

Causing S42 Enquiries Guidance

Version 1



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1. Introduction

1.1 The aim of this guidance is to provide information and advice to staff who manage or undertake statutory Safeguarding Adults Enquiries under Section 42 of the Care Act 2014. The guidance comes into effect once a decision has been reached by the Local Authority that the criteria for such an enquiry has been met. This guidance should be read and be considered in conjunction with the Teeswide Inter-Agency Safeguarding Adults Policy and the Teeswide Inter-agency Safeguarding Adults Procedure.

1.2 The Care Act 2014 states that Local Authorities must make enquiries, or cause another agency to do so, when it has reasonable cause to suspect that an adult:

- has needs for care and support (whether or not the local authority is meeting any of those needs) and;
- is experiencing, or at risk of abuse or neglect; and
- as a result of those care and support needs is unable to protect themselves from either the risk of, or the experience of abuse or neglect

and, the Local Authority thinks it necessary to enable it to decide what (if any) action is needed to help and protect the adult.

1.3 The scope of that enquiry, who leads it and its nature, and how long it takes, will depend on the particular circumstances.

1.4 Although the Local Authority is the lead agency for making enquiries, it may require others to undertake them. The specific circumstances will determine which organisation or individual is most relevant to begin an enquiry. In many cases a professional who already knows the adult will be the best person. They may be a social worker, a housing support worker, a health worker such as a community nurse or a service provider.

1.5 The Local Authority should cause service providers/employers to carry out an enquiry into any concern in relation to their service when it is appropriate and proportionate to do so.

1.6 The Local Authority will also have to satisfy itself that the response has been sufficient to deal with the safeguarding issue and, if not, to undertake an enquiry of its own and any appropriate follow up action (e.g. referral to CQC, professional regulators).

2. When should an enquiry be caused?

2.1 The Local Authority as the lead agency for making enquiries, may require others to undertake them. To determine which organisation/person is to be asked to begin or conduct the enquiry the following should be considered:

- **Are there any employment responsibilities?** Allegations about staff may be best undertaken by the employer.
- **Who has the necessary skills and knowledge?** Specific skills and knowledge may be required such as Tissue Viability, Medicines Management, Speech and Language etc. In addition, the person asked to lead the enquiry should have sufficient skills to be able to undertake an investigation: specific training can be accessed through the TSAB Annual Training Programme which includes reference to this guidance, provides support in completing investigations and writing a robust enquiry report.

- **Who has the closest relationship with the adult at risk?** This might be the care provider, housing support worker, health professional.
- **Does the agency/organisation have ongoing contact with the adult at risk?** For example, if the adult has been discharged from a hospital setting, it would not be appropriate for a Trust to lead on the enquiry.
- **Does the agency/organisation have the capacity/ resources to take on an enquiry?** Consideration must be given to the agency/organisation's ability to resource undertaking an enquiry and it may be more appropriate/ proportionate to request information as part of the Local Authority's Section 42 Enquiry.
- **Has a crime been committed?** If a crime is suspected the police must lead the criminal investigation.

3. When is it not appropriate to cause an enquiry?

3.1 The Local Authority as the lead agency for making enquiries will not cause another person, agency or organisation to undertake an enquiry when:

- There is a serious conflict of interest on the part of the employer.
- There are or have been concerns about non-effective past enquiries. Any concerns of this nature should be escalated appropriately by the Local Authority to the agency or organisation carrying out the enquiry.
- It is not clear they have the necessary skills and knowledge to undertake what is required.
- There are concerns about failure to act to safeguard the adult.
- The concern(s) relates to organisational abuse/neglect, requires a Large Scale Enquiry, there is a current Large Scale Enquiry ongoing or the service is being managed within the TSAB Responding to and Addressing Serious Concerns (RASC) policy and procedure.

4. Roles and Responsibilities

4.1 Local Authority causing an enquiry to be carried out.

Where the Local Authority identifies that another agency is best placed to undertake that enquiry, or an element of it, they will:

- Ensure that the agency/organisation is fully involved in the planning of the enquiry, and will chair a planning meeting if this is deemed necessary.
- Ensure that all relevant parties understand who will conduct the enquiry on the Local Authority's behalf and why.
- Inform the agency/organisation of this responsibility, initially verbally, and then formally using the template letter within this guidance (Appendix 1), which will set out the key lines of enquiry. This will usually include the outcomes the adult has identified they want to achieve. This letter will be sent by **secure email with a read receipt or by recorded delivery ONLY**.
- Explain to the agency/ organisation why they are best placed to undertake the enquiry.

