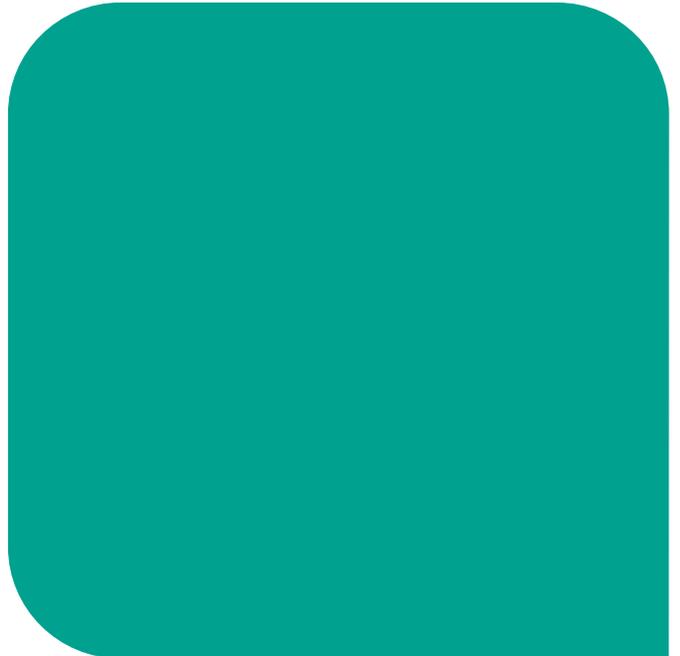




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# Protecting adults at risk: Good practice guide



## Situations and responses

The eight situations described below would produce decisions and actions under the pan-London multi-agency safeguarding procedures (2). It is not an exhaustive list, and other circumstances could also result in actions under the procedures.

In any safeguarding situation, remember the Department of Health's key principles:

1. Empowerment: a presumption of person-led decisions and informed consent.
2. Protection: support and representation for those in greatest need.
3. Prevention: it is better to take action before harm occurs.
4. Proportionality: a proportionate and least intrusive response appropriate to the risk presented.
5. Partnership: local solutions achieved via services working with their communities. Communities have a part to play in preventing, detecting and reporting neglect and abuse.
6. Accountability: accountability and transparency in delivering safeguarding.

Empowering people throughout the safeguarding process is key, whether or not they have mental capacity to make decisions about keeping safe. It is important, though, for practitioners to be confident when supporting person-led decision-making, that decisions are truly understood and led by the person at risk, and not by others. In the situations that follow, therefore, it is worth remembering that important decisions such as whether to report a matter to the police will require practitioners to work hard to establish that fully informed choices are being made, and that the adult at risk is really being empowered to make their own decisions.

### Situation 1

A person with mental capacity to make decisions about their own safety is abused in their own home by a relative, partner, friend, neighbour, acquaintance or stranger, or neglected by a relative, partner or neighbour.

#### Possible responses

- Take any emergency action necessary.
- Discuss with the person the various options available for addressing the situation.
- Ask the person if they would like to report the matter to the police, and explain the different ways the police may be able to help.
- If the person wants it, report the incident to the police: an investigation will be carried out if a crime has been or may have been committed.
- Consider reporting the incident to the police even if the person does not want to report it, if the risk is seen to be high, if there are public interest or vital interest considerations, or if other people could be at risk from the same person.

- If this, or any other action, is taken against the wishes of the person, consider if the action taken meets the key principle of proportionality, and if the reasons should be fully explained to the person.
- Make a referral to the local authority contact point.
- Instigate an investigation and risk assessment under the procedures if this is what the person wants.
- Agree a protection plan with the adult at risk, if this is what they want.
- Discuss with the adult at risk how they want the person alleged to have caused the harm to change their behaviour.
- Conduct an additional risk assessment and assessment of need with the adult at risk, and review existing care plans.
- Review any personal budget arrangements that are in place.
- Provide the adult at risk with an advocacy service.
- Conduct a carer's assessment.
- Investigate possible breaches of tenancy agreement or environmental health regulations.
- Make contact with the local community safety team.
- Contact a solicitor regarding possible civil action.
- The relevant organisation should make a referral to the multi-agency risk assessment conference (MARAC) if there is domestic violence and the risk of harm is high.
- If the person says they do not want any action taken and there are no public interest or vital interest considerations, give them information about where they can get help if they change their mind.

