

Solihull Local Practice Guidance No 3

Causing s42 Enquiries - Guidance

pushing
bullying pinching
withholding food & drink coercion intimidation
hitting isolating
restraint emotional abuse
misusing medication shaking
scalding teasing sexual abuse
leaving on own blaming
stealing money or benefits neglect
leaving on own ignoring needs

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Accompanying Documents

Letter Template

Conduct the enquiry in line with the principles of Making Safeguarding Personal by ensuring:

S42 Enquiry Report Checklist

Safeguarding Adults Service User Personalised Information Leaflets available

Version Control

Version 1 *September 2016*

Version 2 *July 2017*

1. Introduction

- 1.1 This guidance has been agreed by Solihull Safeguarding Adults Board, and is for use by staff who manage or undertake a Statutory Safeguarding Adults Enquiry under section 42 of the Care Act 2014. It comes into effect once a decision has been reached by the Local Authority that the criteria for such an enquiry has been met (see Appendix 1). This guidance is in addition to *Chapters 7-9 of the Adult Safeguarding: Multi-agency policy and procedures for the protection of adults with care & support needs in the West Midlands*.
- 1.2 Local authorities must make enquiries, or cause another agency to do so, whenever abuse or neglect are suspected in relation to an adult and the local authority thinks it necessary to enable it to decide what (if any) action is needed to help and protect the adult.
- 1.3 The scope of that enquiry, who leads it and its nature, and how long it takes, will depend on the particular circumstances.
- 1.4 The purpose of the enquiry is to decide whether or not the local authority or another organisation, or person, should do something to help and protect the adult.
- 1.5 Although the local authority is the lead agency for making enquiries, it may require others to undertake them. The specific circumstances will determine who the right person is to begin an enquiry. In many cases a professional who already knows the adult will be the best person. They may be a social worker, a housing support worker, a health worker such as a community nurse or the provider.
- 1.6 The Local Authority should cause service provider/employers to carry out an enquiry into any concern in relation to their service unless there is compelling reason why it is inappropriate or unsafe to do this. For example, this could be a serious conflict of interest on the part of the employer, concerns having been raised about non-effective past enquiries or serious, multiple concerns, or a matter that requires investigation by the police.
- 1.7 The Local authority would have to satisfy itself that an employer's response has been sufficient to deal with the safeguarding issue and, if not, to undertake any enquiry of its own and any appropriate follow up action (e.g. referral to CQC, professional regulators).

2. When should an enquiry be caused?

- 2.1 The local authority as the lead agency for making enquiries, may require others to undertake them. To determine who the right person is to begin or conduct the enquiry the following should be considered:
 - **Are there any employment responsibilities?** Allegations about staff may be best undertaken by the employer.

- **Who has the necessary skills and knowledge?** Specific skills and knowledge may be required such as Tissue Viability, Medicines Management, Speech and Language etc.
- **Who has the closest relationship with the individual?** This might be the care provider, housing support worker, health professional.
- **Has a crime been committed?** If a crime is suspected the police must lead the criminal investigation.

3. When it will be not appropriate to cause an enquiry.

3.1 The local authority as the lead agency for making enquiries will not cause another person, agency or organisation to undertake an enquiry when:

- There is a serious conflict of interest on the part of the employer.
- There are or have been concerns about non-effective past enquiries.
- It is not clear they have the necessary skills and knowledge to undertake what is required.
- There are concerns about failure to act to safeguard the adult.
- The concern(s) relates to organisational abuse, requires a Large Scale Enquiry or there is a current Large Scale Enquiry ongoing.

4. Roles and Responsibilities

4.1 Local Authority causing an enquiry to be carried out

Where the Local Authority identifies that another agency is best placed to undertake that enquiry, or an element of it, they will:

- 4.1.1 Ensure that the organisation is fully involved in the planning of the enquiry, and will chair a planning meeting if this is deemed necessary.
- 4.1.2 Ensure that all relevant parties understand who will conduct the enquiry on the Local Authority's behalf and why.
- 4.1.3 Inform the organisation of this responsibility, initially verbally, and then formally using the template letter within this guidance (Appendix 1), which will set out the key lines of enquiry. This would usually include the outcomes the adults has identified they want to make a difference. This letter will be sent by secure email with a read receipt or by recorded delivery ONLY.
- 4.1.4 Explain to the organisation why they are best placed to undertake the enquiry.
- 4.1.5 Be satisfied that the organisation being caused to undertake the enquiry is capable to do so and does not meet any of the criteria set out in Section 3 above.
- 4.1.6 Agree a reasonable timescale for receiving a report of its outcome.
- 4.1.7 Ensure the organisation knows how the Lead Officer in the Local Authority for this Safeguarding can be contacted. This should be included in the letter.

