

**ORGANISATIONAL MODULES 2024**

**MUCKAMORE ABBEY HOSPITAL INQUIRY  
WITNESS STATEMENT**

**Statement of Lindsay Fisher  
Date: 27 August 2024**

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I, Lindsay Fisher, make the following statement for the purpose of the Muckamore Abbey Hospital (MAH) Inquiry.

The statement is made on behalf of the Police Service of Northern Ireland in response to a request for evidence by the Inquiry Panel.

This is my first statement to the Inquiry.

I will number any exhibited documents, so my first document will be "Exhibit 1".

**Qualifications and positions**

1. I am a Temporary Detective Chief Superintendent in the Police Service of Northern Ireland (PSNI). I currently hold the position of interim Head of Public Protection Branch within the PSNI.
2. I hold a degree in Degree in Law and Politics and professional qualifications in Management and during a 22-year policing career I have held the following positions within local policing and tactical crime between 2002 and 2005. From 2005 to present, I have held various roles within Public Protection and Serious Crime.
  - a. (2005 to 2008) I was a Detective within Child Abuse and Rape Enquiry

- b. (2008 to 2012) I was then a Detective Sergeant in Rape Crime Unit
  - c. (2013-2015) I was a T/Detective Inspector in Domestic Abuse, Adult Safeguarding and Offender Management.
  - d. (2015-2019) I was then substantively promoted to a Detective Inspector within Serious Crime.
  - e. (2019-2022) I returned to Public Protection Branch as a Detective Chief Inspector.
  - f. (2022-2024) I was a Detective Superintendent in Public Protection
  - g. January 2024 to present, I have held the post of T/Detective Chief Superintendent in Public Protection Branch.
3. Therefore, the majority of my policing service has been linked with safeguarding and public protection investigations around vulnerability and serious crime.

## **Module**

4. I have been asked to provide a statement for the purpose of Module 4: Police Role in Safeguarding and Responding to Allegations.
5. My evidence primarily relates to paragraph 13 of the Inquiry's Terms of Reference.
6. I have been asked to address a number of questions/ issues for the purpose of my statement. I will address those questions/issues in turn.

## **Q1. Please provide an overview of the role of the PSNI in the Joint Protocol.**

7. The role of the PSNI within the Joint Protocol is understandably of interest to the Inquiry under the Inquiry's Terms of Reference. It may assist the Inquiry to understand the origins and development of the Joint Protocol, as practiced in

Northern Ireland, and to do this a brief overview of the Joint Protocol over the last two decades is required.

8. A "Protocol for Joint Investigation of Alleged and Suspected cases of Abuse of Vulnerable Adults" was published in December 2003. This protocol draws from, among other sources, the Home Office/Department of Health "No Secrets: Guidance on developing and implementing multi-agency policies and procedures to protect vulnerable adults from abuse" published in 2000. The "No Secrets" and 2003 Protocol documents are attached as Exhibit 1 and Exhibit 2.
9. The 2003 Joint Protocol is not a lengthy document but notes that it is the role of the PSNI to investigate alleged or suspected criminal abuse against the vulnerable adult. At this point it should be noted that the terminology "vulnerable adult" is widely used in older versions of the Protocol and in the context of this statement the term has the same meaning as "adult at risk of harm and in need of protection" which is in current usage.
10. The 2003 Joint Protocol notes that in the majority of cases PSNI will require the consent of the vulnerable adult, with exceptions where the vulnerable adult lacks capacity or where the PSNI deem that it is necessary to intervene to prevent a crime. The 2003 Protocol also notes that it is the role of the PSNI to determine the category of an offence following a referral. This Protocol also introduced AJP (Adult Joint Protocol) forms to improve records management and enhance consistency and accountability.
11. The introduction of the Criminal Justice (NI) Order 2008, in particular Articles 49 and 50, led to the development and publication in October 2008 of the "Guidance to Agencies on Public Protection Arrangements" (PPANI). This is commonly known as the PPANI Manual. The PPANI guidance had the core objective of increasing public protection in Northern Ireland, particularly the protection of children and other vulnerable groups. Articles 49 and 50 of the Order and the PPANI guidance are attached at Exhibit 3 and Exhibit 4 and were instrumental in the formation of PSNI's Public Protection Unit, consisting of

specialist officers investigating the most serious and complex cases of child abuse, rape, domestic violence and adult safeguarding.

12. The newly formed Public Protection Units also assumed responsibility for the management of serious and violent offenders as provided for in the PPANI Manual, replacing the MASRAM (Multi Agency Sex Offender Risk Assessment and Management) system dating from 2001.
13. Outside of the Public Protection Unit, within local policing command areas, PSNI introduced, in 2008, the MVPO (Missing and Vulnerable Person Officer) role, the profile for which was drawn from the PPANI Manual and can be found attached at Exhibit 5. It can be seen from the MVPO role profile that the MVPO role involved a high degree of multi-agency and partnership working under the existing Joint Protocol. MVPO's were responsible for dealing with both children and vulnerable adults, however, the proportion of time spent on each discipline varied due to geographical factors. For instance, if a local policing area had one or more children's residential homes within its geographical boundaries, a large proportion of the MVPO's time was likely to be spent investigating reports of missing children, leaving less capacity for investigations relating to vulnerable adults or adult safeguarding referrals. One MVPO post existed in each local policing area.
14. This geographical variance was particularly marked when considering the role of the MVPO with responsibility for Muckamore Abbey Hospital from 2008 onwards. Local Policing Areas are referred to as Districts, with MAH sitting within "D" District, roughly aligned with the former boundaries of Newtownabbey and Antrim Borough Council area, but also encompassing part of Lisburn.
15. MAH, Holywell Psychiatric Hospital and Lagan Valley Hospital all sat within the geographical area of 'D' District. The below figure depicts the year-on-year increase in Vulnerable Adult/Adult Safeguarding referrals in 'D' District. It should be noted that in 2012 and 2013, the total number of the VA referrals received in 'D' District accounted for approximately 50 % of the total referrals for Northern Ireland.

YEAR	REFERRALS	% INCREASE
2008	9	
2009	15	66.60%
2010	73	38.60%
2011	225	208.20%
2012	507	125.30%
2013	778	53.50%
2014	199	01/04/14

16. During 2008- 2014, the large number of MAH referrals to the PSNI resulted in very regular communication between MAH Staff and the MVPO. Prior to the formation of the PSNI's Central Referral Unit in 2014 all referrals were phoned or emailed directly to the MVPO. It is generally accepted that it was common practice for staff from MAH and other professionals to telephone the MVPO with a request to "seek advice" on a set of circumstances or situation, as an alternative to completion of the AJP1, AJP2, and AJP3 forms introduced by the 2003 Joint Protocol. Without completion of the relevant AJP forms it was not possible to accurately record and manage the large number of VA referrals, leading to PSNI MVPO for D District insisting that no referral would be accepted in the absence of any accompanying AJP paperwork.

17. The legislative and operational changes from 2008 onwards outlined above necessitated a review of the Joint Protocol. In July 2009, the identically titled "Protocol for Joint Investigation of Alleged and Suspected Cases of Abuse of Vulnerable Adults" was agreed between PSNI, HSC and RQIA.

18. The 2009 Joint Protocol is attached as Exhibit 6 and includes a wider definition of what constitutes a vulnerable adult than the 2003 Protocol, drawing from the guidance of the 2008 Order. The 2009 Protocol (at 5.1) also builds and improves significantly on the 2003 Protocol by expanding on the rights of vulnerable adults in relation to ownership and understanding of the investigation of their allegations. In the 2009 protocol (at 7.4), the role of PSNI is “determined by their statutory responsibility to protect life and property, preserve order, prevent crime and, where a criminal offence has been committed, bring offenders to justice.”. This remains unchanged from the 2003 Protocol.
19. The 2009 Protocol also states that the AJP forms **must** be used to record any strategy consultation between agencies, which enabled PSNI MVPO’s to manage and record referrals more effectively and enhanced the accountability of the process.
20. As outlined above, the role of the MVPO varied according to location but in order to better assist with the Inquiry’s Terms of reference it is prudent to use the D District MVPO example to illustrate the role of PSNI under the 2009 Joint Protocol.
21. In general terms, on receipt of a referral by either telephone or email, the MVPO based in Antrim PSNI station, would conduct an initial conversation with the referrer to establish details. They would then agree with the referrer as to whether the matter should be progressed as a Joint, Police only, or Social Services only investigation and create a Command-and-Control Report (Command and Control being the police crime recording system in use at the time). They would then liaise with Local Policing colleagues for any necessary assistance with fast track or urgent actions. They would make a record of the alleged crime by completing an IRF (Incident Report Form), conduct Pre-Interview Assessments and/or Achieving Best Evidence Interviews, manage and update the electronic record of the incident on the PSNI NICHE computer system, attend Strategy meetings and prepare and submit completed Adult Safeguarding investigations to the PPS. This is not an exhaustive list.

22. PSNI'S Public Protection Branch was formed in 2014 as a sub-branch within Crime Department. Public Protection Branch is geographically aligned with the five Health Trusts within Northern Ireland rather than Borough Councils, which allows for improved, more efficient partnership working between Health Trusts and the PSNI.
23. The formation of Public Protection Branch included the establishment of a Central Referral Unit (CRU). Central Referral Unit consists of a dedicated team of specialist officers who have received full training on both the Child and Adult Joint Protocols and are the first point of contact for any referring or partner agency with a concern regarding a child or adult in need of protection and at risk of harm.
24. CRU also manage internal PSNI referrals, for example, if a uniformed officer receives a call for service and on attendance at the call becomes concerned that a person may be at risk of harm and in need of protection, the officer will contact CRU before the termination of their duty to make CRU aware of their concerns and provide a handover. CRU will then contact the relevant Trust and commence an initial discussion under the terms of the Joint Protocol. This ensures that the protections and principles of the Joint Protocol are adhered to in cases where the initial attending officer is not Joint Protocol trained and ensures consistency of application of the Joint Protocol across the Health Trust areas.
25. From late 2014 onwards, the role of the MVPO as described above ceased to exist as the functions and responsibilities of the role were assumed by Public Protection Branch. In practice, this involved the appointment and training of specialist Adult Safeguarding Detectives, reporting directly to the Public Protection Branch Senior Leadership Team. An experienced senior officer in the PPB Senior Leadership Team, currently Detective Chief Inspector Duffie, is the PSNI lead for Adult Safeguarding. PSNI's Public Protection Branch has a unique dual role within the PSNI, alongside the daily policing duties of preventing, detecting and investigating serious crime against the most vulnerable members of society, PPB also functions as a key stakeholder in the

development of policy, most pertinently for the purposes of this statement, the (Draft) Adult Safeguarding Bill for Northern Ireland 2023.

