Safeguarding Adults Team
North Somerset Adult Care or people funding their own care	SPA/Integrated care teams
People living in their own homes otherwise not known to services	SPA/Integrated care teams

4. Safeguarding Adults Concerns

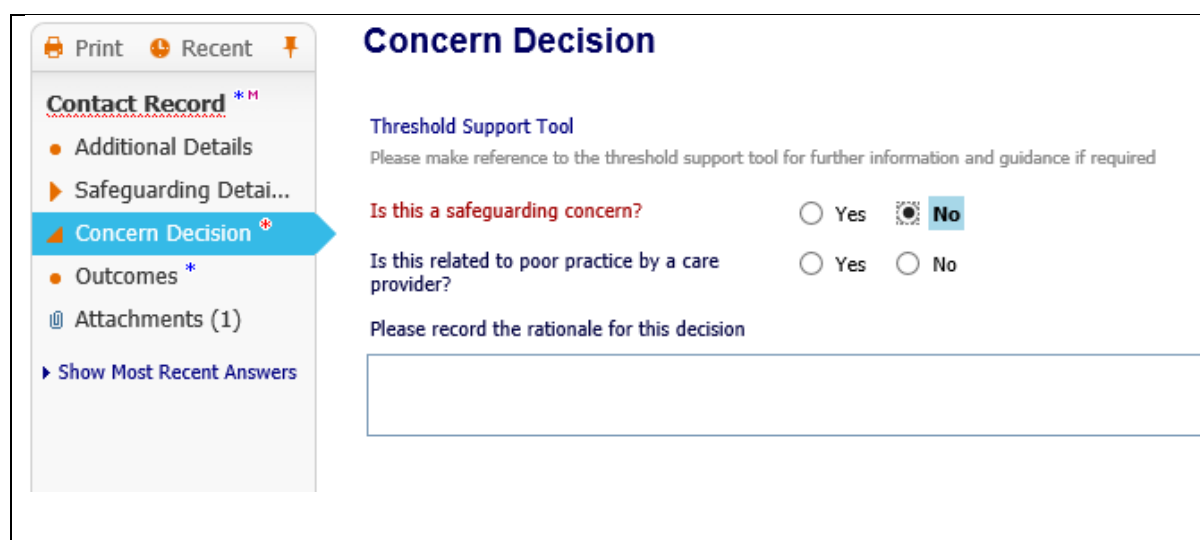
The adult at risk or an appropriate representative such as a person with relevant power of attorney should know that a safeguarding concern has been raised, unless it compromises the adult's wellbeing or safety.

Good practice would be to inform them before the Council is contacted.

Within one working day of receipt of the concern at Care Connect, SPA will establish if there is the potential for the statutory criteria (S.42(1)) to be met.

They will do this by considering the content of the presenting information.

If there is no evidence of potential for the statutory criteria to be met, SPA will record the decision within the contact record as follows;



The screenshot shows a web-based form titled "Concern Decision". On the left is a navigation sidebar with a "Contact Record" header and several menu items: "Additional Details", "Safeguarding Detai...", "Concern Decision" (highlighted in blue), "Outcomes *", "Attachments (1)", and "Show Most Recent Answers". The main content area has a "Print" and "Recent" button at the top left. Below the title, there is a "Threshold Support Tool" section with a note: "Please make reference to the threshold support tool for further information and guidance if required". Two questions are present: "Is this a safeguarding concern?" with radio buttons for "Yes" and "No" (selected), and "Is this related to poor practice by a care provider?" with radio buttons for "Yes" and "No". Below these is a text box labeled "Please record the rationale for this decision".

A rationale for this decision will be recorded.

Any further actions required such as multi agency liaison, signposting or alternative referrals will be recorded within case notes.

SPA may undertake further information gathering to enable a section 42 decision or passed the concern to the relevant team as per table 1 above when more intensive work is required.

5. S.42(1) Decision making

Safeguarding decision making will always have regard to the six principles of safeguarding;

- Empowerment
- Prevention
- Proportionality
- Protection
- Partnership
- Accountability

The duty to carry out a safeguarding adults enquiry is defined in The Care Act 2014 Section 42(1). This section of the act sets out what is referred to as “the statutory criteria”.

