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Protecting adults at risk: Good practice guide



Investigating adult abuse

It is vital that the accounts of any adults at risk, witnesses and suspects are obtained in a way that does not affect their admissibility in the courts. If an allegation of crime is made it is important to follow some central principles:

Phone 999 for the police and/or an ambulance in an emergency, as appropriate.

Listen carefully to what is being said and reassure the person that what they are saying will be taken seriously. Often an individual will feel that they will not be believed.

Only ask questions to establish what has happened and find out if the adult or another person is at immediate risk of harm. Only ask questions to establish the basic facts, and no more. Make a record of the person's name, the name of any carer or other persons present when they are spoken to, the questions asked and the answers provided - as verbatim (word for word) as possible. Record as exactly as possible what the person said and make a note of the time, date and where they made the comment. If notes are recorded in this way they are more likely to be allowed as evidence in court. Taking notes at the time of talking to the adult at risk or immediately afterwards, is a matter of judgement. Sometimes taking notes when someone is in distress could be insensitive. However, this should be weighed against the need to record accurately. A note should also be made of the adult's physical appearance, in particular any visible injuries and missing or damaged items of clothing. If the adult is still at the location of the incident, take a description of any damage that is visible (for further details see [Seeing and speaking to the adult at risk](#)).

Some adults may not wish to pursue a criminal allegation but the police will continue to secure and preserve evidence and a crime report will be recorded. While adults have a right to make decisions about their lives, including those related to their own vulnerability, in some circumstances the adult at risk's wishes may be overridden given considerations about their own safety or that of others.

It is important to note the impact on any investigation if forensic or other evidence is contaminated, lost or damaged. The overriding principle is the safety of the adult or others involved.

Do not make promises that may not be kept regarding confidentiality. If there is evidence of a serious crime or other factors are involved, then it is your duty to share the information.

Take steps to preserve evidence where possible and explain this to the police. It is equally important to tell them if you have moved or touched something that might be relevant. Police officers assigned to investigate a crime are responsible for the gathering and preservation of evidence generally. Other organisations and individuals can play an important part in ensuring that

evidence is not contaminated or lost by taking steps to preserve evidence when a crime is first discovered or suspected.

Let the adult know who will be informed, and offer support.

Do not speak to the person alleged to have caused the harm about the allegation (as opposed to other essential welfare matters) without checking with the police first. Such an action could place both you and others at risk and may compromise the investigation.

In all situations where an adult has been abused and a crime may have been committed, the first consideration must be the person's safety and respect for their dignity and rights. The person's need for support must be met at this stage.

By observing these simple rules you will assist the victim and ensure that evidence is obtained in a professional manner and that any criminal prosecution will not be jeopardised.

Evidence

The standard of proof for police investigations is 'beyond reasonable doubt'. The evidence they gather about an allegation and about the actions of the person alleged to have committed the crime must therefore be robust enough to provide such proof in court. The standard of proof for non-criminal investigations, to support civil actions or disciplinary procedures, is on the 'balance of probabilities'.

There are four categories of evidence:

Direct evidence: this is the most important evidence and is what the person experienced themselves by their own account – in court referred to as evidence 'in chief'.

Hearsay evidence: evidence of what a person has heard from another person. Hearsay evidence is usually excluded from criminal trials although new rules have been introduced, which allow such evidence to be introduced in certain cases. Hearsay evidence can be used in civil cases or disciplinary hearings.

Corroborated evidence: evidence that supports the evidence of a person in another way, such as evidence contained in records.

Circumstantial evidence: evidence that is not based on the facts in question but on other facts that may support the case. For example, evidence of injury immediately following contact with a particular person, or money having gone missing after a visit by a particular person. Circumstantial evidence alone cannot be relied on to convict a person in the absence of other evidence.

