



# Protecting vulnerable adults in Hackney

## Multi-agency policy and procedures

February 2004



INVESTOR IN PEOPLE

# Introduction

## **The Multi-agency Policies and Procedures are applicable to;**

- all vulnerable adults
- all agencies
- all settings
- all forms of abuse.

The development of the Multi-agency Policy and Procedures represents the agreement reached between agencies on a coherent framework for recognising and taking action to prevent the abuse of vulnerable adults. They are intended to support good practice and sound professional judgement and sensitivity.

They recognise the complexity of the work in the area of the abuse of vulnerable adults and the benefit of effective multi-agency and inter-agency working.

The Local Authority has the lead role in coordinating and monitoring the work of Adult Protection but successful strategies of prevention and intervention are achieved by effective multi-disciplinary and inter-agency working.

The Multi-agency Policy and Procedures should be read in conjunction with individual agencies' operational policies, protocols, procedures and practice guidelines including those that cover confidentiality, complaints, disciplinary procedures and those dealing with other specific issues eg fraud.

The Policy and Procedures is set within the within the context of other good practice frameworks for those working with vulnerable adults.

## **The Policy**

- outlines the principles underpinning the work when faced with possible abuse
- defines the terms vulnerable adult, significant harm and adult abuse
- includes a protocol on confidentiality and information setting
- identifies risk factors associated with abuse, to enable practitioners to identify situations of abuse

## **The Procedures**

- establish a standard procedure agreed between agencies, that **must** be followed by anyone when abuse is taking place, has taken place or is suspected
- aim to clarify the roles and responsibilities of staff, and volunteers when faced with suspected abuse of a vulnerable adult

## **The Appendices**

- give detailed factual information to assist practitioners in this complex area of work.

## **Contents**

### Pages

Introduction	2
Contents	3-5
<b>Part 1 – Policy</b>	<b>6</b>
1. Code of Practice	7-8
2. Definitions	9-10
3. Categories of abuse	11-13
4. When the abuse constitutes a crime	14
5. Domestic violence	15
6. Who is covered	16
7. Who is not covered	17
8. Confidentiality and information sharing protocol	18-21
9. Responsibility of agencies to perpetrators	22
10. What degree of abuse justifies intervention	23
11. Acting in the best interest of the vulnerable adult	24
12. Whistle blowing: staff raising concerns and reporting wrong doing at work	25
<b>Part 2 – Procedures</b>	<b>26</b>
13. Underlying principles	27
14. Roles and responsibilities:	28-36
14.1 All staff and volunteers	
14.2 Managers – all agencies	
14.3 Adult community care division	
14.4 Adult Protection Manager	
14.5 The Emergency Duty Team	
14.6 Community Mental Health Team	
14.7 The Police	
14.7.1 Preserving evidence	
14.7.2 Making a record	
14.7.3 Important things to remember	
14.7.4 “Appropriate adults” and support	
14.8 Health staff in hospital settings	
14.9 Primary Care Trusts	
14.10 Registration and Inspection – Commission for Social Care Inspection	
14.10.1 Registered and other inspected services	
14.10.2 CSCI – Adult Protection Duties	
14.11 Complaints Manager	
14.12 Commissions of Service, Contracts Team and Performance and Standards	
15. Alerting	37-43
15.1 Alerting – what to do and who to tell	
15.2 Action to be taken	
15.3 Alerting – responsibilities of line managers (all agencies)	
15.4 What if the vulnerable adult does not want any action to be taken	

15.5 Alerting Action – Flow chart for all agencies	
15.6 Alerting Action – Flow chart for health staff (hospital settings)	
15.7 Alerting Action – Flow chart for PCT staff (Primary care, community and bedded services)	
16. Making referrals	44-47
16.1 Where to refer	
16.2 Who to refer to	
16.3 Anonymous referrals	
16.4 If in doubt...	
16.5 Information required	
16.6 Adult Protection enquiry – Flow chart of the process	
17. Receiving referrals	48-52
17.1 Action to be taken following referral to social services or a CMHT	
17.2 Deciding whether to proceed with an Adult Protection Enquiry and conducting an investigation under the multi-agency policy and procedures	
17.3 The objectives of an Adult Protection Agency	
17.4 Other investigations connected with Adult Protection	
18. Inter-Agency structure for planning and responding to referrals The Strategy Meeting	53-58
18.1 The multi-agency strategy meeting	
18.2 Deciding whether to hold a multi-agency strategy meeting	
18.3 The purpose of the strategy meeting	
18.4 Who should attend	
18.5 Possible outcomes of the strategy meeting	
18.6 Involving the vulnerable adult, their relative(s) or carer(s)	
18.7 The attendance of the vulnerable adult, their relative(s) or carer(s)	
18.8 Recording	
19. The Investigation Process	59-65
19.1 Which agency carries out the investigation	
19.2 The purpose of the investigation	
19.3 The responsibilities of the agency conducting the investigation	
19.4 Who should conduct the investigation	
19.5 Should the investigation be single agency or a joint investigation	
19.6 Undertaking the investigation	
19.7 Conducting the interviews	
19.8 The Investigators Report	
19.9 A summary of the investigation process – a flow chart	
20. The Adult Protection Plan	66
21. The multi-agency adult protection case conference	67-68
21.1 A case conference should be held...	
21.2 Who should attend the case conference	
21.3 The purpose of the case conference	
21.4 The case conference report	
22. If the vulnerable adult moves to another area during the enquiry or if the alleged perpetrator moves	69
23. Closing the investigation	70
24. Record keeping	71
25. Allegations against a member of staff or a paid carer	72-75

26. Action to be taken if the alleged perpetrator is also a vulnerable adult	76
27. Vulnerable adults who make repeated allegations	77
28. Service Users who are responsible for employing their own carers (Direct Payments)	78
29. Large scale investigations	79
30. Concerns about quality of care	80-81
31. Adult Protection – CareFirst Community Care Procedures	82-83
31.1 Adult Protection – Step-by-Step Guide	
31.2 Outcome	
Relevant statutes	84
References and relevant publications	85-86
National organisations	87

# Part one - policy

## 1. Code of Practice

- 1.1 The interests and the wishes of the vulnerable adult should be central to the use of the Multi-agency Policy and Procedures for the Protection of Vulnerable Adults from Abuse.
- 1.2 Any action taken to protect a vulnerable adult from abuse using these Policy and its Procedures should ensure the participation of the vulnerable person throughout the process.
- 1.3 These Policies and Procedures respect an adult's right to live free from abuse in accordance with the principles of respect, dignity, autonomy, privacy, beliefs and equality. Services will be provided in a manner which does not discriminate on grounds of racial or ethnic origin, religion or belief, disability, gender, age or sexual orientation.
- 1.4 All agencies and individuals who are involved with vulnerable adults have a duty to protect them from abuse.
- 1.5 Agencies recognise the complexity of the work in the protection of vulnerable adults and the benefits to be gained from good multi-disciplinary and inter-agency working.
- 1.6 Agencies will actively work together on the prevention, identification, investigation and treatment of alleged, suspected or confirmed abuse.
- 1.7 Where an investigation is indicated, managers will co-operate to co-ordinate their response and will decide which agency should investigate.
- 1.8 Agencies will respond to actual or suspected cases of abuse with prompt, timely and appropriate action in line with the Procedures.
- 1.9 Agencies will respect the right of the vulnerable adult who is able to make informed choices, to make their own decisions regarding their present and future circumstances, including remaining in situations perceived by professionals or others to be risky or dangerous. In such cases, the vulnerable adult should be given information about the options available to them that could protect them from abuse. **However, an individual's wishes cannot undermine an individual agency's responsibility to act.**
- 1.10 In circumstances where the vulnerable adult does not have the mental capacity to be able to make an informed choice, any decisions and actions will be taken by those conducting the investigation and planning their protection. This will be based on a judgement of what is in the best interests of the vulnerable adult, informed, where appropriate, by discussion with relatives and carers. Any action taken will respect the right of the vulnerable adult to confidentiality and will involve the least number or people necessary to secure the protection of the vulnerable adult. Action taken will be proportionate to the assessed level of risk.

- 1.11 Any investigation or action should be carried out in a setting and manner appropriate to the levels of understanding, degree of disability and cultural background of the person or persons involved.
- 1.12 Agencies will ensure that provisions is made where the vulnerable adult has a need for an interpreter, communication aids or other facilitation, including meeting the communication needs of deaf/blind people or where there are communication problems due to difficulties in understanding e.g. the person has a learning disability or dementia.
- 1.13 A person's physical access needs must be addressed if this would prevent them attending meetings.
- 1.14 Agencies will ensure that vulnerable adults have equal rights to protection under the law and access to legal advice including support to pursue prosecution of criminal offences.
- 1.15 Agencies will ensure the safety of vulnerable adults by integrating strategies, policies and services relevant to prevention and protection from abuse within the framework of:
- The NHS and Community Care Act 1990
  - The Mental Health Act 1983
  - The Care Programme Approach
  - The Care Standards Act 2000
  - The Youth Justice and Criminal Evidence Act 1999
  - The Human Rights Act 1998
  - The National Care Standards for Older People
  - The National Standards for Domiciliary Care Agencies
  - Local strategies arising from the National Service Frameworks for Mental Health (1999) and for Older People (2000) and the aims set out in Valuing People, for People with Learning Disabilities (2000).
- 1.16 Agencies will ensure that all staff and volunteers know about the Multi-agency Policy and Procedures and have access to appropriate training and support.
- 1.17 Agencies will make information available to service users and carers that explains what abuse is and how and to whom to express concern and make a complaint.
- 1.18 Agencies will ensure that vulnerable adults are enabled to access an independent advocate or appoint another person to represent their interests.



## 2. Definitions of abuse

For the purpose of the Multi-Agency Policy and Procedures, the following definitions apply.

### 2.1 A Vulnerable Adult

Is a person aged 18 years or over

**“who is or may be in need of community care services by reason of mental or other disability, age or illness;**

and

**who is or may be unable to take care of him or herself, or unable to protect him or herself against significant harm or exploitation”.**

Ref Who Decides Lord Chancellors Department (1997)

Thus a vulnerable adult **may** be a person who:

- Is elderly and frail
- Has a mental disorder including dementia or a personality disorder
- Has a physical or sensory disability
- Has a learning disability
- Has a severe physical illness
- Is a substance misuser
- Is an unpaid carer
- Is homeless

The presence of a disability or age alone does not signify that an adult is necessarily vulnerable i.e. unable to take care of themselves or unable to protect themselves from abuse or exploitation.

### 2.2 Communication Care Services

For the purpose of these Multi-agency Policy and Procedures the term “community care services” will be taken to include **all** care services provided in any setting or context by any agency whether statutory, voluntary or independent in health or social care, including hospitals, housing agencies advice services.

### 2.3 Abuse

The term abuse can be subject to wide interpretation. For the purpose of the application of these Policies and Procedures the following definition is used:

**“Abuse is a violation of an individual’s human and civil rights by any other person or persons”.** No Secrets DoH (March 2000)

In giving substance to this definition consideration needs to be given to a number of factors. Abuse may:

- Consist of a single act or repeated acts
- Be physical, verbal, psychological or emotional
- Be an act of neglect or an omission to act
- Occur when a vulnerable adult is persuaded to enter into a financial arrangement or sexual relationship to which they have not, or could not

have, consented.

## 2.4 **The main different forms of abuse are**

- Physical
- Sexual
- Psychological/Emotional
- Financial or material
- Neglect and acts of omission
- Discriminatory
- Institutional

Any or all of these categories of abuse may be perpetrated as a result of deliberate intent, negligence or ignorance.

2.4.1 Abuse can occur in any relationship and may result in significant harm to, or exploitation of, the person subjected to it.

2.4.2 It may consist of isolated incidents or pervasive ill treatment or gross misconduct.

2.4.3 It can sometimes be difficult to decide whether a particular act of omission is abusive. In particular it can be difficult deciding between what could be described as neglect and poor professional practice and adult abuse.

2.4.4 Incidents of abuse may be, and often are, multiple. They can be either to one person in a continuing relationship or service context, or to more than one person in a continuing relationship.

2.4.5 It is important to look beyond the single incident or breach in standards to underlying dynamics and patterns of harm.

## 2.5 **Significant Harm**

In determining what degree of seriousness or extent of abuse justifies intervention, a useful starting point is consideration of the concept of “significant harm”. This is described as including:

“not only ill treatment (including sexual abuse and forms of ill treatment which are not physical), but also the impairment of, or an avoidable deterioration in, physical or mental health; and the impairment of physical, intellectual, emotional, social or behavioural development”.

### 3. Categories of abuse

#### 3.1 Physical Abuse

The use of force which results in pain or injury or a change in the person's natural physical state.

Or

The non-accidental infliction of physical force that results in bodily injury, pain or impairment.

#### 3.2 Sexual Abuse

The involvement of the vulnerable adult in sexual activity or relationships which:

- They do not want or have not consented to
- They cannot understand and lack the capacity to give consent to
- They have been coerced into because the other person is in a position of trust, power or authority – such as within a care giving situation, a family or other power relationship including trusted friends, a neighbour, a volunteer or paid carer
- Are against the law

**NB Sexual relationships or inappropriate sexual behaviour between a member of staff and a service user are always abusive and will lead to disciplinary proceedings and possible criminal charges.**

#### 3.3 Psychological or Emotional Abuse

Behaviour that has a harmful effect on the vulnerable adult's emotional health and development or any other form of mental cruelty, that results in:

- Mental distress
- The denial of basic human and civil rights such as self expression, Privacy and dignity
- The negation of the vulnerable adults choices, independent wishes and self esteem
- Behaviour that causes isolation or over dependence and has harmful effect on an adult's emotional health, development or well being

#### 3.4 Financial or Material Abuse

The use of a vulnerable person's property, assets, income funds or any resources without their informed consent or authorisation.

Financial or material abuse occurs where an individual's funds or resources are being used inappropriately by their person. It can include the withholding of money, to the unsanctioned use of a person's money or property. It could also include the entry of the vulnerable adult into contracts or transactions which they do not understand and are to their disadvantage and which have been as a result of duress, undue influence or pressure of some kind.

**NB** Financial abuse is often see as a less serious form of abuse but it is very often associated with other forms of abuse.

### 3.5 Neglect and Acts of Omission

The repeated deprivation of assistance that the vulnerable adult needs for important activities of daily living, including the failure to intervene in behaviour which is dangerous to the vulnerable adult or to others.

**NB** This form of abuse may arise in cases where the carer is also a vulnerable adult. It is then important to respond in such a way to ensure that the carer's needs are addressed, consideration given to their right to an assessment and to access to an independent advocate.

### 3.6 Discriminatory Abuse

Discriminatory abuse exists when values, beliefs or culture result in a misuse of power that denies opportunity to some groups or individuals.

It is the exploitation of a person's vulnerability, resulting in repeated or pervasive treatment of an individual, which excludes them from opportunities in society eg education, health, justice, civic status and access to services and protection.

The principles limiting and preventing discriminatory abuse are embodied in legislation including the Race Relations Act 1976, the Race Relations (Amendment) Act 2000, the Disability Discrimination Act 1995, the Sex Discrimination Act 1975, and the Human Rights Act 1998 and give rise to a criminal offence or grounds for action under civil law. The European Equal Treatment Directive (Article 13) specifically outlaws both direct and indirect discrimination. Incitement to discriminate is also treated as equivalent to actual discrimination.

Discriminatory Abuse links to all other forms of abuse. It includes discrimination on the basis of race, religion or belief, gender, age, sexuality, disability, language or culture.

### 3.7 Institutional Abuse

Institutional abuse is the mistreatment or abuse of a vulnerable adult by a regime or individuals within an institution. It can be through repeated act or poor or inadequate care and neglect or poor professional practice.

Institutional abuse occurs when the routines, systems and norms of an institution compel individuals to sacrifice their own preferred lifestyle and cultural diversity to the needs of the institution.

Adults who are placed in any kind of residential, nursing home or day care establishment are **always** potentially open to abuse and exploitation.

Any of the preceding categories of abuse may be perpetrated on a vulnerable adult who is being cared for within any setting including a residential, nursing home or day care resource or a hospital.

Research has shown that the culture of an institution is a powerful indicator of the

practice and attitudes of those working within it. Institutions which have a closed “culture” where there can be lack of accountability have been shown to foster poor practice.

### 3.7.1 What causes abuse in institutions?

Research has shown that the risk of abuse is likely to be greater if the staff:

- Receive little support from the management
- Lack training
- Receive inadequate guidance
- Have low self-esteem
- Have poor personal standards
- Work in isolation

Risk of abuse is also greater in institutions with:

- Poor management
- Too few staff
- Little direction from the outside
- Poor communication with the world outside
- A closed culture

Stevenson (1999); Stanley et al (1999).

