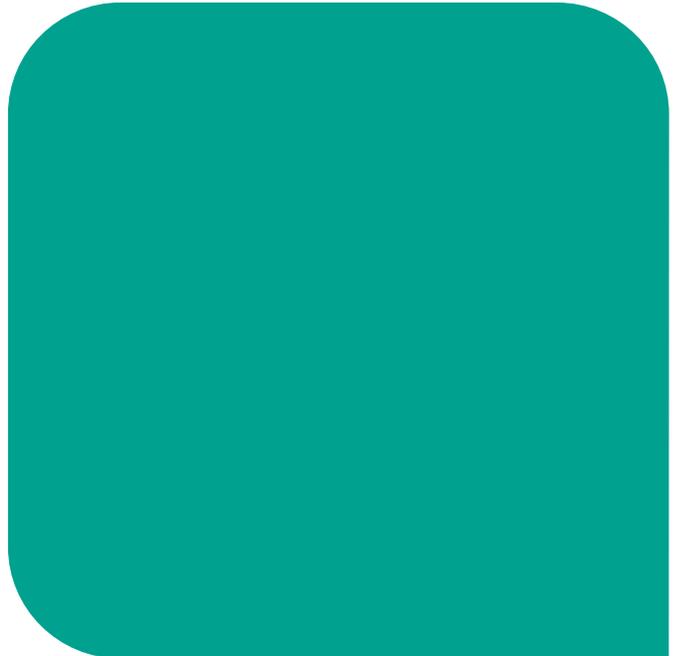




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# Protecting adults at risk: Good practice guide



## Cross-borough protocol

This section is based on the ADASS Draft guidance on out of area safeguarding adults of June 2012 (8).

There can be an increased vulnerability for adults at risk whose care arrangements are complicated by cross-boundary considerations. These may arise, for instance, where the funding/commissioning responsibility lies with one London local authority and concerns about potential abuse and/or exploitation subsequently arise in another London local authority. This would apply where the individual lives in another London local authority area to the one they receive services in.

These unique arrangements within the London area recognise that there are large populations across small geographical areas. Commissioning a service in a neighbouring borough is commonplace, and there are no geographical restrictions to a funding authority fulfilling its responsibility to review and monitor a placement in another borough. The key safeguarding principles of partnership and accountability are important to reflect upon in cross-borough working.

Where a London local authority commissions services outside London, or conversely a funding authority outside London has commissioned a service in London, you should refer to the ADASS Draft Guidance on Out of Area Safeguarding Adults of June 2012.

### Overall responsibilities

The funding/placing authority has an overall responsibility to ensure that the placement meets the individual's needs when an individual is placed out of their local authority area. This includes responsibility for reviewing the contract specification, monitoring the service provided and negotiating changes to the care plan in a robust and timely way. It is also the funding/placing authority's responsibility to assess placed individuals for specific capacity assessments/decisions in relation to care planning and risk assessment.

The funding/placing authority should source and commission advocates or IMCAs for those individuals who do not have someone to advocate for them in relation to safeguarding proceedings.

During the safeguarding process, the funding/placing authority should inform the host authority of any changes in the individual's needs or provision.

It is the funding/placing authority's ongoing responsibility to ensure that during a safeguarding investigation the placement is appropriate to meet the person's needs. It may become necessary to commission a new service provider if someone's changing needs fall outside the current placement's capacity to meet those needs and/or registration requirements.

When a safeguarding concern is raised the host authority has a responsibility to ensure that the concern/alert/referral is responded to in line with *Protecting adults at risk: London multi-agency policy and procedures to safeguard adults from abuse* (2).

## The safeguarding pathway

### **Safeguarding adult alert/referral**

#### *The role of the host authority*

Once a safeguarding concern/alert/referral has been raised it is the host authority's responsibility to lead the initial response in consultation with the funding/placing authority. However, in some circumstances it may be necessary for the host authority to take immediate action to protect the adult at risk (e.g. contact the police or other emergency services).

