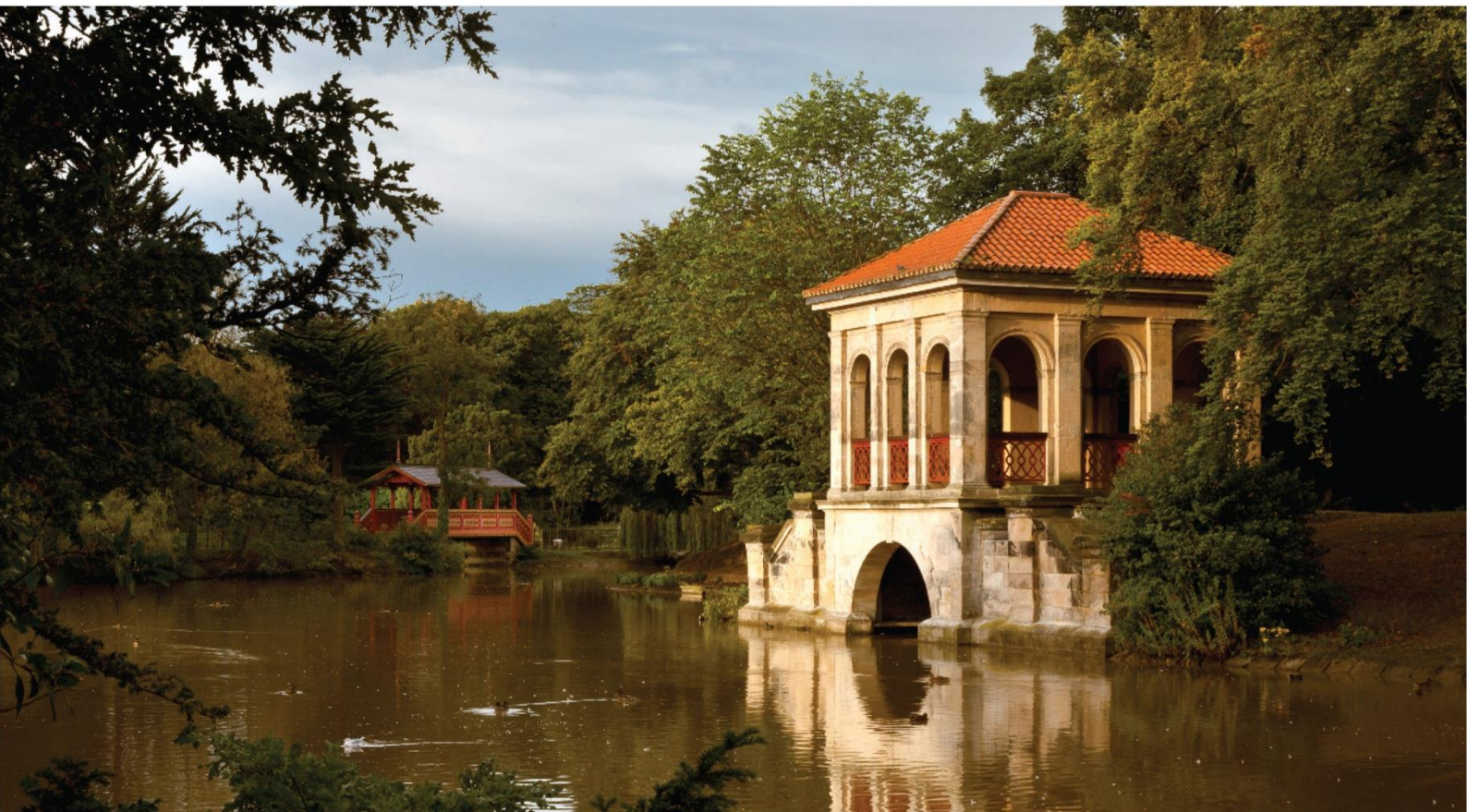
WIRRAL

Wirral Care and Health

POLICIES AND PROCEDURES

Wirral Practice Guidance on the Criteria for Safeguarding Referrals and Section 42 Enquiries



Document : Wirral Practice Guidance On The Criteria for Safeguarding Referrals And Section 42 Enquiries

Purpose: To support best practice in Safeguarding Adults at Risk in Wirral

Scope: All agencies and professionals working with Adults at Risk in Wirral

Contact point: Wirral Borough Council Strategic Commissioning Hub

The Partners who have contributed to this procedure are;
Wirral Clinical Commissioning Group
Wirral Community NHS Foundation Trust
Wirral Strategic Commissioning Hub
Merseyside Police
Wirral University Teaching Hospital NHS Foundation Trust

Approved by: Jason Oxley	**Title:** Assistant Director Health and Social Care Outcomes
Signature: 	**Date:** March 2018
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OVERVIEW

In April 2015 The Care Act 2014 was introduced in England in order to make care and support services better and more consistent across the country. The focus is firmly on the person rather that the service and empowers people to be involved and in control of their care journey and in turn maximise their potential to live a full and meaningful life. Wellbeing is at the core of the Act and it's aspiration is for local authorities to help prevent, reduce or delay the onset of care and support services to help people stay healthy and independent for as long as possible. Information and advice services are seen as having a vital role in this process. It was also planned that from April 2016 a cap on care costs would be introduced as well as an extension to the financial limits which determine who receives financial support. However the Government have now postponed these changes until 2020.

Care and support is a term used to describe the help which some adults need to live as well as possible with any illness or disability they may have. It can include help with things like getting out of bed, washing, dressing, getting to work, cooking meals, eating, seeing friends, caring for families and being part of the community. Care and support includes the help given by family and friends, as well as any provided by Wirral Council or other organisations. People who are Carers will be entitled to a Carer's assessment and, if eligible, their own support plans

Wirral Metropolitan Borough Council (Wirral Council) has developed a number of procedure documents to describe the process which is followed by the Council and those agencies the Council commissions to undertake assessment in relation to the care and support needs of adults in its communities.

Each procedure reflects the over-arching commitment to put the person at the centre of all decisions which are made. The focus on personal wellbeing, information, choice and control is at the heart of how care and support is provided by Wirral Council.