It is no uncommon to find that in many situations several different categories of abuse are present. For example, where a vulnerable adult is the subject of financial abuse, they may also be being neglected or subject to psychological or emotional abuse.

## **4. When the abuse constitutes a crime**

- 4.1 Many of the above categories of abuse are actions that may constitute criminal offences. Such actions include:
- Assault whether physical or psychological
  - Sexual assault and rape
  - Theft
  - Fraud or other forms of financial exploitation
  - Discrimination on grounds of race, gender or disability
  - False imprisonment
- 4.2 When complaints about alleged abuse suggest that a criminal offence may have been committed, it is imperative that reference should be made to the police as a matter of urgency in line with agencies own internal operational policies.
- 4.3 Institutions where the abuse may constitute a criminal offence, vulnerable adults are entitled to the protection of the law in the same way as any other member of the public.
- 4.4 In cases where a crime has been committed and a criminal investigation is being conducted, all other investigations will be conducted in consultation with the police.
- 4.5 The Youth Justice and Criminal Evidence Act 1999 introduces new provisions for the protection of vulnerable witnesses.

## **5. Domestic Violence**

- 5.1 There can be some overlap between adult protection and domestic violence. Where one or both involved can be defined as vulnerable, the Policy and Procedures may apply.
- 5.2 Domestic violence is defined as “any incident of threatening behaviour, violence or abuse (psychological, physical, sexual, financial or emotional) between adults who are or have been intimate partners or family members, regardless of gender”. (Metropolitan Police Racial and Violent Crimes Task Force).
- 5.3 Domestic violence involves the misuse of power and the exercise of control by one adult over another adult person. Most frequently, but not exclusively, the woman is the victim.
- 5.4 Action would not be taken under this document if vulnerability as defined in the Policy does not apply. If the person agrees, reference should be made to the police and information provided about other sources of help and support.
- 5.5 Referral can also be made to the responsible social services children and families or community care teams for advice.

## 6. Who is covered

- 6.1 This document applies to adults i.e. persons aged 18 years and over who are vulnerable as defined in the document and where there is suspicion, concern or evidence that they are, or are likely to be, abused.
- 6.2 Vulnerable adults placed in a residential or nursing home out of the boroughs but for whom they or a partner agency have contractual responsibility and who therefore remain “ordinarily resident” in the boroughs. In this case agreement must be reached at a managerial level with the “host” local authority about who would undertake an investigation and roles and responsibilities
- 6.3 Vulnerable adults who are resident in residential or nursing homes within the boroughs and who originated from a different local authority and are self-funding.
- 6.4 In cases of alleged or suspected abuse involving residential and nursing homes in the boroughs where residents are the responsibility of other authorities, in the host borough will investigate and inform the placing authorities and agree roles and responsibilities.
- 6.5 Vulnerable adults who are homeless who are for the time being in the boroughs.
- 6.6 The “ordinary residence” rules apply in the case of vulnerable adult admitted to hospital but who are “ordinarily” resident in another area.

In cases where a concern, or a disclosure or allegation involving a vulnerable adult is made, an initial assessment will be undertaken by the Hospital Social Services Team and, providing that permission is given by that person, referral will be made to the local authority in which the vulnerable adult is ordinarily resident. An agreement will be reached with that local authority on what steps will be taken.

- 6.7 If the allegation indicates that other vulnerable adults could be at risk and a person withholds consent to referral to be made, the person would be informed of the duty to over-ride their consent and notify the local authority and the reasons why.

## 7. Who is not covered

- 7.1 Former residents of the boroughs who have made their own arrangements to enter a residential or nursing home outside the area. In that case they are deemed to be “ordinarily resident” in the area in which they are currently living and reference should be made to the local social services department or regulatory authority. Residential and nursing homes should provide information to residents about how to complain.
- 7.2 Cases of self-neglect. These cases should be dealt with through the processes of Care Management and the Care Programme Approach.
- 7.3 It is for the police to act in situations where there has been a random act of violence against vulnerable adult and for social services to assess and provide services where this is indicated.
- 7.4 Adults who are care leavers or who have been children with special needs and are still in receipt of full time education, in which case they **may** remain the responsibility of the children and families services. In these situations discussion should take place with the relevant children and families’ team and a decision made as to who will investigate.

## 8. Confidentiality and information sharing protocol

### 8.1 Underlying principles

- 8.1.1 Workers in all agencies owe a duty of confidentiality to vulnerable adults. A vulnerable adult has a right to expect that information about them and held on them in whatever form, will be treated with due regard to the principle of confidentiality.
- 8.1.2 These principles are applicable to information sharing both within and between agencies.
- 8.1.3 The vulnerable adult should be made aware that where staff work in joint health and social services teams some, information will be shared between members of that team in order to provide the service.
- 8.1.4 Information given to an individual member of staff, or agency representative, belongs to the agency and not to the individual employee. An individual employee cannot give a personal assurance of confidentiality to a vulnerable adult and should explain this to the vulnerable adult at the outset.
- 8.1.5 Staff have a clear duty to report any concerns they have relating to the abuse, or suspected abuse of a vulnerable adult to their line manager at the earliest opportunity.
- 8.1.6 Staff **must** refer to codes of practice within their own agency and professional as well as internal operational policies that set out specific safeguards in relation to the handling of confidential information in all forms.
- 8.1.7 The duty of confidentiality owed to individuals is not affected by their vulnerability, but by their level of capacity and their wishes should be respected. See below 9.3 for circumstances in which their wishes can be overridden.
- 8.1.8 Informed consent should be obtained before the sharing of information about a vulnerable adult. It should not be assumed that consent to the sharing information regarding one particular set of circumstances gives consent to share information about another different set of circumstances.
- 8.1.9 Where the vulnerable adult does not have the mental capacity to give informed consent, a decision to share information should be made on the basis of their best interests and a record made of that decision.
- 8.1.10 The Multi-agency Policy and Procedures establishes a general principle within agencies that an incident of suspected or actual abuse will be reported and that in so doing, some information will

need to be shared. Decisions about what information is shared and with whom will need to be made on a case by case basis.

8.1.11 Difficulties in working with the principles of maintaining the confidentiality of the vulnerable adult should not lead to failure to take action to protect that adult from abuse. Confidentiality must not be confused with secrecy.

8.1.12 Confidentiality must not be confused with secrecy (i.e. the need to protect the management interests of an organisation should not over-ride the need to protect a vulnerable adult).

## 8.2 **Circumstances where it may be necessary to share information without consent**

8.2.1 The views and wishes of the vulnerable adult will normally be respected when sharing the information they have given. Agencies cannot guarantee a fully confidential service. There will be circumstances when the wider public interest will outweigh the responsibility to any one individual e.g. in situations where other vulnerable people may be at risk.

8.2.2 Underlying principles for sharing of information are set out in the Caldicott Committee report Review of Patient-Identifiable Information. December 1997

8.2.3 Confidential information may need to be disclosed in the best interests of the vulnerable adult, if the person lacks mental capacity. However, if a mentally competent person made it previously known that they do not want information shared, their wishes should be respected. A decision to share information contrary to their wishes should only be made if other considerations apply e.g. on public interest grounds, as in situations where there is a risk or serious harm to a third party.

8.2.4 Information will only be shared on a need to know basis.

8.2.5 A decision to determine circumstances where information may be disclosed **can only** be made on the following basis:

- Where it is in the best interest of the service user who lacks mental capacity
- Informed consent should be obtained but, if this is not possible and other vulnerable adults at risk, it may be necessary to over-ride the requirement; and
- It is appropriate for agencies to give assurances of absolute confidentiality in cases where there are concerns about abuse, particularly in those situations when other vulnerable people may be at risk

### 8.3 Examples of exceptional circumstance sin which confidential information can be justifiably shared:

These include:

- Immediate risk or, or actual occurrence of significant harm to, or exploitation of the service user or another person. But see 10.2.3 above.
- A statutory responsibility e.g. under the Mental Health Act 1983, the Children Act 1989 etc.
- Another organisation requires the information in order for them to discharge their statutory functions e.g. the Police require information for prevention or detection of a crime. The judgement would be whether the duty of confidentiality is outweighed by the public to Prevent a crime.
- There is a duty to report in order to protect others, **even if the vulnerable adult does not wish it**, in circumstances involving concerns of mal-practice, abuse or poor professional practice by:
  - A local authority or
  - A health employee
  - A paid carer
  - An employee of a private care agency, or
  - An employee of another organisation providing care to the vulnerable adult.
  - A volunteer

In this situation the vulnerable adult should be informed of the duty to pass on the information, to who the information is to be passes and the reason for doing so.

8.3.1 Information shared should be the minimum necessary to meet the requirements of the situation and the reasons for disclosure recorded.

8.3.2 Wherever possible, the vulnerable adult should be informed beforehand that a decision has been made to share information contrary to their wishes. Reasons should be given and they should be given the opportunity to reconsider their decision and to consent. They should be informed about what information is being shared and with whom it is being shared. This should be fully documented in the records.

### 8.4 Sharing of information with the police

8.4.1 The police are partners to the Multi-agency Policy and Procedures and this guidance on information sharing.

8.4.2 The Community Safety Units of the Metropolitan Police have a lead role in relation to the protection of vulnerable adults from abuse.

8.4.3 Early consultation can take place with the police based in the Community Safety Units, without divulging the name of the vulnerable adult, in order to gain advice on how to proceed in situations that give rise to a concern that

the suspected or actual abuse may involve a criminal offence. The name of the vulnerable adult must not be disclosed unless they have given their permission

8.4.4 The police will not proceed with any action against the wishes of the vulnerable adult unless there are over-riding reasons to do so in the public interest.

## **8.5 Managing confidential information in documentation and minutes of meetings.**

8.5.1 Service users have a right of access to Health and Social Care records.

8.5.2 The handling of files, documents, records and data entered onto a computer system and processing personal data by any means including by fax or email, in connection with the adult protection procedures must comply with agencies' policy and procedures for the handling of personal data. It must also comply with the principles of good practice as defined in the Data Protection Act 1998.

8.5.3 In certain circumstances, it will be necessary to exchange or disclose personal information. Such exchange will need to be in accordance with the Data Protection Act, where this applies and your own agency's procedures.

## **8.6 Anonymous information**

8.6.1 Requests for anonymity, will in general, be respected. However if information regarding possible abuse is received from a member of the public or other third party, it is important to clarify at the out-set whether the person is willing to be identified. It may be necessary to discuss with the informant the effect of their remaining anonymous and the implications of them not being prepared to come forward as a witness. It may not be possible to guarantee anonymity where legal proceedings are involved.

8.6.2 Information given by someone who insists on remaining anonymous will not be disregarded and will be recorded and acted upon in line with the Policy and Procedures.

8.6.3 Where there are suspicions or concerns that a crime has been committed, it is important that a record is made as this can lead to identifying a pattern of offending.

## 9. Responsibility of agencies to perpetrators

9.1 Agencies not only have responsibility to all vulnerable adults who have been abused but also have responsibilities in relation to some perpetrators of abuse.

9.2 The roles, powers and duties of the various agencies in relation to the perpetrator will vary depending whether the latter is:

- A member of staff, proprietor or service manager
- A member of a recognized professional group
- A volunteer or member of a community group e.g. a place of worship or social club
- Another service user
- A spouse, relative or member of a person's social network
- A carer, i.e. someone who is eligible for an assessment under the Carers (Recognition and Service) Act 1996 or the Carers and Disable Children Act 2000
- A neighbour, member of the public or stranger
- A person who deliberately targets vulnerable people in order to exploit them.

## 10. What degree of abuse justifies intervention?

- 10.1 Decisions about whether to intervene should be made in consultation with a line manager and other involved professionals.
- 10.2 In deciding whether the particular act of neglect or omission constitutes abuse, consideration should be given to the definition of abuse outlined in this document.
- 10.3 Reference should also be made to the definition of significant harm.
- 10.4 An assessment of seriousness needs to take into consideration
- The **vulnerability** of the individual
  - The **nature and extent** of the abuse
  - The **length of time** it has been occurring
  - The **risk of repeated or increasingly** serious acts involving this or other vulnerable adults
  - The **risk that serious harm** could result if no action is taken
  - The **illegality** of the act or acts
- 10.5 The evaluation will need to be made to ascertain whether:
- The person is suffering harm or exploitation
  - The intervention in the best interests of the vulnerable adult and/or in the public interests?
  - The assessment takes account of the depth and the conviction of the feelings of the person alleging the abuse
- 10.6 **A vulnerable adult who has rejected help at the outset should be given the opportunity to change their mind. Their decision should be recorded and they should be given information about who to contact should they wish to do so.**

## 11. Acting in the best interests of the vulnerable adult

11.1 In some situations, where the vulnerable adult lacks mental capacity, in order to protect them or other vulnerable adults from abuse or possible abuse, it may be necessary to take decisions on their behalf. A multi-disciplinary assessment of the mental capacity of the vulnerable adult is essential before a decision to act in best interests is taken. Re F [1998] 2 AC 1, R v Bournewood Community & Mental Health Trust ex parte L (1998).

11.2 In taking a decision to act in the best interests of a vulnerable adult who lacks capacity, and with due regard to the duty of care, the person making the decision will:

- Act in a way that is necessary to promote the health or well-being or prevent deterioration in the quality of life of the mentally incapacitated adult
- Ensure that while the intervention maintains the safety of the vulnerable person, it is as limited as possible and in a manner that is least restrictive of the person's freedom of action
- Ensure that any decision is made with due regard for the process of law
- Ascertain the past and present wishes and feelings of the person concerned and the factors the person would consider if they were able to do so.
- Permit and enable the person to participate as fully as possible in anything done for or any decision affecting him or her.
- Actively see the views of other people whom it is appropriate and practical to consult about the person's wishes and feelings and what would be in his or her best interests

In addition the following factors should be taken into account:

- Whether there is a reasonable expectation of the person recovering capacity to make the decision in the reasonable foreseeable future
- The need to be satisfied that the wishes of the person without capacity were not the result of undue influence.

Ref. Making Decisions, The Government's proposals for making decisions on behalf of incapacitated adults. A report issued in the light of the responses to the consultation paper Who Decides? Lord Chancellor's Department (October 1999)

## **12. Whistle blowing: staff raising concerns and reporting wrong doing at work**

- 12.1 “Whistle blowing” is the term that is sometimes given to the situation where a member of staff or a volunteer reports a concern about something that is happening in their workplace. This may be with regard to fraud, health and safety issues, abuse or standards of care.
- 12.2 All agencies whether statutory, voluntary or private must have procedures to enable staff to raise concerns.
- 12.3 The Public Interests Disclosure Act 1998 sets out requirements for organisation to have procedures under which staff can raise, in confidence any serious concerns they have and do not feel they can raise in another way.
- 12.4 The Act provides for the protection of individuals who make certain disclosures of information in the public interest; to allow such individuals to bring action in respect of victimisation if this results from their whistle blowing.

*Note: See Hackney guidance “Whistleblowing Framework – Guiding Principles for Managers & Staff Pocket Guide “If you believe something is wrong it’s time to SPEAK OUT!”*

# Part two - procedures

## 13. Underlying principles

- 13.1 Cases involving the suspected, or actual, abuse of vulnerable adults are complex and involve difficult and often stressful decisions. Procedures alone cannot solve all dilemmas but can provide a basis for sound practice and some support for professional judgements in working in this area.
- 13.2 This document should be read in conjunction with individual agencies' operational policies, protocols, procedures and practice guidelines. This could include policies and protocols covering confidentiality, complaints, grievance, disciplinary and other specific activity eg fraud.
- 13.3 In the case of suspected or alleged sexual abuse of a person with a learning disability, staff must refer to the Guidelines for the investigation of Sexual Abuse for All Staff Working in Services for Adults with Learning Disabilities.
- 13.4 Action under these Policy and Procedures does not affect the obligations placed on agencies to comply with their statutory responsibilities such as:
- The duty to notify regulatory authorities under the Care Standards Act 2000
  - The duty to comply with employment legislation
- 13.5 Agencies have responsibility to ensure that all concerned at an operational level know about and understand the Multi-Agency Policy and Procedures know their own role and have access to comprehensive internal guidance.
- 13.6 It has been agreed by partner agencies that an Adult Protection Manager must be informed of any adult protection concern whether it is actual, or suspected, abuse is alleged against a member of staff.
- 13.7 Internal policies should cover the rights of staff and how employers will respond where abuse is alleged against a member of staff. (Refer to own agencies Internal Disciplinary Procedures
- 13.8 Agencies should have internal policies setting out the support available to staff to raise concerns.
- 13.9 Effective inter-agency working and multi-disciplinary assessments provide the best means of securing the protection of vulnerable adults.
- 13.10 All agencies should ensure that staff and volunteers receive induction that includes adult protection and have received training in order to recognise and respond to adult abuse.
- 13.11 The Care Standards Act 2000 has established National Minimum Standards of Care. These have been set down in the National Care Standards for Older People (2001) and for Domiciliary Care Agencies and The National Strategy for People with Learning Difficulties (2001). These standards should be integrated into the practice within that service.

