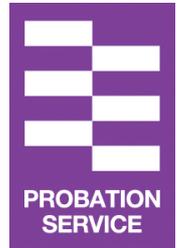




National Offender
Management Service



SAFEGUARDING ADULTS AT RISK

NATIONAL PROBATION SERVICE POLICY STATEMENT

January 2016
Version 1.0

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1 Introduction

1.1 The role of the National Probation Service (NPS) is to protect the public, support victims and reduce reoffending. It does this by:

- assessing risk and advising the courts to enable the effective sentencing and rehabilitation of all offenders;
- working in partnership with Community Rehabilitation Companies (CRCs) and other service providers; and
- directly managing those offenders in the community, and before their release from custody, who pose the highest risk of harm and who have committed the most serious crimes.

In carrying out its functions, the NPS is committed to protecting an adult's right to live in safety, free from abuse and neglect.

1.2 This policy statement acknowledges the NPS's responsibility for safeguarding and promoting the welfare of adults at risk. It recognises the importance of people and other organisations working together to prevent and stop both the risk and the experience of abuse and neglect, whilst at the same time making sure an individual's well-being is being promoted with due regard to their views, wishes, feelings and beliefs. It also acknowledges the contribution the NPS can make to the early identification of care and support needs for an offender in the community, as well as cases where an offender who is a carer needs support.

1.3 The focus of this policy statement is NPS involvement with offenders in the community, either as part of a community sentence or following release from custody. It is supported by practice guidance and the NPS National Partnership Framework: *Safeguarding Adults Boards*. The policy on adult safeguarding in prisons is set out in PSI 16/2015 *Adult Safeguarding in Prison*. The policy on adult social care in prisons and ensuring continuity of care into the community is set out in PI 11/2015 (PSI 15/2015) *Adult Social Care*. The latter PI is supplemented by specific guidance on social care provision for residents in Approved Premises, which will form part of the Approved Premises Manual.

1.4 The Social Services and Well-being (Wales) Act 2014 provides similar reforms to social care and adult safeguarding. It will be implemented in 2016. A revised policy to reflect the provisions in Wales will be produced in due course. In the meantime, the principles and good practice in this policy should be applied in NOMS Wales, as appropriate to the devolved arrangements.

1.5 The NPS is committed to eliminating all forms of unlawful discrimination and to encouraging diversity amongst the services it provides. Its aim is to ensure equality and fairness for all and to not discriminate on the grounds of gender, marital status (including civil partnerships), race, disability, sexual orientation, age, gender reassignment, and religion or belief. The NPS opposes all forms of unlawful and unfair discrimination.

2 Key Principles

2.1 The government has identified six principles that should underpin all adult safeguarding work. The principles apply to all sectors and settings, including the criminal justice system, and should, therefore, inform the ways in which the NPS works with adults.

Empowerment - people being supported and encouraged to make their own decisions, and informed consent.

Prevention - it is better to take action before harm occurs.

Proportionality - the least intrusive response appropriate to the risk presented.

Protection - support and representation for those in greatest need.

Partnership - local solutions through services working with their communities. Communities have a part to play in preventing, detecting and reporting neglect and abuse.

Accountability - accountability and transparency in delivering safeguarding.

2.2 NPS work on adult safeguarding should also reflect the organisation's stated values:

We believe in the capacity of people to change - we know that through excellent professional practice, strong partnership working and by making clear what is expected of offenders, we can help them change their lives.

We are accountable - we are proud of our role in protecting the public, which is always at the heart of our decisions.

We are collaborative - we work with individuals and with national and local services to create a real and sustained difference.

We are effective - our work is focused on delivering results, building on our skills and experience, and embracing evidence and innovation to provide a service the public can be confident in.

We are fair - we value the diversity of our staff, our communities and individuals, knowing that this strengthens our ability to be responsive and affect real and long-term change in how people live their lives.

We are professional - we trust and support our staff to make the best decisions for public safety, investing in their ongoing development, encouraging innovation and always striving for excellence.