- Be satisfied that the agency/organisation being caused to undertake the enquiry is capable to do so and does not meet any of the criteria set out in Section 3 above.
- Agree a reasonable timescale for receiving a report of the outcome of the enquiry.
- Ensure the agency/organisation knows how the Lead Officer in the Local Authority for the safeguarding enquiry can be contacted. This will be included in the letter.
- Ensure the agency/organisation knows of the appointment and contact details of any Independent Advocate or other person acting on the adult's behalf where they have substantial difficulty in taking part in the enquiry OR how an independent advocate can be arranged if the organisation has concerns about the individual's ability to take part in the enquiry.
- Be satisfied the enquiry report has answered the concerns and that there is sufficient information to determine what, if any, further action is needed to help and protect the adult.
- Resolve any disagreement regarding the causing of the enquiry with reference to the TSAB Professional Challenge procedure. (N.B. where the agency/organisation is best placed to undertake the enquiry and its terms of reference are within the scope of its jurisdiction, the organisation has a legal duty under the Care Act 2014 to co-operate).
- Ensure that the agency/organisation caused to do the enquiry has made the individual aware of and is satisfied with, the enquiry and ascertain their view on whether their outcomes have been met, partly met or not met.
- Determine and confirm with the agency/organisation carrying out the enquiry how the safeguarding episode will be closed.
- Inform the person who raised the Concern that the Section 42 Enquiry has been passed on to another agency/organisation to complete

4.2 **Organisation identified to undertake an enquiry.**

The manager or safeguarding lead for the organisation that is caused to undertake a Section 42 Enquiry will:

- Appoint an **Enquiry Officer** to undertake the enquiry and provide the enquiry report, ensure they are competent to do so, that they receive the support necessary to satisfactorily complete it, and that there is no conflict of interest in their undertaking of this role. The Enquiry Officer's contact details should be given to the Local Authority Officer. *NOTE: training on undertaking s42 Enquiries is available from TSAB.*
- Satisfy themselves that the enquiry terms of reference are clearly understood and within the remit of the organisation to undertake.
- Conduct the enquiry in line with the principles of Making Safeguarding Personal by ensuring:
 - If the adult's outcomes have not been identified - the first action must be to ascertain the outcomes that the adult wishes to achieve.
 - The enquiry reflects the outcomes that the adult wishes to achieve.
 - If the adult does not have a representative or Independent Advocate but is having substantial difficulty in taking part in the enquiry the Enquiry Officer must liaise with the Lead Officer in the Local Authority so that an advocate can be instructed.
 - The adult (or their representative or Independent Advocate) is included throughout the process.

- The adult and or their representative has sufficient information to know their rights and choices. Information is available from the Lead Officer in the Local Authority and on the Teeswide Safeguarding Adults Board Website – www.tsab.org.uk.
 - That, if in the progress of the enquiry, the adult alters their view of their desired outcomes, this is reflected in the enquiry and that the Lead Officer in the Local Authority is informed of this.
 - The conclusion of the enquiry is shared and discussed with the adult (or their representative or Independent Advocate).
 - Consider if the issues raised within the Concern need to be communicated with other professionals in order to immediately safeguard the individual (and others)
 - The adult's outcomes are reviewed to ascertain whether they feel they have been met, partly met or not met.
 - The adult is asked "Do they feel that they are safer now because of the help from people dealing with their concern?"
-
- Make the Lead Officer in the Local Authority aware of any circumstances where the agency/organisation/person is not appropriate to undertake the enquiry.
 - Resolve any disagreement regarding the causing of the enquiry with reference to the TSAB Professional Challenge procedure (N.B. where the organisation is the best placed to undertake the enquiry and its terms of reference are within the scope of its jurisdiction, the organisation has a legal duty under the Care Act 2014 to co-operate).
 - Agree a reasonable timescale for completing a report of the outcome of the enquiry.
 - Maintain contact with the Lead Officer in the Local Authority and inform them of any changes or developments during the enquiry.
 - Ensure the enquiry report (Appendix 2) has answered the concerns and that there is sufficient information for the Local Authority to determine what, if any, further action is needed to help and protect the adult. This enquiry report will be sent to the Local Authority within the agreed timescale by **secure email, by recorded delivery or hand delivered ONLY** to ensure security of personal information.

Appendix 1

[address]

[insert LA address]

Your Ref:

Please ask for: **insert name and email address**

Our Ref: **insert reference details**

Date: **insert date**

Private and Confidential

Dear **NAME**,

Re: Request for a Safeguarding Adults Section 42 Enquiry – Re CLIENT + SERVICE

As you are aware an Adult Safeguarding Concern (attached/enclosed) was received by **Insert Local Authority** in respect of **SERVICE USER**.

The enquiry must:

DETAIL HERE WHAT THE CONCERNS ARE THAT NEEDS A S42 ENQUIRY TO ANSWER

In line with the Care Act 2014, Care and Support Statutory Guidance Chapter 14 and the Teeswide Safeguarding Adults Board; Inter-Agency Safeguarding Adults Policy and Procedures this concern should be investigated by means of an Adult Safeguarding Enquiry to establish whether there was an instance of abuse or neglect and to ensure appropriate measures are implemented to protect the adult (and others) and minimise the risk of reoccurrence.

In order to progress this matter, we formally request that **SERVICE PROVIDER/NAME** undertake a full enquiry into the concerns and report the findings, in the form of a formal enquiry report, back to **Insert Local Authority**, as the lead agency for coordinating the Adult Safeguarding process.