## 14. Roles and responsibilities

- 14.1 All staff and volunteers have a duty to act on any concern and abuse of a vulnerable adult to ensure that the situation is assessed and investigated.

**The first priority should always be to ensure the safety and protection of vulnerable adults.**

Information suggesting that abuse may have occurred can come from a variety of sources. It may have resulted from a direct disclosure on the part of the vulnerable adult, a concern arising out of observation of behaviour, a concern raised by a relative or friend or other service users, another member of staff or member of the public.

The protection of vulnerable adults from abuse should always receive **high priority** from all agencies involved. Concerns or allegations should be reported without delay and given priority over other areas of work.

A key principle is that staff should share concerns with colleagues and seek advice and support.

Staff should inform their line manager. However, if the manager themselves is implicated then a more senior manager should be informed.

**A direct referral can be made to the responsible Social Services or Community Mental Health Team of the Learning Disability Team of Social Services Emergency Duty Team if out of hours or at weekends.**

Staff should make a clear factual record of their concern and the action taken at the time.

### 14.1.1 Acting in an emergency

All staff should be authorised to call the police and/or ambulance in situations where the abuse of a vulnerable adult involves an urgent need for medical treatment, or where there is immediate risk or harm indicating urgent action to protect the vulnerable person.

Where a crime has been committed, immediate reporting to the police will ensure that advice can be obtained about what action can be taken to preserve evidence, ensure witness evidence is not contaminated etc.

### 14.2 The role and responsibility of managers – all agencies

The standard of care offered by a service is primarily the responsibility of the managers of the organisation or service.

Staff should be made aware of their duty to report any allegations or suspicions of abuse to their line manager, or if the line manager is implicated to another responsible person or to social services.

The primary responsibility for managing the investigation process rests with managers of Social Services adult services teams, CMHTs, National Care Standards Commission (Registration and Inspection) and the police. However, managers of all agencies providing services to vulnerable adults also have a role to play.

Managers have responsibilities under the Police Act 1997 to check references of potential employees. The Care Standards Act 2000 establishes a Protection of Vulnerable Adults (PoVA) register of the names of staff who have been found to be unsuitable to work with vulnerable adults. The register will be introduced in 2004.

#### **14.2.1 Managers Responsibilities During An Investigation**

Managers are responsible for ensuring that:

- All appropriate agencies are involved in the investigation
- Support is provided to staff and goods standards of practice are promoted maintained
- Effective working relationships between agencies are maintained
- Communication with the relevant Adult Protection Manager is maintained

If working relationships are not effective and differences arise between agencies, managers will provide the first line of negotiation.

#### **14.2.2 Specific Responsibilities of Managers**

##### **Supervision and Support**

Effective supervision and ongoing support are essential for the Investigating Officer. The manager of the Investigating Officer has responsibility to ensure

that this is provided in a way that is appropriate to the level of experience of the Investigating Officer and the complexity of the investigation.

##### **Ensuring accuracy of case records**

The manager of the Investigating Officer must countersign or otherwise confirm the accuracy of all records relating to the Adult Protection Enquiry including:

- Records of the initial investigation and assessment
- Records of any decisions taken at strategy meetings or case conferences
- Records of the investigation and interview and
- The record of any decision to close the enquiry

##### **Monitoring**

- All stages of the Adult Protection Investigation
- Ensuring that an Adult Protection Manager has been notified of the investigation and the outcome.

##### **Health and Safety of staff**

The manager of the Investigating Officer should take all reasonable steps to ensure the health and safety of staff involved in an adult protection investigation.

A risk assessment should include consideration of the risks to the member of staff who will undertake the investigation. The member of staff should not normally undertake a visit unaccompanied.

### **14.3 Local Authority Social Service Department Adult Community Care Division**

The NHS and Community Care Act 1990 has given legislative power to the local authority to become responsible, in collaboration with other agencies, for the assessment of the needs of an individual for whom they are likely to provide a community care service.

In most cases the Social Services/Adult Community Care Division are the lead agency, including receiving referrals and determining the action to be taken in response to actual or suspected abuse of a vulnerable adult.

All partner agencies involved in agreeing the Policy and Procedures have also agreed that the lead co-ordinating role in relation to individual cases is taken by senior staff of the local authority social services care management teams or community mental health teams, who for the purpose of the protection of vulnerable adults are designated Adult Protection Officers.

### **14.4 The Role of the Adult Protection Manager**

It has been agreed that an Adult Protection Manager must be informed of any adult protection concern arising in any agency or which is being investigated within the agency and of action being taken.

Following notification the Adult Protection Manager has over-all responsibility to ensure:

- That action being taken by agencies is co-ordinated and monitored.
- That a decision is made in consultation with that agency on whether, after initial inquiries there are grounds to instigate an investigation, in line with the policy and procedures.
- That a multi-agency strategy meeting is convened, or alternatively that discussions with relevant agencies takes place where indicated, and a decision is taken whether an adult protection enquiry should ensue; on the conduct of the enquiry and who will conduct the investigation.
- That the response of the agencies involved in the enquiry is co-ordinated. The aim will be to agree where indicated, that joint investigations should take place with agreement to share information and agree responses.
- That a multi-agency case conference is convened and chaired. Where indicated, the Adult Protection Manager or another manager will chair the case conference.
- That a record is taken of the decision of the case conference and that it is circulated to attendees.
- That the protection plan is co-ordinated.
- That an overview is maintained where staff disciplinary proceedings of police investigation procedures are being followed.
- That those with a need to know including the vulnerable adult are kept

informed.

- That any adult protection monitoring documentation is completed.

#### **14.5 Social Services Emergency Duty Teams (EDT)**

Emergency duty teams operate a service out of hours, at weekends and over statutory holidays.

If a referral is made to the EDT which indicates an immediate or urgent risk, the officer will take any immediate steps necessary to protect the vulnerable adult including arranging emergency medical treatment, contacting the police and taking any other action to ensure the vulnerable adult is safe.

A member of the EDT would not be responsible for an adult protection investigation but it may be necessary to interview the alleged victim where:

- The allegation is serious i.e. life threatening or likely to result in serious injury. (In which case action would be co-ordinate with the police)
- The referral is unclear
- There is a need to interview the vulnerable adult to ensure they can be safeguarded against further abuse

Whether or not any immediate action is necessary, the Emergency Duty Officer (EDO) will record the facts concerning the alleged abuse and pass all relevant information to the appropriate duty team in Social Services or a Community Mental Health Team or the Learning Disability Team on the next working day. If the case is allocated, the EDO will notify the allocated worker.

#### **14.6 Community Mental Health Teams (CMHTs)**

The CMHTs are the lead agency, including receiving referrals and determining the action to be taken in response to actual or suspected abuse in cases where the vulnerable adult is aged 65 and under, is in contact with mental health services and has been assessed as having an on-going mental health need.

The lead coordinating role in relation to individual cases, is taken by the CMHT manager. For the purpose of the protection of vulnerable adults these managers are designated the Adult Protection Manager.

#### **14.7 The Police**

It is the responsibility of the police to investigate allegations of crime by preserving and gathering evidence. Where a crime is identified, the police will be the lead agency and will direct investigations in line with legal and other procedural protocols.

Early consultation with the police base in the Community Safety Units can take place on any anonymous basis, to gain advice on how to proceed in situations that give grounds for concern where the suspected or actual abuse may indicate that a crime has been or is being committed.

It will be necessary for the police to involve and inform other agencies and individuals as appropriate and in such circumstances there may be a need for joint investigations to be undertaken. Usually a strategy meeting will be convened

by an Adult Protection Manager and it will be determined at that meeting how the investigation is to proceed and what is expected of each organisation represented.

In an emergency the policy will take any necessary action and will contact the relevant social service of CMHT duty team within 24 hours.

If there is any suspicion whatsoever that a criminal offence may have been committed, the police should be contacted at the earliest opportunity for advice and guidance.

**If you are in any doubt as to where your call should be directed, contact the nearest police station and seek advice. In an emergency you should dial 999**

CSU officers have received specific awareness training in relation to issues affecting vulnerable adults and will be able to offer support and assistance concerning the matter reported.

They may also be involved with in multi-disciplinary strategy meetings to consider any longer term issues raised. In any situation they should be able to offer valuable guidance over the phone as to whether any crime is apparent and what steps to take next.

#### **14.7.1 Preserving evidence**

The first concern must be to ensure the safety and well-being of the vulnerable adult. However in situation where there has been a crime and the police have been called it is important that evidence is preserved. The police will arrive quickly and agencies and individuals can play an important part in ensuring that evidence is not contaminated or lost.

#### **14.7.2 Making a Record**

It is vital that a written record of any incident or allegation of crime is kept by the person raising the concern. These must reflect as accurately as possible what was said and done by the people initially involved in the incident either as a victim, suspect or potential witness. The notes must be kept safe, it may be necessary to make records available as evidence to disclose them to a Court. (Agencies should seek the advice of their legal departments where records are required as evidence)

#### **14.7.3 Important Things to Remember**

- Try not to disturb the scene, clothing or victim if at all possible
- Preserve all containers, documents, locations, etc.
- Evidence may be present even if you cannot actually see anything
- If in doubt contact the police and ask for advice

#### **14.7.4 Appropriate adults and support**

In the first instance, the responsible agency will be required to make suitable arrangements to secure an appropriate adult where it is apparent that the use of one may be required for an alleged perpetrator who it is believed may have a mental health need or learning disability.

Special Measures have now been introduced to support and enable vulnerable and intimidated witnesses to give best evidence.

All crime investigations will be carried out in a professional and sensitive manner at all times working closely with the victim and their representatives.

#### **14.8 Health Staff – Hospital Settings**

Health or mental health service staff are in a position to protect a vulnerable adult and identify abuse. Staff in the accident and emergency department may be concerned by the injuries of a vulnerable adult presenting in the department or may be alerted by a pattern of repeat attendances. Similarly staff in out-patient clinics or day facilities could have their concerns.

A vulnerable adult may choose a hospital admission to disclose abuse, or hospital staff may be alerted by other signs to the possibility that abuse is occurring.

Whatever the circumstances giving rise to concern, hospital staff from all departments have a duty to take action to ensure that the situation is assessed and investigated. The member of staff should report their concerns to the line manager who will make a decision what action should be taken.

Any member of staff can refer to the social services team based in the hospital.

##### **Allegations against a member of staff:**

In cases in which the abuse is occurring within an in-patient setting and involves a member of staff, the alerter should report it immediately to their line manager, or another manager if the line manager implicated. The manager receiving the alert will ensure that the adult protection procedures and the Serious Untoward incidents procedures are instigated.

The manager will notify and consult with the relevant Adult Protection Manager to decide how to proceed.

#### **14.9 Primary Care Trust (PCTs)**

GPs and community health staff may be concerned that a vulnerable adult is or may be being abused.

Staff should discuss their concern with their line-manager

However, any member of staff can refer directly to the relevant social services or community mental health or learning disability team where discussion with a manager would involve delay or where professional practice allows. A referral should be made the same day.

Allegations of abuse that involve a member of staff will be investigated by the PCT under the adult protection procedures and the Serious Untoward Incident Procedures as with 1.8 above.

## 14.10 Registration and Inspection

From 1<sup>st</sup> April 2002 the regulation of health and social care provision has moved from local and health authorities to the National Care Standards Commission (CSCI) established under the Care Standards Act 2000. The CSCI regulates Social Care and Private and Voluntary Health Care in England.

### 14.10.1 Registered and other inspected services include:

- Nursing homes
- Residential care homes for adults and children, in private, voluntary and public sectors
- Domiciliary care agencies (January 2003)
- Private clinics and private and voluntary hospitals
- Adoption and fostering agencies
- Nursing agencies (January 2003)
- Day centres (date to be announced)

The CSCI will also inspect

- Local authority fostering, including adult placement schemes
- Local authority adoption
- Welfare aspects of boarding schools

In relation to the protection of vulnerable adults, the National Care Standards Commission will:

- Ensure that vulnerable adults are protected under the application of the law
- Monitor the fitness of owners and manager
- Ensure the ongoing suitability of care workers
- Investigate the measures put in place by independent sector owners
- Assist the police with any inquiries
- Contact the authorities who have made placements

The relevant Social Services authority would co-ordinate the enquiry. This would include inviting the Area NCSA to any strategy or planning meeting in order to clarify who will be responsible for investigating the allegation and to ensure that investigations can be co-ordinated.

There will be National Minimum Standards for all aspects of social care services that are regulated and these will include standards on adult protection.

### 14.10.2 Requirements – by proprietors and registered managers

Residential Care Homes must notify the Regulatory Authority not later than 24 hours from the time of its occurrence ... “of any event in the home which affects the well-being of the resident, and specifically of

any events such as death, illness or events which affect service users”.

The Care Home Regulations 2001 Part VII, Reg. 37(1)(e) stipulates: “...any event in the care home which affects the well-being of safety of any service user must be reported to the registration authority”.

Where there are concerns of abuse, homes are required to notify registration authorities, they will be also be advised to contact the host and placing authorities.

#### **14.11 Complaints Officers**

Local Authorities and Health Trusts have statutory complaints procedures.

If a complaint received by a complaints officer could indicate that a vulnerable adult is being, has been or could be at risk of being abuse, the Complaints Officer will bring the complaint to the attention of the relevant manager in line with operational policies.

The Complaints Officer in the Social Services department will:

- Notify the relevant Adult Protection Manager
- The relevant regulatory body (the CSCI) if the complaint concerns a service subject to regulation
- The relevant commissioning manager and the contract monitoring officer

In the event of a complaint leading to an adult protection enquiry, action under the multi-agency procedures would take precedence. The complaints procedure would be suspended pending the outcome of the investigation. The complainant would be informed of the suspension.

An adult protection enquiry should also be registered as an Untoward Incident (Social Services) but that process would also be suspended pending the outcome of an adult abuse enquiry.

At the end of the adult protection enquiry, the complainant can request a response to the original complaint through the statutory complaints procedure.

#### **14.12 Commissioners of Services and Contract Team and performance and standards**

Commissioners should ensure that all documents such as service specifications, invitations to tender and service contracts reflect the Multi-agency Policy and Procedures and specify how they expect the service provider to meet the requirements of the policy.

Adult protection will be included in the monitoring arrangements for contracts.

Any allegation or complaint about abuse that may have occurred in a service subject to contract specifications must be brought to the attention of the allocated care manager, mental health care co-ordinator or residential placement monitoring officer. In addition, the authorised officer for the contract of any

purchasing authority and the relevant Adult Protection Manager must be informed and the latter will determine what action will be taken.

The Adult Protection Manager will co-ordinate an investigation into a concern of abuse **irrespective** of any action being taken under operational or disciplinary procedures within the particular service.

The authorised officer for the contract should attend any strategy or planning meetings, if required to do so, and carry out any actions agreed to at the meetings. He/she will then monitor to ensure that any changes required in the management, staffing or practice of the service is undertaken.

The authorised officer will be responsible for all communications with the service.

Authorised officers should maintain close liaison with the relevant Adult Protection Manager.

## 15. Alerting – What to do and who to tell

15.1 Alerting refers to the responsibility of any member of staff or volunteer from any agency involved with vulnerable adults, to be aware of the possibility that adult abuse may have taken place or is likely to taken place and take action.

This section covers:

- The responsibility of the person to whom a disclosure is made or who is concerned that a vulnerable adult is being or is at risk of being abused
- Who should they tell
- What information should they give
- What should they say to the vulnerable adult
- What should they say or do if they know or suspect who the perpetrator is
- What to record
- Responsibilities of line managers
- Allegations against staff or paid carers
- Deciding whether a case is serious enough to warrant a referral or an investigation
- What if the vulnerable adult does not want any action taken?

A concern that a vulnerable adult is or could be being abused may have arisen either from:

- A **direct disclosure** by the vulnerable adult
- A **complaint** or expression of concern by another member of staff or a volunteer another service user, a carer or a member of the public

Or

- An **Observation** of the behaviour of the vulnerable adult by the volunteer or member of staff

If a member of staff is raising a concern about another member of staff or about abuse in the service, they should receive support.

### 15.2 Action to be taken

If you suspect or if someone reports to you that there has been, or there may be an incident of abuse, it is your duty to:

#### 15.2.1 Deal with immediate needs

- Take reasonable steps to ensure the adult is no longer in immediate danger
- Seek medical treatment if required as a matter of urgency
- Contact the police if a crime has been committed
- Contact Social Services if a child is also at risk

#### 15.2.2 Listen

- Assure the person making the complaint or allegation that they will be taken seriously
- If a vulnerable adult is making a disclosure listen carefully to what they are saying, stay calm, clarify the facts of the abuse but **avoid** detailed investigation at this stage

- Do not be judgemental or jump to conclusions
- Explain that you will try to take steps to protect them from further abuse
- Do not give any promises of complete confidentiality. Explain that you have a duty to report what you have been told to your line manager and their concerns may be shared, especially if other vulnerable adults are at risk
- Do **NOT** discuss the allegation of abuse with the alleged perpetrator.
- Do **NOT** disturb or destroy articles that could be used in evidence.

