

Police Operating Guidance

1. Introduction

- 1.1 This guidance is for use by CRU (Central Referral Unit) staff and Divisional Investigators when dealing with vulnerable adult referrals and investigations in two circumstances:
- - Decision-making for police involvement where Social Services/Mental Health Services make a referral asking for participation in vulnerable adult protection procedures
 - Where an officer deals with an incident involving a vulnerable adult and it is suspected they have been subject of abuse
- 1.2 The purpose of the guidance is to make explicit the roles and responsibilities of staff and operates where the abuse or neglect of a vulnerable adult is alleged to have taken place in Derby and Derbyshire.
- 1.3 There is in existence a Derby and Derbyshire Safeguarding Vulnerable Adults Partnership. This partnership has produced a Safeguarding Adults Policy and Procedure. The Safeguarding Vulnerable Adults Partnership works in accordance with No Secrets: Home Office and Department of Health guidance on developing and implementing multi-agency policies and procedures to protect vulnerable adults from abuse.
- 1.4 This above Derby and Derbyshire policy fully details:-
- Policy principles
 - Information Sharing protocols
 - Definition of a Vulnerable Adult
 - Types of abuse including physical, sexual, psychological, discriminatory, financial and neglect.
- 1.5 The document also details the various procedures as follows:
- Stage One: Alerting Other in Own Agency
 - Stage Two: Making a Referral
 - Stage Three: Initial Decision
 - Stage Four: Strategy Meeting
 - Stage Five: Case Conference
- 1.6 The Safeguarding Adults Policy and Procedure is the definitive document in Derby and Derbyshire for the management of adult abuse and all staff involved in this area of business should have a thorough understanding and working knowledge of it. Derbyshire Constabulary is fully supportive of the policy and procedures.
- 1.7 Derbyshire Constabulary is also fully committed to ensuring all cases of potential vulnerable adult abuse are thoroughly and expeditiously investigated. We will strive to ensure that on all occasions the perpetrators of such abuse are brought to justice.

2. Legislation

- 2.1 This area of business is governed by Home Office Guidance. “No Secrets” http://www.dh.gov.uk/en/Publicationsandstatistics/Publications/PublicationsPolicyAndGuidance/DH_4008486
- 2.2 The Mental Capacity Act 2005 came into effect in England and Wales on the 1st October 2007. With it came The Office of the Public Guardian and the Court of Protection www.publicguardian.gov.uk. The Office of Public Guardian (the ‘OPG’) is

an agency of the Ministry of Justice. The head of the OPG is the Public Guardian who is responsible for supervising deputies appointed by the court, keeping registers and investigating complaints in relation to deputies, Attorneys, LPA's and EPA's. The Court of Protection makes decisions about the property and affairs and personal welfare of adults who lack capacity.

- 2.3 Mental Capacity is the ability to make a specific decision about a particular matter at the time the decision needs to be made. The Mental Capacity Act is specifically designed to cover situations where someone cannot make a decision because of the way their brain is affected, for instance from illness, disability or substance misuse.
- 2.4 Section 44 of the Mental Capacity Act 2005 creates certain offences in connection with the ill-treatment or neglect of a person who lacks capacity.

44 (1) Subsection (2) applies if a person ('D') -

- (a) has the care of a person ('P') who lacks, or whom D reasonably believes to lack, capacity,
- (b) is the donee of a lasting power of attorney, or an enduring power of attorney (within the meaning of Schedule 4), created by P, or
- (c) is a deputy appointed by the court for P.

44 (2) D is guilty of an **offence** if he **ill-treats** or **wilfully neglects** P. (see note (i) below)

Notes

(i) In connection with 'neglect' and subject to future case law in this particular area, the term may be interpreted from different angles:

- Firstly, the Oxford dictionary defines the concept as the "fail to give proper care or attention" or the "fail to do something" (i.e. an omission).
- Secondly, 'neglect' can be considered from the framework of previous legislation to protect children. [Section 1](#) of the [Children and Young Persons Act 1933](#) states "a parent or other person legally liable to maintain a child or young person, or the legal guardian of a child or young person, is deemed to have **neglected** him in a manner likely to cause injury to his health if he has **failed to provide adequate food, clothing, medical aid or lodging**, or if, having been unable to do so, he has failed to take steps to procure it to be provided under relevant enactments."
- Thirdly, the Code of Practice for the Mental Capacity Act 2005 ([chapter 14.3](#)) contains guidelines, giving examples of neglect and acts of omission, such as ignoring the person's medical or physical care needs, failing to get healthcare or social care or withholding medication, food or heating.