All Wirral Metropolitan Borough Council Strategic Commissioning Hub policies and procedures must be read in conjunction with the following

Legislation

The Care Act 2014 - Part 1 Care and Support, General responsibilities of local authorities.
The Mental Capacity Act 2005 & Deprivation Of Liberty Safeguards
Human Rights Act 1998
Children and Families Act 2014
The Mental Health Act 1983/2007

Statutory Guidance

Care and support statutory guidance 2014

Wirral Council Policies

Assessment, Eligibility and Review
Support Planning
Safeguarding
Charging and Financial Assessment

Wirral Practice Guidance on the Criteria for Safeguarding Referrals and Section 42 Enquiries

Contents

1. Introduction

The Care Act clearly advocates that Adults have the right to live life in a safe environment free from abuse and neglect. The focus of work in safeguarding adults at risk of abuse and neglect must be on the outcomes that people want and enabling adults to remain in control of their lives. Professionals in Wirral should work with adults in ways which are reflective of this and comply with the principles of 'Making Safeguarding Personal' which is a person centred approach now enshrined in the Care Act 2014. The Care Act Statutory Guidance describes the 6 key principles that should underpin all safeguarding work.

The six key principles are

• Empowerment,
• Prevention,
• Proportionality,
• Protection,
• Partnership
• Accountability

The Care Act places new duties on organisations, including a duty on Local Authorities to make enquiries or cause enquiries to be made where there is an allegation of abuse or neglect, and a duty on partner organisations to cooperate. This has not removed the responsibility from partner agencies in Wirral and this is explained in the Wirral Safeguarding procedure in more detail. Safeguarding interventions can include anything from preventative and protective measures to full-blown criminal investigations and all agencies locally have responsibility for ensuring that adults at risk are appropriately safeguarded. Using the Risk Assessment Tool and identifying your response to provide preventative or protective measures ensures that all agencies meet with the safeguarding principles and are accountable for their actions.

Section 14.9 of the Care Act Statutory Guidance is clear that safeguarding is not a substitute for:

- providers' responsibilities to provide safe and high quality care and support
- commissioners regularly assuring themselves of the safety and effectiveness of commissioned services
- the Care Quality Commission (CQC) ensuring that regulated providers comply with the fundamental standards of care or by taking enforcement action
- the core duties of the police to prevent and detect crime and protect life and property

The application of the threshold matrix and tiers of intervention by partner agencies/referrers does not negate the Local Authority's duty to review whether the criteria for a section 42 enquiry applies and their responsibility to assess safeguarding responses relevant to risk and that are in line with the safeguarding principles.

2.0 Introduction to the Threshold Matrix Tool

To assist those referring into adult safeguarding in Wirral there is a risk assessment tool and guidance identifying low, significant, very significant and critical tiers of intervention. The Risk Assessment Tool was initially introduced by the Association of Directors of Adult Social Services to identify the level of risk and proportionality of response to Safeguarding Adult Referrals. This should provide a clear process for assessing risk and a common understanding across local partnerships and agencies enabling more consistent responses. Reasons to support the need for a risk assessment tool & threshold were identified as

- Providing a benchmark to assess the level of vulnerability of an individual;
- To provide a measure of consistency;
- To ensure proportionate responses to alerts and referrals;
- Provide a framework to allow agencies to manage risk.

The purpose of the safeguarding risk assessment tool & threshold matrix is to ensure that a consistent and proportionate response is delivered, that safeguarding responses are proportionate to the abuse/neglect, and that formal safeguarding procedures are not the only way of addressing issues that arise.

However, the Care Act 2014 implemented in April 2015 removed the 'significant harm' threshold for action under safeguarding procedures and emphasised the need to move away from a process driven approach to an outcomes approach. Actions taken must be proportionate to the level of presenting risk or harm and be driven by the desired outcomes of the adult or their representative. Referring agencies need to use their professional judgement, consider the views of the adult at risk and where appropriate, seek consent for sharing information on a multi-agency basis.

3.0 Threshold Guidance, Matrix and Decision Making Tools to manage Safeguarding

The threshold matrix with tiers of intervention and associated guidance has been developed to assist practitioners in assessing the seriousness, level of risk, and the impact of the abuse that is occurring. Alongside that practitioners are encouraged to consider the risk of reoccurrence to assist with decision-making when responding to a concern of abuse or neglect. The thresholds and associated guidance does not contain any "hard and fast" rules or remove the need for professional judgement but is designed to support defensible decision making. Defensible decision making in this context means a decision which is based upon

- knowledge and appropriate use of relevant legislation
- knowledge and appropriate use of local and national policy and procedure
- Sound use of case history to develop your views and use of theoretical knowledge to inform decision making at each step

- Recording of decision making which is clear and evidences your rational for decisions being made including hypothesis testing, and triangulation of all relevant sources of information

In order to manage the large volume of concerns which come under safeguarding adult's policy and procedures, there is a need to differentiate between those low level concerns and those that are more serious when prioritising resources. It is essential to remember the Thresholds Matrix is a guide only providing a limited illustration of abuse that can occur along with an indication of the possible range of severity. It does not have to be rigidly adhered to as such a matrix cannot account for all potential scenarios.

There may be circumstances where a situation is deemed to be low on the Threshold Matrix but because you are aware of similar incidents having occurred in the past you do not assess the threshold or the risk as low, the risk assessment tool should be used in conjunction with the matrix.

Whilst it is likely that low level concerns may not progress beyond the initial enquiry stage, the referral will still be recorded, accessed and reviewed by the Local Authority who will consider whether appropriate action has been taken/is being taken/will be taken to manage the risks that have been identified. This may include checking to see if the referrer has provided information or advice; referred to another agency or professional; or arranged assessment of care and support needs. Sharing the low level referrals with the Local Authority helps to understand any emerging patterns or trends that may need to be taken into consideration when deciding whether a safeguarding enquiry needs to continue/ be managed under safeguarding processes/be closed to safeguarding. **It does not negate a partner agencies responsibility to take relevant action where they can and should do so.**

If a decision is made not to refer to CADT, the individual agency must make a record of the concern and any action taken. Concerns should be recorded in such a way that repeated, low level harm incidents are easily identified and subsequently referred. Not referring under safeguarding adult procedures does not negate the need to report internally or to regulators/commissioners as appropriate.
The safeguarding process has been designed to allow referrers to supply details regarding a situation, identify outcomes and any subsequent action taken, specifically including safeguarding measures and the views of the adult concerned. This is regardless of whether the matter is to be dealt with through safeguarding procedures or outside of the safeguarding procedures.

