Draft interim checklist for making decisions on the duty to carry out safeguarding enquiries

South Gloucestershire Council

This is a tool to assist in decision making, but it does not replace professional judgement. Its aim is to support people to be able to effectively record and account for their decision making process.

It is not a linear or hierarchical process with separate and discrete stages and timescales. Decision-making needs to be dynamic.

This is based on the new "Making decisions on the Duty to carry out Safeguarding Enquiries.
Suggested Framework to Support Practice, Reporting and Recording"
https://www.local.gov.uk/sites/default/files/documents/25.130%20Making%20Decisions%20on%20the%20duty_06%20WEB.pdf
Please make direct reference to this alongside this checklist.
Other supportive resources including the appendix to the framework can be found here:
https://www.local.gov.uk/making-decisions-duty-carry-out-safeguarding-adults-enquiries-resources

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Enquiry Process	Legislation	Considerations	Actions
Safeguarding concern is raised. First consideration: is there reasonable cause to suspect that an adult 1. **has care & support needs** 2. **is experiencing, or is at risk of abuse or neglect and** 3. **Can't protect themselves, against the abuse/neglect or the risk of it, as a result of their needs.** **And to establish the views of the adult on the nature, level and type of risk and support they need to mitigate the risk.**	S42 (1) Care Act, 2014	Proportionate fact finding to establish if the 3 criteria are met. Consider Making Safeguarding Personal (MSP)- what is the person's view of their situation and what are their outcomes? Is an advocate needed? At every stage consider the 6 Statutory Principles of Safeguarding: 1. Empowerment 2. Prevention 3. Proportionality 4. Protection 5. Partnership 6. Accountability	Clearly record rationale for decision making about whether there is reasonable cause to suspect that the S42 (1) criteria is met. Always refer to 6 principles when explaining how you've arrived at a decision. Be considerate of language: use words 'statutory criteria are met' not 3 point test or threshold, which suggests we screen people in or out. If someone declines, that is not the end of the matter, we still have a duty to consider how to reduce or manage the risk. Also need to consider public interests.
	Mental Capacity Act, 2005.	Where appropriate, also be transparent about your application of the 5 Principles of the Mental Capacity Act. Assumption of capacity Taking all practicable steps to support someone to make their own decision Right to make unwise decisions Best Interests Less restrictive options	
	Human Rights Act, 1998	In judgement of 'reasonable cause to suspect' take into account whether this is a lawful interference in private family life	

Enquiry Process	Legislation	Considerations	Actions
If statutory criteria is met, we have a duty to progress to S42 (2): • Making (or causing to be made) whatever enquiries are necessary • Deciding whether action is necessary and is so, what and by whom. Aims of which are to: • Establish facts • Ascertain adult's views and wishes • Assess the needs of the adult for protection, support and redress and how they might be met • Protect from the abuse or neglect, in accordance with the wishes of the adult • Make decisions about what follow-up action should be taken with regard to the person or organisation responsible for the abuse or neglect • Enable the adult to achieve resolution and recovery	S42 (2) Care Act, 2014 Paragraph 14.93 statutory guidance Paragraph 14.99 Care & Support Statutory Guidance	Consider who is best to make this enquiry. "The scope of that enquiry, who leads it and its nature and how long it takes, will depend on the particular circumstances. It will usually start with asking the adult their view and wishes which will often determine what next steps to take. Everyone involved in an enquiry must focus on improving the adult's wellbeing and work together to that shared aim." It maybe that these two lines of decision making (as set out in S42(1) and S42(2)) are occurring simultaneously- activity that took place to establish if the 3 criteria were met, may also be recorded as the S42(2) Enquiry. Therefore you may record it after some of the work has already been started. 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…" The aim of intervention (in line with MSP) is to be: • Person-led • Outcome-focused • Engages the person and enhances involvement, choice and control • Improves quality of life, wellbeing and safety. Approach reports of incidents of allegations with an open mind. Consider: • The adult's needs for care and support • The adult's risk of abuse or neglect • Their ability to protect themselves or • The ability of their networks to increase the support they offer • The impact of on the adult, their wishes • The possible impact on important relationships • Potential of action & increasing risk to the adult • The risk of repeated or increasingly serious acts involving children, or another adult at risk of abuse or neglect • The responsibility of the person or organisation that has caused the abuse of neglect • Research evidence to support any intervention	Clearly record rationale for decision making about whether the S42 (2) enquiry is needed. Outline clear objectives and timescales (timescales will be individual to the particular person's circumstances) and who is responsible for which tasks. Clearly record who needs to be involved in the enquiry (person, representative or advocate, other professionals etc). Consider methods for involving everyone, such as person's communication or other needs, Family Group Conference or support from specialist agencies. Remain open to reviewing the decision as more information is learnt. This decision making should ideally take place during reflective discussions with staff. If the issue cannot be resolved, and the adult remains at risk of abuse or neglect (real or suspected) then the local authority's enquiry duty under S42 continues until it can assure itself that action to protect the adult has been taken.

Enquiry Process	Legislation	Considerations	Actions
If the statutory criteria is not met what (if any) alternative responses are needed to reduce the risk/ provide support?	For example S9 Assessment S10 Carers Assessment	Other options may include (not an exhaustive list): • Conversation 1, 2, or 3, or care and support plan if not 3Cs • Carers Assessment • Quality of care concern- flagged to Brokerage, Commissioning or CQC • Complaint or other means of giving feedback • MARAC • Advice or information	If an adult does not meet all of the S42(1) criteria but the local authority considers it necessary and proportionate to have a safeguarding enquiry, this should be recorded as an 'other' safeguarding enquiry and still needs to be reported to SAC (Safeguarding Adults Collection- data reporting). This would be recorded as a Non Statutory Enquiry on AIS. People should not be disadvantaged where they do not meet the statutory criteria. Safeguarding concerns still need to be addressed and the outcomes recorded.

For full framework, please follow this link: here