If – as part of the initial protection plan – the adult is moved to a place of safety, funding responsibilities remain with the funding/placing authority.

This initial protection plan will be reviewed throughout the investigation process.

In consultation with the funding/placing authority the host authority will seek, where appropriate, medical assessment of any injuries/concerns.

The host authority will coordinate the safeguarding process. This will include gathering information regarding the incident, undertaking background checks of the provider and/or individuals involved, and promptly notifying the funding/placing authority and other relevant agencies.

The host authority will allocate a SAM who will have overall responsibility for coordinating the safeguarding adults investigation.

#### *The role of the funding/placing authority*

The funding/placing authority has responsibility to make sure that liaison takes place with the adult at risk/family/carer/advocate as agreed during the safeguarding adults process.

This will include:

- informing and updating them regarding the safeguarding adults process
- informing and updating them regarding the progress of the investigation
- ensuring that the adult at risk's views, wishes and feelings are represented and taken into account within the safeguarding adults investigation process
- actively involving the adult at risk and family members where appropriate, and taking responsibility for ensuring the views of the family are represented in any best interests decisions
- identifying a safeguarding liaison person who will take responsibility for ensuring actions are fed back to the host authority during the investigation process.

When the funding/placing authority is notified of a safeguarding adults alert/referral it will retain the overall responsibility to ensure that the placement can or will continue to meet the individual's needs within a safe environment.

If this is not possible, the funding/placing authority must find an alternative placement. The funding/placing authority must also ensure that the current provider has made adequate provision for the immediate protection and meeting of the

individual's care needs until the move occurs, liaising with the host authority where appropriate. The funding/placing authority will provide all relevant information to the host authority's SAM and contribute to initial decisions about the need for further investigation.

### **Strategy discussion/meetings**

#### *The role of the host authority*

It is the host authority's responsibility to arrange the initial strategy meeting/discussion and ensure all appropriate funding/placing authorities contribute.

The host SAM will chair the strategy meeting and try to ensure that all agencies are working together effectively. They will invite the funding/placing authority to attend, and wherever practicable, the funding/placing authority should also attend.

The strategy meeting/discussion will agree roles and responsibilities for undertaking the investigation, including those tasks assigned to the funding/placing authority. Coordination of the investigation, in line with the London multi-agency safeguarding procedures and local guidance, remains with the host authority. Coordination includes, ensuring the investigation report and agreed contributions of other agencies to the investigation process are completed, management oversight, compliance with procedures and compliance with good standards of safeguarding practice.

The host authority's involvement in the actual tasks of investigation – as opposed to their coordination role, and how this is balanced with the role of the placing/funding authority in terms of tasks in the investigation process – has to be resolved at the strategy meeting/discussion. It needs to be concluded in the best interests of not only the individual who may have been abused, but any wider risks to other adults in the location. For example, an allegation concerning an individual who is the responsibility of another authority – but which has clear implications of risks to others in a care home – would see the host authority assuming a major role, especially if other residents are placed/funded by them. An individual incident that has no implications for others would see the placing/funding authority assume a major role. This is because they would normally have an established relationship with the adult at risk and therefore would be the most appropriate body to interview that individual.

In their coordinating role, the host authority also needs to ensure that all parties agree on the practicalities of completing the investigation report at the strategy meeting. For example, whether the host authority collates contributions into the body of one report or whether contributing agencies submit separate reports. Whatever the agreed method, the host authority is responsible for ensuring the investigation report is of a good standard for making informed protection decisions.

The strategy meeting/discussion will set out a clear inter-authority communications plan, which will include communication with the adult at risk, family and advocates, including IMCAs where appropriate. This communication plan should be reviewed regularly.

The strategy meeting will agree how other funding/placing authorities (e.g. of individuals not identified as alleged victims) will be informed of the concerns raised.