In order to establish if there is a duty under S.42(1), when a safeguarding concern is raised the decision maker will consider if there is *reasonable cause to suspect* that an adult;

- has care & support needs
- is experiencing, or is at risk of abuse or neglect *and*
- can't protect themselves *as a result of their care and support needs.*

And

Establish the views of the adult on the nature, level and type of risk and support they need to mitigate the risk

The decision maker will clearly record their rationale for their s.42(1) decision.

Section 42 Decision

Does the local authority have reasonable cause to suspect that:

The adult has needs for care and support (whether or not the Local Authority is meeting these needs)? Yes No

The adult is experiencing, or at risk of the experience of, abuse and neglect? Yes No

As a result of those care and support needs, the adult is unable to protect themselves from either the risk of, or the experience of, the abuse and neglect? Yes No

Please record the rationale for this decision (including whether you reasonably suspect the adult is experiencing, or at risk of, abuse or neglect).

In their recording, the decision maker will be considerate of language;

- making reference to the 'statutory criteria' not 'threshold'.
- using language associated with the 6 principles when explaining how the decision has been arrived at.

The priority is to gather good quality information at this stage in order to decide whether the three statutory criteria are met. Information gathering must be proportionate to the complexity and risk associated with the safeguarding concern.

In making decisions around proportionality, the decision maker must take into account whether this is a lawful interference by the state in private family life

In undertaking *proportionate information gathering* the decision maker will;

i. Make safeguarding personal by considering:

- What is the view of the person or their representative on their situation?
- What are their desired outcomes?
- Is an advocate needed?

Making safeguarding personal principles do not mean walking away. If someone declines intervention; that is not the end of the matter, the council still has a duty to consider how to reduce or manage the risk.

ii. Consider public interests including risks to a wider cohort of adults with care and support needs.

Does the person allegedly causing harm occupy a position of trust?

iii. Gather information

Consider the nature and degree of risk or potential harm, having regard to the policies and procedures of North Somerset Safeguarding Adults board in deciding whether there is reasonable cause to suspect abuse.

6. Mental capacity in S.42(1) decision making

The decision maker will always consider the Mental Capacity act in S.42(1) decision making.

At the S.42(1) stage, the council must consider whether there is a *suspected or diagnosed mental impairment* that could affect the person's decision making around the safeguarding concern.

For instance, does the person understand the nature of the concern or degree of risk? Are they able to make decisions regarding their safeguarding plan?

A judgement must be made as to whether as part of proportionate information gathering, a mental capacity assessment is undertaken at the S.42(1) stage or as part of a S.42(2) enquiry.

A mental capacity assessment must always directly involve the adult at risk.

The decision maker will be transparent about application of the 5 Principles of the Mental Capacity Act;

1. Assumption of capacity
2. Taking all practicable steps to support someone to make their own decision
3. Right to make unwise decisions
4. Best Interests
5. Less restrictive options

and ensure mental capacity assessments and best interests decisions are clearly documented.

7. Concern outcomes

The council will aim to make S.42(1) decisions within 2 working days of a concern being received at Care Connect.

However, progression from S.42(1) to S.42(2) should not be seen as hierarchical. The priority remains good quality information gathering which keeps the views and wishes of the adult at risk central to any decision making. When there is a valid rationale and adults are not placed at increased or unacceptable risk as a result, decisions may take up to 5 days, and the council may change its mind during this period as new information is received.

In deciding if the statutory criteria are met, the council will have regard to the relevant [policies and protocols of North Somerset Safeguarding adults board](#).

