

Adult Safeguarding Board

Adult Safeguarding Policy And Operational Guidance

Reviewed by Paula Youell
January 2010

PART 2



THE INVESTIGATIVE INTERVIEW

- To elicit as accurate a picture as possible from the person as to what, if anything, has happened to them
- To enable the vulnerable adult to communicate in their own way what, if anything, has happened to them
- To make it possible for the vulnerable adult to give as full and thorough account as possible of what has happened to them in order to:
 - Facilitate further investigation
 - Inform further action
- Careful planning of the interview strategy will avoid the need for repeated questioning.
- Repeated interviewing may cause distress
- Repeated interviewing may be regarded as “coaching”

It may give the impression to the vulnerable adult that they are not believed or are under pressure to embellish.

However, the interview process may need to include breaks where this is in the interest of the vulnerable adult.

BEFORE THE INTERVIEW

No investigative interview should be undertaken without adequate planning. A plan that includes clearly defined objectives should always be prepared before the interview.

It may be useful to have in mind a checklist of questions appropriate to the particular case details (see question phase for advice on types of questions to use).

SUPPORTING THE INDIVIDUAL

It is essential that the vulnerable adult can understand the reason for the interview prior to it taking place and what will happen. Consideration should be given to the most suitable venue, how the person will get there, and who will accompany them.

The vulnerable adult should be asked if they wish to be accompanied by a friend or supporter.

The role of the supporter is to:

Provide non-intrusive support to the vulnerable adult prior to and after the interview.

They should not be present during the interview unless the vulnerable adult is unable to continue without them.

If the supporter is in the interview room during the interview, they must not play any part

within the interview process and must not answer any questions or prompt the vulnerable adult in any way.

It should be made clear that the role is not to question the vulnerable adult, or comment upon, or add to what is being said. The Supporter will need to be briefed of their role prior to interview.

Where the vulnerable adult has severe communication difficulties, consideration will need to be given to using an intermediary or interpreter. Guidance on the use of these should be sought from Achieving Best Evidence, a specially trained member of staff, the police or the Home Office.

PLANNING THE INTERVIEW

PRACTICE GUIDANCE

Identify the purpose of the interview. Is it for example:

- To determine the vulnerable adult's wishes and views of the situation (assessment)
- To identify the vulnerable adults support/protection needs (assessment)
- To determine the best way of undertaking the investigative interview and any need for an Intermediary (assessment)
- To get to know more about the vulnerable adult (assessment)
- To establish in detail what the vulnerable adult alleges has taken place (investigative)
- To determine the nature and severity of the alleged abuse (investigative)
- To facilitate investigation by obtaining from the vulnerable adult as detailed an account as possible of what is alleged to have happened and the effect that it has had upon them (investigative)
- To facilitate investigation by identifying the alleged perpetrator (investigative)

All 'investigative' interviews that involve criminal offences should be carried out by the Police, or following consultation with the Police.

Identify the needs of the vulnerable adult and any aspects of their disability/cultural background that may be relevant, e.g.:

- Do they need someone with them to help with communicating (signer, translator, intermediary, facilitator)?
- Do they need special equipment to help them communicate?
- Access and mobility
- Toilet breaks, refreshments etc
- Use of language (complex sentences, tenses etc)

- Identify the most appropriate person(s) to carry out the interview
- Should it be male or female?
- Are there issues of ethnicity or culture that need to be considered?
- What skills, knowledge or attributes are needed?
- Identify where the interview is to take place
- The needs of the vulnerable adult e.g. accessibility
- Evidential requirements e.g. is a video interview needed
- Resources available
- Identify how the interview is to be recorded
- Evidential requirements
- The views and wishes of the vulnerable adult
- Can the interview be recorded at the same time as the interview is being conducted, or does it need to be written immediately afterwards (where possible a contemporaneous method of recording should be used. Otherwise recording should take place as soon as possible following the interview).
- Can someone be asked to write a transcript or take detailed notes as the interview is being conducted?
- Should a video or audio recording of the interview be made?

The Police will assist and advise and, wherever possible, should lead the investigative interview.

THE INTERVIEW

The interview should be conducted in a manner that enables the vulnerable adult to feel comfortable and relaxed and yet sufficiently formal to allow the interviewer to gather the information in a manner that meets their requirements.

The interviewer needs to be flexible enough to listen to and respond to what the interviewee is saying/communicating and yet be able to gently draw the interviewee back to the reason for the interview.

Never stop or interrupt an interviewee who is freely recalling significant or relevant events.

Always proceed at the pace of the interviewee, and allow them time to respond to a question.

Silence is okay, it allows you both time to reflect upon what is being said.

Suffolk Police have facilities for undertaking video interviews. Recent legislation (Youth Justice & Criminal Evidence Act 1999 And Achieving Best Evidence) permits the use of video interviews with vulnerable witnesses.

THE FOUR STAGES OF THE INTERVIEW

STAGE ONE: RAPPORT

All interviews should start with a rapport stage designed to put the participants at ease, ensure that they are comfortable, and help the vulnerable adult to get used to the question and answer nature of the interview process. In addition, this stage should be used to ensure that the vulnerable adult knows, and is comfortable, with who is present, why they are there and, how the interview is to be recorded.

Where a video recorded interview is used, this stage crosses between pre-recorded and the recorded part of rapport. Clearly no evidential issues should be discussed off-video; the rapport stage is just about getting comfortable with the witness and them feeling comfortable with the process.

STAGE TWO: FREE NARRATIVE

The purpose of the free narrative stage is to encourage the interviewee to freely recall in their own words the events that they have experienced.