2.3 Within the framework provided by these principles and values, the NPS is committed to:

- Making sure there is senior management recognition of the importance of safeguarding adults. To help achieve this, there should be a designated senior manager within each NPS Division who acts as a strategic lead for safeguarding adults work. The senior manager should make sure there is a clear line of accountability within their Division for safeguarding adult work and that safeguarding is embedded within relevant local practices and processes.
- Promoting the duty to co-operate as a relevant partner under section 6 of the Care Act 2014, at both the strategic and operational level, in the exercise of functions relating to offenders in the community who have care and support needs or who are carers.

- Making sure that all NPS staff are clear about their roles and responsibilities and how to raise safeguarding concerns. Staff should also be aware of the routes for escalation where they feel a manager or another agency has not responded appropriately to a safeguarding concern. Practice guidance has been developed to support this policy. It gives clarity on roles and responsibilities and the action to be taken in response to adult safeguarding concerns. The guidance also supports staff in the early identification of offenders in the community with care and support needs. Safeguarding adult processes will be mapped on to EQuIP (Excellence and Quality in Processes), and the practice guidance, together with other relevant guidance, will be attached to the maps. Staff should be supported in fulfilling their roles and responsibilities through effective supervision and management oversight.
- Making sure staff have the role-specific knowledge and skills to recognise and respond appropriately to safeguarding concerns and to care and support needs. A national NPS safeguarding adults training package has been developed. This is in addition to any local training provision associated with Safeguarding Adults Boards.
- Sharing information appropriately and lawfully within agreed local protocols, in order to improve the speed and quality of responses to safeguarding concerns and to care and support needs.
- Supporting the creation of strong local partnerships that provide timely and effective prevention of and responses to abuses and neglect at the strategic and operational levels. A National Partnership Strategy has been issued that clarifies the NPS contribution to Safeguarding Adults Boards and other adult multi-agency fora.
- Supporting the development of a positive learning environment within the NPS and across local partnerships. Evidence of what works, examples of good practice, and key learning from safeguarding adults reviews, serious further offence reviews, MAPPA serious case reviews and other multi-agency serious case reviews, will be disseminated and used to inform practice development and improvement at a national and local level, as appropriate.

3 Identification, Assessment and Management of Offenders

- 3.1 During the course of their duties, NPS staff will come into contact with offenders who:
- Pose a risk of harm to known adults at risk;
 - Pose a risk of harm to adults at risk in general;
 - Are adults at risk;
 - Have care and support needs; and/or
 - Are carers in need of support.

It is important that, at all stages of the offender's journey, NPS staff are aware of their roles and responsibilities in respect of safeguarding adults at risk. This applies from the pre-sentence stage, through the court allocation process, and on to management in the community following release from custody or as part of a community order. Safeguarding concerns may relate to an offender as a victim or as a perpetrator.

3.2 It is also important that staff identify at an early stage offenders who have care and support needs, and offenders who are carers in need of support, taking appropriate action where those needs are unmet.

3.3 The assessment and management of the risks of harm posed by offenders to adults at risk must be identified, assessed and managed effectively. NPS staff must be alert to and respond appropriately to any changes in an offender's circumstances that could lead to or indicate situations that may pose a risk of harm to their own or to another adult's safety and well-being.

3.4 NPS staff should be alert to the possibility of adult safeguarding concerns (offender as a victim or a perpetrator) when working with all offenders, but in particular with cases involving:

Child safeguarding concerns: a think-family approach should be adopted at all times. If there are child safeguarding concerns within a family there may also be adults at risk requiring a safeguarding response.

Domestic abuse: a significant proportion of people who need safeguarding support do so because they are experiencing domestic abuse.

Hate crime: assessing hate crime can present a challenge as it is often hidden. However, some adults with care and support needs may become victims of hate crime, in particular disability hate crime.

Extremism: as with other groups in society, some adults with care and support needs may be vulnerable to extremism.

This is not intended to be a definitive list, as safeguarding adult concerns may be inter-connected with a wide range of offending behaviour. This emphasises the importance of adopting an investigative approach to all cases to identify any safeguarding concerns.

3.5 The NPS is responsible for delivery of the statutory victim contact scheme. All staff carrying out victim contact work should be alert to adult safeguarding concerns. Where safeguarding concerns are identified or suspected, they must be recorded and raised with victim liaison unit managers in line with local policies, as required by the Victim Contact Scheme Guidance Manual.