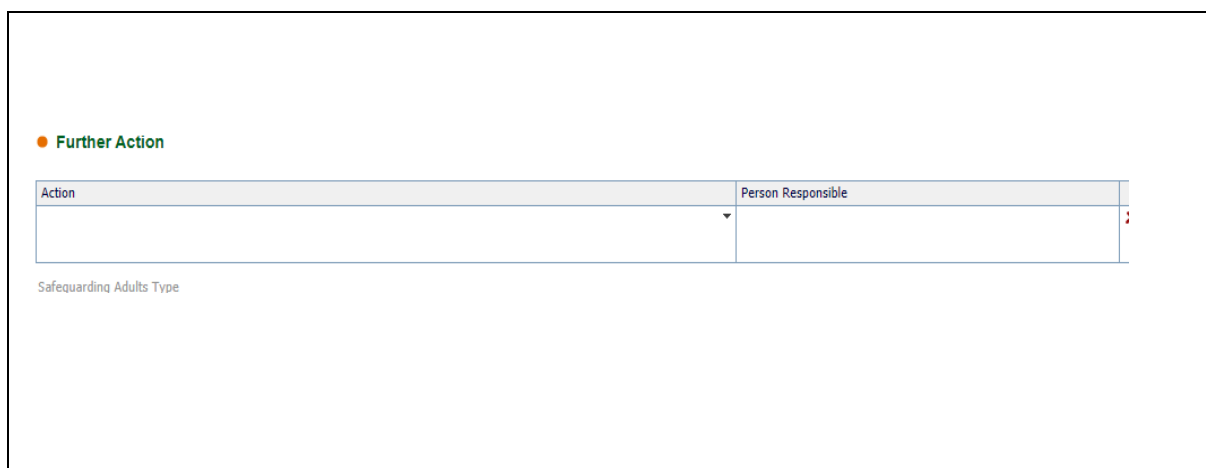
If the statutory criteria in S42(1) are met, the enquiry and decision on what action to

take **(including taking no action)** will follow under the duty to make enquiries described below under S42(2).

The decision maker may change their mind in the early stages of a safeguarding response. During the early phase (approx. 5 days) the decision maker will remain open to reviewing the S.42(1) decision as more information is gained.

The 'enquiry type' can be changed on the closure page if the decision maker changes their mind within this period.

All actions taken in response to a safeguarding concern that does not meet the statutory criteria must be recorded in the relevant table within LAS under Threshold Decision Making



The screenshot shows a section titled 'Further Action' with a table below it. The table has two columns: 'Action' and 'Person Responsible'. Below the table, the text 'Safeguarding Adults Type' is visible.