### 15.2.3 Inform

- Your line manager immediately
- Another appropriate manager if the agency's operational policy specifies
- Or another manager if your line manager is implicated in the abuse
- Or refer to the relevant Social Services Team, or the Community Mental Health Team or the Learning Disabilities Team

### 15.2.4 Record

An Accurate record should be made at the time giving details of the allegation or grounds for suspecting the abuse including;

- The date and time of the incident
- What the vulnerable adult said about the abuse and how it occurred or what has been reported to you.
- The appearance and behaviour of the victim
- Any injuries observed

The record should be factual. However, if the record does contain the worker's opinion or an assessment, that should be backed up with factual evidence. Opinion should be stated as such, and facts differentiated from hearsay.

Records of any comments should be clearly attributed to those that made them. Inverted commas should be used when writing reported speech.

## 15.3 ALERTING- Responsibilities of line managers, all agencies:

**Once the allegation or suspicion of abuse has been raised with the line manager, of an agency she or he must decide without delay on the most appropriate course of action.**

It is the duty of the line manager to:

### 15.3.1 Dealt with any immediate needs:

- Ensure that the victim of the alleged abuse is safe
- Ensure that any necessary emergency medical treatment is arranged
- Ensure that no forensic evidence is lost by securing the scene

- If the alleged perpetrator is also a vulnerable adult ensure that a member of staff is allocated to attend to their needs and ensure that other service users are not put at risk.

#### 15.3.2 Clarify:

- The facts stated by the member of staff but do NOT discuss in any circumstances the allegation of abuse with the alleged perpetrator or, if possible, the victim
- That the circumstances fall within the adult protection procedures ie meeting the definition of abuse as defined in this Policy and Procedures
- Issues of consent and confidentiality
- Whether the alleged victim of abuse has the mental capacity to be able to decide who should be informed?

#### 15.3.3 Refer:

- To the unit or service manager responsible for the management of the service agency and
- The appropriate social services care management team
- Appropriate CMHT
- The incident to the police if a crime has been committed (The police may be contact at a later stage if they have not been involved at the outset)
- To the area CSCI if the vulnerable adult is living in a residential, nursing home, receiving personal care or other registered resource or service.
- Ensure that a proper record is made of the allegation.

Referral by telephone should be made within one working day once a decision has been taken that there is a concern.

#### 15.3.4 Medical Treatment:

If the incident is recent and serious and the client has injuries or is severely distressed, the priority must be to ensure they get any treatment they need promptly. Treatment, whether it is life saving or routine for shock or minor injuries, should always come first.

If the victim of abuse is taken to hospital because she or he needs emergency treatment and there is the possibility that a crime has been committed, the examination should be carried out by a doctor experienced in forensic medicine or the staff of the Accident and Emergency Department in line with locally agreed protocols.

If medical treatment is no immediately required, medial examinations should NOT be arranged until the investigation by the policy of Social Services has started. Social Services of the police will arrange the examination.

### 15.3.5 Allegations against a member of staff or a paid carer

If the alleged perpetrator is an employee, the line manager will need to discuss with the personnel section of the agency and refer to the internal operational policies so that action is taking in line with operational and disciplinary procedures.

Action to protect the vulnerable adult from abuse under these Procedures should not be halted while other internal investigations and disciplinary procedures are being undertaken.

Regulated services must notify the relevant regulatory bodies (the CSCI) of any events such as death, illness or events that affect service users. The Care Homes Regulations 2001 includes “any event in the care home which affects the well-being or safety of any service user”.

When notifying the regulatory authorities a care/nursing home or agency providing personal care would normally be advised to contact the placing authorities if there are concerns of abuse.

### 15.4 What if the vulnerable adult does not want any action to be taken?

The mental capacity of the vulnerable adult is a key factor in deciding to what action can be taken.

The wishes of the vulnerable adult will be respected but they must be informed that the information given to an individual member of staff is not confidential to the member of staff and that there is a duty to report their concern to:

- The line manger or
- Directly to Social Services or
- A CMHT for a decision to be made on the appropriate action or
- The Learning Disability Team

Referral must always be made if there are indications that:

- A crime has been or could be committed or
- The allegation involves a member of staff or paid carer
- The alleged perpetrator is also a vulnerable adult.

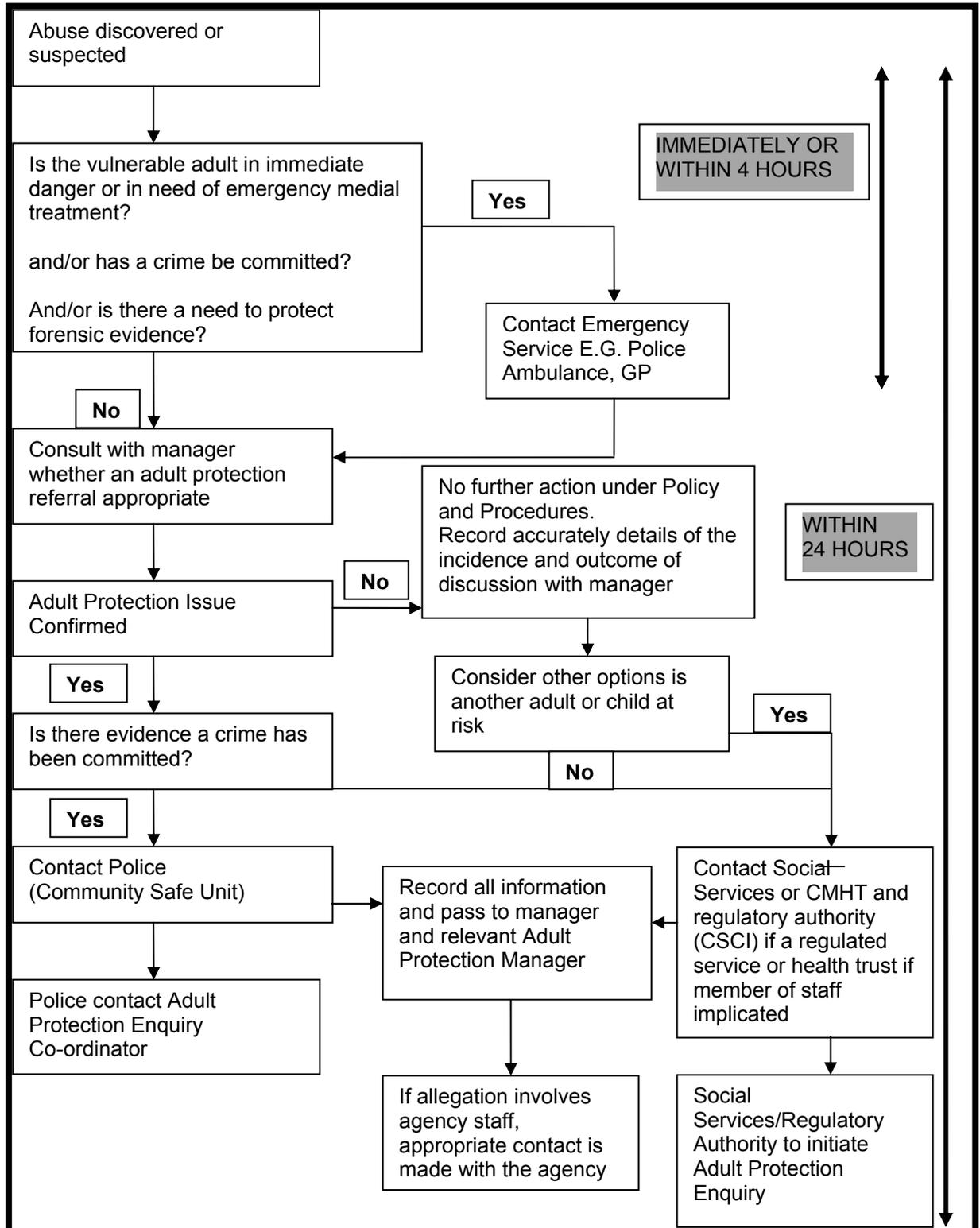
It is important to be satisfied that the judgement of the vulnerable adult is not affected by intimidation, misuse or authority or undue influence.

In situations where the risk is regarded as being high, the wish of a vulnerable adult that no action is taken does nor preclude the holding of a multi-agency strategy meeting.

## 15.5 Alerting action to be taken after becoming aware

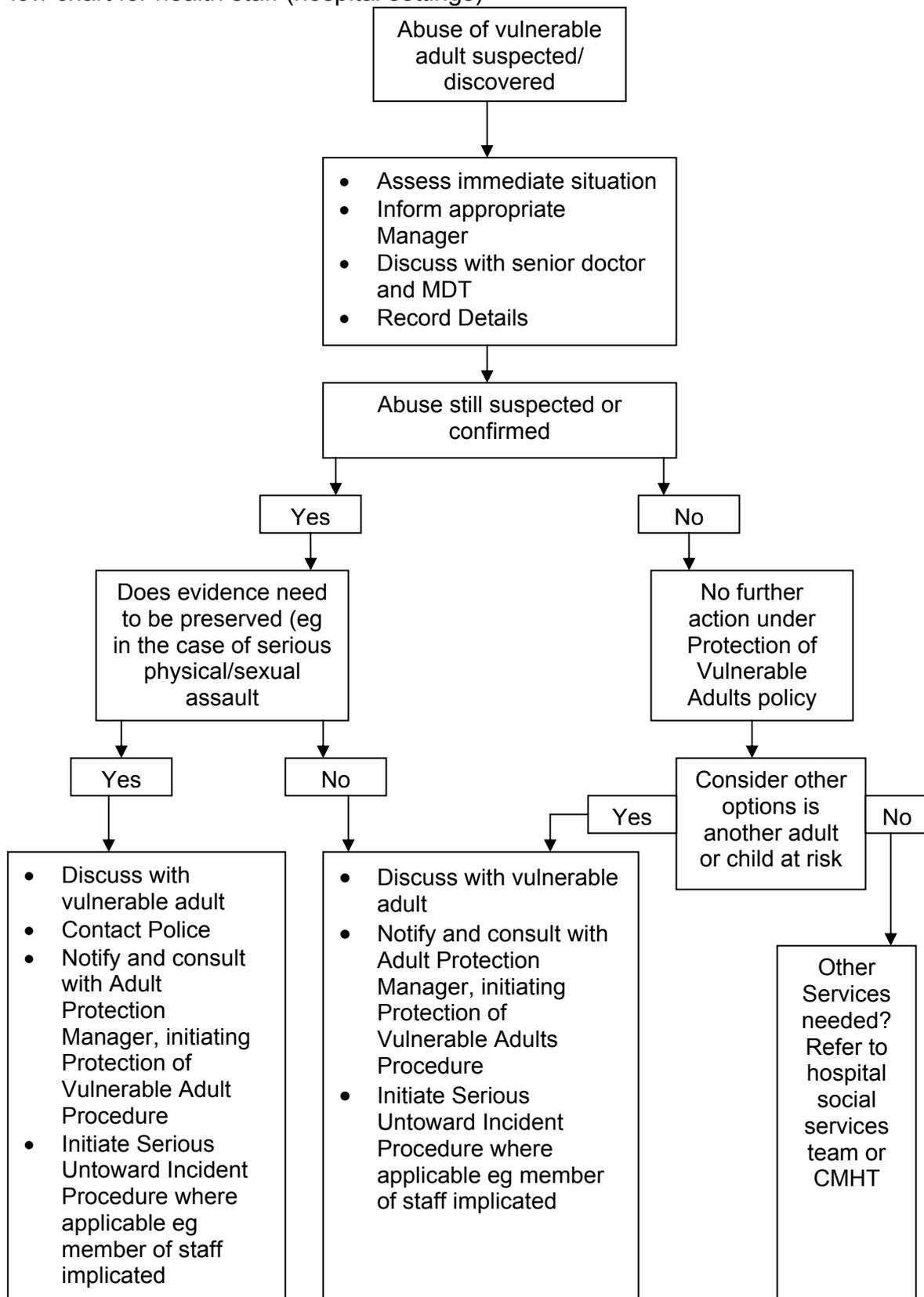
Flowchart for all agencies

Agencies will have their own specific internal procedures that will be consistent with this



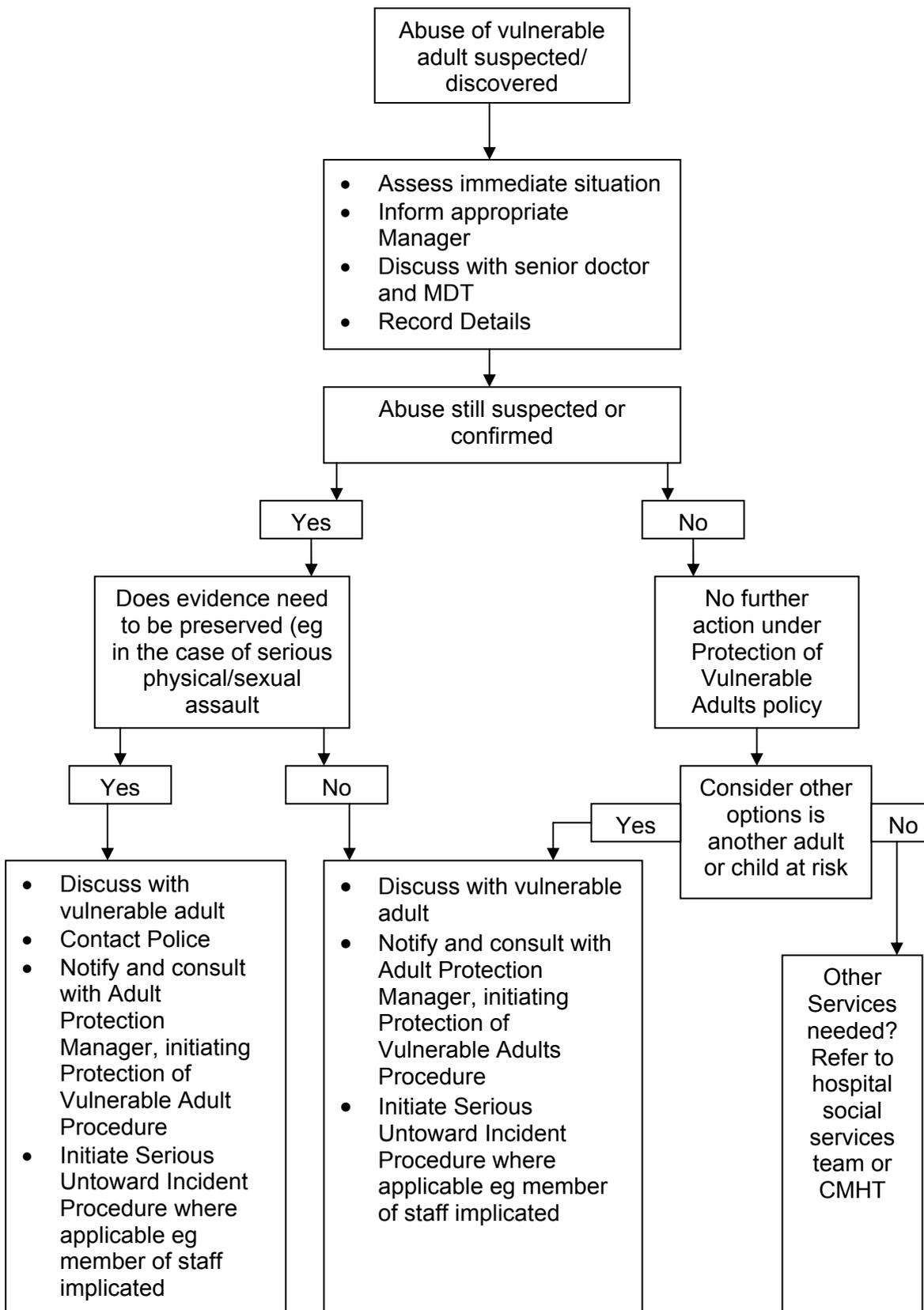
## 15.6 Alerting

Flow chart for health staff (hospital settings)



## 15.7 Alerting

Flow chart for PCT staff (primary care, community and bedded services)



## 16. Making Referrals

### 16.1 This section covers

- Consent to referral
- Where to refer
- Who to refer to
- Anonymous referrals
- Making a referral

Referral by telephone should be made within 24 hours once a decision has been taken that there is a concern of suspected or actual abuse.

#### **Consent of the vulnerable adult to the referral being made:**

Permission of the vulnerable adult should be obtained before referral. However, if the person lacks mental capacity or if there is an over-riding public interest (eg other vulnerable adults are at risk), you should refer and you should inform the vulnerable adult that you intend to do so and the reasons.