26. Returning to the chronology of the Joint Protocol, the latest version of the Joint Protocol was published in August 2016 which is attached at Exhibit 7 and outlines the role of the PSNI at section 1.6. The overarching purpose and responsibility of the PSNI is to keep people safe, to prevent crime, detect offenders and protect the most vulnerable in our society. Within all iterations of the Joint Protocol, PSNI work in partnership with other agencies and the public to determine if a crime or potential crime has been committed. Where a crime or potential crime is identified, PSNI will conduct a criminal investigation and gather evidence before preparing a file for the Public Prosecution Service.

**Q2. Do standards exist regarding the timescale to complete a safeguarding investigation? If so, please provide an overview of those standards.**

27. The 2003, 2009 and 2016 Joint Protocols do not outline prescriptive timescales for completion of Adult Safeguarding investigations. PSNI has established file timeliness protocols in place to regulate the submission of files to the PPS at the conclusion of an investigation. All investigations are reviewed at a minimum every 28 days by a supervisor (Sergeant or Detective Sergeant) and at 56 days by the Senior Investigating Officer (Inspector or Detective Inspector) to ensure investigations progress in a timely and expeditious manner.

28. In addition, PSNI PPB analytical staff produce an "Adult Safeguarding Performance Report Card" on an annual basis, incorporating data from the previous 12 months. Four key indicators are measured, one of which is the delivery of effective crime outcomes for Adult Safeguarding Offences. Effective crime outcomes are measured by comparing sanctioned outcome rates and file timeliness.

29. Within Public Protection Branch, which has responsibility for the majority of Adult Safeguarding investigations, Public Protection Branch administrative staff identify all investigations over six months old in order that these can be



highlighted to SIOs for additional supervision support if required. The Op Turnstone Adult Safeguarding investigation is in its 6<sup>th</sup> year but given the unprecedented scale of the CCTV evidence available it should not be viewed as an example of a standard timescale.

**Q3. If standards in relation to timescales exist, are they met in practice? If not, why not?**

30. Public Protection Branch has a high adherence rate to the file submission standards laid out above. It should, however, be recognised that whilst there are indicative timescales for investigations being submitted, this is when the investigative steps have been completed. Investigations represent different levels of complexity, therefore, this impacts on the investigative timeline, and length of the investigation. Where individual officers fail to meet file submission standards, on more than one occasion, a mechanism exists for escalation to senior management who can then meet with the officer to establish what further action if any is required to complete the investigation. However, it must be understood that multi-agency Adult Safeguarding investigations can involve complex and protracted enquiries and can be slow to progress due to a number of factors unique to this category of investigation. For example, the capacity of the subject of an Adult Safeguarding investigation is not a constant. On many occasions PSNI will receive a referral from medical, social work or psychiatric care professionals on behalf of a vulnerable adult who is deemed to lack the capacity to engage in a criminal investigation at the time of report. PSNI provide a victim focused service and it is reasonable in these circumstances to leave a referral open for a protracted period of time to allow the subject to recover or regain capacity.

31. Moreover, input from other external agencies such as Family Courts, Independent care facilities and Financial Institutions can be required to progress many Adult Safeguarding investigations which can lead to delays in gathering evidence outside of the PSNI's control. Requests for extensive third-party material are standard practice in Adult Safeguarding investigations and such material must be gathered, reviewed, redacted and scanned and exhibited

before an investigation can be considered complete, leading to longer timeframes for more complex investigations.

**Q4. Are safeguarding investigations managed differently if the subject of the investigation is in a place of safety, such as a hospital? If yes, please explain the differences in management of such a case.**

32. There is no difference in the management of an investigation where the person at risk of harm and in need of protection is in a hospital or similar setting within the 2016 Protocol. In the 2003 Protocol it is noted that the Protocol applies equally to “suspected crimes in domiciliary, community and hospital care if the victim is a vulnerable adult...” (Section 1.4.).
33. Also, in the 2003 Protocol it is specified that any “alleged or suspected instances of abuse in a residential or nursing facility must be reported to the R and I Unit.” (Registration and Investigations Unit). Sections 6.10 and 6.11 of the 2003 Joint Protocol, entitled “Alleged or Suspected Criminal Abuse in Residential or Nursing Facilities” outlines the actions to be taken where the subject is in a care setting, which consist of additional notifications to be made, for example to the RQIA, but does not provide for the investigation to be managed differently.
34. During a Joint Protocol investigation, consideration must be given to the safeguarding of the vulnerable adult and any other adults at risk of harm from the alleged perpetrator throughout the duration of the investigation and afterwards. Police and Social Services will work together to put in place appropriate safeguarding arrangements bespoke to each case, with Social Services leading in accordance with their statutory responsibilities. In a community setting this is generally achieved through the convening of a Strategy meeting attended by both agencies, followed by a Safe Care Plan or equivalent drawn up and implemented by Social Services/Trust staff.
35. A Safe Care Plan or equivalent will generally stipulate that the alleged offender is to have no contact, or supervised contact only, with the subject of an

investigation. This is the case in both Adult Safeguarding and Child Safeguarding Joint Protocol Investigations.

36. Clearly in a hospital or residential setting where, as the Inquiry have heard, there are limited staff available, no contact or supervised contact arrangements may be challenging to put into practice. In an investigation where PSNI have sufficient grounds to arrest the alleged offender, bail conditions relating to contact with the subject may be imposed as a protective measure, but PSNI bail conditions should not be viewed as an alternative to HSC safeguarding measures, rather as an additional protective measure where a high level of risk is identified.

37. A minor practical difference would be that when investigating an alleged incident in a hospital or similar setting the PSNI Investigating Officer may liaise with hospital social workers and professionals in addition to, or instead of, community based Social Workers when carrying out the Joint Protocol aspects of an investigation. For example, most Social Workers who are trained in conducting ABE interviews under the Joint Protocol are based in Social Services Gateway teams rather than in hospitals or similar settings. It is best practice however that the Social Worker who knows the subject adult best should be involved in the evidence gathering process to best support the adult at risk of harm and in need of protection. An ABE interview therefore with a hospital patient may involve both a Joint Protocol trained, community Social Worker and a hospital Social Worker.

**Q5. Do PSNI investigations into safeguarding consider system factors (such as, for example, staffing levels or the presentation of other patients on the ward at the relevant time) as well as the actions of those involved in the incident? If so, in what way are such factors considered?**

38. Police powers of investigation in Northern Ireland are governed mainly by the Police and Criminal Evidence (Northern Ireland) 1989 and the associated Codes of Practice. During a PSNI investigation into any allegation of abuse the Investigating Officer will consider all relevant factors before submitting a file to

the Public Prosecution Service. It is the role of the PSNI to gather all the available evidence and submit a file to the PPS with either a No Prosecution Recommendation or a Prosecution Recommendation.

39. In general terms, where there is evidence to indicate that a criminal offence has been committed by the alleged perpetrator, a recommendation of Prosecution will naturally follow. It then falls to the PPS to determine whether firstly, the evidence provided has met the required standard for a prosecution, and secondly, whether it is in the public interest to prosecute.
40. Again, in general terms, during an Adult Safeguarding investigation, a PACE interview of the alleged offender will be conducted in order to obtain evidence by questioning. At the outset of any PACE interview the person being interviewed will be cautioned in accordance with Article 3 of PACE in the following terms: "You do not have to say anything, but I must mention when questioned something which you later rely on in Court it may harm your defence. If you do say anything it may be given in evidence." This caution is then explained in simple terms to the person being interviewed so that they understand that they are being afforded the opportunity within the interview to provide their account of events and put forward any reasonable excuse or mitigation that may be relevant to the offence they are suspected of committing. It would not be uncommon for 'system factors' as described in MAHI's question to be raised and discussed at this stage.
41. The PPS are provided with a summary or transcript of a suspect interview when a file is submitted, and therefore the PPS Directing Officer will be able to read what, if anything, the suspect has told police regarding understaffing, patients with challenging behaviours, etc, and take that into consideration when deciding whether to return a decision of Prosecution or No Prosecution.
42. Notwithstanding the above, the PSNI Investigating Officer and Supervising Officer retain the discretion to recommend No Prosecution if the evidence gathered indicates that the person suspected of committing the offence has not indeed committed the offence or can avail of a defence provided for in the

specific legislation. The PPS are ultimately responsible in this scenario and can overrule any PSNI No Prosecution recommendation.

**Q6. Do PSNI consider previous safeguarding referrals when investigating allegations at MAH? If so, in what way are these considered?**

43. Earlier in this statement the role of the PSNI Central Referral Unit was outlined. The CRU team is composed of experienced PPB officers and supervisors with access to both current and historical PSNI record management systems. Upon receipt of a referral the CRU officer will conduct research on the subject of the referral, the alleged offender, the location/address of the alleged incident, the nature, number and severity of any previous referrals, and any other matter that may be of relevance to the referral. The CRU officer will conduct an initial information sharing discussion with the relevant Trust counterpart and information will be shared under the Joint Protocol to allow a full picture of the referral to be understood by both agencies. This is the case for referrals in MAH in the same way as for Adult Safeguarding referrals outside of MAH. Where repeat referrals arise it is appropriate for the PSNI, most properly in a Joint Protocol strategy meeting, to explore with Trust colleagues what mechanisms could be put in place to mitigate the risk of a repeat incident.

**Q7. How effective were historical arrangements in adult safeguarding?**

44. The time period covered by the Inquiry's Terms of Reference has seen significant improvement in the effectiveness of Adult Safeguarding in Northern Ireland, yet at time of writing Northern Ireland remains the only part of the UK to have no specific Adult Safeguarding legislation in place. In this vacuum PSNI and partner agencies have relied on a variety of protocols, policies and provisions to deliver an Adult Safeguarding response to the ever-growing number of referrals.

45. In 1999 the Criminal Evidence (NI) Order extended the use of "special measures" in criminal proceedings to vulnerable adults and witnesses, enhancing access to justice for those with learning and mental health

conditions. This was a significant milestone in the ability of the police to investigate and progress investigations involving vulnerable adults. Prior to this police officers investigating an alleged offence against a vulnerable adult faced significant challenges in the evidence gathering process. HSC regional Adult Safeguarding statistics in Northern Ireland date back only as far as 2011 which makes any measurement of efficiency prior to that date challenging.