The transition between the rapport stage and the free narrative can be difficult and awkward. One method can be to ask the interviewee a general question in relation to the area in which the abuse took place as a lead up to a more specific but open question. You may consider asking the interviewee what they think they are there to talk about or by referring to the initial concern, e.g. "I have been told that you were worried about Bill, tell me about that".

There may be a number of difficulties for the vulnerable adult in trying to provide an account of the events.

The usual inhibitions when talking about abuse apply, e.g. fear of reprisals, embarrassment, uncertainty, social pressures and perceptions.

Many vulnerable adults may not have an understanding about the interview process, and communication difficulties may impose limitations upon their ability to freely recall the circumstances of the event in detail.

The narrative stage should always be attempted even though the response may be very limited. Asking simple questions like, "what happened then" can often extend this stage?

Interviewers should be prepared to move from this stage and work with what little they have managed to acquire. In some cases, it may be that the interviewer will move directly to the Closure stage if the previously suspected abuse is not evident.

STAGE THREE: QUESTIONING

Where the individual said nothing relevant to the alleged offences during free narrative but there is other information documentary or otherwise, the interview may continue into the question phase by covering the issues/subjects of the evidence. E.g. by asking the interviewee about 'Bill' 'His role' 'How she feels about him' etc.

In planning interviews with vulnerable adults it may be decided to conduct a series of interviews rather than a one-off where this is of benefit to the interviewee.

TYPES OF QUESTIONS

OPEN ENDED QUESTIONS

Open-ended questions can be answered in a range of possible ways and do not limit the person to simple yes/no answers. Open questions start with one of the following...

WHAT? WHY? WHERE? WHEN? HOW? WHO?

Good communication skills are required to respond to open ended questions. Some people with limited understanding may not be able to give long answers. Therefore the open questions may need to be specific or the interviewer may even need to revert to closed questions.

An additional difficulty is that the vulnerable adult may have a desire to please. This may be particularly true of people with learning difficulties

SPECIFIC YET NON LEADING QUESTIONS

A specific question asks the person to tell you about, or clarify particular details. In addition they can be used to recap, or take a person through a sequence of events e.g. what happened next?

CLOSED QUESTIONS

Closed questions require a limited single yes/no response e.g. Was it? Is it? Did he?

Closed questioning may be the most common form of questioning used with vulnerable adults who have severe communication difficulties. This style of questioning needs to take into account the risks of:

- Suggestibility – the tendency to agree with the content of any leading questions

- Acquiescence – the tendency to say yes to a question automatically or to agree to the second of two options
- Closed questions tend to be leading questions

LEADING QUESTIONS

A leading question is a form of closed question that leads the person towards answering in a certain way.

E.g. Did that feel nice? You don't like him do you? Did that make you feel angry?

The interviewer should not ask this type of question. This is very likely to lead to evidence being omitted from court and to lead to misinformation from the interviewee. Great care should be taken to avoid leading questions wherever possible. If leading questions are used as a last resort then the interviewer should offer more than one option e.g. "Did that touch feel nice?" and "Did it feel awful?" However people with learning difficulties are likely to acquiesce or change their answer if they believe they got it wrong the first time. Therefore similar questions should have a significant gap between them to avoid this.

Non-Verbal Communication (NVC)

Attention should also be paid to the person's non-verbal communication e.g. body language, gestures and facial expressions. Information is often available through NVCs. An interviewer should point out the NVC and ask for explanation/clarification from the interviewee.

STAGE FOUR: CLOSING THE INTERVIEW

The interviewer summarises, in the person's own language, what they have said in the interview.

Always thank the vulnerable adult for their hard work and ensure that they have a future point of contact.

If timescales for subsequent decisions are known then these too can be explained to the vulnerable adult so that they have an understanding of what happens next.

The interviewer should now encourage discussion of a subject, or topic, unrelated to that which is under investigation.

EVALUATING THE INTERVIEW

The interview or statement can be evaluated against the initial objectives and analysed for credibility. It may be appropriate to request an independent assessment of what has been said.

PROFESSIONAL STRATEGY MEETINGS

The Strategy meeting provides professional forum for the exchange of information between professionals involved with the individual deemed to be at risk, and allows for inter- agency, multi-disciplinary discussion of the circumstances of the case, the roles and responsibilities of those involved and the legal framework for intervention. The results of the discussions are recommendations to individual agencies for action and the final decisions regarding implementation rests with those agencies.

WHEN SHOULD A STRATEGY MEETING BE HELD?

If the investigation demonstrates that an abuse has occurred or concerns about the safety of the vulnerable adult are unresolved

If the alleged perpetrator is employed in a position of trust.

Once relevant information and reports are available to inform those attending the meeting and the decision-making process

Where professionals have taken all appropriate measures to protect the vulnerable adult, but the abuse is on-going, case conferences including legal services should be convened to ensure that all alternatives available have been explored

If the vulnerable adult has a significant mental health need, it may be appropriate for the case conference to take the form of an initial, or review, Care Programme approach meeting

WHAT IS THE PURPOSE OF A STRATEGY MEETING?