## Situation 2

A person with mental capacity to make decisions about their own safety is abused or neglected in a care setting by a relative or friend, but there is no risk to other residents.

### **Possible responses**

- Take any emergency action necessary.
- Discuss with the person the various options available for addressing the situation.
- Ask the person if they would like to report the matter to the police, and explain the different ways the police may be able to help.
- If the person wants it, report the incident to the police: an investigation will be carried out if a crime has been or may have been committed.

- Consider reporting the incident to the police even if the person does not want to report it, if the risk is seen to be high, or if there are public interest or vital interest considerations.
- If this, or any other action, is taken against the wishes of the person, consider if the action taken meets the key principle of proportionality, and if the reasons should be fully explained to the person.
- Consider whether there is a domestic violence aspect.
- Make a referral to the local authority contact point.
- Report it as a serious incident if it has occurred in a health setting.
- Ask the person if they want a safeguarding investigation to proceed. If the person agrees, an investigation and risk assessment that involves the person will be carried out by the manager of the care setting and the care manager or health professional, as agreed with the safeguarding adults manager (SAM).
- Agree a protection plan with the adult at risk.
- Discuss with the adult at risk how they want the person alleged to have caused the harm to change their behaviour.
- Conduct an additional risk assessment and assessment of need with the adult at risk.
- Agree with the adult at risk how the situation will be reviewed.
- Consider if the relative or friend may have community care needs of their own.
- Contact a solicitor regarding possible civil action.
- If the person says they do not want any action taken and there are no public interest or vital interest considerations, give them information about where they can get help if they change their mind.

### Situation 3

A person who is assessed not to have mental capacity to make decisions about their own safety is abused or neglected in their own home by a relative, partner, friend, neighbour, acquaintance or stranger, or neglected by a relative, partner or neighbour.

#### **Possible responses**

- Take any emergency action necessary.
- Make a referral to the local authority contact point.
- Bear in mind that even where the person lacks capacity they should be involved as much as possible in discussions, and that the least restrictive options in any situation should be sought.

- Identify who can assist with the person's best interest decisions including the instruction of an independent mental capacity advocate (IMCA).
- Report the incident to the police if a crime has been or may have been committed and it is in the person's best interests.
- Instigate an investigation under safeguarding adults procedures.
- Conduct a risk assessment and assessment of need, and review existing care plans under the care management or care programme approach (CPA).
- Conduct a carer's assessment.
- The relevant organisation should make a referral to MARAC if there is domestic violence and the risk of harm is high.
- Report the incident to the Office of the Public Guardian (OPG) if there is a misuse of power of attorney.
- Report the incident to the Department for Work and Pensions (DWP) if applicable.
- Agree a protection plan with those representing the person's best interests.
- Review the protection plan.

## Situation 4

A person with mental capacity to make decisions about their own safety is abused or neglected in their own home by a paid carer, professional, support worker or volunteer providing services, or is abused or neglected in a care setting (e.g. hospital, day services, residential or nursing home).

### **Possible responses**

- Take any emergency action.
- Discuss with the person the various options available for addressing the situation.
- Ask the person if they would like to report the matter to the police, and explain the different ways the police may be able to help.
- If the person wants it, report the incident to the police: an investigation will be carried out if a crime has been or may have been committed.
- Consider reporting the incident to the police even if the person does not want to report it, if there are public interest or vital interest considerations, or if other people could be at risk from the same person.
- If this, or any other action, is taken against the wishes of the person, consider if the action taken meets the key principle of proportionality, and if the reasons should be fully explained to the person.

## Protecting adults at risk: Good practice resource

- Make a referral to the local authority contact point.
- Report it as a significant incident if it has occurred in a health setting.
- The manager – possibly in consultation with the police – may suspend the member of staff or remove them from contact with the adult at risk.
- Notify the Care Quality Commission (CQC), which may investigate the situation.
- Instigate an investigation and risk assessment under safeguarding adults procedures.
- Review any personal budget arrangements that are in place.
- Review service commissioning arrangements.
- Make a referral to the professional body and Independent Safeguarding Authority (ISA) if the allegation is proved.
- Agree a protection plan with the adult at risk.
- Review the protection plan.