Technological and chemical advances have identified many new methods of recovering evidence. Even though something is not immediately apparent to the naked eye, there may still be minute particles or fragments of material that could yield evidence. As a general rule of thumb, if you do not need to touch or move something, then leave it where it is for an expert examination, unless touching or moving things is absolutely necessary - for example, to save a life. The police will

respond quickly and all practical steps should be taken to secure the scene of the crime to prevent contamination or removal of evidence. Do not allow any person or animals into the scene and do not attempt to tidy up or clean anything.

Action taken to secure a crime scene and preserve evidence must include preservation of evidence contained in written records, case files and notes, so that these can be referred to in any investigation and cannot be altered after the event. Records and information held by social care and health services may themselves provide useful evidence-gathering opportunities for civil and criminal investigations.

Although adult social care services have the lead responsibility for adults at risk under the No Secrets Guidance (4) and s.47 of the NHS and Community Act 1990, it is the responsibility of the police to conduct the criminal investigation. Information from partner agencies is key to any investigation and it may often be useful for liaison between agencies to take place at an early stage. For example, a social worker accompanying a police officer during some stages of the investigation, such as during evidential interviews.

The Metropolitan Police are committed to 'total policing', to cut crime and care for the victims of crime. In adult safeguarding this involves holding perpetrators to account, providing enhanced victim care to vulnerable people and working with partners to safeguard adults at risk.

Support for the victim entering the criminal justice process

Criminal justice agencies are required by law to provide minimum standards of service to victims of crime. There is an enhanced service for vulnerable and intimidated witnesses as defined by the Youth Justice and Criminal Evidence Act 1999. For further information see The code of practice for victims of crime (17).

How witnesses can expect to be treated by the police if they witness a crime or incident is detailed in The witness charter (18). This document also outlines the standard of care required from other criminal justice agencies. Although the Charter is not statutory it does set out provisions that include:

- an initial needs assessment to be conducted by the police, to establish language and communication requirements and enable them to provide the best evidence at court
- identification of special measures for vulnerable or intimidated witnesses
- arrangements for witnesses attending court who have disabilities or medical conditions that mean they need help for them to attend
- provision of communication aids such as intermediaries, signers or interpreters.

Case studies of different types of abuse, and the legal considerations surrounding them, can be found in SCIE's Safeguarding adults at risk of harm: A legal guide for practitioners (13)

Sexual assault – issues to consider

Sexual abuse is defined as direct or indirect involvement in sexual activity without consent. It may involve rape and sexual assault, including penetrative or non-penetrative sexual acts, that the adult at risk has not consented to, lacks the mental capacity to consent to, or is pressurised into consenting to.

In an emergency, call the police on 999. If a crime has been or may have been committed, refer immediately to the police unless the adult at risk has mental capacity and does not want a report made, and there are no overriding public or vital interest issues. The police may also be contacted later, if more information becomes available and it is then apparent that a crime has been committed.

Where an allegation of serious sexual abuse is identified it must be reported immediately to the police to preserve any forensic evidence. If it is thought that the event occurred within the previous seven days, it is important (if at all practical) to advise the adult at risk not to use the toilet, wash or have anything to eat or drink until the police have attended. This is so that vital evidence, which can still be in place some days after an assault, may be preserved by medical examination. A victim of rape or serious sexual assault may wish to:

- use the lavatory or discard underwear or sanitary products
- wash, shower or bath
- wash their hands
- remove, wash, discard or destroy clothing worn at the time of the incident or subsequent to it
- drink, eat or take non-essential medication
- clean their teeth
- smoke
- clean up, especially if it is their home.

If so, it should be carefully explained to them that they may destroy valuable evidence by carrying out any of the above or by not protecting the physical scene. Such advice should balance the victim's wishes with the need to preserve potential evidence. Advise the person not to discard sanitary products or condoms.

All of this will clearly be distressing to the victim. Early evidence kits are available from the police if the adult at risk wishes to clean their teeth or have a drink. Use of the kit ensures quick and effective recovery of forensic evidence that can be lost due to time delays between reporting and medical examination. If the person does not want to wait until a kit can be used and wishes to clean their teeth or have a drink they should be advised to place the toothbrush in a clean plastic bag and give it to a police officer on arrival. Any clean drinking vessel used should also be preserved in the same way.