- 4.1.8 Ensure the organisation knows of the appointment and contact details of any Independent Advocate or other person acting on the adult's behalf where they have substantial difficulty in taking part in the enquiry OR how an independent advocate can be arranged if the organisation has concerns about the individual's ability to take part in the enquiry.
- 4.1.9 Be satisfied the enquiry report has answered the concerns and that there is sufficient information to determine what, if any, further action is needed to help and protect the adult.
- 4.1.10 Resolve any disagreement regarding the causing of the enquiry at the lowest level possible within the organisation, only escalating within the organisation and local authority where issues remain unresolved and proportionate to the disagreement. (N.B. where the organisation is the best placed to undertake the enquiry and its terms of reference are within the scope of its jurisdiction, the organisation has a legal duty under the Care Act 2014 to cooperate).
- 4.1.11 Ensure that the organisation caused to do the enquiry has made the individual aware of and is satisfied with, the enquiry and ascertain their view on whether their outcome has been met, partly met or not met.
- 4.1.12 Determine and confirm with the organisation who carried out the enquiry how the safeguarding will be closed.

4.2 Organisation identified to undertake an enquiry

The manager or safeguarding lead for the organisation that is caused to undertake a Section 42 Enquiry will:

- 4.2.1 Appoint an **Enquiry Officer** to undertake the enquiry and provide the enquiry report, ensure they are competent to do so, that they receive the support necessary to satisfactorily complete it, and that there is no conflict of interest in their undertaking this role. *NOTE: training on undertaking s42 Enquiries is available form SSAB.*
- 4.2.2 Satisfy themselves that the enquiry terms of reference are clearly understood and within the remit of the organisation to undertake.
- 4.2.3 Conduct the enquiry in line with the principles of Making Safeguarding Personal by ensuring:
- If the adult's outcomes have not been identified - the first action must be to ascertain the outcomes that the adult wishes to achieve.
 - The enquiry reflects the outcomes that the adult wishes to achieve.
 - If the adult's outcomes have not been identified - the first action must be to ascertain the outcomes that the adult wishes to achieve.

- The adult (or their representative or Independent Advocate) is included throughout the process.
 - If the adult does not have a representative or Independent Advocate but is having substantial difficulty in taking part in the enquiry the Enquiry Officer must liaise with the Lead Officer in the Local Authority so an advocate can be instructed.
 - The adult and or their representative has sufficient information to know their rights and choices. Information is available from the Lead Officer in the Local Authority and on Solihull Safeguarding Adults Board Website: www.ssab.org.uk
 - That if in the progress of the enquiry, the adult alters their view of their desired outcomes, this is reflected in the enquiry and that the Lead Officer in the Local Authority is informed of this.
 - The conclusion of the enquiry is shared and discussed with the adult (or their representative or Independent Advocate).
 - The adult's outcomes are reviewed to ascertain whether they feel they have been met, partly met or not met.
 - The adult is asked "Do they feel that they are safer now because of the help from people dealing with their concern?"
- 4.2.4 Make the Lead Officer in the Local Authority aware of any circumstances where the organisation is not the appropriate body to undertake the enquiry.
- 4.2.4 Resolve any disagreement regarding the causing of the enquiry at the lowest level possible within the organisation, only escalating within the organisation and local authority where issues remain unresolved and proportionate to the disagreement. (N.B. where the organisation is the best placed to undertake the enquiry and its terms of reference are within the scope of its jurisdiction, the organisation has a legal duty under the Care Act 2014 to cooperate).
- 4.2.5 Agree a reasonable timescale for receiving a report of its outcome.
- 4.2.7 Keep in contact with the Lead Officer in the Local Authority and inform them of any changes or developments during the enquiry.
- 4.2.8 Ensure the enquiry report has answered the concerns and that there is sufficient information for the Local Authority to determine what, if any, further action is needed to help and protect the adult. This enquiry report should be sent to the Local Authority within the agreed timescale by secure email, by recorded delivery or hand delivered ONLY to ensure security of personal information.

[address]

Jenny Wood
Director for Adult Care and Support

PO Box 20 Council House
Solihull West Midlands B91 9QU
Tel: 0121 704 6451 Fax: 0121 704 8129
Minicom: 0121 704 8058
Email: ?????@solihull.gov.uk
www.solihull.gov.uk
Please ask for: ??????????

Your Ref:

Our Ref: ???????

Date: ????

Private and Confidential

Dear **NAME**,

Re: Request for a Safeguarding Adults Enquiry – Re **CLIENT + SERVICE**

As you are aware an Adult Safeguarding Concern was received by Solihull MBC in respect of **SERVICE USER**.