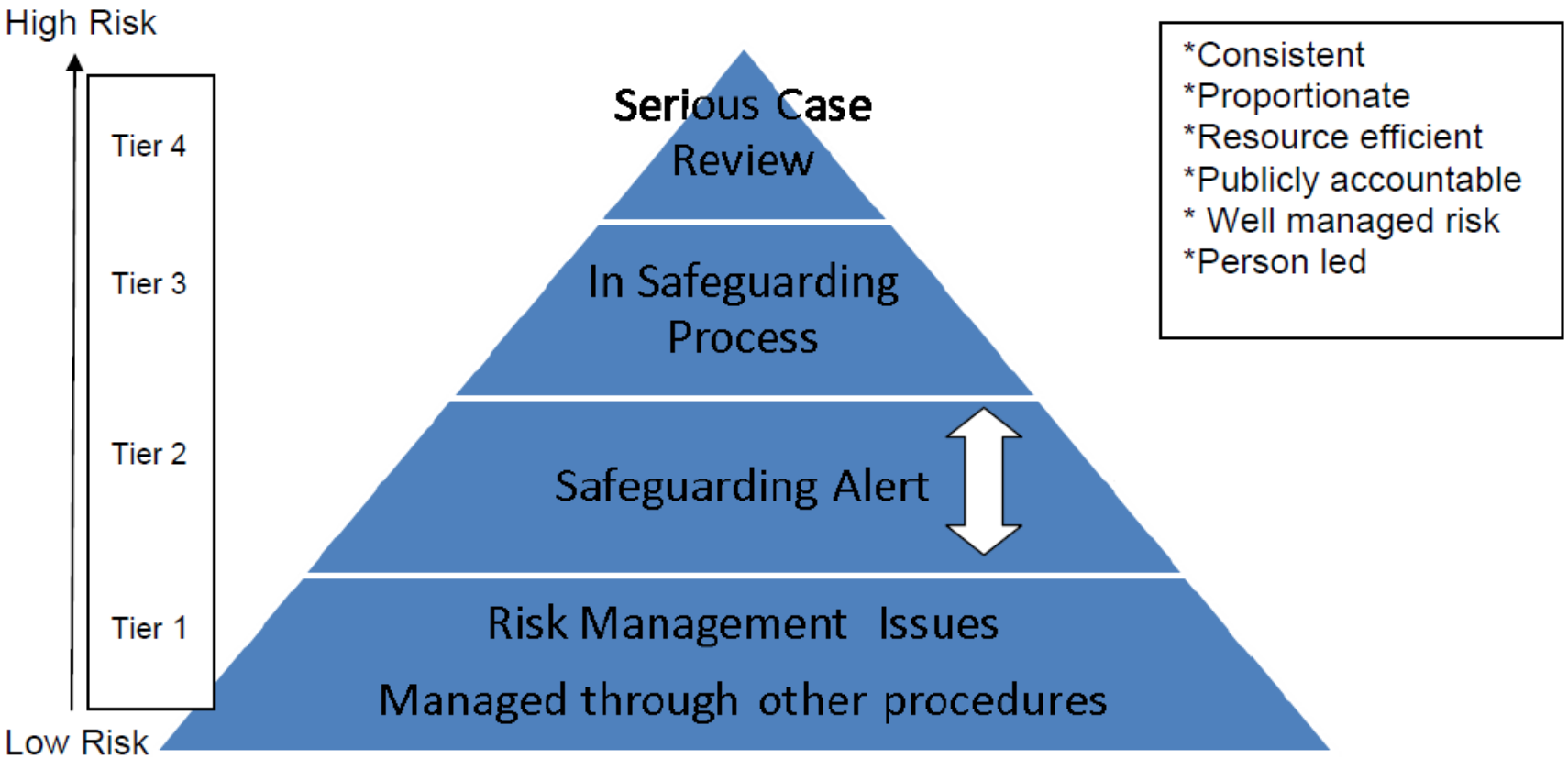
4.0 Tiers of Intervention

Figure 1 provides a schematic view of how risks and needs might be identified and what procedures should be considered. It does not provide a rigid or concrete set of

procedures. It is important that all agencies understand the needs of each individual person within their own context and recognise that each adult's situation is unique and specific to them. Each adult will have their own view of what outcomes they want and this should contribute to any decisions about action that is to be taken in any given situation.
This document does not provide an exhaustive list of all the possible Safeguarding situations that might affect adults and their families and is for guidance only. It should be read in conjunction with Wirral Safeguarding Adults Policy and Procedure.

Advice/support may be required from named or designated individuals with Adult Safeguarding responsibilities within your own organisation in the first instance.
Advice can also be sought from the Central Advice and Duty Team Mon-Fri, 9:00AM - 5.00PM Tel. (0151) 514 2222 option 3
Outside of these hours
Tel. (0151) 677 6557
E-mail: wcnt.centraladviceanddutyteam@nhs.net

5.0 Relationship between the tiers and potential risk



6.0 Thresholds Matrix Descriptors

Type of Abuse	Tier 1 –Lower level Harm Concerns may or may not need to be notified as a Section 42 Safeguarding Enquiry Referral. The enquiry is likely to be managed at the point of alert – the initial enquiry stage only. Appropriate and proportionate responses to manage situations would include advice, information, signposting to other agencies, assessment of care need, care management/care coordination, risk management, staff training disciplinary or complaints procedures Professional judgement or concerns of repeated low level incidents may result in progression through further stages. Any Safeguarding Adult Contact received into Wirral Community Trustwould be triaged to ensure a proportionate response in accordance with expressed preference of the adult and accurate assessment of the risk		Tier 2 – Tier 3 Significant ⇔ Very Significant Harm Concerns of a significant or very significant nature receive additional scrutiny. They may progress into all stages of the safeguarding procedure Consider whether a criminal offence has occurred – if so the police should be contacted Any immediate actions to safeguard the individual should be taken at the stage of the initial safeguarding alert. Consultation with the adult at risk should take place to determine actions and outcomes. Consider professional responsibilities, safeguarding and wellbeing of the adult and others when overriding consent. Reason for overriding consent should be included in the referral		Tier 4 – Critical Concerns of a critical nature will receive additional scrutiny. It is highly likely they will progress fully into the safeguarding procedure It is highly likely that the referrer will need to contact the police so that the matter can be considered as a potential criminal matter in addition to completing an adult safeguarding concern It is highly likely that immediate safeguarding actions will be needed at the point of initial safeguarding alert and that professionals may need to override consent to complete a safeguarding referral. This does not negate the need to consult with the adult at risk to determine what outcomes they want and to be transparent
Physical	• Staff error causing no/little harm eg skin friction mark due to ill fitting hoist sling • Minor events that still meet criteria for	• Isolated incident involving service user on service user • Inexplicable very light marking found	• Inexplicable marking or lesions, cuts or grip marks on a number of occasions	• Inappropriate restraint • Withholding food, drinks or aids to independence • inexplicable fractures	• Grievous bodily harm/assault with weapon leading to irreversible damage or death • Pattern of recurring