### *The role of the funding/placing authority*

The funding/placing authority will attend, engage and participate in all strategy meetings and discussions. As this authority has overall responsibility for the adult at risk, it may be the most appropriate body to undertake or be involved in the investigative interview of the individual.

The strategy meeting will decide if there are specific investigative tasks or activities in relation to the person placed or funded, and the funding/placing authority will carry these out.

If Mental Capacity Act assessments are needed as part of the safeguarding investigation, these will also remain the responsibility of the funding/placing authority.

### **Following completion of the investigation**

#### *The role of the host authority*

When the safeguarding adults investigation is completed – and prior to the case conference – it is the host authority's responsibility to arrange a planning meeting or discussion with the funding/placing authority. The purpose of this meeting is to:

- share the findings of the investigation
- agree the content of the investigator's report(s)
- agree recommendations to the safeguarding adults case conference
- agree the process of communication with the adult at risk/family/carers/advocates regarding the outcome of the investigation and content of the case conference report(s)
- agree if and how attendance at the case conference of the adult at risk/family/carers/advocates will be managed
- discuss the content of the protection plan, where appropriate.

#### *The role of the funding/placing authority*

When the safeguarding adults investigation is completed the funding/placing authority will attend/contribute to the planning meeting/discussion arranged by the host authority. At this meeting the funding/placing authority will:

- agree the content of the investigator's report
- agree the recommendations to be made to case conference
- lead on communication with the adult at risk/family/carers/advocates regarding the outcome of the investigation and the content of the case conference report(s)
- agree if and how attendance at the case conference by the adult at risk/family/carers/advocates will be managed
- where appropriate, lead on the discussion of a protection plan to be agreed at the case conference
- propose how the protection plan will be reviewed by the funding/placing authority.

## **Safeguarding adults case conference**

### *The role of the host authority*

The host authority will arrange the case conference with the funding/placing authority, which will contribute to it and attend.

The case conference will be chaired by a SAM from the host authority, who will meet with or telephone the adult at risk/family/carers/advocates before the conference to introduce themselves and explain their role.

### *The role of the funding/placing authority*

The funding/placing authority will attend the case conference. It will ensure that family members are invited and, where appropriate or required, support families with any travel arrangements.

Where the adult at risk/family/carers/advocates cannot attend the case conference the funding/placing authority will obtain their views so they can be represented. It will then feed back to all parties the outcome of the conference.

The funding/placing authority will submit its proposed protection plan for the adult at risk in writing to the case conference for endorsement, if it is not already included in the investigator's report completed for the conference.

## **Safeguarding adults protection plan**

### *The role of the host authority*

The host authority is responsible for keeping the funding/placing authority informed of progress made on any tasks it is allocated, or additional concerns.

It is also the host authority's responsibility to keep the CQC informed of progress and outcomes.

The host authority will ensure that the service provider makes referrals to the ISA or other professional body as appropriate. It will also liaise with the funding/placing authority to ensure that the protection plan is reviewed within the timescale set at the case conference.

### *The role of the funding/placing authority*

Ongoing protection planning is the responsibility of the funding/placing authority, which will convene and chair a protection plan review if required. The funding/placing authority will also identify a core group of key individuals to implement the protection plan. The funding/placing authority will notify the host authority of the outcome of the review agreed at the case conference.

## **Issues to consider**

### **Where the person who caused the harm is also a vulnerable adult**

The funding/placing authority for the person who has caused the harm is responsible for their assessment, including risk assessment and providing support as required. If the person who has caused the harm is self-funding, the above responsibilities fall to the host authority.

### **Self-funders**

The host authority has responsibility for investigating concerns raised about residents where no other local authority or community health service has made arrangements for their current placement. These residents are commonly known as 'self-funders'. Self-funders should receive an equal service in relation to securing their safety as those in placements contracted by a statutory agency.