2.5 Further details are available on the Force Intranet PNLD (Police National Legal Database)

3. Roles and Responsibilities

- 3.1 It is anticipated that the majority of adult protection referrals will be received during normal office hours (Monday to Friday 9am – 5pm not including bank holidays). These referrals will go direct into the CRU.
- 3.2 Outside normal office hours any referral call from an outside agency will be dealt with

by Contact Management and a call for service will be created on NSPIS. The operator will obtain all the necessary details using the Vulnerable Adult Protection Referral pro-forma on the incident. When action is required and at the discretion of the Contact Management supervisor the incident will be referred to the appropriate duty Detective Inspector for the area. The enquiry will then be progressed by the relevant Detective Inspector who will deal with the necessary issues. The incident will then be scheduled for the attention of CRU at 0900hrs. The incident will not be closed until it contains the necessary unique reference number for the Guardian referral record.

- 3.3 In both the above two cases actions will be expedited to ensure that any necessary and immediate police intervention is provided to protect the vulnerable adult.
- 3.4 Where an officer deals with an incident involving a vulnerable adult and it is suspected they have been subject of abuse as previously defined then the matter should be referred to either CRU during office hours or the duty Detective Inspector. The Detective Inspector will then assess if the matter needs immediate action and referral to Social Services/Mental Health Services or can be scheduled for the attention of the CRU. The incident in any event will be scheduled for the CRU and once assessed and if appropriate referred to Social Services/Mental Health Services under the Safeguarding Adults Policy and Procedures. **NB Safeguarding Adults Policy and Procedures require a referral to made to Social Services or Mental Health (depending on the needs of the victim within the same day as the incident occurs.**
- 3.5 Once the incident or call has been referred to the CRU a Guardian Vulnerable Person referral will be recorded containing the initial details and nature of vulnerability. The subsequent Guardian generated referral number will be recorded on any relevant NSPIS incident.
- 3.6 The Guardian Vulnerable Person Referral will be linked to any named person, location, family group and other relevant guardian object by the CRU staff.
- 3.7 The Guardian Referral will also be linked to any relevant Guardian crime report.
- 3.8 The CRU Detective Sergeant or the Administrator will assess the Vulnerable Adult Protection referral and act as decision-maker for police involvement. The force will be pro-active in identifying cases appropriate for VAP Procedures and referring them to Social Services/Mental Health as appropriate.
- 3.9 After consultation with agency partners and any other required specialist workers, the D/Sergeant/Administrator will determine the need for:-
 - NCRS compliance
 - Specialist unit requirement.
 - Divisional resource requirement.
 - The requirement for any strategy meeting or telephone agreement.
 - High Grade Vulnerable Adult cases being notified to the Public Protection Tasking Meetings on Division.
- 3.10 The level of police intervention will be recorded by CRU staff within the Guardian Referral record with the criteria of:-

High: Specialist police team required to intervene, investigate and protect.

Medium: Non specialist police officers required to intervene, investigate and protect.

Standard: No police resources required to intervene, investigate & protect.

The CRU Detective Sergeant or the Administrator will determine what can be dealt with in CRU and what needs to be referred to the Divisional Detective Inspectors for further action.