#### **You must refer if:**

- A crime has been, or could be, committed
- Or
- The allegation involves a member of staff of paid carer
  - Other vulnerable adults are at risk
  - The alleged perpetrator is a vulnerable adult

### 16.2 Where to refer

Generally, after consultation with a manager, where you refer will depend on where the vulnerable adult is. In most cases this will be determined by where the person is living and/or the age and client category e.g. mental health, physical disability, learning disability, older person.

**If the person is in an acute hospital, referral should be made to the hospital social services team**

**If the person is in the community, referral should be made to the relevant area team.**

### 16.3 Who to refer to

Teams to which referrals are made are:

- The team with the Adult Community Care Division are responsible for investigating adult abuse in any setting other than those set out below.
- **Emergency Duty Team Social Services** outside normal working hours.
- **Community Mental Health Teams (CMHT) – Locality Teams**
- Responsible for investigating adult abuse relating to adults who have an ongoing mental health need.

- **The Commission for Social Care Inspection Area Office**  
A duty investigation any allegation adult abuse in any residential or nursing home. (Nursing and domiciliary care agencies during 2003)
- **Hospital Trusts/Primary Care Trusts**  
Responsible for investigating complaints of abuse of an adult by a member of staff
- **The Police**  
The police may be called in an emergency such as where delay might result in significant harm to a vulnerable adult or loss of evidence.  
Referral should be made to the nearest police station or by dialling 999.

In other situations where there is any suspicion whatsoever that a criminal offence may have been committed, the police should be contacted at the earliest opportunity for advice and guidance.

In most cases, the Community Safety Units should be the first point of contact for referrals of cases involving vulnerable adults which indicated that a crime has been committed, however after 5.00pm contact should be to the local police station.

A referral can be made to the police if the abuse constitutes a crime and after consultation, the vulnerable adult agrees to or requests that a referral is made. If the vulnerable adult does not have mental capacity to consent, a referral should be made to the police.

The agency responsible for co-ordinating the investigation may make a decision to contact the police at the point of referral or at an initial strategy meeting.

There is a duty to report in the case of abuse by a member of staff that also constitutes a crime.

**If you are in any doubt as to where your call should be directed, contact the nearest police station and see advice. In an emergency you should dial 999.**

#### 16.4 **Anonymous referrals**

These will be accepted and acted on. However, the referrer will be encouraged to give contact details.

#### 16.5 **If in doubt about whether to refer because**

- The allegation appears trivial
- It is uncertain whether the situation indicates abuse
- Previous allegations have been made and have been disproved

**Then refer**

## 16.6 Information required

Information needed on making a referral to the Social Services Department Care Management Team or CMHT.

### 16.6.1 You are likely to be asked for the following information:

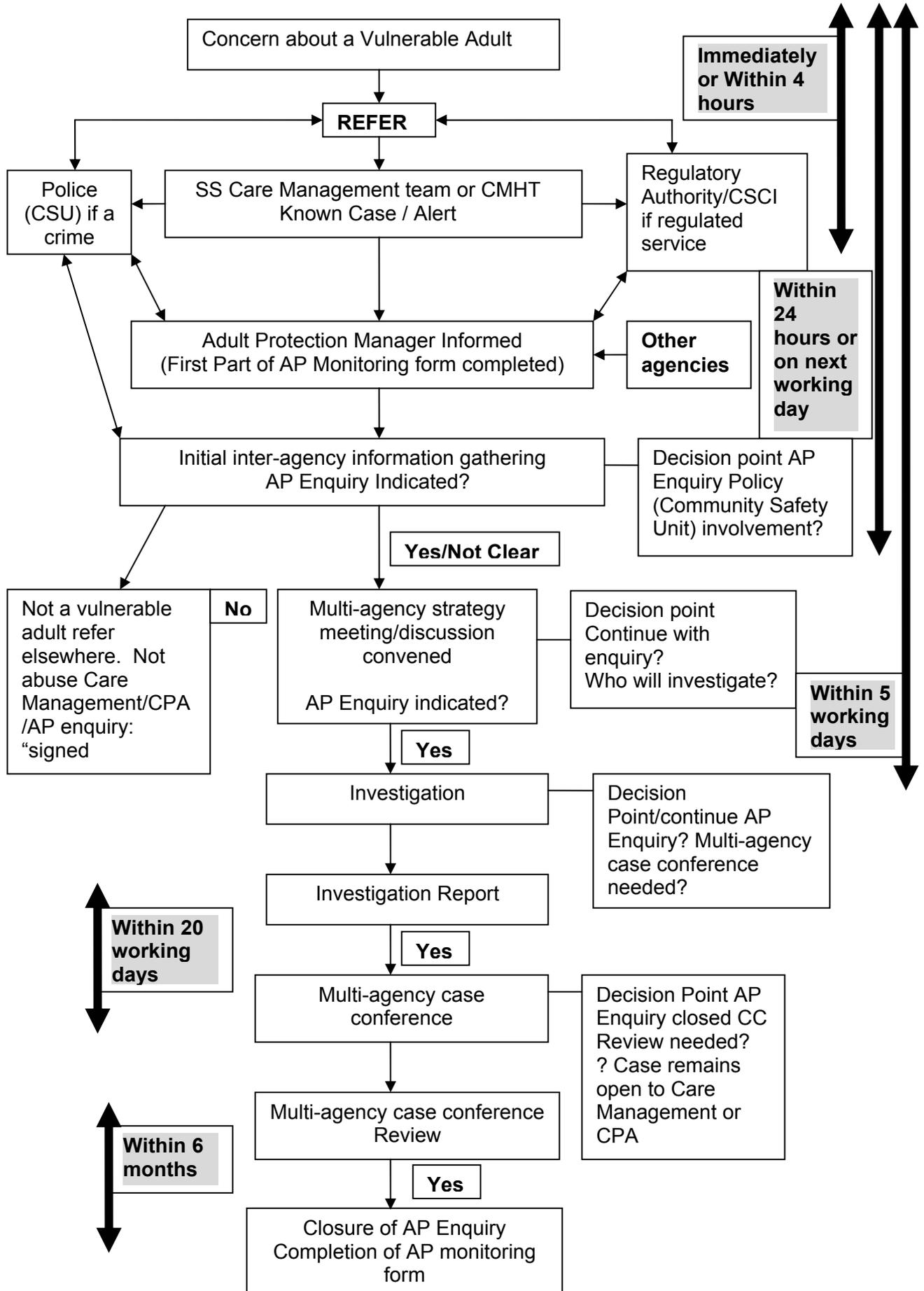
- The name of the vulnerable adult
- Date of birth and age
- Address and telephone number
- Why the adult is considered vulnerable
- Whether consent has been obtained for the referral, and if not the reasons eg the vulnerable adult lacks mental capacity or there is an over-riding public interest (e.g. where other vulnerable adults are at risk)
- Whether there are any concerns or doubts about the mental capacity of the vulnerable adult

### 16.6.2 Other information that could be useful

- Names and addresses of carers, significant family members and next of kin
- What arrangements have been made for the protection of the vulnerable adult
- Reason for concern/details of the alleged abuse including any injuries and dates
- Who can be contacted to gain access the vulnerable adult?
- How the information was obtained
- Can the referrer be used as a source of information?
- Who else can be contacted for further information?
- Are there any personal safety issues that anyone making a visit should be aware of?
- Are the police aware, and is a police investigation underway? Which police station is dealing with the case?
- Has a referral been made to the Commission for Social Care Inspection Regional Office?
- Details of any medical treatment that has been arranged
- Named of GP and other services involved
- Gender, language, race, cultural back ground, whether an interpreter will be required
- Details of physical and/or mental disability or illness
- Details of any communication difficulties the vulnerable adult has due to sensory or other impairments (including dementia or other cognitive impairment)
- Details of the alleged perpetrator, including whether the perpetrator is also a vulnerable adult
- If a crime has been committed, what steps have been taken to preserve evidence?

If the referral is made to Social Services or a CMHT or a Learning Disability Team, the referrer will be given the name of the duty worker taking the referral and the name of the allocated worker, or care co-ordinator, if the case is already known.

16.7 ADULT PROTECTION ENQUIRY FLOWCHART



## **17. Action that will be taken on receiving a referral**

Any agency receiving a referral or complaint of suspected or alleged abuse should inform other agencies involved of the nature of the complaint and the action being taken. They must also inform an APEC

**All referrals or reports involving suspicions or allegations of abuse will be treated as a potential adult protection enquiry. Every case must be assessed to decide on an appropriate course of action**

### **17.1 Action that will be taken following referral to Social Services or a CMHT**

The seriousness or extent of the abuse is often not clear when anxiety is first expressed. When a referral is received, a process of assessment of the allegation and the person's needs will begin in order to evaluate whether:

- The vulnerable adult and/or the alleged perpetrator is, or may be eligible for, an assessment of need under Care Management or in mental health services, under the Care Programme Approach
- And whether the person is or maybe unable to take care of him/herself, or unable to protect him or herself against, or be at risk of significant harm or exploitation.
- Intervention is in the best interest of the vulnerable adult or in the public interest?

If a person is being abused. This may affect their ability to cope in situations where they have previously been able to do so.

If, following a referral, a decision is subsequently taken that an adult protection enquiry is not indicated, the referrer will be informed. Where appropriate, the person referred would be given information about or referred to more suitable services. These services could be the police victim support, domestic violence services or a refuge.

#### **17.1.1 Carrying out a name and address check**

On receiving a referral the duty officer or information access officer (WCC) will check to find out if the vulnerable adult and/or the alleged perpetrator are already known to social services or to a CMHT.

If the case is new, a file will be set up so that all subsequent decisions and actions can be recorded and the case will be opened.

The duty officer will notify the duty senior who will notify the relevant Adult Protection Manager.

#### **17.1.2 Without alerting any alleged perpetrator, the duty officer will make checks and gather initial information in order to:**

- Assess the risks involved from the information available
- Judge whether to involve the police at an early stage
- Find out whether there are any additional child protection concerns

### **17.1.3 Keeping the vulnerable adult safe while inquiries are made**

The duty senior will appraise all information available and will ensure that:

- Immediate action is taken to ensure the safety of the vulnerable adult where necessary and possible
- Other vulnerable adults are protected
- Any forensic evidence is preserved
- In cases where an immediate risk is thought to exist a strategy meeting and/or visit may be indicated in which case it must take place within 24 hours or on the next working day.
- A full record will be made of any discussions or action taken at this stage is made

### **17.1.4 If the allegation refers to abuse by a member of staff or paid carer within a regulated service**

The regulated service will inform the regulatory authority (CSCI) that there are concerns about the service or a member of staff.

The regulatory authority will advise the organisation to use their internal staff disciplinary procedures to ensure the safety of the vulnerable adult. They will also be advised on what steps to take with regard to the alleged perpetrator, pending the outcome of the investigation and enquiry ie whether the alleged perpetrator should be suspended or other action taken.

### **17.1.5 If the allegation refers to abuse by a member of staff within a non regulated service or agency**

Social Services or the CMHT will inform the employer of the referral. The employer should use their own staff disciplinary procedures to ensure the safety of the vulnerable adult pending the outcome of the investigation/enquiry.

### **17.1.6 If the allegation involves a volunteer**

The organisation who is responsible for the volunteer will be informed. A senior manager will make a decision taken about action to take in line with the organisation's internal procedures.

## **17.2 Deciding whether to proceed with an adult protection enquiry and conduct an investigation under the multi-agency policy and procedures**

Following referral the relevant Adult Protection Manager, in consultation with other agencies, will make a decision whether to conduct an adult protection enquiry. This will be recorded on the case file with reasons

The Adult Protection Manager will make the decision based on:

- The information received that the referral concerns a vulnerable adult as defined in these policy and procedures, that the action complained of suggest that abuse is or has occurred or there are indications that there is risk of abuse occurring.

Or

- The information received that the referral concerns a vulnerable adult as defined in these Policy and Procedures, that the action complained of suggest that abuse is or has occurred or there are indications that there is risk of abuse occurring.

Factors to be taken into account when deciding whether the case warrants an enquiry under the Policy and Procedures may include:

- The **vulnerability** of the individual
- The **views and opinions** of staff in partner agencies
- The **nature and extent** of the abusive acts
- The **length of time** it has been occurring
- Whether the abuse was a **one off event or part of a long-standing relationship** or pattern
- The **impact** of the abuse on others
- The **intent** of the person alleged to be responsible for the abuse
- The **illegality** of the alleged perpetrators action(s)
- The **risk** of repeated or increasingly serious acts involving this or other vulnerable adults.
- The **mental capacity** of the vulnerable adult

**An adult protection enquiry under the Policy and Procedures must always take place in situations in cases of suspected or alleged abuse where:**

- The vulnerable adult does not have the capacity to make informed decisions about what action they want to take (if any) in response to the abuse they may be experiencing.
- The care of the person who is experiencing the abuse or exploitation is the legal responsibility of an agency or an individual eg
  - Guardianship, s117 or s25A of the Mental Health Act 1983
  - The vulnerable adult is receiving care paid for by the Local Authority
  - There is registered enduring power of attorney, or a Receiver under the Court of Protection.
- The abuse has taken place on property owned or managed by an agency that is providing in services to the person experiencing the abuse or the person perpetrating the abuse. This includes property owned and managed by social services departments or health trusts
- The alleged perpetrator is a paid worker or a volunteer
- The alleged perpetrator is another service user
- Other service users are at risk from the perpetrator

In the above situations an adult protection enquiry will take place even where a person with capacity has asked for no action to be taken, in which case they will be informed of the duty to investigate.

In other situations, where there is an assessment of a high degree of risk, a request by a vulnerable adult that no action is taken does not preclude the holding of a multi-agency strategy meeting of relevant agencies.

**A decision not to conduct an Adult Protection Enquiry will be based on the following:**

- That there is sufficient information available to make a decision that the situation does not involve abuse or exploitation and
- That significant harm is not indicated and that action through care management, the care programme approach or referral to health colleagues is appropriate.
- The person is not a “vulnerable adult” in which case if the person agrees a referral will be made to services such as the police, domestic violence unit, a refuge or victim support of the person will be given information about other relevant services.

If necessary a date will be arranged to review the decision.

A decision not to conduct an adult protection enquiry will be recorded with reasons and the enquiry will be “signed off” at this point by the Adult Protection Manager.

**17.2.1 Adult Protection and Mental Health Service Users**

The issue of adult protection and mental health service users is particularly complex. The emphasis of recent policy on public protection has led to a tendency for mental health service users to be regarded as potential perpetrators rather than victims of abuse or exploitation. The notion of vulnerability can be contentious.

All allegations of abuse must be taken seriously and investigated without assumptions as to the credibility of the complainant.

**Some factors influencing a decision about vulnerability could include:**

- Vulnerability may fluctuate with the adult’s particular mental health needs at any given time, e.g. if they are currently sectioned under the Mental Health Act or are especially ill at the time.
- The vulnerability may be associated with previous experience of abuse. Research has shown that a significant proportion of women have been abused as children develop mental health problems. This is of particular significance when considering their vulnerability within mixed wards or residential units. Similarly a significant proportion of men who are mental health service users have a history of physical abuse.
- The experience of the mental health service user is within a system which can legally deprive people of their human rights.
- (eg loss of liberty, compulsory treatment) rendering the person innately vulnerable at these stages.
- The mental health service user is often seen as lacking credibility when they report abuse: the complaint can be seen as a sign of mental illness.

All allegations must be taken seriously and investigate without assumptions as to the credibility of the complainant.

The Mental Health Act Commission has a particular role in maintaining oversight of the standards of care for patients detained under the Mental Health Act 1983.

### **17.3 The objectives of an adult protection enquiry:**

These are to:

- Ensure that the vulnerable adult receives protection from serious harm and exploitation
- Agree a multi-agency approach
- Establish facts
- Assess the needs and wishes of the vulnerable adult for protection support and redress
- Decide what follow-up action should be taken with regard to the perpetrator and the service and/or its management if they have been culpable, ineffective or negligent
- Identify any lessons to be learnt for the future; including recommendations for any changes to the organisation and delivery of service

### **17.4 Other investigations connected with Adult Protection**

In addition to giving rise to action under the Multi-agency Policy and Procedures, information relating to adult abuse could also give rise to a number of processes that will give rise to a need for agencies to work together to ensure that are co-ordinated in parallel with the adult protection enquiry. These could include:

- Investigation of the allegation or complaint
- The need to register the concern s an untoward incident (local Authority)
- An investigation under Serious Untoward Incident procedures (Health)
- Assessment and care planning for the vulnerable adult who has been abuse
- Action with regard to any criminal proceedings
- Action by employers such as suspension, disciplinary proceedings and action to remove thee alleged perpetrator if a member of staff from the professional register or add to the PoVA register
- Arrangement for the treatment or care of the abuser if the abuser is also a vulnerable adult
- Consideration of the implications relating to regulation, inspection and contract monitoring

## **18. Inter-agency structure for planning and responding to referrals – The Strategy Meeting**

This section covers:

- The multi-agency strategy meeting
- Timescales
- Deciding whether to hold a multi-agency strategy meeting
- The purpose of the multi-agency strategy meeting
- Who should attend?
- Possible outcomes of the strategy meeting
- Involving the vulnerable adult and/or their relatives or carers
- The attendance of the vulnerable adult and/or relative or carer at the strategy meeting
- Recording and distribution of decisions

### **Divergence from specified timescales:**

Divergence from timescales for the strategy meeting, investigation and case conference could be justified on grounds of good practice where adherence to them would not be the best interest of the adult. Reasons for divergence must be recorded. The agreement of the Adult Protection Manager should be sought and an alternative timescale agreed to avoid the enquiry becoming open-ended.