The following issues should be considered:

- Ascertaining the current level of risk
- The content of the Investigator's report
- An Adult Protection Plan should be developed, and a professional nominated who has responsibility to co-ordinate, implement, and monitor the effectiveness of the plan
- Who else should be informed on a "needs to know" basis?
- What arrangements are to be made for further reviews if required?
- Recommendations to be made about changes to the organisation and delivery of services, if appropriate
- Provision of a forum where the vulnerable adult and their carer or advocate can participate and express their views and concerns

FORMAT AND CONTENT OF A STRATEGY MEETING

Proceedings should normally cover the following

- Introductions and roles of those present
- Outline by chair of the purpose of the Case Conference
- Rules of conduct
- Presentation of the Investigating Officer's report
- Current position of investigation

The opportunity for representatives to contribute what they know about the situation and detail what their concerns are

- Assessment of current risks to the vulnerable adult
- Formulation of an Adult Protection Plan, including review dates and information about who will carry out the review
- Summary of discussions and conclusions
- Agreed plan of action identifying specific roles and timescales
- Future meeting dates and venue
- Circulation list of minutes and accompanying papers to be agreed

MINUTES

Minutes should include the following details:

- Attendance
- Name
- Title
- Agency/link to adult
- Date/Time/Duration/Venue
- Details of Chairperson
- Profile of the Vulnerable Adult
- Profile of all relevant family carers and/or relatives or other service users as appropriate
- Referral details
- Tasks/actions to be addressed by the meeting

- Record of the Adult Protection Investigation including the outcome of any medical examinations
- Information from each professional
- Vulnerable adult's views
- Other concerns
- Recommendations
- Decisions
- Circulation of minutes including copies to CQC or the ISA
- Arrangements for future meetings or reviews of the Adult Protection Plan

The Chairperson shall ensure that the minutes are sent to all those invited to attend within 10 working days.

The minutes should be produced in a manner that ensures that the individual is able to understand their content; language, large print, Braille, avoid jargon etc.

The contents of minutes are confidential and as such must not be reproduced, divulged or copied in any way. Information obtained at a strategy meeting is not to be discussed or revealed to persons not present without first obtaining written permission from the source of that information.

CONDUCT STRATEGY MEETINGS

General Principles

Invitations to participants should state the purpose of the meeting and all information should be presented in a format which participants can understand.

Participants should be advised that the proceedings are being conducted in strict confidence.

Contributors should be reminded of the importance of distinguishing between fact and opinion.

Language used should be non-discriminatory in nature having regard to the age, gender, sexuality, race, disability, religion, and role of all persons involved.

The overriding consideration should be to protect the vulnerable adult from further harm.

Respect for the views and wishes of the vulnerable adult, where they can be determined, will always be maintained and the need for confidentiality protected.

Participants should treat each other with respect.

Any decision to override the views of the vulnerable adult will always be taken in consultation with others and the reasons recorded.

The contents of the notes of the meeting should not be discussed with any third party without the consent of the chairperson

Any professional with direct knowledge of the individual or their situation unable to attend the meeting should submit a written report giving details of their knowledge and expressing their opinion regarding possible action.

ADVISING THE VULNERABLE ADULT AND/OR THEIR REPRESENTATIVE/ADVOCATE ABOUT THE MEETING

The purpose of the strategy meeting is to share information freely and professionally.

The individual felt to be at risk should be advised that a meeting is to take place, and their views sought and shared at the meeting. Representatives for the vulnerable adult should only attend with the consent of the individual at risk.

There should be a free flow of factual information between participants. It is incumbent upon the participants to protect the confidentiality of the information that has been exchanged, insofar as that is consistent with the proper management of the case, and the legal responsibility and accountability of each agency. The deliberate withholding of information cannot be defended on the grounds of confidentiality as non-disclosure may have an influence upon the safety of the vulnerable adult.

Where a non-professional is invited to attend the Chairperson should ensure that they are properly briefed beforehand about the purpose of the meeting and the duty of confidentiality.

If a professional feels unable to divulge information because of the presence of the non-professional they must communicate their concern to the Chairperson. A decision can then be made as to whether the information can be shared solely with the professionals attending.

Closing the Safeguarding Investigation

Once the investigation has been completed, there should be clarity about whether, on the balance of probabilities, abuse has taken place. Any decisions regarding case closure should be agreed and fully recorded. Cases can be closed at any stage of the investigation with the agreement of the agencies involved. The decision should detail any interventions put in place in respect of both the victim and the perpetrator.

Prior to closing an investigation the case responsible person should have regard to the following:

- The reason for closure must be agreed and recorded.
- The case file must contain all the necessary information, minutes, forms and reports.
- A decision should be made on how the information is to be shared with the adult at risk of abuse.
- All decisions should be recorded.
- The vulnerable adult and their family views carers' (if appropriate) of the outcome and process are recorded.
- The vulnerable adult is fully informed and aware of the details of the safeguarding plan and review process.
- Consideration must be given as to whether any staff, alerter, whistleblower, carers need additional support.

APPENDIX SIX

COMMUNICATION AND ALERTING

Unfortunately, “abuse” is not something that fits into nice, neat categories and can, therefore, not be identified by using simple tick boxes or prescribed formulas. Concerns, worries and suspicions may come from a variety of sources; something witnessed, implied, inferred or disclosed.

It is important to recognise the difference between “investigating” concerns and “alerting” others about concerns. In terms of identifying abuse or being suspicious that it may have occurred, your initial role is to gather information, inform your line manager and decide whether a referral is required. This would be an alert.

In other words, you don’t need to fulfil the role of investigator. You cannot be a one-person adult safeguarding unit, but you are the person to whom information has emerged and you now need to follow good practice, policy and procedure to ensure the best response for the vulnerable adult.

The role of the alerter is crucial and your actions at this stage will have a great bearing on the outcome of any subsequent investigation.

If a person makes a disclosure to you try to ensure:

- That they can speak to you in private, or without others listening or interrupting
- That they have an effective means of communicating with you
- That, if necessary, you use the services of an interpreter, or translator
- That you are aware of any cultural communication issues e.g. gender
- That you listen carefully to what is being said
- That you remain calm and non-judgemental
- That you voice regret for what has happened.
- That you will treat the information seriously.
- That the person has time and opportunity to give an account in their own words. (free narrative)
- That you do not ask leading questions
- Pay close attention to non-verbal or indirect communication
- That the person understands that you will be sharing the information with your line manager

Talk with your line manager. The decision about what should happen need not be yours alone, but is in essence the responsibility of the organisation.