46. Prior to the formation of PSNI Public Protection Branch which has been outlined earlier in this statement, investigations involving vulnerable adults would have been allocated and categorised by specific crime type; for example, a domestic assault involving a vulnerable adult would have been allocated to the District Domestic Violence Officer, a burglary of a vulnerable adult to CID etc. With the benefit of hindsight this was not an effective practice as it did not allow for officers to gain the experience, skills and understanding of adults with learning or mental health issues that would have provided the best service to the adult or indeed the best prospect of a successful investigation. As the Inquiry and those with experience in this complex area of work will understand, subjects of Adult Safeguarding referrals, by virtue of many complex and interwoven factors, are more likely to be subjects of repeat referrals. A piecemeal approach with involvement of different policing departments as outlined above could have on reflection, been ineffective, failing to address or identify the root issues and potentially causing distress and confusion to the adult at the centre of the referrals. The formation of bespoke, specially trained Adult Safeguarding Teams within PSNI's Public Protection Branch in 2014 was key to addressing this historical issue, and also served to address the shortfall in resourcing of Adult Safeguarding. The Inquiry will no doubt have noted from figure provided earlier in this statement that a large volume of AS work was being managed by one officer during the 2008-2014 period which will likely have had a detrimental effect on the effectiveness of AS investigations and file timeliness.

**Q8. How effective are current arrangements in adult safeguarding?**

47. As outlined earlier in this statement, PSNI's PPB are currently involved in the development of Northern Ireland first Adult Safeguarding Bill. An updated

version of the Joint Protocol is being developed to complement the Bill and incorporate organisational learning since the 2016 Joint Protocol. I have outlined earlier in this statement how the formation of the Central Referral Unit, dedicated teams of Adult Safeguarding Detectives and internal performance indicators all combine to improve the effectiveness of Adult Safeguarding arrangements today.

48. In addition to the measures laid out above, current arrangements in Adult Safeguarding involve the increased use of specialist supportive resources such as Registered Intermediaries (RI's). The use of RI's within Joint Protocol Adult Safeguarding investigations has risen steadily since the introduction of the RI scheme in 2013, enabling greater numbers of adults at risk of harm and in need of protection to overcome communication barriers and engage in criminal investigations.

49. Evidence already provided to the Inquiry has outlined the benefits of CCTV in the Adult Safeguarding context. CCTV can be a vital investigative tool, particularly in cases where alleged victim lacks the capacity to engage or verbalise their experiences. Over the last two decades the increasing prevalence of CCTV in residential care homes and other care facilities and hospitals has enhanced the effectiveness of Adult Safeguarding arrangements, and PSNI advocate the use of CCTV to assist in obtaining positive outcomes for victims of crime.

**Q9. The Inquiry has heard evidence that, on a number of occasions, police were called to private residences or residential care homes to violent patients who required emergency admission to MAH. Please describe the procedure and legal requirements for police to attend and, if necessary, restrain or arrest the patient involved.**

50. PSNI receives around 1,600 calls for service on a monthly basis relating to mental health in both public places and private residences and facilities. The Mental Health (Northern Ireland) Order 1986 (hereafter referred to as the Order) is the relevant legislation governing emergency admissions to MAH or indeed

any other healthcare setting or place of safety within Northern Ireland. The Order is not attached in full at Exhibit 8, but rather the Articles this statement focuses on namely Articles 29, 129 and 130 to best assist the Inquiry in its Terms of Reference.

51. Article 130 of the Mental Health (Northern Ireland) Order 1986 outlines the powers and duties of the PSNI when attending a mental health related incident in a public place. Article 130 of the Order allows PSNI to remove a person from a public place to be conveyed to a place of safety for treatment and care if it is necessary to do so for the protection of that person or others. Clearly this Article does not apply in the cases where, as the Inquiry has heard, PSNI are called to attend a private residence to facilitate or assist Trust colleagues with an emergency admission.

52. When attending a private residence, the relevant legislation is Article 129 of the Order, which allows for a Constable, or a member of HSC staff to apply for a warrant to gain access to the person, and if necessary for Police to remove them to a place of safety for the purpose of assessment. Article 129 provides that such removal can, "if needs be" be by force. The use of force in these circumstances is to be understood in line with Article 88 of PACE, the standard provision for Police use of force, which in essence, must be no more than is reasonable, necessary, justifiable and proportionate.

53. In practice, whilst Article 129 allows for a Constable to make application for the warrant, this function is almost invariably exercised by the Trust. When the warrant is sought by the Trust, Police attendance is at the request of the Trust where the Social Worker seeking the warrant deems it necessary.

54. The Inquiry will be aware that the Northern Ireland Assembly are currently in possession of the Draft Adult Protection Bill for Northern Ireland. The Draft Bill, developed in consultation with PSNI and other partner agencies, including Health and Social Care Trusts, does not allow for such a warrant to be obtained by a Constable, reserving that power to Health and Social Care Trust only.



Therefore, the Adult Safeguarding Bill, once enacted should remove any overlap that currently exists in these contexts insofar as warrants to attend and enter private premises. The Bill will still however allow for HSC staff to request support from PSNI officers if required.

55. It is important to note at this juncture that PSNI Chief Constable Boucher has recently indicated the introduction of the Right Care Right Person policy for the PSNI (RCRP). Under RCRP policy, the threshold for PSNI attendance would become: to investigate a crime that has occurred or is occurring, when there is a real and immediate risk to the life of a person, or of a person being subject to or at risk of serious harm. Thus, looking forward, it is likely that Trust requests for Police attendance at a private residence as a precautionary measure will be declined unless this threshold is met, resulting in no Police attendance. The implementation of the same is currently being reviewed with key Stakeholders and will be outlined later in this statement.

56. Article 29 of the Order provides for the return of any patient Absent Without Leave (AWOL) from a hospital or place of treatment, who may be taken into custody by any Constable or approved social worker or any person authorised in writing by the responsible authority.

**Q10. Can PSNI comment on whether the role of investigating safeguarding incidents such as those at MAH is a role that is more suited to learning disability/ mental health nurses or social care staff than to police officers?**

57. Where a safeguarding incident involves a criminal offence or suspicion of a criminal offence, then this will always fall to the PSNI to investigate. The prevention, detection and investigation of crime is one of the core duties of any police service from which there can be no derogation.

58. However, the PSNI recognises that police officers are not trained learning disability or mental health nurses and lack the in depth understanding and experience of medically trained professionals. This presents a challenge for the

PSNI in the investigation of safeguarding incidents which the various versions of the Joint Protocol have sought to address. With each version of the Joint Protocol, progress has been made in outlining in greater depth the roles and responsibilities of each partner agency within an adult safeguarding investigation, allowing PSNI investigators to benefit from the specialist skills and knowledge of their HSC colleagues.

59. PSNI have also committed to enhancing the skill set of all officers, and PSNI officers receive training throughout their service designed to enhance their understanding and practice when dealing with calls for service involving persons in need of protection and at risk of harm. Attached at Exhibit 9 are the training materials and lesson plans delivered at the PSNI Police College in Garnerville to every Student and Probationary Police Officer.

60. The Inquiry has asked PSNI to comment on the investigation of safeguarding incidents at MAH in particular and it should be noted that the majority of safeguarding incidents at MAH are investigated by Detectives from PSNI's Public Protection Branch. In order to be appointed to the role of Detective, Police Officers must pass the National Investigators Examination set by the National College of Policing. This is a legal examination testing the sound knowledge and understanding of a wide range of legislation, including the Mental Health (NI) Order 1986. On appointment, Public Protection Branch Detectives will be allocated specialist training courses relating to the investigation of cases involving adults at risk of harm and in need of protection. Such courses are jointly hosted by Social Services Trainers and PSNI trainers and involve staff from both agencies working and learning together. An example of this is bespoke Adult Safeguarding ABE (Achieving Best Evidence) training, which Detectives and Social workers use to develop the skills to enable and empower vulnerable adults to engage in the criminal justice process if that is their wish.

**Q11. Can PSNI comment on whether the role of attending private residences or residential care homes, in the manner described in question 9, is a role that is more suited to learning disability/ mental health nurses or social care staff than to police officers?**

61. As outlined in the response to Question 9, police attendance at private residences or residential care homes to facilitate emergency admissions to MAH is generally at the request of HSC colleagues. The basic training provided to uniform officers attending in the manner outlined in Question 9 is no substitute for the professional qualifications in learning disability and mental health held by our HSC colleagues. The implementation of the Right Care, Right Person policy outlined earlier in this statement is intended to ensure that calls for service involving mental health matters are handled by the most appropriate agency. PSNI receive a high number of calls for assistance from HSC staff in relation to individuals experiencing a mental health crisis as physical force is often necessary in such cases. It is important to note however that the Mental Capacity Act (Northern Ireland) 2016 and subsequent Department of Health guidelines provide for the use of force and restraint by HSC staff where necessary, both in private and residential settings.

**Q12. Was there any communication with BHSC regarding any perceived overlap between the role of PSNI officers and the roles of learning disability/mental health nurses or social care staff in these contexts? If so, please provide details.**

62. In the context of attendance at private and residential settings to facilitate emergency admissions to MAH and other facilities, the roles of PSNI and HSC staff are outlined in the new Adult Safeguarding Bill for Northern Ireland which is currently in draft form. There are ongoing meetings between PSNI, HSC and DOH to develop the Statutory Guidance which will accompany the provisions of the Bill relating to Police attendance.

63. In the context of investigation of safeguarding incidents, the roles of PSNI and HSC staff are managed through the application of the Joint Protocol, which

provides for strategy meetings to assist all agencies to make best use of their skills and resources in order to achieve the best outcome for the adult at risk of harm and in need of protection. Strategy meetings are a vital part of the information sharing ethos that is at the heart of the Joint Protocol.

64. The Inquiry has heard evidence that, in the context of Op Turnstone, the efficacy of safeguarding has been impacted by insufficient information sharing regarding the detail of alleged offending behaviour. Given the unprecedented scale of the Op Turnstone investigation, PSNI has put in place a bespoke series of safeguarding arrangements at a senior governance level where information is shared whilst still preserving the integrity of the ongoing investigation. PSNI can provide further detail to the Inquiry regarding these safeguarding meetings if required.

**Q13. Would PSNI report staff to the staff member's regulator (if any) in circumstances where the criminal standard was not met, but there remained concerns about the staff member in question?**

65. The PSNI has a dedicated Protective Disclosure Unit (formerly known as Criminal Records Office), within Criminal Justice Branch which carries out enhanced employment vetting on behalf of all national Disclosure Agencies in line with the national Quality Assurance Framework. The Protective Disclosure Unit (PDU) work with other partners such as Social Services, Prison Service, An Garda Siochana and Probation Board, NMC and NISCC. PDU also has responsibility for dealing with Common Law Police Disclosure (CLPD) requests from operational Officers in regards to safeguarding children and adults at risk of harm and in need of protection.