The enquiry must:

DETAIL HERE WHAT THE CONCERNS ARE THAT NEEDS A S42 ENQUIRY TO ANSWER

In line with the Care Act 2014, Care and Support Statutory Guidance Chapter 14 and the Adult Safeguarding; Multi-agency policy and procedure for the protection of adults with care and support needs in the West Midlands this concern should be investigated by means of an Adult Safeguarding Enquiry to establish whether there was an instance of abuse and to ensure appropriate measures are implemented to minimise risk of reoccurrence.

In order to progress this matter, we formally request that **SERVICE PROVIDER/NAME** undertake a full enquiry into the concerns and report the findings, in the form of a formal enquiry report, back to Solihull MBC, as the lead agency for coordinating the Adult Safeguarding process.

When conducting the enquiry you must:

- Following the Making Safeguarding Principles by involving **SERVICE USER**.
(See attached)
- Identify their outcomes and use them to inform and guide the enquiry.
- Ensure any Advocacy support they need is provided via the Lead Officer in the Local Authority.
- Provide the attached leaflet “The Safeguarding Process” to the individual and or their family/representative unless to do so will place the individual at greater risk of harm or abuse. Further information leaflets are available from the Lead Officer in the Local Authority and on Solihull Safeguarding Adults Board Website: www.ssab.org.uk
- Handle the enquiry in a sensitive and skilled way to ensure distress to the adult is minimised.
- Ensure the enquiry focuses on the promotion of the adult’s wellbeing.
- Provide Solihull MBC with sufficient evidence to support the outcome of the enquiry including feedback on if the adults outcomes have been met, partly met or not met (specifying reasons). When writing your s42 Enquiry Report please use the checklist attached as the template for the report.

Please make necessary arrangements to submit completed enquiry report to **NAME** at the above address within **???? or 28 days of receipt of this letter** by secure email, by recorded delivery or hand delivered ONLY to ensure security of personal information. Following the completion of your enquiry we will discuss further with you whether any actions are required with regards further progression of this matter.

Should you have any queries in the meantime, please do not hesitate to contact us direct on **0121 ??? ?????**.

Yours sincerely

NAME
Job title

Conduct the enquiry in line with the principles of Making Safeguarding Personal by ensuring:

- If the adult's outcomes have not been identified - the first action must be to ascertain the outcomes that the adult wishes to achieve.
- The enquiry reflects the outcomes that the adult wishes to achieve.
- The adult (or their representative or Independent Advocate) is included throughout the process.
- If the adult does not have a representative or Independent Advocate but is having substantial difficulty in taking part in the enquiry the Enquiry Officer must liaise with the Lead Officer in the Local Authority so an advocate can be instructed.
- The adult and or their representative has sufficient information to know their rights and choices. Information is available from the Lead Officer in the Local Authority and on Solihull Safeguarding Adults Board Website: www.ssab.org.uk
- That if in the progress of the enquiry, the adult alters their view of their desired outcomes, this is reflected in the enquiry and that the Lead Officer in the Local Authority is informed of this.
- The conclusion of the enquiry is shared and discussed with the adult (or their representative or Independent Advocate).
- The adult's outcomes are reviewed to ascertain whether they feel they have been met, partly met or not met.
- The adult is asked "Do they feel that they are safer now because of the help from people dealing with their concern?"

S42 Enquiry Report CHECKLIST/TEMPLATE

When writing your 242 Enquiry Report please use this checklist to ensure all the information that the Local Authority needs to assure itself that the enquiry satisfies its duty under section 42 of the Care Act 2014 to decide what action (if any) is necessary to help and protect the adult.

The s42 Enquiry Report must include	✓
Who the Safeguarding enquiry was conducted by <ul style="list-style-type: none"> • Name • job title and • organisation 	
The adult with care and support needs: <ul style="list-style-type: none"> • Name • Address • Date of Birth 	
Details of who raised the Safeguarding Concern (if known): <ul style="list-style-type: none"> • Name • Title and relationship to the adults with care and support needs 	
Details of the Safeguarding Concern(s) Details of any specific Safeguarding concerns/questions to be answered	
The individual's outcomes <ul style="list-style-type: none"> • In the individuals own words. • If there are concerns about the individuals mental capacity an advocate must be instructed. 	
How involved was the adult with care and support need in the enquiry? Was support provided to the adult with care and support needs? <ul style="list-style-type: none"> • By whom? 	
Enquiry methodology <ul style="list-style-type: none"> • Who was seen/interviewed • Records looked at • Places visited etc. 	