	incident reporting • adult does not receive prescribed medication (missed/wrong dose) on one occasion – no harm occurs	on one occasion • recurring missed medication or administration errors that cause no harm	• Accumulations of minor incidents • Recurring missed medication or errors that affect more than one adult and/or result in harm • Deliberate maladministration of medications • Several meds errors that have been administered by the same staff member	or injuries • Assault • Covert administration of medication without proper medical authorisation	errors or an incident of deliberate maladministration that results in ill-health or death • Over –medication and/or inappropriate restraint used to manage behaviour
Sexual (including sexual exploitation)	• Isolated incident of teasing or low level unwanted sexualised attention (verbal or by gestures) directed at one adult by another whether capacity exists or not	• Verbal sexualised teasing, banter or harassment	• Sexualised touch or masturbation without consent • Being subject to indecent exposure • Contact or non-contact sexualised behaviour which causes distress to the person at risk	• Attempted penetration by any means (whether or not it occurs within a relationship) without valid consent • Being made to look at pornographic material against will/where consent cannot be given	• Sex in a relationship characterised by authority, inequality or exploitation e.g. staff and service user, receiving something in return for carrying out a sexual act • Sex without consent • Voyeurism without consent
Psychological	• Isolated incident where adult is spoken to in a rude or inappropriate way – respect is undermined but little or no distress caused	• Occasional taunts or verbal outbursts which cause distress • The withholding of information to disempower	• Treatment that undermines dignity and damages esteem • Denying or failing to recognise an adult's choice or opinion	• Humiliation • Emotional blackmail eg threats of abandonment, harm • Frequent and frightening verbal outburst	• Denial of basic human rights/civil liberties, over riding advance directive, forced marriage • Prolonged intimidation • Vicious/personalised verbal attacks

			• Frequent verbal outbursts which cause distress		
Financial	• Staff personally benefit from users fund eg accrue 'reward' points on their own store loyalty cards when shopping • Money is not recorded safely or recorded properly	• Adult not routinely involved in decisions about how their money is spent or kept safe – capacity in this respect is not properly considered • Non-payment of care fees not impacting on care	• Adults monies kept in a joint bank account – unclear arrangements for equitable sharing of interest • Adult denied access to his/her own funds or possessions	• Misuse/misappropriation of property, possessions or benefits by a person in a position of trust or control. • Personal finances removed from adult's control • Ongoing non-payment of care fees putting a person's care at risk	• Fraud/exploitation relating to benefits, income, property or will • Theft
Neglect	• Isolated missed home care visit – no harm occurs • Adult is not assisted with a meal/drink on one occasion and no harm occurs • Adult not bathed as often as would like	• Inadequacies in care provision leading to discomfort or inconvenience – no significant harm • No access to aids for independence	• Recurrent missed home care visits where risk of harm escalates, or one miss where harm occurs • Hospital discharge, no adequate planning and harm occurs • Failing to meet specific care needs	• Ongoing lack of care to the extent that health and wellbeing deteriorate significantly eg pressure wounds, dehydration, malnutrition, loss of independence/confidence • Deliberate mal administration of medications	• Failure to arrange access to life saving services or medical care • Failure to intervene in dangerous situations where the adult lacks capacity to assess risk
Self-Neglect	• Incontinence leading to health concerns	• Isolated/occasional reports about unkempt personal appearance or property which is out of character or unusual for the person	• Multiple reports of concerns from multiple agencies • Behaviour which poses a fire risk to self and others • Poor management of finances leading	• Ongoing lack of care or behaviour of the individual or others to the extent that health and wellbeing deteriorate significantly eg pressure sores, wounds, dehydration, malnutrition	• Failure to seek lifesaving services or medical care when required • Life in danger if intervention is not made in order to protect the individual

			• to risks to health, wellbeing or property • Risks to health and wellbeing of others		
Discriminatory (including Hate/Mate crime)	• Isolated incident of teasing motivated by prejudicial attitudes towards an adult's individual differences	• Isolated incident of care planning that fails to address an adult's specific diversity associated needs for a short period • Recurring taunts	• Inequitable access to service provision as a result of a diversity issue • Recurring failure to meet specific care/support needs associated with diversity • Persistent and frequent targeting by others in the community who take advantage	• Being refused access to essential services • Denial of civil liberties eg voting, making a complaint • Humiliation or threats on a regular basis	• Hate crime resulting in injury/emergency medical treatment/ fear for life • Hate crime resulting in serious injury/attempted murder/honour based violence
Organisational	• Lack of stimulation/opportunities to engage in social and leisure activities • SU not able to be involved in the running of the service	• Denial of individuality and opportunities to make informed choices and take responsible risk • Care planning documentation not person centred	• Rigid/inflexible routines • Service user's dignity is undermined eg lack of privacy for personal care, shared under clothing • Care planning documentation persistently not person centred and /or adequate to reflect support needs	• Bad practice not being reported and going unchecked • Unsafe and unhygienic living environments • Appropriate professionals not consulted to manage support needs including, in respect of health, social care, behaviours which are challenging	• Staff misusing position of power over service users • Over medication and or inappropriate restraint when managing behaviour • Widespread consistent ill treatment