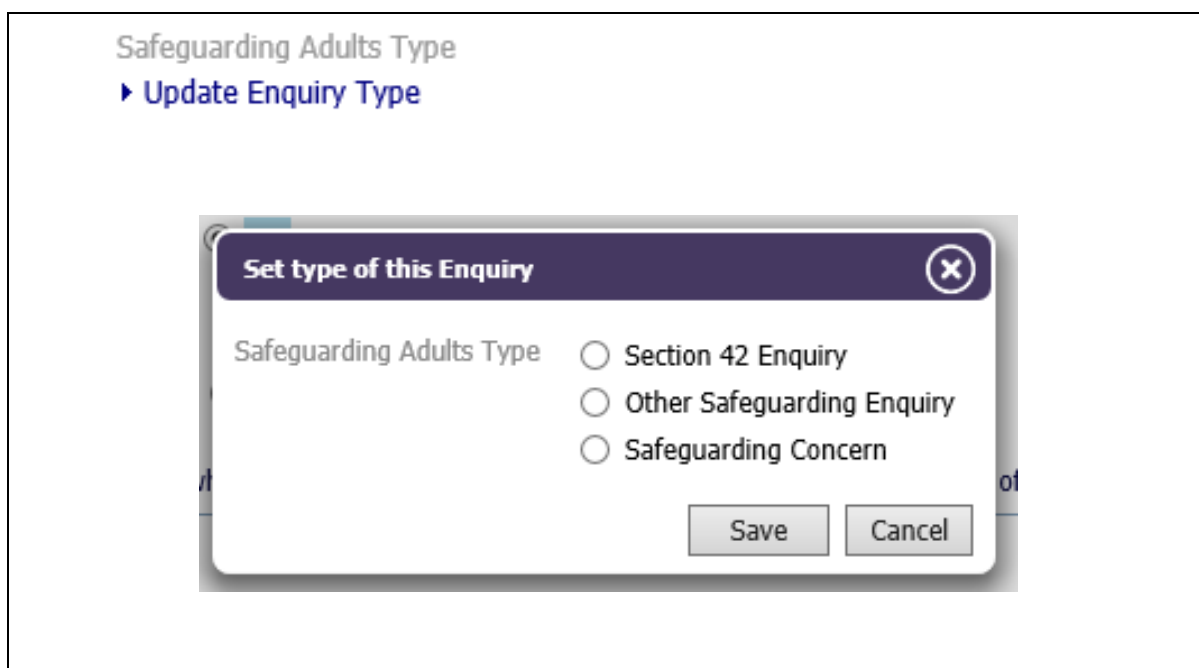
Action	Person Responsible

Safeguarding Adults Type

If the statutory criteria are not met, the contact remains with the enquiry type recorded as a 'safeguarding concern'.

Non-Statutory Enquiries ('Other' Enquiries)

In some cases where all the statutory criteria are not met, the council may deem it appropriate and proportionate to undertake an enquiry using the safeguarding adults mechanism. When enquiries are undertaken despite not having met the three statutory criteria, these are referred in North Somerset as 'Non-Statutory enquiries' with the enquiry type being recorded as 'Other safeguarding enquiry' within LAS.



The decision must be communicated by the decision making team, to the person who raised the concern unless there is an overriding duty of confidentiality. (Such as a concern raised by a member of the public where sharing further information about the adult at risk would not be appropriate)

8. S.42(2) Safeguarding Adults Enquiries

When should a safeguarding adults enquiry be undertaken?

In every case where the statutory criteria in S42(1) are met, the enquiry and decision on what action to take (**including taking no action**) will follow under the duty to make enquiries under S42(2).

What is a safeguarding adults enquiry under S.42(2)?

An enquiry need not be lengthy or complicated, however small the enquiry is, it should be recorded and reported under the S42(2) duty if there was reasonable cause to suspect that the statutory criteria were met.

“An enquiry could range from a conversation with the adult...right through to a much more formal multi-agency plan...” (Care and Support Guidance

Who carries out safeguarding adults enquiries?

Enquiries are undertaken through North Somerset Council making, or causing 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.

North Somerset Council will coordinate all safeguarding responses and consider who is best placed to undertake enquiries and 'cause others to enquire' if they are best placed to do so. Safeguarding adults enquiries are often multi-agency, as such, different people / agencies may be asked to address different objectives and partner agencies must be involved in both enquiry and safeguarding actions when appropriate.

An investigation template as at Appendix 1 is available [here](#) and can be used to direct the enquiry actions of organization whom the local authority may cause to carry out an enquiry, for example a care home or health provider.

If a crime is suspected the police must lead the criminal investigations. The Council must promote the wellbeing of the adult while the criminal investigation is carried out. Once the police have concluded their investigations, particularly in cases where they decide not to proceed, the Council must consider what action they may still need to take.

Proportionality in safeguarding enquiries

Safeguarding enquiries must consider whether there is a lawful basis for the state to interfere in private family life.

Even when all relevant actions have been taken prior to the S.42 decision, the council will proceed to act, record and report actions under S.42(2) if the statutory criteria are met.

There will be very few occasions when 'no action' is recorded or reported as an outcome because the council will identify all actions taken, starting from the time the

incident occurred, not just actions resulting from the safeguarding concern being raised to the council.

The council is responsible for satisfying itself that these actions have been completed.

We will do this by ensuring conversations are held with teams, organisations or departments to agree follow up actions – we will not make assumptions. These conversations and decisions regarding follow up actions will be documented.

What is a safeguarding adults enquiry and what are the objectives?

In undertaking safeguarding adults enquiries, the council aims to;

- Be person-led and focused on the adult's strengths and desired outcomes
- Engage the person and enhance involvement, choice and control
- Improve the person's quality of life, wellbeing and safety.
- Assess the needs of the adult for protection or support; provide protection from abuse in accordance with their wishes
- Establish the facts

In order to achieve these objectives the council will;

Ascertain the adult's views and wishes and desired outcomes, or those of their representative such as a friend, family member or involve independent professional advocacy when the adult has substantial difficulty representing themselves and there is no other appropriate person to represent them.

Have conversations in order to negotiate realistic outcomes when required.