66. Common Law Police Disclosure (CLPD) ensures that where there is a public protection risk, the police will pass information to the employer or regulatory body to allow them to act swiftly to mitigate danger. All operational officers receiving training on CLPD and attached at Exhibit 10 is a "Practical Peeler" aide memoire for frontline officers. Public Protection Branch Detectives and staff are accustomed to consideration of CLPD and at the outset of every

investigation will assess if a CLPD referral is required. Attached at Exhibit 11 is the template which must be completed by an Investigating Officer and forwarded to the PDU when CLPD is being considered, which should assist the Inquiry in understanding the factors considered by PDU in determining whether or not to make a disclosure to an employer or regulator.

67. The Inquiry have asked whether PSNI would report staff in circumstances where the criminal threshold is not met and the aforementioned exhibits should assist the Inquiry in establishing that PSNI can, in certain circumstances, make disclosures to an employer or regulator prior to any charging decision by the PPS, however it is vital to note that each case is considered on an individual basis depending on the nature and severity of the allegations amongst other factors. The rights of the subject, particularly in cases where the subject has not been reported for or convicted of any criminal offence, must be given due consideration and weight.

**Q14. Do you wish to draw the attention of the Panel to any other matters not covered by the above statement that may assist in the Panel's consideration of paragraph 13 of the Terms of Reference.**

68. The PSNI do not wish to draw the attention of the Panel to any other issue but wish to take this opportunity to re-affirm PSNI's commitment to full co-operation and support for the Inquiry.

### **Declaration of Truth**

The contents of this witness statement are true to the best of my knowledge and belief. I have produced all the documents which I have access to and which I believe are necessary to address the matters on which the Inquiry Panel has requested me to give evidence.

Signed: 

Date: 27 August 2024

**List of Exhibits (Lindsay Fisher)**

- Exhibit 1: Protocol for Joint Investigation of Alleged and Suspected cases of Abuse of Vulnerable Adults” was published in December 2003.
- Exhibit 2: The Home Office/Department of Health “No Secrets: Guidance on developing and implementing multi-agency policies and procedures to protect vulnerable adults from abuse” published in 2000.
- Exhibit 3: Articles 49 and 50 of the Criminal Justice (NI) Order 2008.
- Exhibit 4: The Guidance to Agencies on Public Protection Arrangements referred to as the PPANI manual published in October 2008.
- Exhibit 5: Profile for the Missing and Vulnerable Person Officer (MVPO) role.
- Exhibit 6: Protocol for Joint Investigation of Alleged and Suspected Cases of Abuse of Vulnerable Adults (the Joint Protocol) published July 2009.
- Exhibit 7: Most recent version of the Joint Protocol published in August 2016.
- Exhibit 8: Articles 29, 129 and 130 of the Mental Health (Northern Ireland) Order 1986.
- Exhibit 9: Training materials and lesson plans delivered at the PSNI Police College in Garnerville to every Student and Probationary Police Officer.
- Exhibit 10: “Practical Peeler” aide memoire for frontline officers.
- Exhibit 11: Template to be completed by an Investigating Officer and forwarded to the PDU when Common Law Police Disclosure is being considered.

Protocol For

# Joint Investigation

of Alleged and Suspected  
Cases of Abuse of  
Vulnerable Adults

December 2003

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## FOREWORD

In recent years, significant efforts have been made within Health and Social Services and the Police Service to establish procedural and operational arrangements in order to respond effectively to the abuse or exploitation of vulnerable adults. This has involved a considerable degree of interagency liaison in order to develop effective partnership working which will help to prevent abuse and respond appropriately and sensitively when it occurs.

New measures designed to support vulnerable and intimidated witnesses will result in even closer working arrangements between police officers and Health and Social Services staff.

This protocol is an important aspect of these changes in attempting to outline the roles and responsibilities of the respective agencies and providing guidance about joint working arrangements and investigation. It has been developed in partnership between the Police Service of Northern Ireland, DHSS&PS, Health and Social Services Boards and Trusts in Northern Ireland. It is based on the recognition of the need for more coordinated interagency working to ensure that vulnerable adults, who are at risk of abuse, receive protection, support and equitable access to the criminal justice system.

The protocol was underpinned by local research, and has taken cognisance of the most recent guidance issued in Great Britain by the Home Office and Department of Health.<sup>1 2</sup> This requires agencies to investigate and take action when a vulnerable adult is believed to be at risk of abuse, to develop interagency policies, procedures and joint protocols that draw on good practice.

Although other agencies will be involved in aspects of the investigative process, the PSNI, Trusts and Boards, through their Registration and Inspection Units, have traditionally taken the lead roles in investigating abuse and reporting crimes. The protocol has

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<sup>1</sup> Bailey A (2001) 'Factors influencing police investigation of sexual crimes committed against people who have a learning disability and implications for public policy'. Dphil Thesis. (University of Ulster)

<sup>2</sup> 'No Secrets: Guidance on developing and implementing multi agency policies and procedures to protect vulnerable adults from abuse'. Home Office/DOH 2000.

been designed as a basis for improved inter agency working and will need to be closely monitored, reviewed and revised in the light of experience. It is supported by an ongoing programme of interagency training.

We commend this protocol to all who are involved in this critical and demanding area of work and would like to place on record our thanks to all who contributed to its development.

Leslie Frew  
Director of Community Care  
DHSS&PS

Judith Gillespie  
Assistant Chief Constable  
Criminal Justice Department  
PSNI

# 1 Introduction

- 1.1** The PSNI, Boards and Trusts are committed to the development of collaborative working which will enhance arrangements for the protection and support of vulnerable individuals and groups. This will include responding to the specific needs of vulnerable and intimidated victims of crime. In 1998 the Home Office published a report prepared by an Interdepartmental Working Group on the treatment of vulnerable victims and witnesses, entitled 'Speaking Up for Justice'.<sup>3</sup> The report recommended that the existing special measures introduced for children, e.g. live CCTV links and video recorded evidence-in-chief, be extended to include vulnerable adults.
- 1.2** The subsequent enactment of the Criminal Evidence (NI) Order in 1999 made provision for these arrangements, or 'special measures' to be introduced locally. Guidance on the application of special measures can be found in 'Achieving Best Evidence in Criminal Proceedings: Guidance for Intimidated Witnesses, including Children'.<sup>4</sup>
- 1.3** Although other agencies, statutory and voluntary, may be involved in aspects of the investigative process, the PSNI, Trust and R & I Unit staff have been primarily responsible for the investigation of abuse and the protection of vulnerable adults. This Protocol is designed to ensure staff from these agencies work together in a way that ensures the well-being and rights of vulnerable adults are paramount. It also helps to ensure that people receive equitable access to justice.
- 1.4** This Protocol sets out a framework for joint working in a complex area of practice and emphasises the need to involve all other relevant agencies in information sharing, early assessment and the planning process. It is important that Trust, R & I Unit and PSNI staff read this Protocol in conjunction with the Policy and Procedures presently in use within each of the four Health and

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<sup>3</sup> 'Speaking up for Justice' - Home Office (1998)

<sup>4</sup> 'Achieving Best Evidence in Criminal Proceedings: Guidance for Vulnerable or Intimidated Witnesses, including Children' - Home Office Communication Directorate (2002)

Social Services Boards. Police officers should be mindful of relevant PSNI General Orders. This Protocol extends to suspected crimes in domiciliary, community and hospital care if the victim is a vulnerable adult as defined in Section 2.

## 2 Definition

### Definition of a Vulnerable Adult

2.1 For the purposes of this Protocol the definition of a vulnerable adult has been taken from 'No Secrets'. It therefore applies to adults:

- a) **who are 18 years old and over; and**
- b) **who are, or may be, in need of community care services by reason of mental or other disability, age or illness and who are, or may be, unable to take care of themselves, or unable to protect themselves against significant harm or exploitation.**

2.2 This definition is more inclusive than the definition of vulnerability contained in the Criminal Evidence (NI) Order 1999. It is likely that some cases of alleged or suspected abuse against vulnerable adults will require a joint approach to investigation but will not qualify for the special measures outlined in the Order in relation to accessing the criminal justice system. It should also be borne in mind that the human and civil rights of the individual may have been breached.

2.3 'No Secrets' also offered a brief definition of abuse as being: **'The violation of an individual's human and civil rights by any other person'**.

The original DHSS guidance, which was produced in 1996 as a basis for the development of Board and Trust adult protection policies, offered a more detailed definition of abuse as being: **'The physical, psychological, emotional, financial or sexual maltreatment, or neglect of a vulnerable adult by another person. The abuse may be a single act or repeated over a period of time. It may take one form or a multiple of forms. The lack of appropriate action can also be a form of abuse. Abuse can occur in a relationship where there is the expectation of trust and can be perpetrated by a person/persons, in breach of that trust, who have influence over the life of a dependent, whether they be informal or formal carers, staff or family members or others. It can occur outside such a relationship'**.

### **3 Aims and Objectives**

**3.1** The overall aim of the Protocol is to prevent abuse by promoting a multi-agency approach to the protection of vulnerable adults, and to ensure that they receive equitable access to justice in a way that promotes their rights and well-being.

**3.2** The Protocol aims to:

- ensure effective communication and collaboration between Trusts/R & I Unit and PSNI to protect vulnerable adults;
- involve Trusts/R & I Unit and PSNI in determining whether a single agency or a joint agency investigation is required;
- provide a framework for early consultation, cross referral of appropriate cases and joint working arrangements for investigation and interviewing;
- define the roles and responsibilities of PSNI and Trust/R & I Unit staff in the joint investigation;
- minimise the number of interviews conducted with the victim,
- ensure that protective measures are paramount and run in parallel with the criminal inquiry or any other lines of enquiry, such as civil action or disciplinary proceedings.

### **4 Principles**

**4.1** The Protocol aims to promote the following principles in protecting vulnerable adults from abuse and the investigation of alleged or suspected crimes:

- the well-being and rights of the vulnerable adult are paramount;
- the processes should minimise distress to the vulnerable adult by maximising co-operation between agencies;
- Adult Protection Procedures must be properly followed;
- mechanisms should be available to resolve differences of opinion amongst staff through appropriate management structures.