Record the agreed outcome of your conversation.

Work in adult safeguarding requires us to communicate with our colleagues in other disciplines. Communicate with the most appropriate lead agency to further the Investigation process (Adult Community Services, Commission for Social Care Inspection, Police).

Communication with vulnerable adults at a time when they may be frightened, embarrassed, confused, intimidated or in pain is very challenging and demanding. There are no easy answers to this, however, by utilising best practice strategies, remaining calm and focussed, seeking advice and support from your line manager, and by understanding your roles and responsibilities in relation to abuse, you will assist in the investigation process, and therefore the protection of your client.



APPENDIX SEVEN

EXTERNAL PROVIDERS

Remember abuse is not the sole responsibility of any one single agency or individual. It is the responsibility of all who have a duty to provide care and protection to vulnerable people. The situation requires a multidisciplinary approach if an effective strategy for abuse prevention is to be implemented.

Networking and communicating across agencies is of paramount importance. Maintaining positive links with other disciplines is therefore recommended.

Appropriate action

Follow the ASB Safeguarding Policy and Staff Guidance.

Discuss immediately with a line manager or designated person

Speaking to the lead agency in your area (Social Care Services, Care Quality Commission or Police)

Advise and collaborate with other professionals as appropriate.

Intervention should be:

Balanced – avoiding unwarranted interventions

Effective – provide practical solutions

Aware – of culture, race, gender, beliefs and sexuality

Sensitive – to the needs and feelings of those involved

Timely – avoiding further harm

Make sensitive enquiries of the vulnerable adult. Allow the person time to speak. Ascertain what the person now wants to happen. Do not ask leading questions or conduct an interrogation or investigative-type interview.

It is your responsibility to report any incident or suspicion to the lead agency. This is in accordance with the VAPC protocol. Do not attempt to deal with the problem alone or in-house. Use the experience, expertise and support of others. Always involve other appropriate agencies.

Initiate emergency intervention if appropriate.

Monitor the situation closely, collate and record your information and observations.

Keep formal detailed accurate records, including completion of the Adult Protection Referral Form. Record what is said in the persons' own words.

Never dismiss what the person says. Always take seriously even when the person appears to be confused.

You may be alerted by a frightened demeanour coupled with some non-verbal indicators or other physical or environmental evidence.

It is not our role to reach conclusions at this point. Be open-minded do not challenge abuse. Record what you have been told or have witnessed.

Remember

- Adults have basic rights, choice and options
- Do not jump to conclusions
- Do not make accusations
- Always try to appear calm; don't panic
- Never show shock, astonishment or horror during disclosure
- Never keep concerns, worries, and suspicions to yourself
- Never ignore what is said or dismiss what you have been told.

PRINCIPLES AND BEST PRACTICE

The prime concern at all stages will be the interests and safety of the abused person.

The aim will be to give a professional service to support and minimise distress and risk to any abused person.

All vulnerable adults have the right to be protected and have their decisions respected even if that decision may place them at risk.

All services will be provided in a manner that respects the rights, dignity, privacy and beliefs of all individuals concerned and does not discriminate on the basis of race, culture, religion, language, gender, disability, age or sexual orientation.

Any person who has been abused needs the same care and sensitivity regardless of whoever is the alleged perpetrator.

Victims, witnesses, those who disclose allegations of abuse, and staff involved in the adult protection process will be treated with sensitivity, and offered appropriate support at all stages of the investigation.

The importance of professionals working together and in partnership with the abused person will be recognised throughout the process.

The responsibility to alert others about the abused person thought to be at risk, rests with the person who has the concern.

All agencies receiving confidential information in the context of an abused adult investigation will make decisions about sharing this information in appropriate circumstances.

Vulnerable adults have the right to have an independent advocate if they wish.

APPENDIX EIGHT

OUT OF COUNTY PLACEMENTS

Occasionally an adult protection referral, or alert, will be made concerning a customer who is a resident within the Suffolk boundary but has been placed here from another County.

Even though the person is sponsored by another Local Authority, their normal place of residence, in this case Suffolk, will be responsible for completing an Adult Protection Referral Form and initiating a Strategy Meeting/Discussion.

Consultation with a representative from the sponsoring Authority should begin immediately.

The sponsoring or purchasing Authority should be fully advised and informed of progress made, and of decisions taken. They should be invited to attend, or contribute to any strategy discussions and meetings, and written records of the investigative process should be shared with them.

When a customer is placed by Suffolk Social Care Services in an out of county establishment then the same service and response would be expected from the local authority where the customer is resident.

APPENDIX NINE

A STATEMENT OF RIGHTS

Suffolk's Adult Safeguarding Board Policy is a practical expression of the commitment of organisations in Suffolk to work together to ensure that the rights below are recognised and respected.

Everyone has these rights but some people, because of their age or the nature of their disability, may be more at risk of exploitation and less able to defend their rights themselves. People have a right to:

1. Be respected by their families, family carers, and those professionals and volunteers providing services for them.
2. Say what they want and think and feel so long as doing so does not break the law or affect other people's rights.
3. Be involved in making decisions that affect them.
4. Personal privacy, including not having personal letters opened or phone calls listened to unless the law allows this.
5. A wide range of information, especially information that would make life better for them.
6. An adequate standard of living, good food, access to health care and freedom from neglect.
7. Be able to develop to their full potential.
8. Be safe and receive adequate care and protection. This includes protection from all forms of violence including physical punishment, intimidation, belittling, and lack of respect, harassment, and sexual assault.
9. Report violence and have their report taken seriously, including the right to have the Police called, if a crime has been committed.
10. Take an active, full part in everyday life and become as independent as possible, with a disability.
11. Leisure time and to spend their time as they choose, including taking part in activities that include an element of risk.
12. The money and property that is legally theirs.
13. Not be discriminated against because of their ethnic origin, culture or religion.
14. Not be discriminated against because of their gender or sexuality.
15. Not be discriminated against because of their age or disability.