The wishes of the adult are very important, whether they have capacity or not. The adult at risk's views and wishes will be documented and reviewed at each stage of the enquiry.

Consider the wellbeing of the adult and how this can be promoted. For example by ensuring the adult has adequate opportunity to appropriately influence outcomes and by referring on to appropriate support services.

Adhere to the mental capacity act and its 5 principles. Mental capacity assessments and best interests decisions will be documented, making explicit how the 5 principles are adhered to.

Assess the adults ability to protect themselves and adopt strength based and personalised practice by identifying resources the person can draw upon, financially, socially, within their family, community or physical environment to achieve their desired outcomes?

Protect the person from the abuse or neglect, by developing and documenting a safeguarding plan in accordance with their wishes by assessing risk and developing a plan to mitigate the risk of further abuse at an early stage and reviewing this according to the enquiry findings.

SMART principles will be applied to agreed actions and recording by making specific, measurable, achievable, realistic and timescaled actions with responsibilities for actions made clear.

Safeguarding Plan

● **Financial and Material**

Please detail the actions taken to minimise the risk of further abuse

Date Developed	Source of risk (PACH)	Detail of risk	Initial risk level	Action	Deadline	Person/agency responsible	Anticipated level of risk with safeguarding plan in place

Consider risk to important relationships including the potential for any action to increase risk.

Establish facts by developing and following an enquiry plan. Document what further information is to be gathered, by whom and by when. Adhering to SMART principles.

Enquiry Plan

● Financial and Material

Date Developed	Detail of risk	Is an enquiry action required?	Information required	Deadline	Person/agency responsible

Gather feedback in order to develop findings and draw conclusions. Document the evidence used in drawing conclusions and how this has been weighed up.

Enquiry Finding

● The Enquiry

Evaluate the evidence and summarise your conclusions

Case conclusion

What are the views of the adult at risk now (or their advocate)?

What are the views of relevant others
e.g. family, other professionals

What actions or recommendations are made as a result of the enquiry?

How will the enquiry recommendations be followed up?

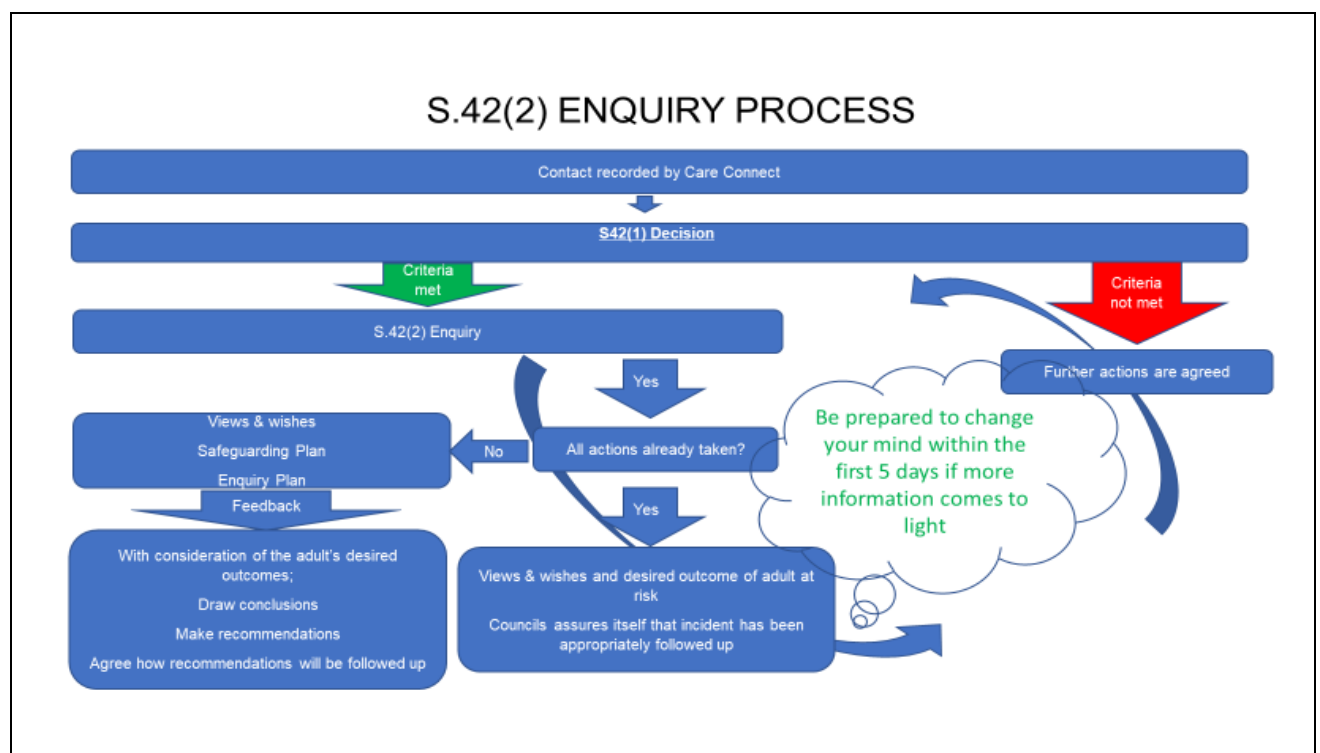
What risks remain?