## 5 Rights and Responsibilities

- 5.1** The Protocol is also committed to ensuring that the rights of vulnerable adults are upheld. These include the right to:
- receive protection for themselves and their property under the law;
  - be supported in reporting the circumstances of any abuse;
  - have alleged, suspected or confirmed cases of abuse thoroughly investigated as a matter of urgency;
  - have options for resolution and the appropriate processes explained to them;
  - be supported in making decisions about how they wish to proceed in the event of abuse and to be kept informed of progress;
  - have issues of consent and capacity considered;
  - be given information in accessible formats on how to protect themselves;
  - be given practical help in protecting themselves;
  - be supported when deciding whether to pursue a formal complaint;
  - be subjected to the minimum degree of disruption;
  - receive support on a longer-term basis, following the abuse.
- 5.2** In order to promote these rights effectively PSNI, Trust and R & I Unit staff must be aware of their responsibilities in this very difficult area of work. If an allegation of abuse does not appear to relate to criminal conduct, there is no statutory duty to report the matter to the Police and the decision about whether or not to investigate should be judged on the 'best interest' test. In the case of non-criminal matters it may not be in the best interests of the vulnerable adult to investigate if the person has specifically indicated a preference for no investigation. However, in reaching this conclusion, it is necessary to take into account the competence of the person making the decision and any other regulatory or personnel arrangements, e.g. disciplinary procedures, referral to NISCC.
- 5.3** Although all members of society are duty bound to report arrestable offences (those criminal offences which carry five years imprisonment or more), this Protocol requires staff to consider the cross-referral of suspected crimes whether they are arrestable or



not. In general, the Police are authorised to investigate alleged or suspected criminal abuse against the vulnerable adult where this is agreed to be in the best interests of the person. In the majority of cases, in particular where the vulnerable adult is deemed to have capacity, the Police will only proceed with the consent of the vulnerable adult. In practice this means that the vulnerable adult should be willing to make a complaint to the Police. However, there are some exceptions to this eg; where the vulnerable adult is deemed not to have capacity, is subject to undue influence or where others may be at risk. In some circumstances the Police may also intervene to prevent a crime being committed.

- 5.4** Where criminal abuse may have been committed then, a referral between the agencies should be made and an agreed strategy should be developed which takes account of the wishes of the alleged victim. The PSNI and Trust/R & I Unit should work sensitively in these enquiries and must secure the co-operation and consent of the victim unless there may be issues in relation to capacity and/or the potential for abuse to third parties. After referral between agencies the agreed strategy should take account of the wishes of the alleged victim. When there are concerns, but no real grounds to suspect that an offence may have been committed, there is a duty on Trust or R & I Unit staff to investigate and report any criminal offences or grounds that may emerge.
- 5.5** When judging whether the individual has capacity to give or withhold consent the policies of the relevant Board should be followed. This should take into account professional opinion as appropriate eg. Psychiatrists, Psychologists, GPs, Nurses, Social Workers.

## 6.0 Reporting

- 6.1** This Protocol is designed to be compatible with current Adult Protection Procedures in requiring all staff to report suspected, alleged or confirmed instances of abuse. It is not intended to replace professional judgements made by Trust or R & I Unit staff. It does however make sure that all cases are given appropriate consideration and are not screened out inappropriately. Added safeguards to prevent this include the necessity to report cases, in line with current policies and procedures, to a designated adult protection officer ('designated officer') and to consult, if necessary, with the relevant Police Liaison Officer. Where a crime is suspected or alleged and the vulnerable adult does not wish to make a formal complaint the agencies should consider the following factors:
- The individual's capacity to provide consent to a formal complaint;
  - The extent to which other vulnerable persons, including children, are likely to be at risk;
  - The vulnerable adult is subject to undue influence or coercion.
- 6.2** A referral to the PSNI does not automatically mean that a joint investigation will be initiated. This may involve seeking the views of the Police Liaison Officer. Where the PSNI is informed of suspected abuse which is clearly non-criminal the individual should be made aware of other sources of support and options to have the matter resolved and his/her agreement should be sought to refer to Trust or R & I Unit.
- 6.3** Alleged or suspected instances of abuse occurring in residential or nursing facilities must be reported to the local R & I Unit, which has a statutory duty to make sure an investigation is undertaken.
- 6.4** Reports of alleged or suspected abuse, which may be a criminal offence, will be categorised as:
- (a) Sexual** (e.g. rape, indecent assault)
  - (b) Non-sexual** (e.g. physical assault, theft).

The PSNI will be responsible for determining the category of offence.

- 6.5** Where alleged or suspected crimes are reported to the PSNI they have a duty to conduct criminal investigations. The decision to investigate will be made at a Strategy Discussion and will be informed by the views of the victim, Trust or R & I Unit colleagues.

### **Referral to Police from Health and Social Service Trusts**

- 6.6**
- a) In all cases of alleged or suspected criminal abuse the designated officer for the Trust should discuss the case with the relevant Police Liaison Officer. It will be the responsibility of the Police Liaison Officer to help determine whether the matter may involve criminal abuse and thereby to inform the decision concerning what level of enquiry/investigation is necessary.
  - b) Alleged or suspected sexual abuse should be reported to the Detective Inspector (CARE) who holds the role of Police Liaison Officer for sexual crimes.
  - c) Alleged or suspected non-sexual abuse should be reported to the Police District Command Unit (Crime Manager) who holds the role of Police Liaison Officer for non-sexual crimes. The Crime Manager will allocate any investigation to uniform or CID as appropriate.
  - d) For referral purposes, where more than one form of abuse is alleged or suspected, sexual offences will take precedence and these cases should be referred in the first instance to the Detective Inspector (CARE). The police will then decide if a criminal investigation is required and which branch of the Police should carry out the investigation.

### **Referral to Trusts by PSNI**

- 6.7** Police officers who encounter vulnerable adults who may have been the subject of abuse, whether criminal or not, should contact the relevant designated officer to establish whether the vulnerable adult is known or should be referred to the Trust.

### **Referrals Outside Normal Working Hours**

- 6.8** Where concerns are raised in relation to the care or treatment, which may involve criminal abuse, of a vulnerable adult outside normal working hours (9.00 am - 5.00 pm Monday to Friday), these concerns should be referred immediately to the Out of Hours Social Work Co-ordinator. A list of contact points for Co-ordinators can be found in **Appendix A**.

- 6.9** The Co-ordinator will take whatever action is necessary to ensure the protection of the vulnerable adult. Depending on the scale of the concern this may involve referral to other agencies. The Co-ordinator will make the relevant designated officer for the Trust aware of the referral details and any action taken/required, as a matter of urgency on the first working day following the date of the referral being made.

**Alleged or Suspected Criminal Abuse in Residential or Nursing Facilities**

- 6.10** When criminal abuse is alleged or suspected to have occurred in residential or nursing homes and is reported to, or comes to the attention of the R & I Unit, the Unit manager should ensure that the matter is referred to the Police Liaison Officer and to the relevant Trust. (see 6.6). If an incident of suspected or alleged criminal abuse in a home comes to the attention of Trust staff the R & I Unit must be informed by the designated officer as soon as is practicable.

**Referrals from PSNI to R & I Units**

- 6.11** Police officers, who encounter a vulnerable adult who is a resident of a residential or nursing home and who may have been subjected to abuse, whether criminal or not, should contact the manager of the R & I Unit. This will enable them to establish whether the Unit can investigate the matter or whether referral needs to be made directly to the local Trust. Where the need for the R & I Unit to initiate an investigation is indicated the relevant Board/Trust/R & I Unit procedures must be followed.

**Inappropriate Referrals**

- 6.12** In any event where a referral is made inappropriately between agencies the receiving agency will have responsibility for referring the matter to the appropriate agency.

## **7 Initial Assessment – Consultation – Planning and Investigation**

### **Clarification of Roles**

- 7.1** The PSNI, Trust and R & I Unit staff have specialist and complementary skills in terms of assessing and investigating allegations of abuse of vulnerable adults. The process is outlined in **Figure 1**. In appropriate cases it is necessary to combine these skills to provide maximum protection and support for those individuals who have been the subject of, or are at risk of, harm. This Protocol recognises that the various agencies may have different priorities or emphases in relation to adult protection work.
- 7.2** It is not designed to make Trust, R & I Unit or PSNI personnel undertake roles which are at variance with their primary professional responsibilities. It is however intended to provide a basis for maximising co-operation and a shared understanding of the issues involved. Differences of opinion, or approach, amongst staff should be resolved in a manner that does not hinder the protection of the vulnerable adult. Protection of the individual is paramount and staff should not inappropriately screen out cases by failure to follow this Protocol.
- 7.3** The strategy to be adopted must be informed by the professional views of PSNI, Trust and R & I Unit staff. The strategy for investigation should always be influenced by information gained from professionals or other persons who may have knowledge of the vulnerable adult, his/her family or circumstances.
- 7.4** The primary objective of PSNI, Trust and R & I Unit is the protection of the vulnerable adult. In addressing this shared objective the primary role of PSNI personnel is determined by their statutory responsibility to protect life and property, preserve order, prevent crime and, where a criminal offence has been committed, bring offenders to justice.
- 7.5** The primary role of Trust and R & I Unit staff is determined by their statutory responsibility and Duty of Care, to promote the care and well-being of vulnerable adults in situations of alleged or confirmed abuse.

**7.6** Assaults (including minor assaults), thefts, criminal damage, sexual assaults and threats of force or violence are all likely to be criminal offences. PSNI, Trust and R & I staff must recognise that the non co-operation of the victim does not always preclude a prosecution. However, the views of the victim are vital elements in the decision to prosecute.

### **Joint Agency Consultation**

**7.7** When either Trust/R & I Unit or PSNI personnel identify the need for a Joint Agency approach, a staff member from the referring agency will take responsibility for instigating a Joint Agency Consultation. The designated officer will take responsibility for co-ordinating the practical arrangements associated with this action. This should be the person within the Trust/R & I Unit deemed to be responsible for the decision to proceed under the Adult Protection Procedures, in cases of alleged or confirmed abuse.

**7.8** The purpose of the consultation is to discuss the case with the other agencies and to reach a decision on the need for a Joint Investigation involving Trust/R & I Unit and PSNI. This communication may be by telephone or direct contact and should occur within 24 hours of the decision that consultation with the other agency is necessary.

**7.9** The outcome of this consultation may be:

- No further action.
- A Trust/R&I Unit single agency investigation.
- A Criminal Investigation by Police.
- A Joint Investigation involving Trust/R&I Unit and Police.