If this is a case where the police are not involved, the adult at risk should be informed about the availability of specialist centres in London for people who have been raped or sexually assaulted where they can seek support, advice and treatment. If the police are made aware of the assault they will make contact on the person's behalf.

Evidence may be found on clothing worn by the person at the time of the offence. The person should not change their clothes if there is any possibility that they were wearing them at the time. Any other items that may have been worn at the time of the offence should be left where they are for the police. If you have had to move anything, tell the police where you have put it and why it had to be moved.

If it is known where the assault took place, this scene may also yield evidence. If the location is indoors no one should be allowed inside. If the adult at risk is in the building or room, nothing should be moved or touched unless absolutely necessary. By restricting access to scenes of crime, contamination from people walking over evidence or inadvertently disturbing things can be minimised.

Many specialist support agencies offer an independent sexual violence adviser (ISVA) service to victims of rape and sexual assault. An ISVA is trained to look after a person's needs and ensure they are receiving appropriate care and understanding. They will help the person to understand how the criminal justice process works. There are also specialist ISVAs to assist people with learning disabilities and mental health needs.

Physical assault – issues to consider

When a vulnerable person has been assaulted there may be some visible signs of attack, such as bruising, reddening or other more serious wounds. These injuries should be examined and noted by a medical practitioner. Ideally this should be the person's GP, but in some cases – such as the possibility of a conflict of interest and in certain criminal offences – a police surgeon (forensic medical examiner) will perform this task. The police should be informed immediately and a qualified police photographer will take a photographic record. Should the adult at risk be in an accident and emergency (A&E) department, then locally agreed protocols for reporting to the police should be followed.

Advice should be given to observe and record the physical and emotional demeanour of the adult at risk. This may be of assistance to any future criminal or civil proceedings.

Consent to medical examination

An adult must consent to a medical examination, so they need to be able to understand what they are giving consent to, and have the capacity to do so voluntarily. It will normally be the responsibility of the forensic medical examiner to ensure that true consent has in fact been given. If a person lacks capacity, medical staff need to make a decision about continuing in line with the best interests principles contained in the Mental Capacity Act 2005. There may be occasions where consent to examination is not given. In such circumstances it might be possible to arrange for the victim's GP to assist in the examination, if that would be reassuring for the person involved. This should be discussed with the senior police investigating officer and the appropriate agencies.

For information refer to the Department of Health's guidance (19).

Financial or material abuse – issues to consider

Financial abuse is a crime. It is the use of a person's property, assets, income, funds or any resources without their informed consent or authorisation. As well as the examples of possible financial abuse of adults at risk by people in positions of authority or responsibility listed in [Recognition and indicators of adult abuse](#), adults at risk might also be targeted more generally. For example:

mass market fraud such as letters, phone calls, emails and other 'scams'

rogue traders and cold-callers providing or over-charging for unnecessary or unwanted repairs, goods or services.

If the adult at risk has been subjected to systematic theft or bank account fraud, it is important not to handle documents, bank books, wallets, envelopes, etc. This may destroy possible fingerprints or other evidence. Retain any letters, statements or other documentation together with any containers they have been stored in. Similarly, if property is stolen from cupboards, tins, etc. preserve these for detailed examination.

Be aware that investigating financial abuse often involves wider networking than people may be used to, including working with trading standards, finance officers, or the OPG, for example. Remember too that financial abuse may go hand-in-hand with other types of mistreatment, and there should be a holistic assessment of the person's situation.

Reporting a crime

In an emergency you should phone 999 for an immediate police response (i.e. if a crime is happening now or if anyone is in immediate danger). Where the offence is remote from the victim, not immediate and/or the offender is unknown, the crime can be reported through normal police contact numbers or online at [Action Fraud](#).

Neglect and acts of omission – issues to consider

Neglect or acts of omission amount to a failure to meet the adult at risk's basic physical, medical and/or psychological needs which may result in serious impairment of the person's health and wellbeing. They include failure to provide access to health care or the necessities of life such as adequate nutrition and hydration.