Background Information: <ul style="list-style-type: none"> Brief and relevant information should be included here, such as the person's diagnosis, reason for admission (if appropriate) and length of stay 	
Details of any immediate safeguards taken to protect the adult (and other adults): <ul style="list-style-type: none"> E.g. staff member suspended or removed, training, etc. 	
Chronology of significant events in date order	
Summary of Enquiry: <ul style="list-style-type: none"> How and when this was conducted. What do the records show? What did the people that were interviewed say? 	
Findings of Enquiry	
Feedback on if the individual's felt their outcome(s) were fully met, partly met or not met. <ul style="list-style-type: none"> It must be from their perspective Do they feel that they are safer now because of the help from people dealing with their concern? 	
Learning points for the service	
Report must be signed and dated	

Safeguarding Adults - Personalised Information leaflets available

The following information leaflets are available from the Lead Officer in the Local Authority and on Solihull Safeguarding Adults Board Website: www.ssab.org.uk

Leaflet/document etc.	Purpose	Comments
 <p>Keeping you safe, keeping you in control</p> <p>Dear _____</p> <p>You or someone who knows you has raised a concern about your safety. This is what we call a safeguarding concern.</p> <p>Your views and wishes are important to us. We need to know what you want us to do.</p> <p>Our job is to work with you and make sure you are safe, and then to see if there is anything we can do to make things better for you. This is called safeguarding.</p> <p>Solihull Safeguarding Adults Board</p>	<p>Contact sheet for ALL adults when a safeguarding concern has been raised and further safeguarding action is being taken.</p> <p>To inform the individual and or their families that safeguarding action is taking place and provide contact details</p> <p>Available in easy to read format</p>	<p>Must be given to all service users, personalised and completed with contact details.</p> <p>If the adult has substantial difficulty in understanding the safeguarding concerns or in being involved, and where there is no one appropriate to support them, then arrangements must be made for an independent advocate to support and represent them for the purpose of facilitating their involvement.</p> <p>The only exception would be if the giving of this information would place the adult with care and support need in danger or increase the risk of harm or abuse.</p>
 <p>The Safeguarding Process</p> <p>Solihull Safeguarding Adults Board</p>	<p>The Safeguarding Process - so people know what will happen, why other partners may be involved, meetings that might take place etc.</p> <p>To give some control to the person.</p> <p>Available in easy to read format</p>	<p>This information should be explained verbally and a copy left with the adult so they can share it with relatives and friends or used to remind and reflect after a visit.</p> <p>The only exception would be if giving or leaving this information would place the adult with care and support need in danger or increase the risk of harm or abuse.</p>
 <p>Information about abuse</p> <p>Solihull Safeguarding Adults Board</p>	<p>Information about Abuse - General information on what is abuse, types, location etc. to help people understand what is abuse and unacceptable.</p> <p>Available in easy to read format</p>	<p>This is information about what safeguarding and abuse is. It should be used to explain what abuse is when a Safeguarding Concern is received.</p>

 <p>Information about mental capacity</p> 	<p>Information about mental capacity</p> <p>To simply explain mental capacity</p> <p>Available in easy to read format</p>	<p>This leaflet should be used with adults and their family and friend to explain mental capacity, what this means why it is important etc.</p> <p>It is also available in easy to read format.</p>
 <p>Information on adult safeguarding for relatives and friends</p> 	<p>Information on adult safeguarding for relatives and friends</p> <p>Leaflet for relatives and friends who are supporting someone through the safeguarding process</p>	<p>This leaflet should be given to relatives and friends who are supporting someone through the safeguarding process – it explains what we mean by safeguarding, why it is important and what we do.</p> <p>If you use this leaflet you <u>do not</u> have to use the Safeguarding process leaflet (green).</p>
 <p>Information about advocacy</p> 	<p>Provides an overview of advocacy</p> <p>Available in easy to read format</p>	<p>This leaflet should be used with adults and their families and friends to explain advocacy, and why it is important in safeguarding.</p>
 <p>A guide to your safeguarding meetings</p> 	<p>To explain safeguarding meetings – who will be there and how individuals can prepare for them</p> <p>Available in easy to read format</p>	<p>This leaflet should be used with adults who want to attend their safeguarding meetings – workers should use the leaflet to record who has been invited and individuals can use this leaflet to make notes or questions they want to ask.</p>
 <p>BEEN THROUGH SAFEGUARDING? JOIN OUR FOCUS GROUP...</p> <p>Share your experiences and help us help others</p> 	<p>Flyer – Been through safeguarding? Join our focus group...</p> <p>Information to adults who have been through safeguarding adults about the Safeguarding Adults Board's Focus Group.</p>	<p>This leaflet should be given to adults who have been through safeguarding to provide them with information about the Safeguarding Focus Group and how to join it to improve safeguarding across all organisations.</p>