When conducting the enquiry you must:

- Follow the principles of Making Safeguarding Personal by involving **insert SERVICE USER** or their representative throughout the enquiry.
- Identify their outcomes and use them to inform and guide the enquiry.
- Ensure any Advocacy support they need is provided via the Lead Officer in the Local Authority.
- Provide appropriate information to the adult to help them understand what will happen next

- Handle the enquiry in a sensitive and skilled way to ensure distress to the adult is minimised.
- Ensure the enquiry focuses on the promotion of the adult's wellbeing.
- Provide the Local Authority with sufficient evidence to support the outcome of the enquiry including feedback on if the adults outcomes have been met, partly met or not met (specifying reasons). When writing your s42 Enquiry Report please use the *Section 42 Enquiry Report Template* attached

Please make the necessary arrangements to submit your completed enquiry report to **NAME** at the above address by **???? or within 28 days of receipt of this letter** by **secure email, by recorded delivery or hand delivery** to ensure security of all personal information. Following the completion of your enquiry we will discuss further with you whether any actions are required with regards further progression of this matter.

Should you have any queries in the meantime, please do not hesitate to contact us direct on **???**
????.

Yours sincerely

NAME

Job title



Appendix 2

Section 42 Enquiry Report

When writing your Section 42 Enquiry Report please use this template to include all of the information that the Local Authority (LA) needs to assure itself that the enquiry satisfies its duty under Section 42 of the Care Act 2014 to decide what action (if any) is necessary to help and protect the adult.

1. The Adult with Care and Support Needs			
Full Name:		Date of Birth:	
Address (including Post Code):			
Case Reference Number (if known):		Telephone Number(s):	
Email Address:			

2. Details of Person who Raised the Safeguarding Concern (if known)			
Full Name: (including title)			
Relationship to Adult:		Telephone Number(s):	
Email Address:			

3. Details of Safeguarding Concern(s)	
Date Received Request to Conduct a Section 42 Enquiry: <i>(this completed form should be submitted to the LA by the date specified on the letter or within 28 working days of receipt)</i>	
<i>Insert specific safeguarding concerns/questions to be answered – this should be detailed within the Request for Safeguarding Adults Section 42 Enquiry letter that was sent to your organisation</i>	

4. The Individual's Outcomes				
In the current situation, how safe does the adult feel? (1= very unsafe, 5 = very safe)				
1 <input type="checkbox"/>	2 <input type="checkbox"/>	3 <input type="checkbox"/>	4 <input type="checkbox"/>	5 <input type="checkbox"/>
What does the Adult (or their representative) want to achieve and what would make them feel safer?				
<i>If possible include what they have said in their own words. If there are Concerns about the individual's mental capacity an advocate must be instructed. Please Note: If a person lacks capacity, it does not mean that they cannot give any information or that they do not have a view.</i>				

5. Details of immediate safeguards to protect the adult (and others)
What immediate actions were taken to reduce the potential for further abuse/neglect?
Are there any other people (including children) who may be at risk of harm?
<p style="color: red;">Concerns should be escalated where:</p> <ul style="list-style-type: none"> • Risks/concerns are higher than originally thought • Where there are more victims/potential victims identified • Where institutional abuse/neglect or the potential for such is identified <p style="color: red;">If you feel that Concerns should be escalated:</p> <ul style="list-style-type: none"> • Inform Manager • Refer back to LA Safeguarding Team/Manager • Enquire if a Multi-Agency Conference (previously known as a strategy meeting) can be held

6. Enquiry Methodology
Who was seen/ interviewed?
What records were consulted?
What places were visited?

7. Background Information
<p style="color: red;">Brief and relevant information should be included here for example; the person's diagnosis, reason for admission and length of stay (if appropriate).</p>

8. Chronology of Significant Events in Date Order			
Date	Time	Who was Involved?	What Happened?

*Insert additional rows if necessary

9. Summary of Enquiry	
How and when was this conducted?	
What do the records show?	
What did the people that were interviewed say?	
Anything else of relevance?	

10. Findings of the Enquiry (Conclusion)	

11. Involvement of the Adult				
How involved was the Adult with the Enquiry?				
Was support provided to the Adult?				
By whom?				
Did the individual feel that their outcome(s) were met?				
Not Met <input type="checkbox"/>	Partly Met <input type="checkbox"/>	Fully Met <input type="checkbox"/>		
Adult's Comments:				
In the current situation, how safe does the adult feel? (1= very unsafe, 5 = very safe)				
1 <input type="checkbox"/>	2 <input type="checkbox"/>	3 <input type="checkbox"/>	4 <input type="checkbox"/>	5 <input type="checkbox"/>
Do they feel that they are safer now because of the help from people dealing with their concern?				
Adult's Comments:				

12. Recommendations				
Outcome – what are we aiming for?	Action Required – what needs to be done?	By When?	By Who	Progress/ Completed Date

*Insert additional rows if necessary

13. Person Responsible for Completing the Section 42 Enquiry Report			
Full Name:		Job Title:	
Organisation:		Telephone Number:	
Email Address:			
Signature:		Date Report Completed:	

This completed form must be sent to the Local Authority Officer who initiated the Section 42 Enquiry by **secure email, by recorded delivery or hand delivery** to ensure security of all personal information.