Section 44 of the Mental Capacity Act 2005 created offences of ill-treatment and willful neglect in the case of people lacking capacity. These offences already existed in relation to people with a mental disorder under Section 127 of the Mental Health Act 1983. These offences, under either Act, can be committed by anyone responsible for a person's care. However, it should be noted that the offences apply only to people who lack capacity or to people with a mental disorder; there are no such offences in relation to other adults at risk.

ill-treatment covers deliberate acts of ill-treatment and those acts that are reckless as to whether there is ill-treatment

willful neglect means a serious departure from the required standards of treatment and usually means a person has deliberately or recklessly failed to carry out an act that they were aware they were under a duty to perform.

In suspected cases of neglect, it is important to make a holistic assessment of the situation, taking into account the views of the person and their carers, where applicable, on the reasons behind the neglect. As well as looking at Section 44 of the Mental Capacity Act, it is useful to consider the key principles of it, including the importance of responding in the least restrictive way to a situation.

Forced marriage – issues to consider

Allegations of forced marriage must be taken seriously. The risks may be high and can escalate quickly. Do not confuse the term 'arranged marriage' with 'forced

marriage'. There is a clear distinction between an arranged marriage and a forced marriage. Arranged marriages have been customary in many communities around the world for a very long time. In an arranged marriage the families of both spouses take a leading role in arranging the marriage, but the choice of accepting the arrangement remains with the individuals.

In a forced marriage at least one party does not consent to the marriage and some element of duress is involved. A marriage involving someone who lacks the mental capacity to consent to it should also be considered as a forced marriage.

The person's capacity to consent to a marriage should be clearly assessed through a properly conducted capacity assessment on that specific issue. There will be situations, however, where there are reasonable grounds to question a person's lack of capacity to consent to a marriage (e.g. the person is known to have severe learning disabilities), even though an assessment has not been carried out. Any proposal to prevent the marriage of someone suspected to lack capacity has to be referred to court. The court can issue an interim prevention judgement, prior to a full hearing, when the marriage is thought to be imminent.

There is specific government [guidance on forced marriages involving people with learning disabilities](#), to which you should refer.

Related incidents

Incidents related to forced marriage can involve threats to kill, common assault, harassment, false imprisonment and kidnap, and may lead to even more serious crimes such as rape, physical assault and murder. For more information refer to the Forced Marriage Unit's Multi-agency practice guidelines: handling cases of forced marriage (20).

Motives prompting forced marriage

Parents who force their children to marry often justify their behaviour as a way of protecting their offspring, building stronger families and preserving cultural or religious traditions. They do not see anything wrong in their actions. In some cases where young adults at risk are forced into marriage, family members believe they are providing a future 'carer' for their adult child, and the intended spouse may have no idea of the levels of care required by their bride/groom-to-be.

Criminal law and forced marriage

Although there is no specific criminal offence of 'forcing someone to marry', the law does provide protection from the crimes that can be committed when forcing someone into a marriage. Perpetrators, usually parents or family members, have been prosecuted for offences including threatening behaviour, harassment, assault, abduction, rape and murder.

The needs of victims will vary widely. Police Community Safety Units contain specially trained officers to deal with such investigations. Situations involving forced marriage can be high-risk and fast-moving, so early liaison with the police is vital.

Victims and potential victims can now be given the protection of the civil courts via a forced marriage protection order (21).

Needs of victims

People forced into marriage often become estranged from their families. Sometimes they themselves become trapped in a cycle of abuse with serious long-term consequences. Many women forced into a marriage suffer from domestic abuse and serious sexual assault. They feel unable to leave because of a lack of family support, economic pressures and other social circumstances. They may remain in the marriage for years before they feel able to challenge the situation.

Isolation is one of the biggest problems facing victims of forced marriage. They may feel they have no one to speak to about their situation, and these feelings of isolation are very similar to those experienced by victims of domestic abuse.