



Safeguarding adults: Mediation and family group conferences

Key messages

Mediation and FGCs:

- are both 'family-led' approaches based on the principle of empowerment and focus on problem-solving rather than blaming
- involve a competent, trained mediator or FGC coordinator who helps participants to find solutions to the issues that divide them
- place the person at the centre of the decision-making process
- may prevent abuse by empowering families to address tensions at an early stage.

The main principles and processes associated with mediation and FGCs are the same in both child welfare and adult safeguarding contexts. Key differences include:

- rights under the Mental Capacity Act 2005 and deprivation of liberty safeguards (DoLS)
- family dynamics and relationships with extended family
- life experience and life stages
- a different role for advocates.

Introduction

This At a glance briefing summarises SCIE's new web resource *Safeguarding adults: Mediation and family group conferences*. The resource explains the use of mediation and family group conferences (FGCs) for adults who are – or may be – at risk from abuse.

Context

There are many reasons for abusive relationships including family history, the prospect of financial gain and carers feeling overwhelmed and stressed by their responsibilities. Family relationships are often complex and can be complicated further by age, illness, disability and dependency. Many people experiencing abuse may choose not to challenge it, as they do not want to damage their relationship with the person they love and often most depend on. In some cases the person carrying out the abuse may have their own problems, such as drug dependency or mental health problems.

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The confrontational approach used by the criminal justice system is often not the most suitable approach to deal with the issue of an abusive relationship. The 'restorative justice' approach aims to restore social relationships by involving the victim and other members of the family or community as active participants in the safeguarding process.

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Practitioners need to listen to the person and be able to offer the whole range of choices so that the safeguarding process does not negatively impact on quality of life, family relationships or self-determination.

Mediation and family group conferences (FGCs) can be a valuable response to concerns about adults at risk of abuse, promoting choice and control at the same time as protecting people.

They can also avoid the trauma of court proceedings, reduce the inefficient use of court resources and lessen demand on family and community carers by making maximum use of resources. These approaches should be used in line with adult safeguarding policies and procedures.

Which method to use

The FGC is a family-led decision-making process, whereas mediation frequently includes family but may be wider; for example, mediation may be used to resolve trust issues between a person and their service provider. Mediation helps participants to settle a dispute whereas FGCs are always concerned with planning ahead.

Mediation and FGCs are not mutually exclusive, and may be used separately or together to achieve the most effective outcomes. For example, where the specific aim is to reduce conflict, rebuild trust or improve communication between family members, mediation may be more suitable. An FGC could then be used to develop a long-term care plan that reduces demands on the family by making full use of all appropriate support services.

Key considerations

There are some key considerations when deciding whether FGC or mediation is appropriate. They include the capacity of the person to make decisions concerning their safety, their ability to communicate their wishes, issues relating to power imbalance and domestic violence.

Participation must be as meaningful as possible. If it is reasonably believed that a person lacks capacity to agree to take part in a mediation or FGC process, the mediator or FGC coordinator will make a decision to proceed under the MCA 2005 and its associated Code of Practice. This decision should always be in the best interests of the at-risk person and must be the least restrictive of the person's rights and freedoms. The mediator or FGC coordinator should encourage the person to take part, or to improve their ability to take part, as fully as possible and address barriers to communication.

Participation in mediation and FGCs is on a voluntary basis, meetings are held in a private environment where everyone feels comfortable and refreshments should be available. Participants should be offered an independent advocate if they need it. Alternatively, people may choose to be supported by someone they know well such as a support worker.

If the mediator or FGC coordinator feels that the service is not a good option, they will suggest alternatives and inform the referrer of their reasons.

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Family group conferences (FGCs)

An FGC is a process where the power to find solutions rests with the individual and the family. A facilitated decision-making meeting aims to help the family to find their own solutions to problems. Where there are concerns about a vulnerable adult’s safety or wellbeing, an FGC can encourage the family to talk to each other about their problems and to build on their own strengths and resources to find solutions that last.