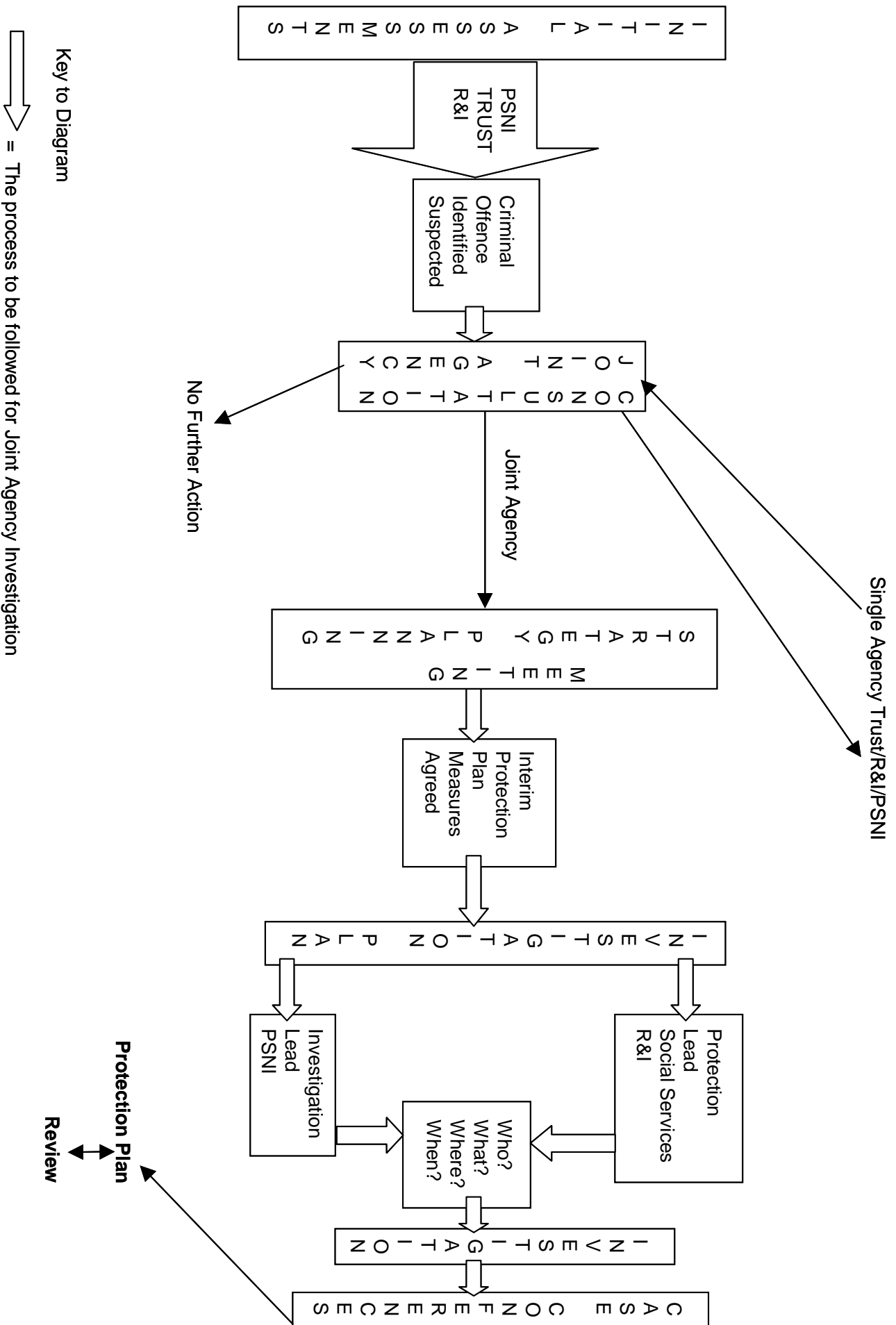
The results of this consultation must be clearly recorded and shared between agencies. **(Appendix B)**. Where it is agreed that a Trust/R & I Unit single agency investigation is appropriate, the procedures for the Protection of Vulnerable Adults will be followed.

### **Criteria for Joint Investigation by Trust/R & I Unit and PSNI**

**7.10** A detailed consideration of the need for a joint investigation will be triggered when there is an allegation or suspicion that one of the criminal offences described below has been committed against a vulnerable adult. The likelihood or otherwise of a prosecution is not a criterion for a joint investigation.

- **A sexual offence committed against a vulnerable adult.**
- **Physical abuse or ill treatment amounting to a criminal offence.**
- **Financial abuse involving a criminal offence, e.g. fraud, theft.**
- **Abuse which involves a criminal offence e.g. blackmail.**

Figure 1





### **Preliminary Information Gathering**

- 7.11** Following the decision of the Joint Agency consultation, to initiate a Joint Investigation, each agency will nominate a staff member to gather information for the Strategy Planning Meeting which will be the basis for planning any subsequent investigation. The nominated officer will carry out checks on internal systems for information that may be of use in deciding the strategy to be employed.

### **Strategy Planning Meeting**

- 7.12** When sufficient preliminary information is available to facilitate the development of a strategy for dealing with the case, a Strategy Planning Meeting should be convened. This should occur as soon as is practicable. The responsibility for convening this meeting lies with the designated staff member who initiated the Joint Agency Consultation.
- 7.13** The purpose of the Strategy Planning Meeting is to ensure an early exchange of information and to clarify what action needs to be taken jointly or separately in the investigation. It is an action orientated discussion, which should be convened to plan the investigation and agree any necessary interim protection measures.
- 7.14** A Strategy Planning Meeting will always include Police and Trust and/or R & I staff where appropriate. Other professionals, agency representatives and persons with specialist knowledge/skills may also be included to ensure the protection of the vulnerable adult.
- 7.15** Where the Strategy Planning Meeting concludes that a vulnerable adult has been the victim of criminal abuse or may be at risk of a serious criminal abuse and that issues arise about the protection of the individual, the Strategy Planning Meeting should address the following points:
- whether action is needed to protect the vulnerable adult and who will be responsible for such action;
  - the need to consider the issue of capacity to consent and the most appropriate person to deal with it;
  - the requirement for a medical examination to be undertaken and if so, by whom;

- what issues of special needs, race, culture, gender, or religion are raised in the case, how and by whom they are to be addressed and what advice needs to be sought;
- what specialist support or advice might be needed and who will obtain it;
- what other information is needed to complete the investigation and who will seek it;
- the order in which the interviews will take place and who will carry out the interview; and
- practical arrangements for reporting back to those involved in the investigation.

**7.16** It is the responsibility of the person who convenes the meeting to ensure that a record of the Strategy Planning Meeting is made and shared between agencies. **(Appendix C)**. Although strategy planning will generally take place in a formally constituted meeting there may be occasions where this may need to be conducted by telephone.

## 8 Joint Investigation Interviews

- 8.1 Interviews with vulnerable adults will be conducted in accordance with the guidelines contained in 'Achieving Best Evidence in Criminal Proceedings'.

### **Joint Interviews by Police Officers and Social Workers**

- 8.2 Where it is agreed in the Strategy Planning Meeting that interviews should be conducted jointly by a police officer and social worker the following procedures will apply. It must be emphasised that the decision about which interviews should be conducted jointly, and the sequence of interviews, is a matter for the group planning the investigation at the Strategy Planning Meeting. These procedures should be applied accordingly and the involvement of the R & I Unit should be considered when the alleged abuse has occurred in a nursing or residential home.

### **Selection of Interviewers**

- 8.3 Only PSNI and Trust personnel, who have received specialist training in Joint Interviewing, should be appointed to the task. Where a vulnerable adult has requested the interviewer to be of a specific gender all reasonable steps must be taken to facilitate this request.

### **Supervision of Interviewers**

- 8.4 It will be the responsibility of each agency to ensure that the interview and investigation process is properly supervised and supported by relevant managers who have been trained in these procedures.

### **Clarification Discussion**

- 8.5 In making decisions about the method of interviewing vulnerable adults it may be necessary to have a short clarification discussion. This should normally be undertaken by the persons who will conduct any subsequent interview. However where this is not possible the clarification discussion may be carried out by other staff who have received Joint Protocol training. Once a decision has been made that an interview of a vulnerable adult should be conducted on video, a specialist investigative interviewer will be tasked to carry out the interview.

## 8.6 The purpose of the Clarification Discussion is:

- To establish whether or not the vulnerable adult has made an allegation or raised suspicions which have led to the referral. The substance and detail of the allegation or disclosure should not be part of the Clarification Discussion.
- To assess the vulnerable adult's willingness and ability to pursue the matter to court.
- To inform the police decision about which format should be used for the interview, eg; videotape, statement or question and answer. Videotaping is the preferred method of interviewing vulnerable adults, statements are the alternative and questions and answers should only be used when neither videotaping or statement are possible.
- Whether the use of video in the interview is likely to maximise the quality of that particular vulnerable adult's evidence.

## 8.7 The Clarification Discussion must be recorded and responsibility for this will lie with the investigator conducting it. The Clarification Discussion is not an investigative interview and should never replace or over-shadow the joint investigative interview with the vulnerable adult. Strictly no further examination of the allegation should take place beyond that which has been disclosed. It is important not to coach the interviewee in respect of the interview. If the discussion includes the disclosure of a criminal offence, that part must be recorded verbatim and contemporaneously, or at the very least as soon as possible after the contact. Even if no criminal disclosure is made, accurate recording is essential as decisions about risk may be made on the strength of the Clarification Discussion. The proforma at **Appendix D** must be completed in respect of every Clarification Discussion.

### **Preparation for a Joint Interview**

## 8.8 The following should be taken into account when preparing for a Joint Interview:

- The needs and circumstances of the vulnerable adult (eg; development, impairments, degree of trauma experienced, whether he/she is now in a safe environment);
- The vulnerable adult's state of mind (eg; likely distress, and/or shock);
- Perceived fears about intimidation and recrimination;

- The circumstances of the suspected offence (eg; relationship of the individual to the alleged offender);
- Location of interview;
- Time of interview;
- Preferred gender of interviewer; and
- Special requirements.

### **Purpose of the Joint Interview**

**8.9** The purposes of the Joint Interview are:

- to promote the well-being and protection of the vulnerable adult;
- to validate or negate allegations or suspicions of abuse by helping the vulnerable adult to give as much information as possible;
- to avoid multiple interviews where possible;
- to identify the suspected abuser;
- to ensure that all decisions are made based on the experience of the vulnerable adult and not the influence or beliefs of the interviewer;
- to provide a record of the vulnerable adult's evidence-in-chief which may be used at a consequent criminal hearing.

### **Persons Present at Joint Interview**

**8.10** Normally no one else should be in the interview room apart from the vulnerable adult and the interviewers. Limiting the number of people present at the interview should lessen the possibility of the vulnerable adult feeling overwhelmed by the situation and uncomfortable about revealing information. It is recognised that other persons with specialist skills may be needed to assist the interviewer conduct the interview. This might include, specialist communicators using sign language, etc.

**8.11** If it is the vulnerable adult's wish to have a supportive person present in the interview room it should be made clear to that person that he or she must take no part in the interview. It is good practice for the vulnerable adult to know that a supportive person is available in an adjoining room. A suspected offender should never be present in an interview.