Modern Slavery	• All concerns about modern slavery are deemed to be of a significant/critical level		• Limited freedom of movement • Being forced to work for little or no payment • Limited or no access to medical and dental care • No access to appropriate benefits	• Limited access to food or shelter • Being regularly moved (trafficked) to avoid detection • Removal of passport or ID documents	• Sexual exploitation • Starvation • Organ harvesting • No control over movement/imprisonment • Forced marriage
Domestic Abuse	• Isolated incident of abusive nature	• Occasional taunts or verbal outbursts	• Inexplicable marking or lesions, cuts or grip marks on a number of occasions • Alleged perpetrator exhibits controlling behaviour • Limited access to medical and dental care or other professional support	• Accumulations of minor incident • Frequent verbal/physical outbursts • No access/control over finances • Stalking • Relationship characterised by imbalance of power	• Threats to kill, attempts to strangle, choke or suffocate • Sex without consent (rape) • Forced Marriage • Female Genital Mutilation (FGM) • Honour based violence
	The Safe Lives DASH Risk checklist http://safelives.org/sites/default/files/resources/DASH%20for%20IDVAs%20FINAL.pdf should be used to determine the level of risk in domestic abuse cases and a referral made into MARAC where appropriate. Any action taken by individual agencies should be in accordance with their own domestic violence pathways				

7. Interface with Safeguarding Children

If you are working with an adult and have concerns and there is an unborn child or there are children/young people living with or in contact with that adult please consider the safety and wellbeing of the children too – using a "Whole Family" approach. Please follow the Wirral Safeguarding Children Multi-Agency Procedures If a child or young person is at risk of harm or abuse please report it to the Wirral Central Advice and Duty Team.

In an emergency call the police on 999.
If you think there has been a crime but it is not an emergency call 101.

8. Frequently asked Questions in Relation to Applying Safeguarding Thresholds

8.1 When is it necessary to carry out an enquiry under Section 42 of the Care Act 2014?

An enquiry is any action that is taken (or instigated) by a local authority, under Section 42 of the Care Act 2014, in response to indications of abuse or neglect in relation to an adult with care and support needs who is at risk and is unable to protect them self because of those needs.

The Care Act requires local authorities to make proportionate enquiries (or to make sure that, as the lead agency, enquiries are carried out by the relevant organisation) where there is a concern about the possible abuse or neglect of an adult at risk.

This may or may not be preceded by an informal information-gathering process, if that is necessary to find out whether abuse has occurred or is occurring and therefore whether the Section 42 duty applies.

An enquiry may take the form of a conversation with the individual concerned (or with their representative or advocate). It may need the involvement of another organisation or individual. Or it may require a more formal process, perhaps leading to a formal multi-agency plan to ensure the wellbeing of the adult concerned.

It is important that at all points, the six safeguarding principles are considered in determining the next course of action:
•empowerment – people should be supported and encouraged to make their own decisions and give informed consent
•prevention – it is better to take action before harm occurs rather than waiting until it does occur
•proportionality – the response should be the least intrusive and the most appropriate to the risk presented
•protection – there should be support and representation for those in greatest need

•partnership – services should work with their communities to produce local solutions; communities have a part to play in preventing, detecting and reporting neglect and abuse
•accountability – safeguarding practice should be accountable and transparent.

A Section 42 enquiry must take place if there is reason to believe that abuse or neglect is taking place or is at risk of taking place, and the local authority believes that an enquiry is needed to help it to decide what action to take to support and protect the person in question. The particular circumstances of each individual case will determine the scope of each enquiry, as well as who leads it and the form it takes.

While many enquiries will need a lot of input from a social care practitioner – often a social worker – there will be aspects that should be carried out by other professionals with the necessary skills and knowledge. For example, it may be a health professional that has the closest relationship with the individual and is best placed to explore a particular concern with them in the first instance.

The local authority may decide that another organisation should carry out the enquiry, but the local authority will retain overall accountability. The local authority must satisfy itself that the organisation will meet agreed timescales and follow-up actions. Whatever form the enquiry takes, the following must be recorded:
•details of the safeguarding concern and who raised it
•the views and wishes of the adult affected, at the beginning and over time, and where appropriate the views of their family
•any immediate action agreed with the adult or their representative
•the reasons for all actions and decisions
•details of who else is consulted or the concern is discussed with
•any timescales agreed for actions
•sign-off from a line manager and/or the local safeguarding lead or designated adult safeguarding manager.

Also, practitioners will need to make sure that their recording captures everything necessary for this, as spelled out in local procedures.

Non-statutory enquiries (known as 'other safeguarding enquiries') may also be carried out or instigated by local authorities in response to concerns about carers, or about adults who do not have care and support needs but who may still be at risk of abuse or neglect and to whom the local authority has a 'wellbeing' duty under Section 1 of the Care Act 2014.

8.2 At what point should the police become involved in a safeguarding investigation?

The police are a key safeguarding partner. The answer to this question will depend on a number of factors, including:
• The views and wishes of the adult at risk
• Whether a criminal offence as defined by law has been disclosed
• The exact circumstances surrounding the individual case of suspected abuse or neglect.

In general terms, if there is a reasonable suspicion that a crime may have been committed and the harm caused to the adult concerned was deliberate, malicious or reckless, then it is sensible to have a discussion with the lead officer in the local police force.

Of course, the police may need to be involved in an emergency situation if there are concerns that an adult is at immediate risk of serious harm. The police have powers to intervene if a person needs immediate assistance due to a health condition, injury or other life-threatening situation.

If the situation is not an emergency, it is important to find out from the person whether they want the police to be involved, especially where there are complex family dynamics or personal relationships. Risk of harm to others should also be considered in these circumstances, and so the person's wishes would not be the sole consideration. Organisational policies and procedures should be followed to ensure that information is shared appropriately.

If an adult has been harmed by an action that was possibly intended to cause them harm, a practitioner would need to consider not just how best to protect that person but also whether to refer the case to the police for a possible criminal investigation. The same applies if someone is acting in a way that is designed to hurt another person, even if no actual harm occurs – for example, one person trying to hit another person.

There are likely to be occasions when something occurs that is technically a crime, for example:
• a resident in a care home stealing a few pounds from another resident
• a minor physical altercation between two people in a supported living flat
• an apparently overstretched carer who has been subjected to physical abuse hitting back.

While none of these are acceptable, it is important to focus on what type of intervention will lead to the desired outcomes.