The FGC coordinator is independent and is not connected with other people or services involved. The FGC coordinator’s role is to ensure that everyone has a chance to be heard and that enough information is available to the family to produce an action plan.

The FGC coordinator will always talk about the issues separately with the individuals involved and help people to prepare for the meeting. There are three parts to an FGC:

- **Information sharing** – including information about the services and resources that are available to support the person and their family. This may include contributions from a social worker, the family doctor, an advocate or a professional care worker.
- **Private family time** – to talk about concerns and develop a plan of action.
- **Agreeing the plan** – the FGC coordinator helps the family to agree the plan and present it to the referrer who may agree to commit resources or services to support the plan.

A typical FGC may last for half a day. A review meeting is usually arranged to take place three months after, to see whether the plan is working and everyone is happy with it. A review meeting is a good opportunity to make adjustments to the plan if these are needed.

Mediation

Mediation is used in many different situations including where there are concerns about the safety and wellbeing of an adult at risk of abuse. Mediation offers a neutral and safe environment where people can meet face to face to talk about their concerns and what they would like to change.

Information shared in mediation is confidential as it is important that participants feel able to talk about things openly during the mediation session. The mediator is impartial and will make sure that everyone is heard equally – they have no power to impose solutions.

The mediator will always meet with each individual to talk about the issues that matter to them and what they hope to achieve from mediation. They will explain how the process works and will ask everybody to sign an agreement to mediate before going ahead.

At the meeting the mediator will establish the ground rules and invite the participants to share their views. This ensures that everyone’s point of view is heard and it helps everyone to define and clarify the issues for mediation. The mediator will facilitate the discussion, helping people to agree solutions that are likely to work and that meet everybody’s needs.

Mediation may last for half a day, or shorter sessions can take place over a number of days. A written agreement can help people to feel clear about the things they have agreed and makes it easier to remember these things after mediation has ended. In some cases, what has been agreed in mediation may be required in court proceedings. Whether or not it is in writing,

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mediation aims to provide an agreement that everyone feels able to stick to.

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Mediation and the deprivation of liberty safeguards

Sometimes people need to be deprived of their liberty in some way in order to keep them safe. The deprivation of liberty safeguards (DoLS) aim to protect people in care homes and hospitals from being inappropriately deprived of their liberty. Any deprivation of liberty in such a setting must be in the person's best interests and must be the least restrictive option in order to keep them safe. It is unlawful to deprive someone of their liberty without authorisation. The care provider must apply to a supervisory body, usually the local authority or health trust for authorisation.

Where someone is deprived of their liberty but there is disagreement, between professionals and family members or close friends, about whether this is in their best interests, attempts should be made to resolve issues informally before applying to the Court of Protection. Mediation may be useful, for example, where:

- the person has regained capacity to make certain decisions
- it is no longer in their best interests to be deprived of their liberty in this way
- their treatment or care could be provided in a way that is less restrictive of the person's rights and freedoms.

Applying to the Court of Protection

The DoLS give a legal right of challenge to the Court of Protection. While mediation is a less formal and often faster way to resolve some concerns about a deprivation of liberty, it does not replace the right to apply to the Court of Protection for a judge to make a decision. In some cases, an agreement reached in mediation may also need to be approved by the Court of Protection.

Information

You can view the resource *Safeguarding adults: Mediation and family group conferences* on the SCIE website.

SCIE's At a glance briefings have been developed to help you understand as quickly and easily as possible the important messages on a particular topic. You can also use them as training resources in teams or with individuals. We want to ensure that our resources meet your needs and we would welcome your feedback on this summary. Please send comments to info@scie.org.uk, or write to Publications at the address below.

**Social Care
Institute for Excellence**
Fifth floor
2–4 Cockspur Street
London SW1Y 5BH

tel: 020 7024 7650
fax: 020 7024 7651
www.scie.org.uk

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