(Adapted from European Convention of Human Rights)

APPENDIX TEN

ADULT SAFEGUARDING BOARD-SUFFOLK

PROCEDURE FOR THE REVIEW OF SERIOUS ADULT PROTECTION CASES

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Author Bill Nicol, Head of Adult Safeguarding Services
August 07

PROCEDURE FOR THE REVIEW OF SERIOUS ADULT PROTECTION CASES

PURPOSE OF SERIOUS CASE REVIEWS

There are three purposes to be fulfilled by serious case review:

- To establish whether there are learning points about the way in which practitioners and agencies collaborated to safeguard vulnerable adults.
- To establish what those learning points are, and consider how they can be acted upon in order to change existing practice.
- To improve inter-agency working and ensure that systems are best utilised to promote partnership and communication.

NB. Serious Case Reviews are not inquiries into how an adult died, or suffered injury. Neither are they an exercise to discover who is culpable for a vulnerable adults' death or serious injury.

CRITERIA FOR CONDUCTING A SERIOUS CASE REVIEW

The Suffolk Adult Safeguarding Board should undertake the lead responsibility for conducting a serious case review.

The Board should always consider conducting a serious case review when a vulnerable adult dies (including death by suicide), and when abuse, or neglect, is known, or suspected, to be a factor in their death.

In addition, the Board should consider whether to conduct a serious case review where a vulnerable adult has sustained:

- A life threatening injury through abuse or neglect
- Serious sexual abuse
- Serious or permanent impairment of development through abuse or neglect
- Or where the operational case details give reason for concern about the way in which professionals and services worked together to safeguard vulnerable adults

In deciding whether a serious case review should be conducted in cases other than those involving a death (see criteria above), the following questions should be considered:

- Was there clear evidence of a risk of significant harm to a vulnerable adult that was not recognised, or shared, by professionals or agencies?
- Was the adult abused in an institutional setting?
- Does one, or more, professional, or agency consider that their concerns were not taken seriously, or acted upon appropriately?
- Does the case indicate that there may be operational failings in one or more aspects of the use of the ASB adult safeguarding procedures?
- Does the current adult safeguarding policy need to be amended or revised as a result of inadequacies or omissions?
- Does the case appear to have implications for a range of professionals or agencies?

REFERRING OF CASES FOR SERIOUS CASE REVIEW.

Any agency, or professional, may refer a case believed to conform to the criteria and guidance (as outlined in above) using the format set out in Appendix C. Referral should be made to the Chairperson of the Suffolk ASB, or to the Head of Adult Safeguarding Services, together with a brief outline of the case and the factors that suggest that it is appropriate for serious case review. Adult Safeguarding Managers, Team Managers, or others chairing adult safeguarding case conferences will be particularly well placed to identify the cases that warrant review.

A summary of all cases that potentially meet these criteria will be submitted to ASB members for consideration.

Any case that is considered appropriate for serious case review will be delegated by the Chair of the ASB to a Serious Case Review Panel. This will comprise of at least one, or more, delegate from the following areas:

- Suffolk Adult Community Services

- Suffolk Police
- Care Quality Commission
- Legal Representative
- Voluntary/Customer Organisation
- Health Representative

This will form the core membership of the panel.

In addition to this core group, additional members may be co-opted to address particular case issues.

Nominees will have appropriate levels of experience of adult safeguarding. In order to enhance the independence and objectivity of the Panel, nominees selected to contribute to specific reviews will normally be chosen from an operational area that has no direct involvement with the case in question. The selection of contributors will be the responsibility of the Serious Case Review Panel Chair.

The Serious Case Review Panel will be chaired by an independent person who, in turn, will be supported by the Head of Adult Safeguarding Services.

Before undertaking a serious case review the panel will draw up clear terms of reference for the conduct of the review and identify individuals/agencies to contribute.

The terms of reference will address the following elements:

- What appear to be the most important issues to consider in order to enhance points of learning from the specific case?
- How can the relevant information best be obtained and analysed, including any necessity to request relevant individuals to give a direct account?
- Over what time span should case details and chronology of intervention be reviewed?
- What information from family, or service, history will assist the panel?
- Which agencies or individuals should contribute to the review, and is there a need for other written information to be obtained from other sources?
- Should the vulnerable adult, their family, or informal carers be invited to contribute to the review? If so, which is the most appropriate method to enable their participation?
- How should the review process take account of a Coroner's inquiry, or any criminal investigation?
- When should the review start and by what date should it be completed?
- How will confidential information be recorded, stored, and distributed?

The Serious Case Review Panel will complete its deliberations, and make recommendations to the Chair of the ASB about what action should now be taken within 3 months of the case being referred for review. A report outlining any recommendations will be presented to the ASB at the earliest opportunity.

CONDUCTING A SERIOUS CASE REVIEW.

Upon confirmation from the ASB that a case is to be reviewed a representative, the independent core group, and Chairperson will be identified to conduct the review. The Serious Case Review Panel will identify relevant contributory individuals and agencies.

The Chair of the Serious Case Review Panel will formally request that relevant individuals and agencies prepare and submit a management report outlining their involvement with the vulnerable adult/family (see Appendix A for details of the content of management reports for submission to the Serious Case Review Panel).

The Chairperson for the review will, in conjunction with the Head of Adult Safeguarding Services, be responsible for ensuring administrative arrangements are completed and that the review process is conducted according to these procedures.

