

Adult at Risk: Police Referral Criteria



Child Abuse/Vulnerable Adults

May 2020

Adults at Risk: Police Referral Criteria

Introduction

This advice is drafted to assist Local Authorities, Adult Safeguarding Lead Managers and social work practitioners when considering making a referral to police. Cleveland Police is a committed partner in Safeguarding Adults at Risk and the intention of this advice is to assist in decision making so that police resources are targeted towards those most in need.

Police continue to receive referrals which do not have any criminal nature to the concerns. However, our clear message is that if in doubt please telephone the Protecting Vulnerable People Child Abuse Vulnerable Adults (CAVA) Detective Sergeants for guidance on how to proceed.

All safeguarding concerns/referrals to police should be reported via 101 or via the Cleveland police website – Single On Line Home.

Any concern referring to a recent incident where potential evidence requires preserving/seizing, i.e. assault – injuries, sexual assaults - forensic evidence, theft-property, any incidents of this nature are to be reported via the 101 service to ensure evidence is not lost. In an emergency 999 should be used.

Cleveland Police CAVA Unit are the point of contact to investigate allegations where the suspect has 'custody, care or control' of the vulnerable adult (e.g. a paid care worker or family member who is a full time carer). All other cases would be investigated by frontline officers for example IRT (Incident Resolution Team), INT (Integrated Neighbourhood Team or other crime departments such as CID (Crime Investigation Department)

All reports of 'Hate Crime' are a priority for Cleveland Police. Any allegations of a crime towards a vulnerable adult within the community will be investigated by the relevant local policing area. If a coordinator or team manager receives information that the vulnerable adult is being targeted then they should contact police on 101 or via the Cleveland police website (SOH) to ensure the report is forwarded by control room to the relevant police resource. If an emergency then use the 999 system.

Information provided

In order to provide an appropriate response, police must be provided with as much information as possible. This is to allow a suitable THRIVE (Threat, Harm, Risk, Involvement, Vulnerability, Engagement) assessment to be carried out. Reference to initials or titles is insufficient as police are unable to carry out full checks without names/dates of birth. If the information is known, it is of the utmost importance that the section is completed in relation to capacity of the vulnerable adult and date of the last capacity assessment. The incident will be despatched to the appropriate officer to carry out a thorough investigation.

Referral criteria

It is not the responsibility of police to assess every untoward incident within the care system to establish if a crime has occurred. A gate keeping service is required within the Local Authority. If in doubt police will of course be available for advice but in many cases it is apparent from the outset that no crime has occurred. Poor practice and procedures does not automatically mean a crime has occurred.

The Care Act 2014 identifies key areas as to what constitutes abuse and neglect, however not all cases will have a criminal element to them. There are also other areas such as Domestic Violence, which can cover a range of criminal offences such as sexual and physical assaults, coercive and controlling behaviour etc.

There are often concerns relating to issues that constitute hate crime, modern slavery, Honour Based Violence (HBV), forced marriage etc under the definitions of abuse in the Care Act. Cleveland Police have dedicated departments that deal with specific concerns and a list of these other key departments are documented in Appendix 2.

Sexual Abuse

All cases of alleged sexual abuse are complex with significant trauma to the victim. All cases of sexual abuse should be referred to police irrespective of whether the suspect is a carer or another service user. This should be reported via the 101 control room service to ensure no loss of potential forensic evidence and ensure an appropriately trained officers attends to speak with the victim and reporting person.

Financial Abuse

Allegations of financial abuse are complex. It is unlikely there will be sufficient information at the outset to make an informed decision on whether a crime has been committed. Police will make a decision on whether a criminal investigation is to be conducted after facts have been established. All safeguarding concerns relating to financial matters should include a report from the referrer as to what enquires have been conducted that identify a crime is suspected and that this matter is not a civil issue, i.e. LPA breach of contract. In the case of a breach of LPA contract this should be reported direct to the OPG (Office of Public Guardian) as they are the governing body.

Physical Abuse

In all cases of alleged physical assault by a carer on a service user then a referral should be made to police irrespective of whether injury has been caused, and the company employer should ensure safeguarding is addressed. A clear crime should be reported to the police immediately via the 101 service/SOH to ensure no evidence is lost, ie photographic evidence of an injury, CCTV etc...

Consideration should be given to a degree of enquiry by partner agencies/employers if there is a question of whether an incident is a criminal act, or whether it is an inappropriate handling/training/disciplinary issue.

For allegations of assault by one service user on another service user then the following must be considered:

Was any injury caused? If there are injuries then consideration should be given to the preservation of evidence and reported via 101/SOH

For a suspect without capacity then the necessary '*mens rea*' is not made out. This is the '*state of mind*' of the perpetrator. If they lack capacity then they cannot form the necessary intent for the assault. However, due to police national crime recording standards (NCRS) counting rules, if a crime, such as an assault, has occurred (even if the perpetrator lacks capacity) and this is brought to the police's attention due to the wishes of the victim and/or their family then it has to be recorded by police as a crime.