3.6 More detailed practice guidance has been developed to support staff in understanding their roles and responsibilities in respect of adult safeguarding, and in co-operating with local authorities in fulfilling their care and support functions. Also, safeguarding adult processes are being mapped on to EQuIP, with the practice guidance and other relevant guidance being attached to the maps.

4 Management and Leadership

4.1 Within each NPS Division, there should be a senior manager designated to act as a strategic lead for safeguarding adult work. The senior manager should ensure that:

- there is a clear line of accountability within their NPS Division for safeguarding adult work.
- safeguarding is embedded within relevant local practices and processes.
- relevant learning from safeguarding adults reviews and other multi-agency reviews is cascaded throughout the Division and that a positive learning environment exists.
- there is appropriate management representation at local SABs within the Division in accordance with the NPS National Partnership Strategy Framework: *Safeguarding Adults Boards*.
- information sharing agreements are in place where appropriate.

4.2 Consideration should be given to having designated single points of contact for adult safeguarding within Local Delivery Units / Clusters to promote good practice and strengthen partnership working in the area.

4.3 Middle managers/senior probation officers must ensure that:

- staff are aware of their role and responsibilities in relation to adult safeguarding and are familiar with local policy and procedures, including how to make referrals where necessary.
- staff develop the necessary knowledge and skills to manage adult safeguarding cases effectively.
- staff managing cases where there are adult safeguarding concerns receive appropriate support and guidance. As part of regular supervision, staff should be given the opportunity to discuss adult safeguarding cases and the actions required to manage the risks posed by or to the offender.
- they are aware of and review adult safeguarding cases being managed by their teams.
- all reviews and case discussions are recorded in case management system and, where appropriate, in line management notes.

5 Partnership and inter-agency collaboration

5.1 Safeguarding Adults Boards

5.1.1 Under the Care Act 2014, each local authority in England must set up a Safeguarding Adults Board (SAB). The main objective of the SAB is to assure itself that local safeguarding arrangements and partners act to help and protect adults at risk in its area. A SAB has three core duties:

- It must publish a strategic plan for each financial year that sets how it will meet its main objective and what the members will do to achieve this.

- It must publish an annual report detailing what it has done during the year to achieve its main objective and implement its strategic plan. The report should also detail the findings of any safeguarding adults reviews and subsequent action.
- It must conduct any safeguarding adults reviews in accordance with Section 44 of the Act.

5.1.2 The NPS is not a core member of a SAB. However, the Act enables SABs to include such other agencies or bodies and individuals as the establishing local authority considers appropriate having consulted the SAB's core members. NPS Divisions may, therefore, be invited to become members of local SABs. NPS involvement and contribution to SABs is covered in more detail in the NPS National Partnership Framework: *Safeguarding Adults Boards*.

5.2 Safeguarding adults reviews

5.2.1 An SAB must arrange a safeguarding adults review (SAR) when an adult in its area dies as a result of abuse or neglect, whether known or suspected, and there is concern that partner agencies could have worked more effectively to protect the adult. An SAB must also arrange for a SAR to be undertaken if an adult in its area has not died, but the SAB knows or suspects that the adult has experienced serious abuse or neglect.

5.2.2 The Safeguarding Policy Manager in the Offender Management and Public Protection Group (OMPPG) should be notified when an NPS Division is invited to participate in a SAR. It is important to identify at an early stage whether there are likely to be any other reviews associated with the case, such as Serious Further Offence reviews, MAPPA serious case reviews, domestic homicide reviews or child serious case reviews.

5.3 Safeguarding adult enquiries

5.3.1 Under section 42 of the Care Act 2014, local authorities must make enquiries if they reasonably suspect an adult who meets the definition of "adult at risk" is experiencing, or is at risk of, abuse or neglect. Although the local authority is the lead agency for making enquiries, it may require others to undertake them. The specific circumstances will often determine who is the best person to begin an enquiry. The purpose of an enquiry is to decide whether or not the local authority or another organisation, or person, should do something to help and protect the adult. What happens as a result of an enquiry should reflect the adult's wishes wherever possible, as stated by them or by their representative or advocate.

5.3.2 Enquiries may be in relation to offenders who are victims or perpetrators of abuse or neglect. As relevant partners under Section 6 of the Care Act 2014, NPS Divisions should cooperate with safeguarding adult enquiries, lawfully sharing information as appropriate. An NPS Division should undertake an enquiry on behalf of a local authority only where it is best placed to do so, for example in cases where the person who is the subject of the enquiry is best known by probation staff. Any member of NPS staff undertaking an enquiry must have the requisite skills and knowledge.