### **Resolution of disagreements**

Where there are disagreements that cannot be resolved by discussions between front line workers the line managers will hold discussions to try to resolve differences.

#### **18.1 The multi-agency strategy meeting**

In most cases a multi-agency strategy meeting will be the best way to ensure investigations are co-ordinated and roles and responsibilities are clarified.

The 'meeting' would involve delay or where there are few agencies involved so that a meeting is not necessary.

##### **18.1.1 Timescales:**

- In cases where there appears to be immediate danger the first priority is to take action to ensure the safety of the vulnerable adult. A multi-agency strategy meeting should take place immediately on receipt of the referral
- If the situation is urgent the meeting should be held within 24 hours or on the next working day
- The 'meeting' could take the form of telephone conversations if there is a degree of urgency and calling a strategy meeting would involve unnecessary delay, increasing the risk to the vulnerable adult
- If an allegation has been made concerning a member of staff or paid carer a strategy meeting must take place within 24 hours
- In other cases a multi-agency strategy meeting should be within 5 working days.

## 18.2 Deciding whether to hold a multi-agency strategy meeting

The appropriate Adult Protection Manager will ensure that the multi-agency strategy is co-ordinated and chaired.

A decision to hold a strategy meeting will be based on the following factors:

- The potential seriousness of the incident
- Several agencies have concerns and the sharing and pooling of information is desirable
- Several individuals are or could be at risk
- There are indications a number of different investigations are being undertaken (or could be)
- A criminal prosecution could be under consideration
- The alleged perpetrator is another service user
- Other legal or regulatory actions are indicated
- The allegation or suspicion involves a member of staff or volunteer
- The issue could attract media attention

A decision that a strategy meeting is **not** necessary might be made for the following reasons:

- There is sufficient information available for an investigation to proceed, and investigating officer to be identified, to set out the terms of reference and specify responsibilities between agencies, where relevant.

In this case, a date should be set for a case conference to discuss the findings of the investigation and to establish a care plan (or review an interim care plan).

- There is sufficient information to move straight to an adult protection plan to protect the vulnerable adult and any other who may be at risk. The care plan would specify a time for review and indicators of what might trigger further action.
- There is sufficient information to indicate that the concern does not indicate abuse and therefore there is no need for action in line with the procedures. In this case, the decision will be recorded with the reasons and an alternative plan will be formulated if necessary. An adult protection enquiry co-ordinator will be informed and the monitoring form will be completed to record the outcome.

## 18.3 The purpose of the multi-agency strategy meeting

The strategy meeting is for involved professional to reach a consensus, plan and coordinate the investigation and the adult protection plan. Attendance would include, where appropriate, managers and staff of provider services and a social work staff from children and families team, if there are also children in need.

If the allegation falls within the scope of the policy and procedure there are options as to how to proceed. In particular how formal the investigation needs to be in order to effectively protect the person and deal with the alleged abused in a way that also protects their legal rights.

The options include:

- Proceed on the basis of a criminal investigation
- Work within the usual individual or care planning and review process
- Use the care programme approach for service users with on-going mental health needs
- Conduct an inspection or quality review where the whole establishment is in focus

The decisions of the strategy meeting must be recorded and circulated to attendees.

The meeting will decide:

- How the enquiry will be conducted
- Who will do what, when and how

#### **18.3.1 Specifically the purpose of the meeting is to:**

- Decide what sort of investigation is needed
- Decide which agency will conduct the investigation
- Decide whether the investigation should be single or joining agency
- Decide on whether medical examinations or other specialist assessment is needed and who will arrange this (eg to determine the mental capacity of the vulnerable adult)
- Identify and appoint an investigating officer including (deciding whether that person should be already known to the vulnerable adult or someone neutral)
- Gather any additional information on the allegation
- Assess the degree of risk
- Decide how the vulnerable adult should be protected during the investigation
- Find out if the vulnerable adult should be protected during the investigation
- Find out if the vulnerable adult has given permission to involve other agencies and whether there is a need to break confidentiality
- Ensure that equality issues are addressed and that decisions are informed with due regard for issues of the gender, racial or ethnic origin, religion, or belief, disability, age or sexual orientation of the vulnerable adult
- Clarify issues of communication and information sharing: what can be shared with whom
- Clarify what information can be shared with the family
- Clarify issues of mental capacity
- Find out the need for an independent advocate to represent the views and wishes of the vulnerable adult and ensure that suitable arrangements are made

To decide what form of investigation is appropriate, whether it should be:

- An adult protection enquiry
- An internal investigation by another agency

Or that

- Some other assessment under care management or the care programme approach or action under complaints procedures may be a more appropriate response
- To clarify what additional investigations may be triggered by particular incident, including a police investigation or disciplinary procedures
- To identify any personal safety issues for the person who will conduct the Investigation
- If the perpetrator is also a vulnerable adult, to make a decision about how their needs will be addressed, who will be responsible for ensuring there is a care plan and that they have access to appropriate support
- Identification and arrangement of an appropriate adult if the alleged perpetrator is a vulnerable adult and is to be interviewed by the police
- Identify what special measures are needed if the vulnerable adult who has been abused is to provide evidence in a criminal prosecution. This may lead to a decision that interviews will take place in a video suite
- To discuss issues of preservation of evidence where this is relevant
- To establish what legal powers may be appropriate and any need for legal advice or opinion
- To agree a plan to maximise the ability of the vulnerable adult to make decisions and participate fully in the process
- To identify needs for language interpreters, or address the communication needs of vulnerable adults with sensory or learning disabilities or dementia

#### 18.4 Who should attend?

An Adult Protection Manager will ensure that the meeting is co-ordinated and appropriately chaired and should be attended by representatives of all agencies that might have a role in the subsequent investigation.

Attendees **should** include:

- A social services of CMHT team manager if they are not the Adult Protection Manager
- The social services care manager, if the case is known
- A care co-ordinator, if the case is known to a CMHT
- The police, if there are concerns that a crime has been committed
- The person making a referral, if they are a professional

The meeting **could** be attended by any of the following if they are involved:

- An officer from the Commission for Social Care Inspection Area office (where the service is subject to regulation)
- A health professional
- A residential placement manager, monitoring or reviewing officer
- Emergency duty social worker
- The manager or member of staff of a provider service
- The client affairs officer (in cases where financial abuse is suspected)
- A representative from a legal department
- A Child Protection Co-ordinator, if there are also child protection concerns

If the allegation involves a member of staff or paid carer, the strategy meeting may be chaired by a senior manager from social services or health and in addition to the above will, where appropriate be attended by:

- An authorised officer for contracts
- A commissioning manager
- A personnel officer
- The line manager of the member of staff
- A senior manager of the employing agency

**Attendance at a strategy meeting should be limited to those who need to know and can contribute to the decision making process**

Any agency requested to attend a strategy meeting should regard the request as a priority and if they are unable to attend should provide information as requested and ensure that it is available at the meeting.

### **18.5 Possible outcomes of the strategy meeting**

- The adult protection enquiry should continue and an investigation/joint investigation should take place
- Based on the information there is no need to continue an adult protection enquiry but there is a need for action through other processes (care management, the care programme approach)
- That based on the evidence, there is no specifically identifiable issue of abuse but there are concerns about quality of care that could lead to abuse occurring if not addressed.
- There are adult protection concerns but the vulnerable adult has mental capacity and has expressed a wish that no action should be taken and there are no public interest reasons for taking action against their wishes. In this case, the vulnerable adult should be told of the decision and given information about who to contact should they change their mind.

A date could be fixed to review the above decision with the vulnerable adult, if a concern persists and their refusal to consent to action being taken has resulted from fear, loyalty or disempowerment as the result of long-term abuse

In all cases, the decision and reasons for closing the enquiry should be recorded and a copy sent to all attendees.

Where a decision is made to discontinue, the Adult Protection Enquiry will be signed off by the Adult Protection Manager, by completing the adult protection monitoring form.

### **18.6 Involving the vulnerable adult and/or their relative or carers**

Generally, families should be informed of the allegation of abuse and the action being taken but they may not be informed where:

- The vulnerable adult is able to give informed consent and does not wish their family to be informed

- The alleged perpetrator is a member of the family
- When a police investigation is likely and rules of evidence will apply

Decisions concerning the information given to the family should be made at the strategy meeting.

Or a decision may be made before this by:

- The emergency duty social worker, if out of hours
- The police, if they are leading the investigation, in which case the police will make the decision about informing the relatives

### **18.7 The attendance of the vulnerable adult and/or relative or carer at strategy meeting**

It would not normally be appropriate for the vulnerable adult or their relative or representative to attend a multi-agency strategy meeting, as the purpose is for professionals to reach a consensus on a plan.

Every effort should be made, prior to the meeting, to explain the need for and the purpose of the meeting and to ascertain the views and wishes of the vulnerable adult and their relative or carer, unless there is a suspicion that the relative or carer is the perpetrator, in which case no prior contact should be made.

Permission for the collection and sharing of information from the other agencies should be sought from the vulnerable adult with explanation of the need for the gathering and exchange of the information.

### **18.8 Recording**

A record should be made of the decisions and actions required. This should be distributed to all relevant individuals and representatives of agencies that attended.

- The record should include:
  - The date and time of the meeting
  - Names of those present and job titles
  - Date and time of the incident or the concern
  - Types of abuse suspected (as defined in the policy)
  - Details of the alleged abuser
  - Details of any witnesses
  - Decisions made, in detail with reasons
  - Name of agency conducting the investigation (additional agency if joint)
  - Name of investigation officer
  - Details of any other investigations that will also be instigated
  - How the investigation will be conducted
  - Details of any disagreements or conflicts

## 19. The Investigation Process

This section covers:

- Which agency carries out the investigation?
- The purpose of the investigation
- Responsibilities of the agency conducting the investigation
- Who should conduct the investigation
- Should the investigation be single agency or joint investigations
- Undertaking the investigation
- Information gathering and timescales
- Conducting the interview
- The investigator's report

These procedures apply to any agency named below which has responsibility for conducting an investigation into an allegation of abuse of a vulnerable adult.

No individual agency can delegate their statutory responsibility to another. Each agency must act in accordance with its duty when it is satisfied that action is appropriate.

Agencies will have their own operational policies and internal procedures applicable to their staff which should be read in conjunction with these procedures.

### 19.1 Which agency carries out the investigation?

The decision as to which agency and who within that agency will carry out the investigation, the details of how it will be conducted and co-ordinated will be taken at the multi-agency strategy meeting.

#### 19.1.1 Social Services Department

The adult protection enquiry will be co-ordinated by an Adult Protection Manager, irrespective of which agency is conducting the investigation.

In most cases other than those listed below, the local authority social service department have the lead responsibility for investigating, managing and co-ordinating the abuse investigation. The investigation would be undertaken by a suitably qualified and experienced member of staff based in any of the care management teams of learning disability team. The identified person is the investigating officer.

#### 19.1.2 Community Mental Health Teams (CMHTs)

The CMHT will be responsible for the investigation, management and co-ordination of the entire adult protection enquiry where the vulnerable adult is under 65 years old and has an on-going mental health needs. The relevant CMHT Adult Protection Manager is responsible for co-ordinating the enquiry.

### 19.1.3 The Police

Responsible for investigating any abuse that may indicate a crime has been committed.

If the Police are investigating they will assume lead responsibility for all activities linked to the collection of forensic evidence and the conduct of medical examinations. No other investigatory activity should take place prior to discussion with the police.

The APEC may decide at anytime to contact to the police as information emerges. The involvement of the police at an early stage should always be considered.

### 19.1.4 Commission for Social Care Inspection Area Office

May conduct the investigation where the allegation involved a regulated service. This decision would be made at the strategy meeting in the light of the particular circumstances.

### 19.1.5 Health Trusts

Will be responsible for conducting an investigation into allegations made by in-patients against hospital staff under their Serious Untoward incidents Procedures.

The manager dealing with the incident will ensure that the adult protection procedures are also instigated and will notify and consult with the relevant Adult Protection Manager to decide how to proceed.

## 19.2 The purpose of an investigation

- To establish the facts and to provide evidence on which to base decisions about future action including, where indicated disciplinary action or criminal proceedings.
- To enable a risk assessment to be carried out
- To assess the mental capacity of the vulnerable adult
- To determine any need for medical or psychiatric intervention and to gain consent
- To clarify the views of the vulnerable adult and their views about the situation
- To discuss with them issues of confidentiality and the sharing of information with other agencies that are to be involved with the investigation and any subsequent care plan
- To discuss with the vulnerable adult ways of protecting them in the future, and what action may be required
- To assess what service provision may be required either by the vulnerable adult and/or where indicated, their carer
- To provide evidence to enable action to be taken to gain powers to protect the person (e.g. Guardianship, section 2 or 3 of the Mental Health Act 1983, Section 47 National Assistance Act 1948)
- To identify what legal advice may be needed
- To identify if there is a need to protect other vulnerable adults and to gain information to inform a decision about how best to protect them

- To identify the alleged perpetrator and ascertain their whereabouts
- To provide evidence about a service user who is the alleged perpetrator, so that decisions can be made changes that may need to be made to service provision if the allegation is up-held
- To provide evidence about a member of staff who is the alleged perpetrator in order to inform staff disciplinary procedures
- To provide evidence for the CSCI in relation to services subject to registration
- To provide evidence for Commissioners of services in relation to a contracts with an organisation
- To provide evidence for Commissioners of services in relation to a contracts with an organisation
- To provide evidence for a criminal investigation
- To provide evidence for taking action under civil law e.g. an injunction
- To ascertain the need for a case conference

A higher standard of proof is required in criminal proceedings (beyond reasonable doubt) than in disciplinary or regulatory proceedings (where the test is the balance of probabilities).

### 19.2.1 Medical Examination

It may be necessary as part of the investigation to arrange for a medical examination to be conducted. If so, the following points should be considered.

- The rights of the vulnerable adult
- Issues of consent and ability to consent
- The need to preserve any forensic evidence
- The involvement of any family members and or carers
- The need to accompany and support the vulnerable adult and provide reassurance

### 19.3 The responsibilities of the agency conducting the investigation

The agency will notify the relevant Adult Protection Manager that an investigation is being conducted

AND

- Determine the most appropriate way to investigate the allegations or concerns detailed in the referral
- Consider what support the vulnerable adult may need during the investigation including the involvement of an independent advocate
- Make any necessary arrangements to meet the language or communication needs of the vulnerable adult
- Carry out an investigation
- Attend any multi-agency strategy meetings and/or case conferences called to co-ordinate the enquiry
- Liaise with other agencies and co-ordinate the contribution professionals may be asked to provide during the investigation

#### 19.4 Who should conduct the investigation?

A manager in the agency receiving the referral will identify a member of staff to conduct the investigation. That a member of staff will be the investigating officer of the purpose of conducting the investigation.

The investigating officer should be a suitably qualified and experienced member of staff working under the supervision of a manager who will have over-all responsibility for co-ordinating the investigation within the agency.

If there is to be a criminal investigation, the police will be lead agency and any other investigation must be co-ordinated with them.

#### 19.5 Should the investigation be single agency or a joint investigation?

Agencies should bear in mind that a properly co-ordinated joint investigation will achieve more than a series of separate investigations. It will ensure that:

- Evidence is shared
- Repeated interviewing is avoided
- There is less likelihood of distress to the person who has suffered abuse or exploitation

**HOWEVER**, no agency can delegate its statutory responsibility in deciding what action is necessary.

Agencies should agree, at the strategy meeting, on lead responsibilities, specific tasks, co-operation, communication and the best use of skills. This should occur in a timely fashion.