### **Recording Information that is not Video Recorded**

**8.12** When a Joint Interview with a vulnerable adult is not video recorded a written account of the information given should be

made. If it is assessed by the interviewers, or on the basis of consultation with other expert opinion, that the vulnerable adult is capable of giving an account of relevant matters the PSNI officer may invite the adult to make a signed, written statement on Form 38/36. The evidence of a vulnerable adult who is not capable of making a statement should be recorded as questions and answers and certified by them and any other person present.

### **The Video Interview**

- 8.13** The Criminal Evidence (NI) Order 1999 provides for the video recording of interviews with vulnerable adults to be admitted as evidence-in-chief at Criminal Proceedings. The guidance accompanying the legislation is designed to help those police officers and any Trust staff involved in making a video recording of an interview with a vulnerable adult, where it is intended that the result should be admissible in Criminal Proceedings.
- 8.14** The Order is “Permissive” legislation. There should be a general assumption that a video interview will be conducted where the criteria are met (eg an eligible witness in an Indictable [Crown Court] case). Use of a video for all interviews is not necessary in all cases and, on occasions, might add to the interviewee’s trauma unnecessarily. The decision as to whether the interview will be videotaped will be taken by the investigating police officer in consultation with Trust staff following the Clarification Discussion.

### **Planning the Joint Interview**

- 8.15** In order to be fully and properly prepared for an interview the joint investigation team of PSNI and Trust staff should normally plan the interview in line with the ‘four phased’ approach set out in ‘Achieving Best Evidence in Criminal Proceedings’ and adhere to the criteria which it has identified. The four phases are:
- **Rapport**
  - **Free Narrative**
  - **Questioning**
  - **Closure**
- 8.16** Planning should include deciding whether PSNI and Trust team members should take the role of lead interviewer, the proposed time scale, any special arrangements/allowances which are required to take account of the vulnerable adult’s individual

difficulties, agreed signals on when to take breaks or terminate the interview. As video recording of investigative interviews is aimed at providing evidence-in-chief at criminal courts, planning must include coverage of the 'points-to-prove' in criminal offences.

- 8.17** Where it appears, before interviewing a vulnerable adult, that the history of the case indicates a considerable amount of information is likely to be forthcoming, a series of interviews may be planned. The second, third, etc. interviews in this series will be considered part of the original interview without any automatic need to consult with the Department of the Director of Public Prosecutions/Public Prosecution Service.
- 8.18** The joint investigation team must be given sufficient time to carry out this planning process, prior to a joint investigative interview. Failure to allow this time may limit the effectiveness of the process and thereby do a disservice to the vulnerable adult. Preparation for the interview will include the following activities.

#### **Technical Preparation**

- 8.19** The joint investigation team will need to carefully prepare for the interview, ensure that the equipment is in working order, test for vision and sound quality and to ensure that tapes are correctly prepared, checked and inserted. Consideration should also be given to whether other equipment will be needed, e.g. hearing aids, communication boards, etc.

#### **Consultation with Specialists**

- 8.20** The joint investigation team should consider the conclusions of the Clarification Discussion about the need to involve staff with specialist skills in the joint investigative interview and any role they should take in it. Due to the nature of this type of investigative interviewing it will often be necessary to seek specialist assistance with issues such as communication difficulties, mental ill-health or learning disability. If a specialist is asked to facilitate the joint interview, he/she should be informed of the purpose of the interview and the limitations placed on his/her role. He/she should not be asked to undertake the role of "appropriate adult".
- 8.21** If an interpreter is required to assist in criminal proceedings involving a vulnerable adult who uses sign language the person

must have attained at least Stage 3 British Sign Language or Irish Sign Language qualification.

### **Consideration of Communicative Competency of Vulnerable Adult and Interviewer**

- 8.22** The vulnerable adult and interviewers need to be able to achieve the minimum requirements for communication. The joint investigation team must establish whether a vulnerable adult has a reliable method of communication which he/she can use intentionally and that the interviewers can understand either directly or via a suitable interpreter.
- 8.23** If the vulnerable adult has specific difficulties with comprehension or use of language (vocabulary, ideas and grammar) associated with physical or intellectual impairment careful consideration must be given to how these could be overcome. Speech and language therapists, sign language interpreters or facilitators in augmentative communication may be required.
- 8.24** The competency of the interviewers in communicating will be the single greatest factor in determining whether a vulnerable adult will be able to deal with, and participate effectively in, an interview situation. The interviewer will also require information about the vulnerable adult's knowledge and understanding of him/herself, about objects, about places and events and how these things may be affected by his/her impairment or disability.

### **Conduct of the interview**

- 8.25** The interviewers need to provide the vulnerable adult with information at a level which will help him/her to understand who and what will be involved. Initially they should cover:
- introduction of the social worker (or other professional) and the police officer with explanation of each of their roles;
  - an explanation of the purpose of the interview in a sensitive way that the vulnerable adult can understand;
  - an acknowledgement that it is a difficult situation for the vulnerable adult and that some things, particularly sexual assault, may be difficult to talk about;
  - introduction of the video equipment and seeking consent to use it in the interview.



**8.26** The following are categories of facts, which, if contained in the vulnerable adult's evidence, will enable properly informed decisions to be taken regarding the subsequent conduct of the investigation and ultimately whether or not to prosecute any person for any offence committed against them.

- Name/identity of the alleged abuser/offender, his/her present whereabouts, and the relationship of that individual to the vulnerable adult.
- The duration and extent of the abuse/offence.
- What happened in detail, when it happened, where, and how often, being mindful of the 'points-to-prove' for each offence.
- Date/time of last occurrence, likelihood of physical evidence.
- Names/identity of anyone else having knowledge of the abuse/offence.
- Names of anyone else involved in, or observing the abuse/offence.
- Identity of anyone the vulnerable adult has told about the abuse/offence.

**8.27** After the interview, the vulnerable adult and/or their representative should be given as much information as possible about what will happen next including arrangements for his/her protection. If he/she is to be interviewed again, he/she should be informed of where and when it may take place.

**8.28** If the interview or series of interviews has been completed and further information comes to light which makes it necessary to conduct another interview with the vulnerable adult, or where it is believed the vulnerable adult has more to tell, this should be considered a further or supplementary interview. In this case the matter should be discussed with the Department of the Director of Public Prosecutions/Public Prosecution Service. This will cover cases where, for example, conflicting evidence comes to light, a vulnerable adult makes further disclosures or names other suspects. 'Achieving Best Evidence' should be referred to when considering the further interview of a vulnerable adult.

**8.29** Once the interview is complete, the joint investigation team should give consideration to the individual's need for any counselling or therapeutic requirements which this may have indicated. PSNI and the Department of the Director of Public Prosecutions/Public

Prosecution Service must be informed about the nature of such therapy in each case. This is to ensure that the evidence provided to a Court is not contaminated or contradicted by the vulnerable adult.

### **The Vulnerable Adult who becomes a Suspect**

- 8.30** If a vulnerable adult becomes suspected of a crime during the course of an interview, a decision will have to be made on whether to proceed or terminate the interview. The interviewers should take a short break to consult, and if necessary seek advice, on the matter, in addition to being mindful of the need for sensitive handling of the situation. If it is concluded that the evidence of the vulnerable adult as a suspect is paramount in a particular case, the interview should be terminated so that any further questioning can be carried out in accordance with the Police and Criminal Evidence (NI) Order 1989, (PACE) at an appropriate location.

### **Further Interviews**

- 8.31** Occasions may arise where a police officer or a social worker may wish to further interview a vulnerable adult who is the victim of some criminal offence. It will be the responsibility of that police officer or social worker to advise the other agency of the intention to further interview the individual. The same procedures will apply to a further interview as apply to the original interview. No agency should unilaterally conduct further interviews with the vulnerable adult who may be central to criminal proceedings.

### **Records of Joint Investigative Interviews**

- 8.32** Police will retain a written statement, recorded as a Joint Interview, for evidential purposes. A copy may be provided to Trust and/or R & I Unit staff, provided that the vulnerable adult agrees. Where a Joint Investigative interview has been video recorded the original will be labelled and secured for Court purposes by the police. The working copy will be available for viewing by Trust or R & I Unit staff by arrangement with the officer in charge of the case. A log will be completed on each occasion that the tape is viewed by anyone and will detail the reasons for its having been viewed. This will be retained with the working copy of the tape.
- 8.33** Arrangements for viewing the tape by persons other than those identified above, e.g. defence or any subsequent court hearing, will be the responsibility of the police. PSNI General Order C(c) 70/96

must be complied with. Where investigation involves police and health and social services participation, the police officer in the case will be responsible as the prime keeper of all exhibits, letters, drawings, notes, etc made.

### **Review of ongoing management of the case**

- 8.34** When the formal joint interview process has been concluded there may be a need for further inter-agency discussions, outside of any judicial procedures, to agree a course of action to address the practical and emotional implications for the vulnerable adult, his/her carers and staff involved in the case. In the majority of cases this can be most comprehensively dealt with by convening a Case Conference, although other, less formalised, mechanisms should be considered to optimise client/family involvement in the process. This is the responsibility of the designated officer from the relevant Trust in consultation with PSNI colleagues. Consultation should also take place on an inter-agency basis to identify the need for any staff debriefing/counselling which may be required as a result of the work which has been undertaken.

# Glossary and Appendices

## **Glossary**

### **'Achieving Best Evidence'**

A voluntary code of practice for interviewing vulnerable witnesses for criminal proceedings and where video is used to record the witness's testimony.

### **Arrestable Offence**

An offence which carries a penalty of five years or more imprisonment. Serious assaults, sexual assaults, dishonesty offences, criminal damage and threats to kill are all arrestable offences.

### **CARE (Child Abuse Rape Enquiry) Unit**

Police team of detective officers with specific responsibility for the investigation of cases involving child abuse or sexual offence.

### **Case Conference**

A meeting of those involved in a case which can include the client/victim. The purpose is to establish potential risk to the individual and what action, if any, would be required.

### **CID (Criminal Investigation Department)**

Police team of detective officers based in each District Command Unit with responsibility for the investigation of crime other than sexual crime.

### **Cross Examination**

The secondary stage of evidence giving in Court where the testimony that a witness has already given is examined by counsel for the defence.

### **Counsel for the Defence**

The legal representative responsible for conducting the case for the defence.

### **Designated Officer**

Person within the Trust responsible for managing the investigation. The title used can vary, for example in the NHSSB they are known as Adult Protection Co-ordinators.

### **DCU (District Command Unit)**

Geographical police area based on local council boundaries and which has its own command and resource structure. There are presently 29 Police DCU's in Northern Ireland.