Whether such situations are best resolved with police involvement should be thought through, and the principle of proportionality – that the response should be the least intrusive and the most appropriate to the seriousness of the situation – should

underpin the decision made. Other remedies may be useful, for example, restorative justice, where the 'victim' explains to the 'offender' the impact that the crime has had on them. As ever, the person's own wishes should be considered as part of the deliberations.

In many cases it may be best to have an informal discussion with the police, together with the affected adult or their representative, to decide whether a police response is necessary.

It is essential to avoid a situation where a crime is effectively concealed by agencies carrying out their own enquiries. If a decision has been made to call in the police, they should be involved at the earliest opportunity. This is to ensure that key forensic evidence is not lost or damaged, and because a higher standard of proof is required in criminal proceedings than in disciplinary or regulatory proceedings. Early contact with the police may therefore help in obtaining and securing vital evidence and witness statements, leading to a successful prosecution.

Once the police are involved, their enquiries may take precedence over any others that may be in progress, and how these interact with matters such as internal disciplinary hearings will need to be coordinated locally.

8.3 When does poor care become a safeguarding issue?

The aim of every commissioner and service provider should be effective, high-quality care and support for every individual. When this falls short, people are put at risk and safeguarding referrals rise. There is evidence that many of the issues raised as safeguarding concerns – such as falls, pressure sores, wrongly administered medication or poor nutritional care – are rooted not in malicious harm but in poor practice and poor-quality care. Nonetheless, the impact on the adult at risk can be just as great, regardless of whether harm is intended.

It is important to differentiate between the two, in order to address problems in the right way, so that all adults at risk receive safe, high-quality care and support. It is also important to avoid making safeguarding enquiries unnecessarily, so that police and adult safeguarding teams are able to focus on potentially criminal acts and malicious behaviour rather than on poor care practices. There will need to be a clear common understanding of this across agencies, since some past cases of abuse were first thought to be poor care.

In Wirral partners should refer to the ADASS Threshold matrix above to guide their decision on whether any issue should be raised as a safeguarding alert, although you will always have to use your professional judgement on this, supported by your manager. The police should advise on whether a crime has potentially been

committed. Poor care should be identified and addressed by the service provider, using supervision, training and other mechanisms to improve practice.

It is good practice to keep the Commissioner, Contract Team and the Care Quality Commission fully informed of action that is being taken. Where single instances of poor or neglectful care are repeated, patterns of harm are identified and other people are put at risk, the Care Quality Commission, commissioners and Contract management Teammust be told and should take decisive action. Of course, the Care Quality Commission doesn't cover every type of support, and where poor care is delivered by a personal assistant, with no employer other than the person with care and support needs themselves, it can be hard to identify and tackle. Whoever arranged the care and support, usually the local authority, should satisfy itself that a person with care and support needs knows who they can talk to if they are dissatisfied with the support they're getting. The Safeguarding Adults Board should be made aware of any such concerns, and of any actions being taken to remedy failings.

Repeated instances of poor care indicate serious underlying problems and point towards organisational abuse, which happens when standards of care are so poor that adults are put at increased risk. The importance of recording everything – and regularly reading what has been recorded by everyone – cannot be overstated. Only through good recording can patterns of incidents over time be tracked and analysed, and therefore addressed.

Differentiating between poor care and potential safeguarding issues

Poor care
• A one-off medication error (although this could, of course, have very serious consequences).
• An incident of understaffing, resulting in a person's incontinence pad being unchanged all day.
• Poor-quality, unappetising food.
• One missed visit by a care worker from a home care agency.

Potential causes for concern
• A series of medication errors.
• An increase in the number of visits to A&E, especially if the same injuries happen more than once.
• Changes in the behaviour and demeanour of an adult with care and support needs.
• Nutritionally inadequate food.
• Signs of neglect such as clothes being dirty.
• Repeated missed visits by a home care agency.
• An increase in the number of complaints received about the service.
• An increase in the use of agency or bank staff.

• A pattern of missed GP or dental appointments.
• An unusually high or unusually low number of safeguarding concerns.

If abuse or neglect takes place in a service such as a care home, home care agency, day centre, hospital or college, the first responsibility to act lies with the employing organisation as the provider of the service. When an employer or manager is aware of abuse or neglect happening in their organisation, they should do three things:

- Inform the Central Advice and Duty Team
- Inform Wirral Council Quality Assurance team (and the local clinical commissioning group, if the NHS is the commissioner), taking into account the person's wishes
- take action to protect the adult concerned from further harm (such as by removing the staff or volunteers involved, or by providing them with additional training or supervision).

The employer (a term also used here to cover managers in places where there is no employer, such as in a volunteer-run service) should carry out their own initial investigation of any safeguarding concern. This should happen unless there is a compelling reason why it is thought to be inappropriate or unsafe, for example:

- there is a reasonable suspicion that a criminal offence has taken place.
- there is a serious conflict of interest (such as a small, family-run home where a wife might be investigating her husband)
- there is reason to believe that the matter will not be responded to effectively (such as in a small or volunteer-led body where there isn't sufficient expertise or experience)

The wellbeing of the person concerned should be of paramount importance.

Where a safeguarding concern has been reported to a local authority, it has a duty to find out what has happened and to decide what further action, if any, should be taken. The local authority needs to be satisfied that the service provider is responding adequately, and may need to carry out an enquiry of its own and oversee any follow-up action. It may, for example, advise that the service provider notifies the Care Quality Commission, the Disclosure and Barring Service or the relevant professional regulator (where there is one). All action taken and decisions made should be clearly recorded.

8.4 How should you respond to pressure ulcers?

Pressure ulcers illustrate well the challenge of finding out whether an issue is caused by poor care or avoidable neglect, or whether it is the unavoidable result of a person's current condition. While pressure ulcers are always a risk for people who

are frail and are not able to move about easily, with good management and care they can usually be avoided.

The simple fact that an adult at risk has a pressure ulcer – even a serious one – is not in itself a reason to suspect abuse or neglect. There are a number of factors to help you decide whether it potentially indicates neglect, or whether it indicates a need for care providers to improve their practice.

These factors include:

- the person's physical health and existing medical conditions
- any skin conditions the person may have
- any other signs of neglect, such as poor personal hygiene
- the appropriateness of their care plan and whether it has been properly carried out
- the person's own views, and the views of their family and friends, on their treatment and care.