The panel will complete a review of the information commissioned, and produce a short overview report of its findings, conclusions, and recommendations for the ASB (see Appendix B for detail of contents of panel reports for presentation to the ASB).

IMPLEMENTING THE REVIEW RECOMMENDATIONS

On completion, the overview report will:

- Ensure that contributing agencies are satisfied that their information is fully, and fairly represented in the overview report.
- Translate recommendations from the overview report into an action plan, which will be endorsed by each agency. The action plan will outline:
 - Who will be responsible for various actions.
 - The time-scales and targets for the completion of agreed actions.
 - The intended outcome and purpose of recommended actions.
- The model used for evaluating, monitoring, and reviewing the necessary improvements in practice, policy, and/or systems.
- Clarify to whom the report, or sections of the report, should be made available.
- Disseminate the report, or key findings to interested parties and provide feedback and debriefing to staff, vulnerable adult, family, informal carers and media.

APPENDIX “A”

MANAGEMENT REVIEWS AND REPORTS BY PARTNER AGENCIES FOR CONSIDERATION BY THE SERIOUS CASE REVIEW PANEL.

1. When a case conforms to the criteria for conducting a serious case review (see Section Three), the chairperson of the Serious Case Review Panel will formally request that agencies conduct a management review of their involvement with the adult, the service, and/or their family. Upon conclusion of this management review the agency should submit a report detailing their findings.
2. The request for the management review and report will be addressed to the chief officer or chief executive of the agency concerned. Although the task of completing the management review and report may be delegated to a suitably qualified senior manager within the agency, it is crucial that the final report and recommendations within are fully endorsed by the chief officer before submission.
3. On receipt of the request from the Serious Case Review Panel, it is recommended that agencies should take action to secure all relevant records relating to the case, thus guarding against loss or interference.
4. The aim of the management review is to look openly and critically at individual and organisational practice to identify whether the case indicates that changes could, and should, be made and, if so, how these changes will be achieved.
5. The serious case review is not part of any disciplinary inquiry; however, information that emerges in the course of the review may indicate that disciplinary action should be taken under established agency procedures.
6. Where staff, or others are interviewed by those preparing management reviews then a written record of such should be made and this should be shared with the interviewee. If any individual is interviewed by the Serious Case Review Panel then a formal record will also be made.

CONTENT OF MANAGEMENT REVIEW

What was the agency’s involvement with the adult and family?

A comprehensive chronology should be compiled of involvement by the agency and its employees over the period of time specified by the Serious Case Review Panel.

Analysis of Involvement

Consider the events that occurred, the decisions made, and the actions taken, or not taken. Where judgements were made which indicate that practice, or management could be improved then try to get an understanding not only of what occurred, but why, for example:

- Were practitioners sensitive to the needs of the vulnerable adult and their family?
- Were they knowledgeable about potential indicators of abuse or neglect?
- Were practitioners, or was the agency, clear about its' roles and responsibilities in protecting vulnerable adults from abuse?
- Did the agency have policies and procedures for safeguarding vulnerable adults?
- What were the key relevant points/opportunities for assessment and decision making in this case?
- Do these assessments, or decisions, appear to have been made in an informed and professional way?
- Did subsequent actions accord with any assessments or decisions made?
- Were appropriate services offered or provided in light of the assessment?
- Were care plans reviewed?
- Were the views and feelings of the vulnerable adult, family, or referring body ascertained? Was this information recorded?
- Was practice sensitive to the racial, cultural, linguistic, and religious identity of the adult, family, or family carer?
- Was information shared appropriately in order to alert other managers or agencies of concerns?
- Was the work in this case consistent with the agency's and ASB's adult safeguarding policy and wider professional standards?

What has been learned from the case?

- Are there lessons from this case for the way in which this agency works to safeguard vulnerable adults and promote their welfare?
- Are there examples of good practice, or ways in which practice could be improved?
- Are there implications for ways of working, training (single and multi-agency), management and supervision, working in partnership with partner agencies, shortfalls in resources or service provision?

Recommendations for action

- What action should be taken, by whom, and by when?
- What outcomes should these actions bring about?
- How will the agency review whether they have been achieved?

A report of the management review should be completed, endorsed by the agency's chief officer and sent to the Chairperson of the Serious Case Review Panel, or the Head of Adult Safeguarding Services. Any foreseeable delays should be communicated as a matter of urgency.

APPENDIX “B”.

OVERVIEW REPORT BY SERIOUS CASE REVIEW PANEL.

1. Upon receipt of management reports provided by partner agencies, The Panel membership will review the report's content and any other information, with the aim of providing an overview report for the ASB.
2. The report will be set out in the following format:

Introduction

1. Summary of circumstances that led to the review being undertaken.
2. Terms of reference of the review.
3. List of contributors to the review and the nature of their contribution.

The Report Detail

4. Details of the family and care services provided.
5. Integrated chronology of all relevant agency involvement with the adult, family, or family carer.
6. Summaries of information known to the agencies and professionals involved about the adult, family, family carer, or perpetrator.

Analysis

7. Examination of how, and why, events occurred, including decisions made, actions taken, or omitted. Reviewers can consider, with the benefit of hindsight, whether different decisions or actions may have resulted in an alternative course of events. This section should also highlight good practice.

Conclusion

8. A summary of the lessons that, in the opinion of the review panel, are to be drawn from the case and how these lessons should be translated into recommendations for action. These recommendations should be focussed, specific and achievable. If there are lessons for national, as well as local, policy and practice, then these too should be highlighted.

APPENDIX “C”

REFERRAL TO ASB REQUESTING A SERIOUS CASE REVIEW

The format for requesting a serious case review must include the summary information listed below.