Assess the needs of the adult for protection, support and redress and how they

might be met by making recommendations according to the enquiry findings.

Make decisions, with the adult, about what follow-up action should be taken with regard to the person or organisation responsible for the abuse or neglect and ensure there is a plan for how recommendations will be followed up,

Enable the adult to achieve resolution and recovery by ensuring they are aware of enquiry findings and for example, working with multi-agency partners including police, regulators, complaints processes and HR procedures.



9. Safeguarding Adults Meetings

If it is felt appropriate to hold a meeting as part of the safeguarding response then the safeguarding adults team must be contacted to make the necessary arrangements using the [meeting request form](#). The safeguarding coordinator should use this to inform the safeguarding adults support officer of the need for a meeting and the names and contact details of people to be invited.

The adult should be supported to attend any meetings in relation to the safeguarding concerns. If it is not possible or appropriate for them to attend then it is essential that consideration is given to who could attend to represent them and how their wishes and views are to be represented and taken into account.

The support officer allocated will arrange the date, time and venue of the meeting and correspond with all professionals that need to be invited.

The support officer will not make contact with the adult or their representative(s) or their family unless specifically told that it is appropriate for them to do so.

A standard agenda is available; all minutes of meetings held as part of a safeguarding response will be recorded on the standard paperwork and distributed to the chair for approval within 5 days. The council then aims to distribute the 'chair approved' minutes to attendees for comment within a further week.

A SMART action plan is produced directly from safeguarding adults meetings and distributed to attendees within one working day of the meeting.

10. Relevant Contact Numbers

Care Connect	Within office hours	01275 888 801
Emergency Duty Team	Out of office hours	01454 615 165
North Somerset Safeguarding Adults Team	Office Hours	01275 885222
Police		999 or 101
Emergency Services		999 and request relevant

		service
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11. Appendices

Appendix 1

Safeguarding Investigation: Terms of Reference

This form has been designed to be used in Safeguarding Enquiries when an outside organisation is asked to investigate an allegation. Section 1 & 2 would be completed by the person requesting the investigation; the investigating organisation would then complete Section 3 and return the form.

Section 1 Case Details: *To be completed by person requesting the investigation:*

Alleged Adult at Risk	
Date of Concern	
Brief details of concern	
Safeguarding Co-ordinator Key contact for feedback	
Date completed	

Section 2 Investigation: *To be completed by person requesting the investigation:*

Information / Investigation Requested	
Who is to conduct the investigation?	
Details of specific people to obtain information from	
Details of specific records to review Eg. Care Records, Support Plans, Medication Sheets, Supervision Notes, Accident Reports etc	And any other documents considered relevant.
Date feedback required	

Section 3 Feedback: *To be completed by person carrying out the investigation:*

Methodology - records viewed - people spoken to - any other evidence sources	
Any relevant background information - previous concerns / enquiries - history	
Evidence to support or refute the allegation	
Outline any causes of the abuse	
View of future risks	
Investigator's conclusions on future risks, prevention and action	

Author:

Role and Title:

Date: