

Safeguarding Adults - Reporting Crimes to Police

This briefing has been developed to support all practitioners across health, social care, and the private and voluntary sector to be confident about when to report suspected crimes to police and what factors to take into account when a victim is withholding or unable to consent.

Contents of This Briefing:

- Decision Making Flowchart
- Independent Advocacy
- Wilful Neglect and Ill-Treatment
- Practice Examples
- Further Reading and Resources

Key Messages For Practice

Timely and appropriate reporting to police promotes access to justice

People with care and support needs can face particular challenges in accessing protection from crime, exercising their rights and accessing justice when they have been a victim of crime.

Only the police can investigate crimes, NOT any other professionals or employers

Employers and other practitioners often start investigating alleged crimes before reporting to the police. This makes successful prosecution much less likely. It is not appropriate for safeguarding enquiries or complaint responses to amount to an investigation of crimes.

You do NOT need proof that a crime has taken place before you report it

A reasonable suspicion is all you need. You do not need to be certain.

Early involvement of police can increase access to justice

This optimises the ability of the police to gather evidence and increase safety of the adult at risk

Sometimes reports to police should be made without a victim's consent

Reporting crimes to the police can protect other people, can protect life, and can prevent future crimes. There are some circumstances where you should report alleged crimes regardless of the victim's consent.

Disclaimer: Whilst every effort has been made to ensure the accuracy of these materials, advice should be taken by your own agency before action is implemented or refrained from in specific cases. No responsibility can be accepted by the Safeguarding Partnership for action taken or refrained from solely by reference to the contents of these materials.

Decision Making Flow Chart



You are concerned a crime has been committed or is about to be committed against a person

Is it safe to contact the victim to discuss the allegation?
There are some situations where contacting the victim may increase risk to them. Victims of domestic abuse, modern slavery and Human trafficking May face an increase in risk if you contact them directly. Is there a safer way to do this?

No, it is not safe

Report the suspected crime to police - record and share your information about the level of risk

If you suspect imminent danger call 999
If not, call 101.

Yes, it is safe

Contact the adult at risk to discuss the situation, appraise their safety and explore their views on reporting the crime to police

Yes

Does the adult consent to a report being made to police?

Provide support to the adult to make the report. NB. This could include calling the police with the adult or making a report yourself or agreeing for someone else to make the report.

No

Do you believe the person has mental capacity to consent to reporting to the Police?

Yes

There are a range of reasons why you should report a suspected crime to police without the consent of the adult at risk

No

If a person lacks capacity to consent, the alleged crime should be reported to the police in their best interests.

The principles of UK General Data Protection Regulation (GDPR) and the Data Protection Act (DPA) 2018 provide the legislative framework to support the sharing of information where it is necessary and proportionate.

Data Protection Act 2018 explains when it is right to share information with the police without consent

It is necessary for the prevention or detection of a crime

Lean towards reporting alleged crimes to the police unless you have a good reason for not doing so

Victims sometimes withhold consent because they fear retribution, are under duress, or because they are victims of coercion and control, which in itself is a crime

It is necessary to protect life

If you thought the victim or anyone else is at risk of further harm which could be life threatening

Cases of domestic abuse, modern slavery and trafficking, and severe neglect can pose a risk to life.

For reasons of substantial public interest, including safeguarding adults with care and support needs and/or children from harm

The alleged perpetrator is a person in a position of trust with children or adults or poses a risk to other vulnerable adults

You reasonably believe the alleged perpetrator poses a substantial risk to the public

You suspect ill-treatment or wilful neglect, by a care provider.

If you are unsure seek legal advice and speak to your safeguarding lead.

Record your decisions and reasoning for sharing information with police without consent.

Ill-Treatment and Wilful Neglect

People with care and support needs are at **higher risk of abuse** and neglect than the wider population. The law provides **additional protections** for them. **Practitioners should be able** to identify when **neglect and abuse by carers**, paid and unpaid, **could be criminal**. Suspicions of wilful neglect and ill-treatment should be **reported to police at an early stage**.

Sections 20 and 21 of the Criminal Justice and Courts Act 2015 make it a criminal offence for an individual or an organisation to wilfully neglect or mistreat any person who is in receipt of any type of health and/or social care provision. This offence can apply even where no actual harm was caused

This offence applies

- to all formal healthcare provision for adults and children in both the NHS and private sector, other than in specific excluded children's services and settings;
- to all formal adult social care provisions, in both the public and private sectors, including where care is self-funded; and
- to individuals and organisations paid to provide or arrange for the provision of these health and adult social care services.

Section 44 of the Mental Capacity Act 2005 makes it a criminal offence to ill-treat or wilfully neglect an adult who lacks mental capacity. This offence can apply even where no actual harm was caused.

This applies to anyone who:

- provides care - paid or informal - for a person who lacks, or whom the carer reasonably believes lacks capacity,
- holds Lasting Power of Attorney for the person who lacks mental capacity
- are court appointed deputies for the person who lacks mental capacity

Definition of ill-treatment and wilful neglect:

- deliberate conduct which could reasonably be described as ill-treatment, irrespective of whether it damaged or threatened to damage the health of the victim; and
- an understanding by the offender at the time of the offence that he was inexcusably ill-treating an adult with care and support needs or healthcare needs, or that he was reckless as to whether he was inexcusably acting in that way.