To be sent to;

Paula Youell
Head of Adult Safeguarding Services
c/o Endeavour House, Ipswich
Email to: paula.youell@suffolk.gov.uk

All requests will be assessed and submitted to the ASB. If the matter requires urgent attention then it will be sent directly to the Chair of the ASB. The Chair will decide if the committee needs to be convened on special grounds.

Content of the report

1. Name of the person submitting the application for a serious case review
2. Position of applicant
3. Agency of the applicant
4. Contact details, to include address, telephone number, and email
5. Brief details of the adult protection issue, to include:
 - Name and date of birth of the victim
 - Name of any service provider involved
 - Details of why, in your opinion, the case meets the serious case review criteria and guidelines.

APPENDIX 11

New Developments relevant to Safeguarding Adults

The Mental Capacity Act (2005) is a complex piece of legislation and the following is a guide to some of the most pertinent parts. Guidance on the Act is provided in a statutory Code of Practice (see www.justice.gov.uk/guidance/mca-code-of-practice.htm).

Additionally practitioners should make reference to the Suffolk MCA web site.

The consideration of capacity is crucial at all stages of the adult safeguarding process. For example, in determining the ability of a vulnerable adult to make lifestyle choices, such as choosing to remain in a situation where they are at risk of further abuse; determining whether a particular act or transaction is abusive or consensual' or determining how much a vulnerable adult can be involved in making decisions in a given situation.

The whole Act is underpinned by a set of 5 key principles:

- Presumption of capacity – every adult has the right to make his or her own decisions and must be assumed to have capacity to do so unless it is proven otherwise.
- The right for individuals to be supported to make their own decisions – people must be given all appropriate help before anyone concludes that they cannot make their own decisions.
- Individuals must retain the right to make what might be seen as eccentric or unwise decisions.
- Best interests – anything done for or on behalf of people without capacity must be in their best interests.
- Least restrictive intervention - anything done for or on behalf of people without capacity should be the least restrictive of their basic human rights and freedoms.

MCA 2005 Section 2 (1), Code of Practice 4.11- 4.13

Section 2 states that a person lacks capacity in relation to a matter if at the material time (s)he is unable to make a decision for himself or herself in relation to the matter because of impairment of or a disturbance in the functioning of the mind or brain.

MCA 2005 Section 3, Code of Practice 4.49 – 4.54

Section 3 states that a person is unable to make a decision if (s)he is unable:

- To understand the information relevant to the decision
- To retain the information
- To use or weigh that information as part of the process of making the decision
- To communicate his decision by any means

Every assessment of capacity must be undertaken in accordance with the Act, the provisions of the Code of Practice and the Suffolk MCA Practice Guidance. Anybody who claims that a person lacks capacity should be able to show on the balance of probabilities that the individual lacks capacity to make a particular decision at the time that it needed to be made.

Where a decision needs to be made in respect of a person who lacks capacity, the law requires that the decision be based upon the concept of best interests. The term 'best interests' is not actually defined in the Act, however, Section 4 of the Act explains how to work out the best interests of a person. This section sets out a checklist of common factors that must be considered by anyone who needs to decide what is in the best interests of a person who lacks capacity in any particular situation. The decision maker must work through these factors when deciding what is in the best interests of the individual.

There are 2 levels to assessing capacity:

For acts of every day care or treatment, the care worker must have a reasonable belief that the person lacks capacity to agree to the action or decision to be taken. They must have taken reasonable steps to establish that the person lacks capacity to make a decision or consent to an act at the time the decision or consent is needed. They do not usually need to follow formal processes such as involving a [professional to make an assessment

When making a complex or major decision about a person who is believed to be lacking capacity, it is advisable for a more formal assessment to be carried out by a suitable professional e.g. psychiatrist, psychologist or social worker. It must be demonstrated on the balance of probabilities that the individual lacks capacity to make a particular decision.

The Act deals with 2 situations where a designated decision maker can act on behalf of someone who lacks capacity:

■ Lasting Powers of Attorney (LPAs)

The Act allows a person to appoint an attorney to act on their behalf if they should lose capacity in the future. This is similar to the previously available Enduring Power of Attorney (EPA), but the Act also allows people to let an attorney make personal health and welfare decisions.

Financial LPA's can be used both before and after the donor loses capacity, according to the donor's wishes. However, personal welfare LPA's can only be used when the donor lacks capacity to make a particular welfare decision

■ **Court appointed duties**

The Act provides for a system of court appointed deputies to replace the system of receivership in the old Court of Protection. The new Court of Protection includes the power to make declarations, decisions and orders on financial and welfare matters affecting those who lack capacity and additionally be able to appoint a deputy to make substitute decisions about personal welfare matters as well as issues concerning the property and affairs of the person lacking capacity.

The Act creates 2 public bodies to support the statutory framework both of which will be designed around the needs of those who lack capacity. These are:

■ **A new Court of Protection**

The new Court has jurisdiction relating to the whole Act and will be the final arbiter for capacity matters. It has its own procedures and nominated judges. In particular the Court of Protection has powers to:

- Decide whether a person has capacity to make a particular decision for themselves
- Make declarations, decisions or orders on financial or welfare matters affecting people who lack capacity to make decisions
- Appoint deputies to make decisions for people lacking capacity to make those decisions
- Decide whether a lasting Power of Attorney or Enduring Power of Attorney is valid; and
- Remove deputies or attorneys who fail to carry out their duties.

The Office of the Public Guardian

The Public Guardian and his/her staff are the registering authority for LPAs and Court Orders that appoint deputies. They also work together with other agencies to respond to any concerns raised about the way in which an attorney is operating.