The subsequent progress of any possible investigation will then be discussed with the relevant referring agency. Referring agencies should consider whether they feel it is appropriate and proportionate to commence criminal justice proceedings through a report to the police. Once police receive a report of a crime we are under obligation to investigate.

Medication

If no major illness or injury has resulted from wrongly administered medication then police should **NOT BE** involved unless there are extraordinary circumstances such as suspicion that it has been a deliberate act.

Police will need to consider issues of accidental/reckless/malice. Each case should be considered by the Coordinator or team leader on its own merits but if this was an isolated incident with no lasting ill effects then it is **NOT** a matter for police, unless the actions suggest malicious action. Repeated mistakes may be a training issue but can of course also indicate whether recklessness was an issue. If the scale moves along from accidental to reckless or malice then police should be contacted to discuss whether this would meet the criminal 'points to prove'.

For cases involving serious illness or death then police should be notified immediately. This is to secure potential evidence which may be needed at a later stage.

Ill Treat/Wilful Neglect

The Mental Capacity Act 2005 introduced the offence of ill treat/wilful neglect. The legislation was introduced to protect those service users who lack capacity. Case law to assist and refer to in relation to this area is relatively low. The new Criminal Justice and Courts Act 2015 introduces new offences under Section 20 and 21. The new offences under the Criminal Justice and Courts Act 2015 were brought about to fill the gap following the Mid staffs enquiry. Under the new offences the CPS would expect a statement of complaint taken by police, i.e. a competent witness, a service user that has capacity. Although full definitions/interpretations of wilful are not available, the spirit of the Act is the behaviour should be intentional or deliberate. If in doubt please telephone the CAVA Unit for advice. A case of neglect does not automatically mean wilful neglect has occurred. Neglect is a matter for safeguarding, commissioning of safe services, staff discipline or improved training/procedures. Wilful neglect is a matter for the police.

The essential fact to establish to prove any offence of wilful neglect (Section 44) is that the victim lacked capacity at the time of the incident. The coordinator or team manager should confirm this at the earliest opportunity. If the victim has capacity then there can be no offence under Section 44 MCA, however consideration can now be given the offences using the new legislation under the Criminal Justice and Courts Act 2015 of ill treatment or wilful neglect involving service users with capacity.

Consideration should be given to incidents which involve verbal abuse towards a service user by a care worker. Ascertain whether they could be dealt with more appropriately via the disciplinary route and DBS and not by reporting to police. However each case should be assessed on its own merits.

Wilful neglect can also include an 'omission', such as failure to seek medical help or failing to facilitate mediation. However once again these cases should be considered on a case by case basis.

Human Trafficking/Modern Day Slavery

Offences involving human trafficking or modern day slavery should be reported to police via the 101 service. This includes offences of sexual exploitation, forced labour, domestic servitude and criminal exploitation.

Most safeguarding agencies have a responsibility as first responders to human trafficking and modern day slavery to provide support for victims through use of the National Referral Mechanism. Support for child victims is the responsibility of local authorities.

Information regarding human trafficking and modern day slavery should be passed to the police. Cleveland Police have a dedicated VEMT department (Vulnerable, Exploited, Missing and Trafficked) dealing with such cases along with CSE offences.

SUMMARY

Cleveland Police is committed to working in partnership in line with the new Care Act 2014. Therefore, it is hoped that if this referral criteria is applied it should result in the most appropriate safeguarding alerts being made to police and thus allow the police to concentrate on the cases that require a criminal investigation.

APPENDIX 1

PROTECTING VULNERABLE PEOPLE UNIT

CAVA

Detective Chief Inspector Deb Fenny – 01642 301996

Detective Inspector Stephen Rowland – 01642 306773

Detective Sergeant Emma Bedford – 01642 302147

Detective Sergeant Paul West – 01642 306794

Detective Sergeant Emma Brown – 01642 302416

Detective Sergeant Derric Wade – 01642 302146

Pvpchildprotection/vulnerableadults@cleveland.pnn.police.uk

NOTE : The PVP team are operational officers, if police attention requires an immediate response please contact 101 to report or 999 in cases of emergency

APPENDIX 2

101 – Control Room – to report any incident that is not an emergency

999 – Emergency calls

www.cleveland.police.uk

DOMESTIC ABUSE UNIT

Detective Inspector Patricia Fenby – 01642 302739

Detective Sergeant Rebecca Harland – 01642 306772

Detective Sergeant Paul Whitehouse - 01642 306771

Detective Sergeant David Donoghue – 01642 306772

pvpdomesticabuse@cleveland.pnn.police.uk

VEMT

Detective Inspector David Glass– 01642 302208

Detective Sergeant Janette Turnbull– 01642 303322

Detective Sergeant Martyn Weston - 01642 303240

vemt@cleveland.pnn.police.uk

COMMUNITIES AND PARTNERSHIPS (Hate crime, mental health)

Detective Sergeant Elaine CLERK – 01642 302027

Communities&partnerships@cleveland.pnn.police.uk