5.3.3 One outcome of an enquiry may be the formulation of a safeguarding plan and agreed action for the adult at risk, which should be recorded on their care plan. Where relevant and

appropriate, key actions from the plan to safeguard the adult should be reflected in an offender's sentence plan and risk management plan.

5.4 Information sharing

5.4.1 In order to carry out their functions, SABs will need access to information that a wide number of people or organisations may hold. Under the Care Act 2014, a SAB may ask a person to supply information to it or to another person. The person who receives the request must provide the information to the SAB if:

- The request is made in order to enable or assist the SAB to do its job;
- The request is made of a person who is likely to have relevant information; and
- Either:
 - The information requested relates to the person to whom the request is made and their function or activities; or
 - The information requested has already been supplied to another person subject to a SAB request for information, or is derived from that earlier information.

5.4.2 NPS Divisions should co-operate with any information sharing request from a SAB, considering each request on a case-by-case basis. Any information sharing, whether at the strategic level or in respect of individual cases (see below), must be done in accordance with NOMS policies and the Data Protection Act 1998, and must be based on an assessment of the relevance and appropriateness of the information. Where information is shared there must be a written auditable record.

5.4.3 Early sharing of information is key to providing an effective response in individual cases where there are emerging concerns of abuse or neglect. The Care and Support Statutory Guidance states that to ensure effective safeguarding arrangements:

- All organisations must have arrangements in place that set out clearly the processes and the principles for sharing information between each other, with other professionals and the SAB. This could be via an information sharing agreement to formalise the arrangements; and
- No professional should assume that someone else will pass on information that they think may be critical to the safety and well-being of the adult. If a professional has concerns about the adult's welfare and believes they are suffering or is likely to suffer abuse or neglect, then they should share the information with the local authority and/or the police if they believe or suspect that a crime has been committed.

5.4.4 Managers should ensure that staff are aware of local information-sharing protocols and procedures and have the necessary skills and knowledge to share information appropriately and lawfully. Staff should be familiar with how to escalate matters if they feel an information-sharing request is not being responded to appropriately.

DEFINITIONS

Safeguarding means protecting an adult's right to live in safety, free from abuse and neglect. It is about people and organisations working together to prevent and stop both the risk and the experience of abuse or neglect, while at the same time making sure that the adult's well-being is promoted including, where appropriate, having regard to their views, wishes, feelings and beliefs in deciding on any action. This must recognise that adults sometimes have complex interpersonal relationships and may be ambivalent, unclear or unrealistic about their personal circumstances.¹

The Care Act 2014 defines an **adult** as a person who is aged 18 years or over.

Section 42 of the Care Act 2014 defines an **adult at risk** as an adult who:

- Has needs for care and support (whether or not the local authority is meeting any of those needs) and;
- Is experiencing, or is 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.

Local authorities must promote **well-being** when carrying out any of their care and support functions. Well-being is a broad concept, and it is described as relating to the following areas in particular:

- Personal dignity (including treatment of the individual with respect);
- Physical and mental health and emotional well-being;
- Protection from abuse and neglect;
- Control by the individual over day-to-day life (including over care and support provided and the way it is provided);
- Participation in work, education, training or recreation;
- Social and economic well-being;
- Domestic, family and personal;
- Suitability of living accommodation;
- The individual's contribution to society

There is no hierarchy and all should be considered of equal importance when considering well-being in the round.

¹ Care and Support Statutory Guidance, October 2014.

Abuse is about the misuse of power and control that one person has over another. Where there is dependency, there is a possibility of abuse or neglect unless adequate safeguards are put in place. Intent is not an issue at the point of deciding whether an act or failure to act is abuse; it is the effect of the act on the person and the harm or risk of harm to that individual. Abuse and neglect can take many forms, including:

- Physical abuse
- Domestic abuse
- Sexual abuse
- Psychological abuse
- Financial or material abuse
- Modern slavery
- Discriminatory abuse
- Organisational abuse
- Neglect and acts of omission
- Self-neglect

More detailed information on the different forms of abuse and neglect is contained in the NPS safeguarding adults practice guidance.