Where concerns are raised about a service provider, but self-funding residents are not identified as individual alleged victims, the host authority has the responsibility to review the potential impact of the concerns on the care provided to self-funding residents.

### **Transitional arrangements**

Safeguarding children procedures cover children and young adults up to the age of 18 years. Safeguarding adults procedures cover all adults from the age of 18 years.

If concerns are raised about a provider that supplies services for individuals both under and over 18 from the host authority and funding/placing authority, children and adults safeguarding services from the host authority will jointly coordinate the strategy meeting to plan any investigation necessary.

When an alleged victim is over 18 by the time the safeguarding incident is reported, but the incident occurred prior to the individual reaching 18, children and young people's services should lead any investigation into the concern.

If the responsibility for case management of a service user lies with transitional services within children and young people's services when the safeguarding alert is made, this responsibility will remain throughout the investigation. Any discussion/agreement to transfer responsibility should be made subsequent to, and not as part of, the investigation.

### **Continuing health care**

During the safeguarding adults process it is possible to carry out a reassessment of the individual's needs. If as a result they are assessed as eligible for continuing health care, funding responsibility to meet the individual's needs transfers from the funding/placing authority to the NHS.

It is recognised that this change may place the individual at increased risk of harm due to unclear organisational boundaries of responsibility. However, once responsibility is transferred, the NHS has a statutory responsibility to provide care management for the individual, unless a Section 75 partnership agreement under the National Health Service Act 2006 exists.

Where an individual has been identified at the referral stage as being placed by a community health service under continuing health care arrangements, the NHS will be expected to fulfil the requirements of the funding/placing authority as outlined here, subject to the comment above on Section 75.

### **Areas of difficulty or dispute**

The SAM – with the host authority – must immediately report any situations of exceptionally high risk to their senior manager, for example:

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- where the provider can no longer meet the needs of the adult at risk and/or other service users, and an alternative is not immediately available
- where there is disagreement about funding
- where funding/placing authorities fail to meet their commitments.

Senior managers with the host authority and funding/placing authority need to resolve such difficulties and disputes by referencing the cross-borough protocol.

### **Areas for negotiation**

We recognise that this protocol will not cover all situations that can arise. In principle the host authority will always be the authority where the alleged abuse took place, and both the host authority and the funding/placing authority must act to fulfil their respective responsibilities. However, circumstances can arise where it is good practice to negotiate between the host authority and the funding/placing authority.

For example, if a funding/placing authority or its local health commissioner has contracted a number of placements in a care home or specialist health provision in another local authority area, then a local protocol could be agreed to give the funding/placing authority overall responsibility for the coordination of any investigation into allegations relating to these residents. Similarly, if the person who has been abused was only a transient visitor in another local authority area (e.g. reported abuse by a carer on a day trip out), then it may be appropriate for the funding/placing authority to be responsible for the coordination of the investigation.

Other complex situations that may involve some negotiation include:

- indications of abuse by family, friends or paid staff in the borough the person is ordinarily resident in, are noticed when a person is admitted to an acute trust or respite care in another borough
- an adult at risk moves from one area to another and then discloses that abuse occurred at their last address.

In such cases, the main role of the authority where the abuse or neglect comes to light is to act as an alerter, ensure the person is safe and provide a link with the statutory services in their area (police, health trust, etc). The key responsibility for managing the coordinated response to the alleged abuse falls to the authority where the abuse is sourced, as there may be implications for other vulnerable adults or children in that area, and the protection plan will have to be agreed by that local authority.

During such a negotiation it is useful to consider:

- if this is a 'one off' set of circumstances where a single agreement is needed, or if it is a set of circumstances that are likely to recur and need an appropriate local written agreement
- the most effective working arrangements and relationships to complete the appropriate level of investigation and protection

- if there are wider concerns for any other adults at risk who may be affected or who are at risk of being affected by the circumstances of what is alleged
- where these other adults at risk are located and who is responsible for them; this will help determine which local authority should lead any investigation.