An adult protection concern can result in several processed that will need to be co-ordinated:

- A criminal investigation
- An investigation conducted within an agency under their own disciplinary procedures
- An adult protection enquiry

#### 19.6 Understanding the investigation

##### Information gathering and timescales

- The investigating officer will complete the initial enquiries within 24 hours of receiving the referral
- The investigating officer will make an assessment of what immediate steps need to be taken to protect the vulnerable adult, if this has not already been done, and will arrange what is necessary
- In cases involving high risk to the vulnerable adult, a visit will always take place within 24 hours
- In all cases, initial contact with the vulnerable adult should be no later than 5 working days. The decision regarding timing should be based on discussion with the relevant manager about the perceived level of risk

- The investigating officer will gather initial information from a variety of sources aimed at providing comprehensive background information
- Information gathering will inform the risk assessment which should include any information about risks there may be to an investigating officer making a visit
- Information must be gathered in such a way, that where possible, the perpetrator is not alerted. Sensitivity to the needs and wishes of the vulnerable adult should be maintained at all times
- If the investigating officer has concerns that a child or young person living in the same household as the vulnerable adult could also be at risk, they must immediately inform the appropriate Social Services Department and Children and Families duty service
- A record of the findings of the initial investigation and any decisions made should be recorded and signed. The Adult Protection Manager will review the findings of the investigation and make a decision on whether to convene a case conference

### 19.7 Conducting the interview

The investigating officer should not normally undertake a visit to interview the vulnerable adult alone. The interview with the vulnerable adult should not be conducted in the presence of the alleged perpetrator especially if there is a possibility that a criminal offence has been committed.

If the interview is going to be a joint one, then a decision should be taken as to who shall lead.

The vulnerable adult may be accompanied by any of the following:

- An advocate, friend or chosen family member or other supporter unless they are the alleged perpetrator
- An interpreter if the person speaks English as their second language
- Alternative communication assistance if they need a British Sign Language (BSL) and Sign Supported English (SSE) or a lip speaker or specialist interpreter if they are deaf/blind, or if they have a learning disability and use augmented communication aids such as Makaton, Rebus and Communication Boards
- An independent advocate of their choosing, and/or an independent advocate chosen by the investigating officer to protect the person's interests
- A member of the family or a close friend, if this is deemed appropriate

### 19.8 The investigations report

The investigating officer should complete a report within 20 working days. Different agencies will have their own formats but the report should contain a clear summary of the investigation covering:

- Details of the initial alert/referral with all dates and times
- An outline of the current allegations and any previous allegations
- An assessment of the seriousness of the alleged abuse
- A description of the vulnerable adult and his/her circumstances including their view of the situation and their strengths where the abuse took place

- An assessment of the vulnerable adult relating to consent and capacity and other legal issues
- Social situation/networks of the vulnerable adult
- Information about the alleged perpetrator
- Details of how the investigation was conducted and who was involved
- Evidence to support or refute the allegation
- Evidence to support any action through disciplinary procedures
- Evidence to support any action through conditions of contracts and contract monitoring
- Evidence for any action that could be taken by the CSCI
- Evidence for any legal action other than under criminal law
- (The police are responsible for the collection and recording of evidence for a criminal prosecution)
- Indications of the causes of the abuse/abusing
- A view about future risks
- Recommendations for future action
- The investigations officer's opinion and conclusions about future risks, prevention and action. This would include an opinion about support to the vulnerable adult that increases the ability of the vulnerable adult to protect themselves

NB if the investigation is conducted by, or jointly with, the police the interview could be tape recorded in accordance with the law. There may also be circumstances where a video recording would be taken for use in evidence such as if the vulnerable adult uses BSL or any manual sign or symbol system such as Makaton.

The Investigating Officer will discuss the content of the report with the vulnerable adult and make every effort to ensure the vulnerable adult understands it and that any communication needs are addressed in order to do so. Where appropriate, the involvement of a family member or an advocate may be necessary.

On receiving the report, the Adult Protection Manager should decide on whether to call a case conference.

## 19.9 SUMMARY OF THE INVESTIGATION PROCESS

<p>Is the Focus on an individual or an establishment?</p>	<p>Is this likely to lead to a criminal prosecution or action under the Care Standards Act?</p>	<p><b>RECEIVING THE ALERT</b></p> <p style="text-align: center;">↓</p>	<p>Who do I need to Inform now</p>	<p>Are other agencies, such as other social services departments, likely to have an interest in this case?</p>
<p>Is any emergency action required to ensure safety, evidence or treatment?</p>	<p>What is already known about this person, agency or alleged perpetrator?</p>	<p><b>INITIAL INFORMATION – GATHERING</b></p> <p style="text-align: center;">↓</p>	<p>Does the person have capacity?</p>	<p>Is more than one vulnerable adult involved or at risk?</p>
<p>Is a formal strategy meeting needed or can you proceed on the basis of information/ telephone consultation?</p>	<p>Who should attend? Which agencies have a stake?</p>	<p><b>PLANNING THE INVESTIGATION</b> Who might have information?</p> <p style="text-align: center;">↓</p>	<p>What legal powers do you have or need?</p>	<p>What part can and should the vulnerable adult play in these decisions? Who else can advocate on her or his part?</p>
<p>Check out documentation</p>	<p>Interview relevant parties</p>	<p><b>INVESTIGATORY ACTIVITIES</b> Visit key places</p> <p style="text-align: center;">↓</p>	<p>Take statements from witnesses and other concerned parties</p>	<p>Collate circumstantial evidence and collaborative statements</p>
<p>Forensic and medical evidence</p>	<p>Background reports, service records and previous histories</p>	<p><b>EVALUATION OF EVIDENCE</b> Witnesses</p> <p style="text-align: center;">↓</p>	<p>Statements obtained from formal (joint) interviews</p>	<p>Assessments of individual capacity and witness skills</p>
<p>Adult Protection Plans: treatment and support services</p>	<p>Sanctions against perpetrator</p>	<p><b>CASE CONFERENCE</b> Information to be passed on to other agencies</p>	<p>Management review</p>	<p>Monitoring arrangements</p>

## 20. The Adult Protection Plan

In many cases it will have been necessary to establish some form of adult protection plan before the full investigation concludes and, if appropriate prior to the conduct of a case conference at which the plan is further reviewed.

Whenever a care plan is established it should include the following (where necessary and appropriate):

- Action to ensure the safety of the vulnerable adult
- Action to ensure the continued involvement of the vulnerable adult and where appropriate their carer or advocate
- Details of support services, treatment or therapy available either in the immediate or the longer term to the vulnerable adult
- Any changes to the way the services are provided
- Any plan to support the vulnerable adult through action to seek justice or legal redress
- How on-going and future risks are to be managed and risk taking supported if that is the wish of the vulnerable adult
- What services can be provided to the vulnerable adult to enhance their self-esteem and increase their ability to protect themselves
- Monitoring and review arrangements
- Contingency plans to ensure speedy response if the care plan is not meeting the need and the vulnerable adult continues to be at risk

All those contributing to the care plan should have a copy and, where appropriate, the vulnerable adult should be given a copy.

## 21. The Multi-Agency Adult Protection Case Conference

An Adult Protection Manager will ensure that a case conference is convened. The case conference should take place within 20 working days from the start of the investigation.

### 21.1 A case conference should be held:

- When relevant information and reports are available to inform those attending the case conference and guide the decision making process
- If the investigation confirms that abuse has occurred and concerns about the welfare and the safety of the vulnerable adult remain
- Where appropriate measures have been taken to protect the vulnerable adult but abuse is ongoing
- Where there was an initial protection plan but the plan needs to be reviewed in a multi-agency forum

### 21.2 Who should attend the case conference

An Adult Protection Manager will ensure that the case conference is convened and chaired, it should be attended by all relevant people. The case conference will be chaired by a Team Manager, Team Leader or where the situation indicates, by an Adult Protection Manager.

Attendees should include:

- The investigating officer
- The manager of the investigating officer, if they are not the Adult Protection Manager
- The care manager or care co-ordinator if different to the above
- The vulnerable adult (if they have sufficient mental capacity) or their representative or advocate
- Where appropriate, other family members or significant carers
- Relevant professionals e.g. the police, the GP, psychiatrist or other medical professional
- The manager or member of staff of any provider agency unless they are implicated in the allegation

In the case of an allegation concerning a member of staff or paid carer, or if it is a large scale investigation the decision as to who should chair the case conference will be taken by a senior manager.

If the vulnerable adult does not attend, then all efforts should be made to ensure that their views and wishes are known and that they receive feedback from the meeting.

If a professional is invited and is unable to attend the information must be made available to the meeting. The information should be discussed with the vulnerable adult beforehand. If for any reason the information has not been discussed with the vulnerable adult it should be sent to the chair marked confidential.

### 21.3 Purpose of the Case Conference

- To receive and consider the information contained in the investigating officer's report
- To consider the evidence and determine whether the allegation has been substantiated
- To consider what legal action or redress is indicated
- To plan further action if the allegation is not substantiated
- To make a decision about the current level of risk and make judgements about any future risks
- To plan to take any statutory action required
- To formulate and adult protection plan and determine who will monitor and co-ordinate the plan
- To plan to provide support to any carer if this is indicated
- To determine what additional information needs to be shared with whom on a "need to know basis"
- To set a date for a review if there are continued concerns. This should not be more than three months from the date of the original case conference
- To decide what action is appropriate when the allegation was not proved, or was unfounded, but concerns remain about standards of care or poor practice

The fact that there is sufficient evidence for a criminal prosecution does not mean that action cannot be taken under disciplinary proceedings. The burden of proof for criminal proceedings is beyond reasonable doubt, for disciplinary action it is on the balance of probabilities.

Action should continue under the adult protection enquiry to ensure a protection plan is put in place.

### 21.4 Case Conference Report

The chair of the case conference should ensure that the conference decisions are recorded and dated and copied to all attendees and to other identified as individuals or agencies who have a need to know, to ensure the effective protection of the vulnerable adult.

## **22. If the Vulnerable Adult Moves To Another Area During an Enquiry**

- 22.1 In cases where a vulnerable adult moves to another area during an investigation, the Adult Protection Manager must ensure that action is taken to ascertain their whereabouts. They must notify the new local authority of the adult protection enquiry and what action has been taken. An agreement must be reached with a manager in that local authority about future action and roles and responsibilities. Acknowledgement of receipt of the information by the new authority must be obtained.
- 22.2 In cases where a vulnerable adult moves during an enquiry, to a residential or nursing home outside Hackney, if the borough maintains financial responsibility, it will continue to be responsible for the enquiry and the protection plan will be incorporated into the residential care plan.
- 22.3 Special rules apply to vulnerable adults who are subject to section 117 After Care and Section 25A of the Mental Health Act 1983. Where these apply, the mental health service in the original borough retains responsibility for the patient until this responsibility is accepted by the mental health services of the new area.

### **22.4 If the alleged perpetrator moves:**

During 2003 the Protection of Vulnerable Adults register will be introduced. The employer will then have responsibility to ensure that the name of the employee is added to the Protection of Vulnerable Adults Register which is being established under the Care Standards Act 2000. The CSCI will advise on other appropriate action.

Where a police investigation is underway, the investigation will continue.

## **23. Closing the Investigation**

The Adult Protection Manager, or another manager in charge of the investigation, should ensure that:

- All reports have been completed
- Cases records contain all necessary information and forms
- All those involved with the vulnerable adult know to re-refer if there are any renewed concerns.
- All evidence and decisions are recorded
- The reasons for closing the enquiry are recorded
- The Adult Protection Manager is notified of the outcome of the investigation if they have not been notified to date.
- The adult protection monitoring form is completed.

**The case may remain open to Care Management or CPA, in which case future reviews will be conducted under those procedures.**

## 24. Record Keeping

Whenever a complaint or allegation of abuse is made agencies should keep clear and accurate records made at the time that note the precise factual details of the alleged abuse.

Records may be disclosed in court as part of evidence in a criminal action. Records should therefore be evidence based and have factual support for any opinion expressed in them.

Written and contemporaneous notes should always be taken and retained as these may be required in any subsequent prosecution or if the regulatory authority decides to take legal action against a provider.

Recording should be undertaken with sensitivity to the needs and legal rights of the abuse person. Records should be written in such a way that they provide the necessary information for staff in order to keep the vulnerable adult safe and to provide a high quality of service.

A separate file should be created to incorporate all records relevant to the enquiry. This will include all assessments, reports from other agencies, records of meeting and any decisions taken in the course of the enquiry.

Records kept by providers of services should be available to service commissioners and to regulatory authorities.

Throughout the adult protection enquiry, detailed factual records must be kept. This includes the date and circumstances in which conversations and interviews are held and of any decisions taken.

Agencies should identify arrangements, consistent with the principle of fairness, for making records available to those affected by, and subject to investigation.

If the alleged perpetrator is a service user, then the information about his/her involvement in an adult protection investigation, including the outcome of the investigation, should be included in his/her records. If an assessment is made that the individual still poses a threat to other service users, this would be included in any information passed on to service providers.

Agencies should refer to their own internal policies and procedures for additional guidance on recording.

## 25. Allegations against a member of staff of paid carer

- 25.1 Agencies must ensure that they have in place internal policies and procedures for dealing with allegations against members of staff or paid carers. These operational policies should be compatible with the Protection of Vulnerable Adults Multi-Agency Policy and Procedures. Health Trusts will deal with allegations against a member of staff through the Serious Untoward incident Procedures.
- 25.2 Agencies should have clear induction procedures that include; knowledge of issues of protection of vulnerable adults of internal disciplinary procedures.
- 25.3 In this context a member of staff or paid carer refers to an employee of any agency providing health or social care to a vulnerable adult and includes staff employed through employment agencies.
- 25.4 It also includes staff for whom any agency, such as health or social services have either a direct responsibility as employers or are vicariously liable through a contract. It does not include paid carers who are employed privately by the vulnerable adult. Complaints and allegations in such cases will be dealt with as though they were private individuals.
- 25.5 If an employee is a member of a professional body and there is an allegation of abuse, neglect or misconduct within the professional relationship, in addition to action being taken by employers under disciplinary codes, action will be determined and governed by codes of professional conduct and contracts. Where appropriate, employers will report to the statutory body responsible for professional regulation.
- 25.6 Personnel sections and contracts officers must be informed if an alleged perpetrator is an employee and arrangements for liaison agreed.
- 25.7 If the allegation concerns a member of staff or a paid carer who is no longer employed by the agency reference should be made to the police to the Protection of Vulnerable Adults (PoVA) Register when this is introduced in 2003.
- 25.8 If the allegation concerns a member of staff or paid carer in a resource that is regulated and inspected the service provided is under a legal duty to inform the regulatory authority – the Commission for Social Care Inspection of the allegation within 24 hours. The regulatory body will make a decision about any enforcement action deemed by them to be necessary.
- 25.9 Allegations of abuse made against staff or paid carers will often give rise to several different investigations that will run in parallel and will need to be co-ordinated.
- 25.10 When a complaint or allegation is made against a member of staff or a paid carer, they should be made aware by the employers, at an appropriate time, of their rights under employment legislation and internal disciplinary procedures and codes of conduct, unless this would hinder the process of investigation.

25.11 The relevant Adult Protection Manager must be informed and will ensure the co-ordination of other investigations including:

- An investigation to be conducted within the relevant disciplinary procedures of the employing including
- A police investigation, if the abuse complained of could indicate a criminal offence
- The Adult Protection Enquiry

25.12 The Adult Protection Manager, and in some cases a senior manager, who is the authorised officer for the contract must be informed and they will communicate with the agency responsible for the service provision. The contracts officer should be informed. A senior manager may in some cases chair any multi-agency strategy meeting in cases where the allegation is against a member of staff or paid carer.

25.13 The co-ordination of action to be taken with regard to an allegation concerning a member of staff, or paid carer, will be determined at the adult protection strategy meeting. This does not preclude action which must be taken by the manager of the agency in respect of the member of staff, either under internal disciplinary procedures, operational policies or action necessary to protect the vulnerable adult.

Action should be taken that:

- Protects the rights and wishes of the vulnerable person
- Protects the rights of the member of staff
- Enables the manager to take appropriate action either on behalf of the vulnerable adult or against the member of staff where appropriate

25.14 The strategy meeting will also need to address:

- The issue of establishing close co-operation between the employer and the Adult Protection Manager, including an agreement to share relevant information on a need to know basis.
- Consideration of the conduct of a joint investigation.

### 25.15 **Staff disciplinary and criminal proceedings**

25.15.1 **As a matter of course, allegations of criminal behaviour involving a member of staff, or a paid carer, should be reported to the police.**

25.15.2 Where the police are conducting an investigation, any action taken in connection with internal disciplinary proceedings will be co-ordinated with the police to ensure evidence is not lost.

25.15.3 Agencies should have their own procedures to cover the following situations.

- Action pending the outcome of the police and the employer's investigations
- Action following a decision to prosecute an individual

- Action following a decision not to prosecute
- Action pending trial and
- Responses to both acquittal and conviction

Personnel sections and employers must not delay action concerning employees pending the outcome of a police investigation as this could involve delay.

25.15.4 In criminal law, a defendant is presumed innocent until proved guilty and the burden of proof is beyond reasonable doubt.