These factors should be looked at by a clinician to establish whether the person's pressure ulcers are the result of poor practice that can be improved, or whether intentional or avoidable neglect is taking place. If the issue is neglect, a decision will need to be made as to whether there is a risk to other adults receiving services from the same provider.

The nature and timing of this, and who leads it, will depend on the circumstances of the individual case. The conclusion may be that the problem can be resolved by the service provider, and that a disciplinary response is appropriate. Or it may be apparent that external clinical intervention or regulatory enforcement action is required

If the pressure ulcers amount to the wilful neglect of people who lack mental capacity, a crime under Section 44 of the Mental Capacity Act 2005 may have occurred, and the police should be informed.

8.5 Is Self-Neglect a Safeguarding Issue?

Self-neglect can be a complex and challenging issue for practitioners to address, because of the need to find the right balance between respecting a person's autonomy and fulfilling their duty to protect the adult's health and wellbeing. Both perspectives can be supported by human rights arguments.

The Care Act 2014 statutory guidance includes self-neglect in the categories of abuse or neglect relevant to safeguarding adults with care and support needs. In some circumstances, where there is a serious risk to the health and wellbeing of an individual, it may be appropriate to raise self-neglect as a safeguarding concern.

However interventions on self-neglect are usually more appropriate under the parts of the Care Act dealing with assessment, planning, information and advice, and prevention.

It is vital to establish whether the person has capacity to make decisions about their own wellbeing, and whether or not they are able or willing to care for themselves. An adult who is able to make choices may make decisions that others think of as self-neglect.

If the person does not want any safeguarding action to be taken, it may be reasonable not to intervene further, as long as:

- no-one else is at risk
- their 'vital interests' are not compromised – that is, there is no immediate risk of death or major harm
- all decisions are fully explained and recorded
- other agencies have been informed and involved as necessary.

Risk and capacity assessments are likely to be useful. The legislation makes clear that adult safeguarding responses should be guided by the adult themselves, to achieve the outcomes that they want to achieve.

Carrying out an assessment may be difficult, if the person is reluctant. The Department of Health advises (in statutory guidance on the implementation of the Care Act 2014) that adult social care departments should record all the steps they have taken to complete an assessment of the things that a person wants to achieve and the care and support that they need. Research indicates that intervening successfully depends on practitioners taking time to gain the person's trust and build a relationship, and going at the person’s own pace.

If it is impossible to complete the assessment, or if the person refuses to accept care and support services, you should be able to show that you have tried, and that information and advice have been made available to the person on how to access care and support and how to raise any safeguarding concerns. All your decisions, and the considerations that have led to them, should be recorded in light of the person's wishes and their particular circumstances. You should be able to show that whatever action you have taken is reasonable and proportionate.

8.6 How should you address domestic abuse in a safeguarding context?
A considerable amount of adult safeguarding work in people’s homes relates to the domestic abuse of people with care and support needs. There is a good deal of overlap between safeguarding and domestic abuse procedures. Practitioners have to decide which approach is the correct one for the person who is at risk, and ensure that the person themselves remains at the centre of all decision-making.

According to Home Office guidance, domestic abuse encompasses not just physical violence but also psychological, sexual, financial and emotional abuse. It happens not just between intimate partners but also between other family members, regardless of age, gender or sexuality.

The approach that you take as a practitioner to situations where domestic abuse has happened may in some cases constitute a safeguarding response. For a safeguarding response to be required under the Care Act 2014, the person has to meet the usual three criteria:

- having care and support needs
- experiencing (or being at risk of) abuse or neglect
- being unable to protect themselves because of those needs.

'Adult safeguarding and domestic abuse' (http://plcsab.proceduresonline.com/pdfs/g_sg_dv.pdf) is a comprehensive guide that supports practitioners and managers in making decisions about how to respond to individual situations. It is a key resource in promoting more effective support for people who need an adult safeguarding service because of domestic abuse. In particular, it emphasises the need to:

- develop a good relationship with the adult at risk and put their views and wishes at the forefront of all discussions
- be alert to patterns of coercive or controlling behaviour, and be aware that an adult at risk may refuse to report abuse because of fear
- consider any additional likely impact of abuse on an adult with care and support needs
- understand how local safeguarding services and Multi-Agency Risk Assessment Conferences (MARACs) fit together
- be aware of the legislative options and local resources that are available both to safeguarding teams and to MARACs, so that practitioners know the full range of responses available to them when supporting an adult with care and support needs.

8.7 What should you do when a person who has full mental capacity acts in a way that is a risk to their safety or wellbeing?

If someone makes a decision that you or others think is unwise or not in their interests, this does not necessarily mean that they lack the capacity to decide. It is inevitable that there will be times when an adult who has capacity decides to accept a situation that you perceive as potentially abusive or neglectful. This is a decision that they are free to make, unless:

- other people are being put at risk (for example, letting friends who are abusive or exploitative into a shared living environment, where they may put other residents at risk)

- a child is involved
- the alleged perpetrator has care and support needs and may also be at risk
- a serious crime has been committed
- staff are implicated
- coercion is involved.

It is worth bearing in mind that the Data Protection Act 1998 permits information to be shared in a situation of 'vital interest', where it is critical to prevent serious harm or distress or where someone's life is threatened. However, if the only person who would suffer if the information is not shared is the subject of that information, and they have mental capacity to make a decision about it, then sharing it may not be justified.

You should make sure that the person is aware of any risks and the potential impact on their safety and wellbeing, and encourage them to develop strategies to protect themselves. This might involve them becoming involved with a user-led organisation or a support group, for example.

If someone's decision is having a significant, negative impact on their own safety and wellbeing, you may wish to discuss this with colleagues and seek advice about what options may be available. Any action you take must be informed by the principles of choice, respect and dignity for the person concerned, with a clear focus at all times on helping them to achieve the outcomes they want.

It should be established whether the person is driven purely by their own views and wishes, or whether they are potentially being unduly influenced or coerced by another person. If you believe that they are being coerced, the inherent jurisdiction of the High Court could apply.