All the authorities involved should maintain records of the alleged abuse, and include these cases in their statistics.

## Concerns about cross-borough providers

This section applies to situations where safeguarding concerns are raised about a provider supporting people from a number of London boroughs. It aims to maintain standards of care and support to adults at risk across London. It also offers service providers an equitable response to concerns about their service. Individual safeguarding boards may want to extend application of the whole section or aspects of the section to authorities outside London if appropriate.

This section applies when there are concerns that:

- an adult at risk may have been abused or neglected
- the abuse or neglect may have been connected to the provision of a service, including the actions of an individual member of staff or a volunteer
- the service is provided to or is available to adults at risk from more than one London borough
- the service is provided to individuals who have chosen and paid for their own care or individuals who organise their own care using self-directed support.

### **Step 1: first response**

#### *Immediate risk assessment and action*

When a concern about abuse or neglect is raised there must be an immediate assessment of risk. It may be necessary at this point to take action to protect other adults at risk receiving a service from that provider (the interim protection plan).

The SAM in the host authority (SAM/HA) will be responsible for ensuring that the London procedures for protecting adults at risk are followed. In addition they will collect the following information:

- a list of adults receiving this service including full- and self-funders
- a list of placing authorities and/or trusts for adults receiving this service.

#### *Notifying other placing authorities and trusts of concern*

The SAM/HA, in consultation with other partners involved in the investigation, may also decide to notify all placing authorities and/or trusts that there is a concern in relation to a provider. Notification will be given if it has been agreed that there is a potential risk of abuse or neglect to individuals.

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Notification will be sent out in line with the host authority's protocol for sharing information across authorities and/or health trusts. The notification will state that there is a concern, the nature of that concern (with due regard to confidentiality) and any action that has been taken or is planned (if relevant).

The notification may include a recommendation that each placing authority and/or trust reviews any client that they have placed with that provider.

### *Notifying potential placing authorities and trusts of concern*

A decision to notify potential placing authorities and trusts would only be undertaken at this point in exceptional circumstances – that is to say, when it is agreed that the risk of placing any new people or business with this provider is too high. This decision would normally be taken if the host authority, or in some cases a dominant placing authority, decides to suspend new business, impose a default notice or withdraw grant funding.

### *Action to be taken by placing authorities and trusts*

On receiving this information, placing authorities should allocate a SAM in the placing authority (SAM/PA) to any client for whom they have commissioned services from that provider (one person can be the manager for all adults at risk receiving services from that provider).

The placing authorities should inform the SAM/HA about the allocated SAM(s) and any plans they have to undertake reviews. The SAM/PA should be prepared to share (with due regard to confidentiality) with the SAM/HA information from any reviews undertaken, and attend or send a representative to any meetings called.

### *Action to be taken by potential placing authorities and trusts*

Commissioners of relevant services in that organisation will hold the information disseminated. They are responsible for proactively ensuring the information is current and updated.

## **Step 2: coordinated cross-borough action**

The cross-borough protocol and the London procedure for safeguarding adults at risk will be followed from this point.

Each authority involved with the investigation will ensure that the contact details for the allocated SAM and whoever is conducting the investigation – the investigation officer – are known to the host authority and are kept up to date.

The host authority will ensure that the name(s) of the allocated SAM(s) and investigation officer(s) – together with their contact details – are known to all placing authorities and any notified potential placing authorities.

The host authority will ensure that all placing authorities and any notified potential placing authorities are kept up to date with progress on the investigation.

## **Step 3: closing the investigation**

When the investigation is closed (normally the case conference), the host authority will take responsibility as the 'safeguarding authority' for ensuring any reports to the ISA are made.

If there has been a suspension of new business with a provider, a timetable for reviewing the suspension and a system for notifying placing (and in some cases potential placing) authorities and trusts of progress must be agreed at the case conference and followed.