- 3.11 Any re-grading of the above definitions in the Guardian Public Protection Module will be assessed and validated by the CRU Detective Sergeant/Administrator.
- 3.12 The Guardian Referral will remain “open” until such time as the CRU Detective Sergeant/Administrator decides to close the Referral record together with any Actions ongoing/concluded changes.
- 3.13 The Guardian referral will be notified to the Divisional Detective Inspector and any named Unit/O.I.C. by the following methodology:-
 - Wherever a linked Guardian crime record exists, a **Guardian crime generic task** will be used to task the relevant Divisional Detective Inspector and named Unit/O.I.C. This methodology is open to any Guardian user throughout this process. It is recommended that the details and content of the generic task be copied and pasted into the Guardian Referral enquiries log.
 - Any response/reply to the **crime generic task** requires text to be copied into the enquiries log of any linked Guardian Referral.
 - Where no linked Guardian crime record exists, the Guardian Referral record will be sent to the relevant Divisional Detective Inspector and named Unit/O.I.C. as a **Guardian message**. With the Guardian Referral record open, the “send” button will provide the required message template. Upon sending this message to the recipient, the content of the message is automatically transferred to the referral enquiries log referral.
 - Any response/ by the recipient must be sent with the same **Guardian message** methodology to ensure the content of the response is copied to the enquiries log. (With the Guardian Referral record open, the “send” button will provide the required message template).
- 3.14 All Guardian users will ensure they regularly check the Guardian workload tabs and respond to any Referral messages and Crime tasks.
- 3.15 The Guardian tasking and message methodology will be the vehicle to disseminate to others any requirements and changes emanating from any subsequent strategy agreement or intervention.
- 3.16 Wherever the Referral is allocated to an investigator by way of a Divisional supervisor, upon conclusion of the task(s) the OIC will return the referral through their line manager for validation upon the conclusion the action(s). (The methodology is defined at 3.13 above).
- 3.17 Any requirement to re-grade the recorded level of Police intervention or conclude the required actions will be notified by the same methodology, (3.13 above) to the CRU Detective Sergeant/Administrator who will decide on the same.
- 3.18 The Guardian Referral will remain “open” until such time as the CRU Detective Sergeant/Administrator decides to “close” the Referral. He/she will decide on any changes to the required actions field within the referral. ('actions ongoing' to 'actions concluded').

4. Police Involvement with Partner Agencies

- 4.1 It is vital that the Detective Inspector managing the referral allocates the appropriate police resource to the investigation and procedures. They must ensure that staff attending the strategy discussion/meeting or case conference understands the role they have to play. Where the matter is graded as 'High' specialist police resources must be allocated.
- 4.2 It is anticipated that any case with potential for Mental Capacity Act offences will be graded as 'High'. Again it is important that the specialist police resource investigating has a thorough understanding of MCA. Any investigation whereby the officer in the case believes the perpetrator may have committed an offence contrary to S44 of The Mental capacity Act should be referred to a specialist CPS Lawyer at the very earliest opportunity.
- 4.3 When authorising a Form 1066 in relation to a Vulnerable Adult witness interview it is highly likely that if the witness is also a victim they will be suitable for referral under the procedures. Such cases should be referred to the CRU. Detective Inspector need to consider carefully all such authorisations and whether they are suitable for referral. The CRU should then notify Social Services/Mental Health Services and a referral should be made where appropriate.
- 4.4 The Mental Capacity Act introduced the role of Independent Mental Capacity Advocate 'IMCA' to work with and support people who lack capacity, and represent their views to those who are working out their best interests. Responsible bodies have powers to instruct an IMCA to support and represent a person who lacks capacity where it is alleged that:

The person is or has been abused or neglected by another person, **or**

The person is abusing or has abused another person.

To make a referral to Derbyshire IMCA contact the direct referral line on 01332 380224 or for general information contact the IMCA Office: 01332 290397

Derbyshire IMCA Service

3rd Floor, Kelvin House
RTC Business Park
London Road
DERBY
DE 24 8UP

The use of an intermediary can play an important role in an investigation with a witness or victim who has communication difficulties. Indeed their role can be vital from initial interview to trial to ensure best evidence and achieve justice. A discussion between the CPS and the investigating officer should take place at an early stage whenever possible. The investigation officer should seek advice from a specialist trained Vulnerable Witness Interviewer and agreement to commission an assessment should be obtained from a Detective Inspector. Thereafter an intermediary assessment can be requested by contacting:-

The Intermediary Registration Board (IRB) on telephone 020 7035 8461/8449/8476 or by fax on 020 7035 8601

Additionally, Derbyshire County Council and Derby City Council have their own vulnerable witness interviewers who can be utilised in order to obtain best evidence.

- 4.5 In addition to local policy and procedure there is the Commission for Social Care Inspection (CSCI) – Safeguarding Adults Protocol and Guidance. The protocol describes the role and process for safeguarding adults with the Association of Directors of Social Services (ADSS) current view of best practice. The commission have an important role in the inspection of private and local authority care and nursing settings and can be a useful point of contact for investigators with concerns over standards.
- 4.6 Other relevant documentation is Safeguarding Adults – A National Framework of Standards for Good Practice and outcomes in Adult Protection work. The Force Policy on Assisted Suicides and the attached glossary of terms at Appendix 'A'.