Independent Advocacy

Advocacy can be valuable to support victims' access to justice, exercising their rights and to ensure their voice is heard. There are different advocacy options available for adults with care and support needs.

Care Act Advocacy for Adults With Care and Support Needs

Adults with care and support needs who are **subject to a safeguarding enquiry** are legally entitled to **Care Act Advocacy** if they have **no-one in their social network** who is **willing and sufficiently able to represent them**. Referrals for Care Act advocacy are made by Adult Social Care.

Care Act advocates can **support adults with care and support needs** in their **liaison with police** where they are subject to a **safeguarding enquiry**.

Advocates help adults at risk to **understand what is happening** and to **give their views and wishes**, and **make informed choices**. They can also **support communication** with adults at risk.

Further information about Care Act 2014 advocacy can be found on [POhWER's website](#).

Hillingdon Domestic Abuse Advocacy Service

Victims of Domestic Abuse can utilise specialist advocacy support. The service is for ALL Domestic Abuse cases, irrespective of gender and risk level. This service is available to people with care and support needs, as well as other victims of Domestic Abuse.

Open: Monday to Friday, 9am to 5pm.

Tel: 07874 620954

Email: HDAAS@hillington.gov.uk



Independent Sexual Violence Advocacy

Victims of sexual violence can access an Independent Sexual Violence Advocate (ISVA) to support them. These advocates can support them with their engagement with police and the justice system and this can support successful prosecution of sexual crimes and can improve the experience of the victim.

There are a range of charities who employ ISVA's and people can contact them directly for support. The police often discuss a referral to an ISVA following a report of sexual violence.



Practice Examples

Liz, 67 years old, lives on her own and has dementia. She is supported by a care agency who meet her day to day needs. Liz told her son that she has been giving money to one of her carers regularly because the carer demands the money and Liz is scared of her. There is no good reason that Liz should be handing over cash to this carer.



This looks like financial exploitation. It is exploitation by a care worker of a person who is receiving social care. Liz and her son want the carer to stop coming but do not consent to police involvement.

What do you do?

- This appears to be a crime under s.20 of the Criminal Justice and Courts Act 2015 as it is alleged ill-treatment of a person in receipt of social care by a care worker.
- There is a risk that this care worker could harm other people with care and support needs so reporting to the police is in the public interest. Therefore Liz's refusal to consent to police involvement should be overridden and her information shared to protect the public.
- The reasons for reporting this crime to the police should be explained to Liz and should be clearly recorded.
- A Safeguarding Concern should be raised with Adult Social Care and a Safeguarding Enquiry under s.42 should be considered.
- Police, the care agency, and Adult Social Care should work together to safeguard Liz and other adults at risk from this care worker.
- The care agency must NOT investigate this complaint but must take steps to protect other people while the Police investigate.

Elicia, attends a drop in session for adults with severe and enduring mental illness. She tells a member of staff that Jeff, another service user, followed her home from the drop-in centre and raped her.



Elicia does not want this to be reported to the police. She is wary of retribution from him and feels ashamed of what happened. She is also scared the police will not believe her.

What do you do?

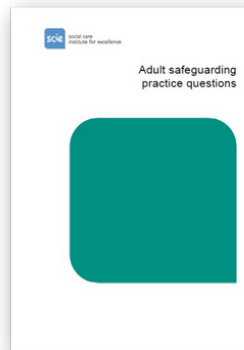
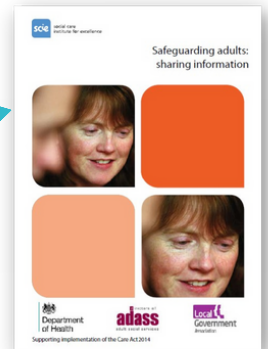
- Elicia has mental capacity to consent but is NOT consenting to police report because of fear of further harm from Jeff. This indicates ongoing risk of harm.
- Rape is a very serious crime and there is a duty to share information to enable the detection and prevention of crime.
- There is a potential risk to other members of the public, particularly other female service users of the drop in centre. Reporting this crime to the police appears necessary to protect members of the public from sexual violence.
- Explain to Elicia that you need to report this to police to protect her and other people.
- If possible call Police with her and support her to explain to them her fears of the consequences of reporting.
- Support her to attend a Sexual Assault Referral Centre - especially if the offence is very recent.
- Offer to make contact with a rape support service to identify an available ISVA.
- Raise a Safeguarding Concern with Adult Social Care and a Safeguarding Enquiry should be urgently considered.
- Police, Adult Social Care, mental health services and the Drop in Centre safeguarding lead need to work together to keep Elicia and other women at the Drop in centre safe.

Further Reading and Resources

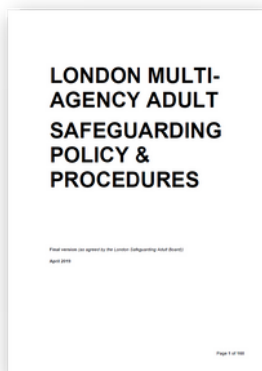
Information Commissioner's Office - Guide to the General Data Protection Regulation (GDPR)



SCIE - Safeguarding adults: sharing information guidance



SCIE - Adult safeguarding practice questions - section 11: At what point should the police become involved in a safeguarding enquiry



This document describes the responsibilities of all safeguarding partners - including care providers, voluntary sector, social care, health services and police and anyone else involved in safeguarding adults.

Chapter 14 sets out the legal guidance on Safeguarding Adults