LEGISLATIVE FRAMEWORK

Care Act 2014

The Care Act 2014 sets out the statutory framework for the provision of adult social care in England. The main safeguarding provisions are set out within sections 42-46, section 68 and Schedule 2 of the Act, but there is a range of relevant provisions throughout Part One, including the principle of promoting well-being and its component parts. The Act sets out a clear legal framework for how local authorities, working in partnership with other agencies, should protect adults at risk of abuse and neglect. It requires each local authority to:

- Co-operate with each of its relevant partners in order to protect the adult. In turn each relevant partner must also cooperate with the local authority (s.6).
- Make enquiries if it believes an adult is experiencing, or is at risk of, abuse or neglect (s.42).
- Set up a Safeguarding Adults Board (s.43).
- Arrange for a safeguarding adults review when an adult in its area dies as a result of abuse or neglect, whether known or suspected, and there is concern that partner agencies could have worked more effectively to protect the adult. An SAB must also arrange for a SAR to be undertaken if an adult in its area has not died, but the SAB knows or suspects that the adult has experienced serious abuse or neglect (s.44).

The NPS is a relevant partner for the purposes of s.6. It is required to co-operate with local authorities in the exercise of their respective functions relating to adults with care and support needs and to carers. The aims of co-operation are to:

- Promote the well-being of adults needing care and support and their carers;
- Improve the quality of care and support for adults and support for carers;
- Smooth the transition from children's to adult services;
- Protect adults with needs for care and support who are experiencing, or are at risk of, abuse or neglect; and
- Identify lessons to be learned from cases where adults with needs for care and support have experienced serious abuse or neglect, and applying those lessons to future cases.

Care and Support (Eligibility Criteria) Regulations 2014

These Regulations set out the national eligibility threshold for adults with care and support needs. The threshold is based on identifying how a person's needs affect their ability to achieve relevant outcomes, and how this impacts on their well-being as a consequence. In considering whether an adult with care and support needs has eligible needs, local authorities must consider whether:

- The adult's needs arise from or are related to a physical or mental impairment or illness;

- As a result of the adult's needs the adult is unable to achieve two or more of the specified outcomes²;
- As a consequence of being unable to achieve these outcomes there is, or there is likely to be, a significant impact on the adult's well-being.

Social Services & Well-being (Wales) Act 2014

The Social Services & Well-being (Wales) Act 2014 reforms social services law within Wales. It makes provision about:

- Improving the well-being outcomes for people who need care and support, and carers who need support;
- Co-operation and partnership by public authorities with a view to improving people's well-being;
- Complaints relating to social care and palliative care; and
- Safeguarding Adults Boards and Safeguarding Children Boards.

The Act, which comes into force in 2016, promotes people's independence to give them a stronger voice and control. It strengthens collaboration, provides a framework for integration of key services, and places new duties on local authorities, Local Health Boards and other public bodies to improve the well-being of people with care and support needs. At the time of writing, consultation was being undertaken on the Act's implementation.

Human Rights Act 1998

The Human Rights Act 1998 gives effect to the rights and freedoms enshrined in the European Conventions on Human Rights. Under Article 8 of the Convention on Human Rights, individuals have a right to respect for their private lives. This is not an absolute right and can be overridden if necessary and in accordance with the law. Interference must be justified and be for a particular purpose. Justification could be protection of health, prevention of crime, and the protection of the rights and freedoms of others.

Mental Capacity Act 2005

The Mental Capacity Act 2005 governs decision-making on behalf of adults, both where they lose mental capacity at some point in their lives and where the incapacitating condition has been present since birth. It sets out the key principle that a person must be assumed to have capacity until it is proved otherwise. A person must be supported to make his or her own decision, as far as it is practicable to do so. The Act requires "all practicable steps" to be taken to help the person. It is expressly provided that a person is not to be treated as lacking capacity to make a decision simply because he or she makes an unwise decision. However, if a person with capacity is making an unwise decision that puts others at risk, sharing information without their consent may be justified in the wider public interest, for example where others may be at risk of abuse or neglect if no action is taken or to prevent a crime being committed. Where an adult is found to lack capacity to make a decision then any action taken, or any decision made for, or on their behalf, must be made in their best interests.

² The specified outcomes are described in the Care and Support Statutory Guidance, October 2014.