The Act introduces 2 new criminal offences: ill treatment and wilful neglect of a person who lacks capacity to make relevant decisions. (Section 44)

The offences apply to:

- Anyone caring for a person who lacks capacity - this includes family carers, healthcare and social care staff in hospital or care homes and those providing care in a person's home

- An attorney appointed under an LPA or an EPA or a deputy appointed for that person by the Court

These people may be guilty of an offence if they ill-treat or wilfully neglect the person they care for or represent. Ill treatment and neglect are separate offences. For a person to be found guilty of ill treatment, they must either:

- Have deliberately ill-treated the person, or
- Are reckless in the way they were ill-treating the person

It does not matter whether the behaviour was likely to cause, or actually caused, harm or damage to the victim's health.

The meaning of wilful neglect varies depending upon the circumstances, but it usually means that a person has deliberately failed to carry out an act they knew they had a duty to do.

Independent Mental Capacity Advocate (IMCA)

The purpose of the IMCA service is to help particularly vulnerable people who lack the capacity to make important decisions about serious medical treatment and changes of accommodation, and who have no family or friends that it would be appropriate to consult about those decisions. If a person who lacks capacity has nobody to represent them or no-one that is appropriate to consult, an IMCA must be instructed in prescribed circumstances. These are:

- Providing, withholding or stopping serious medical treatment
- Moving a person into long-term care, into hospital or into a care home, or
- Moving a person into a different hospital or care home

The only exception to this can be in situations where an urgent decision is needed.

The role of the IMCA is to work with and support people who lack capacity, and represent their views to those who are working in their best interests.

The Department of Health has extended the Act through Regulations to cover circumstances where an adult abuse allegation has been made. The Regulations specify that that Local Authorities and the NHS have powers to instruct an IMCA if the following requirements are met

- Where safeguarding measures are being put in place in relation to the protection of vulnerable adults from abuse and
- Where a person lacks capacity

In these circumstances the Local Authority or NHS body may instruct an IMCA to represent the person concerned, if it is satisfied that it would benefit the person to do so.

In safeguarding cases access to IMCAs is not restricted to people who have no one else to support or represent them. People who lack capacity who have family and friends can still have an IMCA to support them through the safeguarding process.

The regulations equally apply to a person who may have been abused or neglected and a person who is alleged to be the perpetrator. Where the qualifying criteria are met, it would be unlawful for the Local Authority or the NHS not to consider the exercise of their power to instruct an IMCA for safeguarding cases.

Restraint

Section 5 permits the use of restraint if the person using it reasonably believes that it is necessary to prevent harm to the incapacitated person and if the restraint is proportionate to the likelihood and seriousness of harm. If restraint is necessary to prevent harm to the person who lacks capacity, it must be the minimum amount of force for the shortest time possible.

The Vulnerable Groups Act (2006) provides a framework for the new Independent Safeguarding Authority Scheme. The major purpose of this is to prevent those deemed unsuitable to work with vulnerable groups gaining access to them through their employment. The Act does not make any distinction between paid or unpaid work. Employers will retain their responsibilities for ensuring safe recruitment practices. The current proposal is that the Independent Authority Scheme (ISA) will be phased in over a 5 year period from October 2009.

The Deprivation of Liberty Safeguards were introduced in April 2009, as an amendment to the Mental Capacity Act (2005). The purpose of these safeguards is to protect people who lack mental capacity from being deprived of their liberty. The procedure and related Code of Practice introduce criteria, a procedure for assessment, and a decision-making forum, as well as guidance for reviewing and deprivation of liberty that has been put in place.

Forced Marriage (Civil Protection) Act 2007

The Act allows Courts to make orders to prevent forced marriages and to order the behaviour or conduct of those responsible for forcing another into marriage to change or stop or impose requirements on them. It also provides recourse for those already forced into marriage. The Act gives the Courts a wide discretion to deal flexibly and sensitively with the circumstances of each individual case. It employs civil remedies that offer protection to victims without criminalising members of their family

In February, the Government began work on a review of No Secrets (2000), and although this is in its early stages, it is expected to have wide ranging implications for safeguarding work.

The Independent Safeguarding Authority (ISA)

The Independent Safeguarding Authority (ISA) has been created to help prevent unsuitable people from working with children and vulnerable adults.

This is achieved by working in partnership with the Criminal Records Bureau (CRB) and other delivery partners.

From October 12th 2009, the following increased safeguards have been introduced under the Vetting and Barring Scheme:

- It is now a criminal offence for individuals barred by the ISA to work or apply to work with children or vulnerable adults in a wide range of posts - including most NHS jobs, Prison Service, education and childcare. Employers also face criminal sanctions for knowingly employing a barred individual across a wider range of work;
- The three former barred lists (POCA, POVA and List 99) are being replaced by two new ISA-barred lists.
- Employers, local authorities, professional regulators and other bodies have a duty to refer to the ISA, information about individuals working with children or vulnerable adults where they consider them to have caused harm or pose a risk of harm.

MAKING A REFERRAL TO THE ISA

The Independent Safeguarding Authority's has produced Referral Guidance for use when considering or making a referral. The ISA will receive referrals when:

- there is harm or risk of harm to children or vulnerable adults, *relevant conduct* has occurred or
 - an individual has received a caution or conviction for a *relevant offence*.
- This Guidance will help employers, personnel suppliers, volunteer coordinators and other bodies in England, Wales and Northern Ireland to:
- understand their duties to refer information to the ISA under the Safeguarding Vulnerable Groups Act 2006 (2006 Act) and the Safeguarding Vulnerable Groups (Northern Ireland) Order 2007 (2007 Order)
 - understand ISA referral policies and processes
 - complete the ISA Referral Form.

An electronic copy of this Guidance, the ISA Referral Form as well as information on the ISA and the referral process can be found on the ISA website www.isa.gov.org.uk