25.15.5 The standard of proof for disciplinary proceedings is on the balance of probabilities.

## 25.16 **Suspension from duty**

25.16.2 Decisions regarding suspension can only be taken by senior manager. The employee may be suspended pending the outcome of the employer's investigation. Decisions not to suspend an employee and/or not to inform the police, must be fully documented and endorsed separately by an independent senior officer from within the investigating agency.

25.16.3 Reasons for suspension could include cases where:

- One or more vulnerable adults could be at risk
- The allegation is so serious that dismissal for gross misconduct is possible
- Suspension is necessary to allow the conduct of the investigation to proceed unimpeded
- There are no other options available i.e. transfer to other duties

25.16.4 If a decision is made not to suspend the employee or paid carer pending the outcome of the investigation, the employer should assess the risks if the employee continues to work with vulnerable adults and whether or not they should care for vulnerable adults unsupervised.

Appropriate support should be made available to staff who are suspended and staff also have a right to support from their union or professional body.

Any disciplinary investigation should be completed within reasonable timescales.

25.16.5 In cases where the complaint or allegation is proved, particularly where there has been proof of professional malpractice, the agency leading the investigation must ensure that all relevant agencies/professional bodies are appropriately informed.

## **25.17 The Care Standards Act and Protection of Vulnerable Adults Register – PoVA**

The Care Standards Act 2000 establishes an exclusion list of individual carers found to be unsuitable to work with vulnerable adults. This will be introduced during 2003. Providers of care services will have a duty to refer care workers to the Secretary of the State for inclusion in the list, if they have acted in such a way as to have placed a protected adult (ie one who is vulnerable) at risk of harm whether or not in the course of employment. In addition, there is a duty to providers of care services to check the employees are not on the list. It is an offence for anyone whose name is on the list to seek work in care positions.

Mechanisms introduced by the General Social Care Council will further complement and strengthen safeguards for the protection of vulnerable adults.

## **26. Action will be taken if the alleged perpetrator is also a vulnerable adult**

26.1 A vulnerable adult may be the perpetrator of abuse. The identification of indicators that a vulnerable adult may be a potential abuser should be included as part of any risk assessment of the service user.

26.2 If a vulnerable adult is identified as a potential abuser this should be addressed as part of the plan including:

- Devising a protection plan
- Devising a treatment plan
- Having in place a contingency plan
- Making arrangements for monitoring and reviewing arrangements

26.3 Plans should involve all relevant professionals as well as family and carers where appropriate.

26.4 An allegation of abuse perpetrated by a vulnerable adult will **always** give rise to an adult protection enquiry under the Multi-Agency Policy and Procedures and should be responded to within 24 hours.

26.5 Immediate action should be taken to protect other vulnerable adults from harm.

### **26.6 Specific decisions to be taken at the adult protection strategy meeting**

- How the action in relation to the vulnerable adult who is the perpetrator will be co-ordinated
- Identification of, and allocation to a separate care manager/care co-ordinator in order to ensure that their needs are met and that a care plan is devised to ensure that other vulnerable adults are not also put at risk
- Identification of a separate investigating officer to the one who will interview the alleged victim to minimise conflict of interest
- Identification of who should be involved in the investigation and care plan
- Whether there is likely to be a criminal prosecution
- What information needs to be shared and with whom

The Adult Protection Manager will maintain communication with those concerned with the care of the vulnerable adult who is also alleged to be the perpetrator.

### **26.7 Provision of the services of an appropriate adult**

26.7.1 Arrangements should be put in place to ensure the vulnerable adult who is alleged perpetrator has the support of an appropriate adult while they are being questioned under the Police and Criminal Evidence Act 1984. This is a requirement in cases where the perpetrator has a learning disability or mental health problem and is unable to understand the significance of questions put to them or their replies and a criminal investigation is being undertaken by the police.

26.7.2 The appropriate adult must be someone who is independent of the investigation to avoid any conflict of interest e.g. not a witness.

## 27. Vulnerable adults who make repeated allegations

- 27.1 A vulnerable adult who makes repeated allegations **which have been investigated and are unfounded**, should be treated without prejudice.
- 27.2 Each allegation must be investigated under the procedures and a strategy meeting and/or case conference convened where appropriate
- 27.3 Each incident must be recorded
- 27.4 Agencies should have procedures for responding to such allegations which respect the rights of the individual, while protecting staff from the risk of unfounded allegations.

## **28. Service users who are responsible for employing their own carers**

- 28.1 Local Authorities are empowered under the Community Care (Direct Payments) Act 1996 to make payments for community care direct to the service user in lieu of providing community care services. A service user receiving direct payments will have had a comprehensive needs assessment and have been assessed as able to take on the responsibilities of becoming an employer.
- 28.2 As with any employer they should take up references for the person they intend to employ.
- 28.3 Service users in receipt of direct payments should be provided with information about where they raise any concerns of abuse.
- 28.4 Direct payment agreements with service users should specify that adult protection issues are included in reviewing and monitoring arrangements. Agreement should be reached with the service user about appropriate monitoring arrangements applicable to paid carers, including a consideration that they be included in the review.

## 29. Large scale investigations

29.1 A large scale adult protection enquiry would be indicated in a situation where a number of vulnerable adults has been abused:

- In a particular resource
- By the same perpetrator is suspected
- A group of perpetrators are suspected

29.2 Such situations will involve a wide range of agencies and a number of individual adult protection enquiries and investigations.

29.3 It is important that all aspects of the investigation are planned and the agencies and individual professionals are clear about their respective roles and responsibilities.

29.4 In receiving information about individual cases of suspected and actual abuse, it is important to consider possibilities that other vulnerable adults may be at risk. Data checks should be made a consultation held with other agencies. It is important to consider whether past service users could have been abused.

29.5 If the need for a large scale enquiry becomes apparent, senior managers in the Community Care Division should identify a senior manager to take responsibility to co-ordinate the over-all investigation.

### 30. Concerns about quality of care

- 30.1 This section applies to any agency providing care services, including care homes; domiciliary care agencies; day care; services within the NHS; independent healthcare settings and supported housing services.
- 30.2 It deals with circumstances where a concern has been raised about poor practice or standards of care within a particular service that, if not addressed, could lead to abuse. This may follow a general complaint or where an allegation of abuse proves to be unfounded but concerns about care standards and practice remain.
- 30.3 Standards of practice are regulated under the Care Standards Act 2000, and standards of professional practice and clinical governance. National Minimum Standards of Care apply to care homes for older people and domiciliary and personal care. For non-regulated services standards, are set in contracts.
- 30.4 The complaint may relate to an isolated incident arising from the behaviours or a particular member of staff towards a service user in the form of an isolated careless act, or may relate to a concern about more pervasive poor or unsatisfactory practice with the service that, if not addressed could, result in abuse.
- 30.5 In such cases the Adult Protection Enquiry will provide the structure for agreeing what action the agency must take to address the concerns about standards of care. Health Trusts will also take action under the Serious Untoward Incident Procedures.
- 30.6 Subsequent action will be co-ordinated with the authorised officer for the contract and with the care service in question.
- 30.7 The authorised officer for the contract will be responsible for appropriate communication with the manager of the service provider and will:
- Document the specific areas of concern. Record should include dates, specific details that can be substantiated, details of any witnesses.
  - Consider informing the Commission for Social Care Inspection of the concerns if this has not already been done at the outset of the enquiry and clarify their role in relation to further action to be taken.
  - Decide what action will be taken to notify internal staff of the concerns
  - Decide what action will be taken to notify any other concerned parties, including any local authority or health trust (A decision to notify any other authority that may be responsible for service users should be made in accordance with advice from the Legal Department)
  - Identify relevant stakeholders and personnel who have a role in the formulation of an action plan to address concerns about poor standards of care
  - Meetings should involve identified stakeholders including:
    - The team manager of the relevant community care team
    - Care manager of care co-ordinators who are responsible for service users
    - A placement monitoring officer to whom the case may be open or who has raised the concern in the review
    - The contracts officer
    - Officer from the Commission for Social Care Inspection

- Issue notices under the terms of the contract if appropriate
- Identify the specific concerns about standards of care that need to be addressed by the service provider
- Specific the action to be taken by the manager of the service to address concerns
- Reach agreement with the manager of the service about the action plan and the timescale for any changes
- Specify what action will be taken in the event of failure by the agency to meet the requirements set out in the action plan
- Set a date for a review of the action plan

The above procedure will also be used in the case of a service that is not regulated where there is no requirement to consider notification to the National Care Standards Commission.

## 31. Adult Protection - CareFirst Community Care Procedures

Each and every report of alleged, suspected or actual abuse/neglect/etc. must be logged as an Initial Contact on CareFirst with the *Topic* “**Assessment Request**” and *Presenting Issue* “**Protection Adults**”. This is based on the old MapCare procedure.

If an investigation takes place then the most recent Initial Contact should be outcomed with an outcome of “Community Care Assessment”. Then an Assessment event should be loaded, under the *context* “**Adult Protection**”, and *type* of “**Adult Protection Investigation**”. The process for outcoming the event would be the same as outcoming any other assessment event.

See “Step to Step Guide” for instructions on how to carry this out.

### 31.1 ADULT PROTECTION – Step-by-Step Guide

Each and every report of suspected abuse/neglect/etc. must be logged as an Initial Contact on CareFirst with the *Topic* “**Assessment Request**” and *Presenting Issue* “**Protection Adults**”.

For details on how to record Initial Contacts, refer to page 4 of the [CareFirst Step-to-Step Guide](#)

- When completed, the Initial Contact should look something like this (see below) though the specific type(s) of abuse should be recorded.

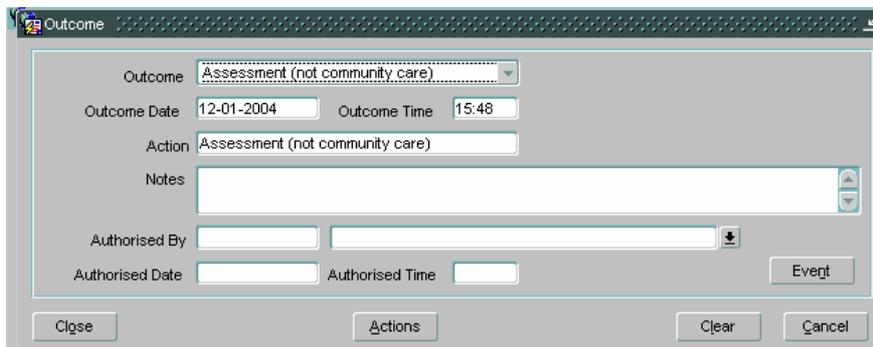
The screenshot shows the 'Initial Contact' form with the following data:

- Subject of Contact:**
  - Id: 100074
  - Title: [Empty]
  - First Names: TESTING
  - Family Name: ALIAS
  - Community Care:  Community Care,  Child,  Other/Unknown
  - Address: 49 BROAD COMMON ESTATE, OSBALDESTON ROAD, HACKNEY, N16 6NH
- Details:**
  - Received By: 5248, Name: DAVID LENCLUME
  - Team: 531, INFORMATION SYSTEMS UNIT
  - Method: Telephone
  - Contact By: Police, Name: SUPERINTENDANT
  - Org/Address: STOKE NEWINGTON POLICE STATION
  - Telephone: 020 7999 9999, Date/Time: 09-01-2004, 14:22, Client Aware?:
  - Topic: Assessment Request, Presenting Issue: Protection Adults
  - Notes: Suspected abuse of adult
- Outcome:**
  - Outcome: [Empty]
  - Outcome button

- This has not been given an outcome. If however, the outcome leads to an assessment then carry out the following steps:

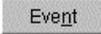
## 31.2 Outcome

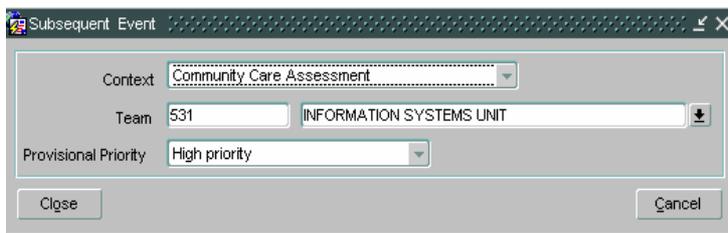
- Click on . This is to record a specific outcome of the Initial Contact.



- Enter the 'Outcome' of the Initial Contact by clicking  to the right of the field and selecting the correct option from the PickList. If it is for an assessment then choose either 'Community Care Assessment' or 'Assessment (not CC)'.

**Note:** The 'Outcome Date' and 'Outcome Time' will be completed automatically.

- In order to pass this work on for an assessment click  (note that the Event button is greyed out until an outcome has been recorded). This opens the Subsequent Event window:



Complete the following fields:

**Context** = Select the appropriate context for this piece of work by clicking  to the right of the field labelled 'Context', then select the correct option from the PickList.

**Team** = Enter the short code of the team that will be dealing with this piece of work.

If you do not know the code you can find the team by clicking  to the right of the field labelled 'Team' and carry out a team search (Find Organisation).

**Provisional Priority** = record a 'Provisional Priority' by clicking  to the right of this field, then select the correct option from the PickList.

- Click  to return to the Outcome screen.
- Click  to return to the main Initial Contact screen.
- Click  to save the record and close the form.

*The event will now be assigned to the team that has been selected. However, it is important to remember to assign the event to a worker as soon as they have been designated (as an assessment is carried out by a person not the team – see section 6 to reassign the event).*

## **Relevant statutes**

Carer's (Recognition and Services) Act 1995  
Carers and Disabled Children Act 2001  
Care Standards Act 2000  
Chronically Sick and Disabled Persons Act 1970  
Community Care (Direct Payments) Act 1996  
Crime and Disorder Act 1998  
Criminal Procedures and Investigation Act 1996  
Data Protection Act 1998  
Disabled Persons (Services, Consultation and Representation) Act 1986  
Employment Rights Act 1996  
Enduring Power of Attorney Act 1995  
Health Act 1999  
Health Services and Public Health Act 1968  
Housing Act 1985  
Housing Act 1996  
Human Rights Act 1998  
Local Authority Social Services Act 1970  
Mental Health Act 1959  
Mental Health Act 1983  
National Assurance Act 1948  
National Health Service and Community Care Act 1990  
National Health Service Act 1977  
Police and Criminal Evidence Act 1984  
Power of Attorney Act 1971  
Public Health Acts 1936 and 1961  
Public Interest Disclosure Act 1998  
Race Relations Act 1976  
Sex Discrimination Act 1975  
Sexual Offences Act 1956  
Sexual Offences Act 1967  
Youth Justice and Criminal Evidence Act 1999

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## National organisations

### Action on Elder Abuse

Astral House

1268 London Road

London SW16 4ER

Tel 020 8765 7000

Email [aea@ace.org.uk](mailto:aea@ace.org.uk)

### Elder Abuse Response Line

Tel 020 8808 8141

### Age Concern England

Astral House

1268 London Road

London SW16 4ER

Tel 020 8679 8000

### Ann Craft Trust (ACT)

Training Research and Information

On the abuse of people with learning disabilities.

Centre for Social Work

University of Nottingham

University Park

Nottingham NG7 3RD

Tel 0115 951 5400

(DRC)

### Alzheimers Disease Society

Gordon House

10 Greencoat Place

London SW1 1PH

Tel 020 7306 0606

### British Institute for Learning Disabilities (BILD)

Wolverhampton Road

Kidderminster

Worcs DY10 3PP

Tel 01562 850251

[www.bild.org.uk](http://www.bild.org.uk)

### Carers National Association

Ruth Pitter House

20-25 Glasshouse Yard

London EC1A 4JS

Tel 020 7490 8818

### CHANGE

An organisation for people with learning disabilities and sensory impairment  
Tel 020 7490 2668

### Counsel and Care for the Elderly

Twyman House

16 Bonny Street

London NW1 9PG

Tel 0845 300 7585

### Criminal Records Bureau

Tel 0870 90908111

[www.crb.gov.uk](http://www.crb.gov.uk)

### Disability Discrimination Act Help Line

DDA Help, Freepost MIDO2164

Stratford upon Avon

CV37 9BR

Tel 0345 622633

[www.disability.gov.uk](http://www.disability.gov.uk)

### Disability Rights Commission

Tel 0845 7622 633

### Justice

Information about the Human Rights Act 1998

Tel 020 7392 5100

[www.justice.org.uk](http://www.justice.org.uk)

### MIND

Granta House

15-19 Broadway

London E15 4BQ

Tel 020 8519 2122

[www.mind.org.uk](http://www.mind.org.uk)

### MENCAP

Mencap National Centre

123 Golden Lane

London EC1 0RT

Tel 020 7545 0454

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Adult Protection & Customer Care February 2004.

Also thanks to:



Asian Women's Advisory Service Limited  
TLC Care Services



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