If you believe that a person is acting in a way that is a risk only to their own safety or wellbeing, and they are not being unduly influenced by anyone else, then you may decide not to intervene and not to share safeguarding information with other partners. If this is your decision, then you should ensure that you:

- support the person to weigh up the risks and benefits of different options
- make sure that they are aware of the level of risk and possible outcomes,
- agree on the level of risk they are taking
- offer to arrange an advocate or peer supporter for them, if they would like this
- offer support for them to build their confidence and self-esteem, if it appears relevant
- record your reasons for not intervening or sharing information, including every detail of your assessment of the person's capacity and of your conversations with them about the potential risks posed by their chosen action
- review the situation regularly

- make sure that they understand where they can go if they want to seek help in the future
- try to build trust and use your professional skills and the relationship you have with the person to make it possible for them to better protect themselves, encouraging them to continue the conversation with other people who they trust, such as family members, friends and other professionals.

You may think that it is necessary to share information about the person outside your organisation without their consent, if you conclude that other people's safety is potentially at risk. If this is the case, you should share the information. In addition as long as it does not increase the risk to the person, you should inform them that you will share their information, and why. You should also:

- explore the reasons for their objections and find out what their concerns are
- explain why you are concerned about them and why you think it is important to share the information
- tell them who you would like to share it with and why
- explain what the benefits may be to the person of sharing information about them
- discuss the potential consequences of not sharing the information
- reassure them that their information will not be shared with anyone who does not need to know.

8.8 When should poor support from a family trigger a safeguarding enquiry?

Identifying the point at which poor care and support becomes a potential safeguarding issue is a dilemma which does not always have a clear-cut answer when it applies to regulated services, it is even less straightforward when the care is being provided by unpaid family carers.

This question is not about obvious signs of abuse – physical, psychological, financial or any other kind – but about the difficult area of 'care that is less than ideal'.

Family carers are obviously not required to meet specific care standards, although if wilful neglect or mistreatment has occurred, carers may be prosecuted under Section 44 of the Mental Capacity Act 2005. The quality of the care they provide is not subject to regulation or inspection, so it can be difficult for practitioners to decide when and how to intervene.

It is not always easy to pinpoint where private decision-making in families about how they want to do things should end and where intervention should begin, to ensure the safety and uphold the rights of the adult with care and support needs. Always bear in mind the wishes and feelings of the person with care and support needs as a guide.

You will undoubtedly come across care situations in domestic settings that you judge to be inadequate for the person being cared for and that would be unacceptable in a care home. There will be times when family carers act in a way that you would not expect a paid care worker to act. For example:

- medicine may not be given exactly as it is prescribed
- lifting and handling practices may not be ideal
- money that has been allocated to meet a disabled adult's needs may be spent on other family members.

If a paid carer was responsible, you would probably intervene. In a family setting, you may be unclear about whether to do anything about it.

The key issue is whether the person being cared for is at direct risk of harm, and the extent of any potential or actual harm. You have to act if, for example:

- hurtful comments or threats to abandon the person are causing them significant distress
- a carer's failure to reposition the person they care for regularly enough is causing pressure ulcers
- the person does not have enough food to eat or warm-enough clothes, while the money they have been given is going elsewhere.

You have to act even if it means entering the difficult territory of cultural differences. If a person is at risk of harm because of their carer's actions, then you should be prepared to step in.

It is important always to be aware of the pressure that family carers may be under, and to consider the reasons why they make particular decisions and take particular actions. Starting safeguarding procedures risks making a difficult situation harder for the family carer and the person they care for. The carer may be doing their best but still struggling. They may put the person at risk because they snap under pressure, rather than because they intend to deliberately cause them harm.

Obvious abuse or neglect should trigger an immediate safeguarding response. But in many cases, you may need to adopt a twin approach of supporting the carer while safeguarding the person they care for, and considering both their needs at the same time. Your response should be proportionate to the risk that is posed, with the aim of helping families manage their caring responsibilities more easily. Working with carers to identify what is putting them under the greatest pressure and what type of support would help, will often reduce the risk to the person they are caring for.

Supervision and discussion with other professionals may help in thinking through the risks. Other professionals may have valuable information or observations to share,

and they can help with monitoring risks. Developing a safeguarding support plan is key to practice here.

8.9 How should you respond if you are denied access to a person who may be at risk of abuse or neglect? What actions should you take before turning to legal options?

Local authorities' duty to make safeguarding enquiries, or cause enquiries to be made, does not give you an automatic legal right of access to the adult who is the subject of the enquiry if the person, or someone who is associated with them, tries to prevent you from seeing them.

Your options for gaining access to the person are unchanged by the Care Act 2014, but the complexities of this highlight the need for legal literacy – a general awareness of the law in this area – among safeguarding practitioners.

If you suspect the person may be a victim of abuse or neglect, and they may lack the mental capacity to make decisions about their situation, you will need to use your professional skills to try to find a 'way in', before any application is made to the Court of Protection to gain access to them.

Your priority should be to try to understand the person's situation as fully as possible. You may find that you can talk to them away from their home, at a place they usually attend such as a college, day service or respite facility. Keeping lines of communication open with the family carer (or whoever is denying you access to the person) may help to break down their wariness and ultimately lead to access and a positive outcome.

There may be other protective factors in the person's life, such as family, friends, community groups and other professionals, who are able to offer support to them and monitor ongoing risks. Informal networks may be well placed to understand the person's circumstances and to continue the conversation directly with them about their risk of abuse or neglect. While statutory adult services may be seen by some people as a 'threat', voluntary sector bodies may be perceived in a more positive light. You may therefore want to identify any local charities that provide care or support to the person you are concerned about, and work closely with them.

If the person has capacity, but is unable to exercise this because of coercion or undue influence from another person, then you can apply to the inherent jurisdiction of the High Court.

The Mental Health Act 1983 includes powers for an approved mental health professional to enter the premises of a person with a mental disorder if there is reasonable cause to believe that the person is not receiving adequate care.

If you believe that a crime has been committed, or that there is an immediate, serious risk to a person or a property, you can ask the police to use their power to enter the premises without a warrant under the Police and Criminal Evidence Act 1984.

Whether any of these legal powers are necessary – and which ones might be used – will depend on the individual circumstances of the person concerned. You should only consider resorting to legal intervention if you have exhausted all other possible alternatives, given the difficulty of maintaining an ongoing relationship with an individual or their family once the courts are involved. The court will expect to see detailed evidence of all these alternatives.

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APPENDICIES