## Situation 5

A person who is assessed not to have mental capacity to make decisions about their own safety is abused or neglected in their own home by a paid carer, professional, support worker or volunteer providing services, or is abused or neglected in a care setting (e.g. hospital, day services, residential or nursing home).

### **Possible responses**

- Take any emergency action.
- Bear in mind that even where the person lacks capacity they should be involved as much as possible in discussions, and that the least restrictive options in any situation should be sought.
- Identify who can assist with the person's best interest decisions including the IMCA.
- Make a referral to the local authority contact point.
- Report the incident to the police: an investigation will be carried out if a crime has been or may have been committed, and it is in the person's best interests.
- Report it as a significant incident if it has occurred in a health setting.
- The manager – possibly in consultation with the police – may suspend the member of staff or remove them from contact with the adult at risk.
- Instigate an investigation and risk assessment under safeguarding adults procedures.
- Review any personal budget arrangements that are in place.

- Make a referral to the professional body and ISA if the allegation is proved.
- Agree a protection plan with those representing the person's best interests.
- Review the protection plan.

## Situation 6

A person with mental capacity to make decisions about their own safety is abused or neglected by a personal assistant who is paid from a personal budget that is wholly controlled by the adult at risk.

### Possible responses

- Take any emergency action.
- Discuss with the person the various options available for addressing the situation.
- Ask the person if they would like to report the matter to the police, and explain the different ways the police may be able to help.
- If the person wants it, report the incident to the police: an investigation will be carried out if a crime has been or may have been committed.
- Consider reporting the incident to the police even if the person does not want to report it, if the risk is seen to be high, if there are public interest or vital interest considerations, or if other people could be at risk from the same person.
- If this, or any other, action is taken against the wishes of the person, consider if the action taken meets the key principle of proportionality, and if the reasons should be fully explained to the person.
- Make a referral to the local authority contact point.
- Instigate an investigation and risk assessment under the procedures if this is what the person wants, or there are other people at risk from the person alleged to have caused the abuse.
- Conduct a risk assessment and assessment of need, and review existing care plans under care management or CPA/health trust procedures.
- Give the adult at risk information about abuse and neglect, and advise them about support.
- Review the personal budget arrangements.
- Assess mental capacity if this now seems in doubt.
- If the person continues to say they do not want any action taken and there are no public interest considerations, give them information about where they can get help if they change their mind.

## Situation 7

A person who does not have mental capacity to make decisions about their own safety, and is in receipt of a personal budget, is abused or neglected by a personal assistant who is employed by a person who is managing their budget on their behalf.

### Possible responses

- Take any emergency action.
- Bear in mind that even where the person lacks capacity they should be involved as much as possible in discussions, and that the least restrictive options in any situation should be sought.
- Identify who can assist with the person's best interest decisions including the IMCA.
- Make a referral to the local authority contact point.
- Report the incident to the police: an investigation will be carried out if a crime has been or may have been committed, and it is in the person's best interests.
- Instigate an investigation under safeguarding adults procedures.
- Conduct a risk assessment and assessment of need, and review existing care plans under care management or CPA/health trust procedures.
- Review personal budget arrangements and any employment law implications.
- Report the incident to the OPG if there is a misuse of power of attorney.
- Report the incident to the DWP if applicable.
- Agree a protection plan with those representing the person's best interests.
- Review the protection plan.

## Situation 8

An adult at risk abuses another adult at risk who uses the same service.

### Possible responses

- Take any emergency action.
- Assess the capacity of both people, and apply the principles of the Mental Capacity Act accordingly.
- Protect the abused adult at risk, and establish whether there are urgent support needs for the alleged abuser.

- Designate staff to attend to the care needs of the adult who is alleged to have caused harm.
- Make a referral to the local authority contact point.
- Report the incident to the police: an investigation will be carried out if a crime has been or may have been committed, and it is the capacitated wish of the abused person, or in their best interests if they lack the capacity to make the decision.
- An appropriate adult – arranged by the police – is appointed if the adult at risk who has caused harm is to be interviewed by them.
- Carry out risk assessments with both adults at risk.
- Review the care plan of the adult who is alleged to have caused harm and the adult who has been harmed.
- Notify the regulator if this is a regulated setting.
- Record it as a serious incident if it has occurred in a health setting.