### **DCU Crime Manager**

The detective officer responsible for the investigation of crime and in charge of CID within a DCU. Detective Chief Inspector or Detective Inspector rank.

### **Director of Public Prosecutions**

A body of legal staff who work independently from the Police and who are responsible for directing on cases and conducting trials of defendants in more complex cases.

### **Evidence**

The term 'evidence' in its legal sense embraces all matters exclusive of mere argument, which can be placed before a Court to prove or disprove any matter or fact, the truth of which is the subject of judicial investigation.

### **Evidence-In-Chief**

The initial stage of giving evidence in Court where the witness is taken through their evidence by counsel for the prosecution.

## **Form 38/36**

A form used for making a written record of a witness's evidence where video is not considered an appropriate form of recording. Generally known as a 'statement'.

## **Hearsay Evidence**

Evidence of what a person has heard another person, not the accused, say. It is not admissible in criminal proceedings.

## **Investigating Officer**

Professional, within the Trust, responsible for investigating the alleged abuse. Their role is to establish the facts, look at alternatives available and to provide counselling and support.

## **Line Manager**

Management Grade within the Trust to whom an individual directly reports.

## **Live Television Link**

A system allowed under the Police and Criminal Evidence (NI) Order 1989 whereby certain witnesses can give evidence from a television monitor in a room separate from the main body of the Court.

## **NISCC (Northern Ireland Social Care Council)**

The Council was established in October 2002 as the body for accrediting, regulating and monitoring the social care workforce, in addition to the development of professional standards and training arrangements. The Council will eventually deal with issues of professional malpractices.

## **Nominated Officer**

The Trust staff member who has been delegated the role of managing investigations of suspected, alleged or confirmed instances of abuse against vulnerable adults.

### **Points to Prove**

The ingredients of a criminal offence, each of which must be satisfactorily proven in a criminal trial.

### **Police General Order**

A written instruction, which is issued to the PSNI.

### **Protection Plan**

This is a plan developed to clarify the protection measures put in place to protect the individual. Roles and responsibilities for protecting the individual are clearly identified.

### **Registered Facilities**

Voluntary or private care facilities registered and inspected by Health and Social Services Board Registration & Inspection Units.

### **Third Party Material**

Matters of potential relevance to a police investigation, which are not in possession of PSNI.



**APPENDIX A**

**Out of Hours Emergency Social Work - Contact Numbers**

Eastern Health and Social Services Board                      028 9056 5444  
Knockbracken Healthcare Park

Northern Health and Social Services Board                      028 9446 8833  
Holywell Hospital

Western Health and Social Services Board                      028 7134 5171  
Altnagelvin Hospital

Southern Health and Social Services Board                      028 3083 5000  
Daisy Hill Hospital

**Police Service of Northern Ireland – Contact Number**

Police Exchange for Northern Ireland                      028 9065 0222  
Brooklyn

**ADULT PROTECTION - RECORD OF JOINT AGENCY CONSULTATION**

Referral by telephone on ____/____/____	
To: _____	Designation: _____
Person referring: _____	Designation: _____
Address: _____	
_____ Contact Tel No: _____	

Name of Vulnerable Adult: \_\_\_\_\_ DOB: \_\_/\_\_/\_\_  
Home Address: \_\_\_\_\_

Present Location: \_\_\_\_\_  
Gender\*: M  F

Nature of Vulnerability\*:  Frail Older Person  Dementia  
 Learning Disability  Physical/Sensory Disability  Mental Illness  
 Other (please specify) \_\_\_\_\_

Is the Vulnerable Adult subject to any legal/statutory status?\*(  
eg: Guardianship, Non Molestation Order) Yes  No   
If yes please provide details: \_\_\_\_\_

Details of any current or past involvement with Social Services, Police and/or  
Registration and Inspection Unit: \_\_\_\_\_

Name of Carer/Next of Kin: \_\_\_\_\_  
Address: \_\_\_\_\_  
\_\_\_\_\_ Contact Tel No: \_\_\_\_\_

**WHAT IS THE MAIN FORM OF SUSPECTED, ADMITTED OR KNOWN ABUSE?\***

Physical  Sexual  Psychological/Emotional  
 Financial  Neglect  Institutional Abuse  
 Other (please specify) \_\_\_\_\_

**HAS THERE BEEN PREVIOUS CONCERN OR EVIDENCE OF ABUSE?\***

Yes  No  Don't know   
If yes, what was the nature of the concern and the outcome: \_\_\_\_\_

\* Please tick appropriate box/es.

Outcome of Joint Agency Consultation\*

Single Agency Investigation by:

Social Services       Police       Registration & Inspection

Joint Investigation by:

Social Services       Police       Registration & Inspection

OR

Protocol for joint investigation of alleged and suspected cases of abuse of vulnerable adults

Please specify if any other follow up will take place.

---

---

Signature of person completing form: \_\_\_\_\_

Designation: \_\_\_\_\_

Date: \_\_\_\_\_

\* Please tick appropriate box/es.

**ADULT PROTECTION - STRATEGY FOR INVESTIGATION**

Name of Vulnerable Adult \_\_\_\_\_ DOB: \_\_/\_\_/\_\_

(A) PEOPLE IN ATTENDANCE/INVOLVED (NAME & AGENCY):

\_\_\_\_\_  
\_\_\_\_\_

OTHERS CONSULTED:

\_\_\_\_\_  
\_\_\_\_\_

(B) INITIAL STRATEGY: Date: \_\_/\_\_/\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Next of Kin/Carer to be informed: YES/NO By Whom: \_\_\_\_\_

(i) Amendments to strategy Date: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Telephone/Meeting* Persons Involved/Designation: _____ _____
---

(ii) Amendments to strategy Date: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Telephone/Meeting* Persons Involved/Designation: _____ _____
---

(C) PERSONS TO BE INTERVIEWED

1 Person making the allegation to clarify all facts about referral

Name: \_\_\_\_\_

Address: \_\_\_\_\_

\*Please delete as appropriate

2 Next of kin or other carers:

Name: \_\_\_\_\_ Relationship to Vulnerable Adult: \_\_\_\_\_

Address: \_\_\_\_\_

3 Significant others  
(attach separate sheet if necessary)

Name: \_\_\_\_\_

Relationship: \_\_\_\_\_

Address: \_\_\_\_\_

\_\_\_\_\_

Date & Time: _____
Venue: _____
Who will conduct: _____
SW: _____
PSNI: _____
Other: _____

4 The Vulnerable Adult

Name: \_\_\_\_\_

Address: \_\_\_\_\_

Date & Time: _____
Venue: _____
Who will conduct: _____
SW: _____
PSNI: _____
Other: _____

5 The Alleged Perpetrator

Name: \_\_\_\_\_

DOB: \_\_\_\_\_

Address: \_\_\_\_\_

\_\_\_\_\_

Date & Time: _____
Venue: _____
Who will conduct: _____
SW: _____
PSNI: _____
Other: _____

Relationship to Vulnerable Adult: \_\_\_\_\_

(D) Has a statement of complaint been made? YES/NO\*

By whom: \_\_\_\_\_

Does the vulnerable adult have the capacity to:

(a) Consent to interview? YES/NO\*

(b) Consent to medical examination? YES/NO\*

Has the vulnerable adult consented to:

Interview? YES/NO\*

Medical? YES/NO\*

On what basis were these decisions made? \_\_\_\_\_

\_\_\_\_\_

Signature of person completing form: \_\_\_\_\_

Designation: \_\_\_\_\_ Date: \_\_\_\_\_

\*Please delete as appropriate

**ADULT PROTECTION - CLARIFICATION DISCUSSION**

Name: \_\_\_\_\_ DOB: \_\_\_\_/\_\_\_\_/\_\_\_\_

Address: \_\_\_\_\_

Date: \_\_\_\_\_ Time: \_\_\_\_\_

Venue: \_\_\_\_\_

Persons Present: \_\_\_\_\_

**CONSIDERATIONS:**

1 Has the adult previously made a clear disclosure of abuse or are there substantive grounds for suspecting abuse has occurred?

Comment: \_\_\_\_\_  
\_\_\_\_\_

2 Is the adult willing to engage in an interview?

Comment: \_\_\_\_\_  
\_\_\_\_\_

3 Is the adult able to engage in an interview?

Comment: \_\_\_\_\_  
\_\_\_\_\_

4 Has the purpose of the interview been explained to the adult?

Comment: \_\_\_\_\_  
\_\_\_\_\_

5 Which format is the most suitable for the interview? If a video interview appears to be the most appropriate option assess the adult's willingness to be interviewed on videotape.

Comment: \_\_\_\_\_  
\_\_\_\_\_

6 Decision: VIDEO STATEMENT QUESTION AND ANSWER

(Circle format to be used)





HOME OFFICE



## *No secrets:*

Guidance on developing and implementing multi-agency policies and procedures to protect vulnerable adults from abuse



**Foreword**

There can be no secrets and no hiding place when it comes to exposing the abuse of vulnerable adults. The Government's White Paper, 'Modernising Social Services', published at the end of 1998, signalled our intention to provide better protection for individuals needing care and support. This is being taken up through the Care Standards Bill.

We are also committed to providing greater protection to victims and witnesses, and the Government is actively implementing the measures proposed in 'Speaking Up for Justice', the report on the treatment of vulnerable or intimidated witnesses in the criminal justice system. That report recognised that there were concerns about both the identification and reporting of crime against vulnerable adults in care settings, and endorsed the proposals made by the Association of Directors of Social Services, and others, that a national policy should be developed for the protection of vulnerable adults. It was agreed that local multi-agency codes of practice would be the best way forward.

The development of these codes of practice should be co-ordinated locally by each local authority social services department. To support this process this guidance is being issued under Section 7 of the Local Authority Social Services Act 1970. Government departments have worked closely together on the preparation of this guidance and we commend it to local authority social services departments, the police service, and the health service. It will also be of interest to the independent sector, as well as users and carers.



**John Hutton**  
Department of Health



**John Denham**  
Department of Health



**Charles Clarke**  
Home Office

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## Acknowledgements

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## Appendices

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  - II References and suggested further reading
  - III Relevant statutes
-

This guidance has been produced by a Steering Group, led by **Peter Dunn of the Department of Health** (DH) Social Care Group, which included representatives from a wide range of organisations. Membership of the steering group is given in Appendix I and the DH thanks all those listed for their invaluable contribution.

**Annette Young**

Consultant in the Management of Health and Social Care Services.

**Acknowledgements**



## INTRODUCTION

- 1.1** In recent years several serious incidents have demonstrated the need for immediate action to ensure that vulnerable adults, who are at risk of abuse, receive protection and support. The Government gives a high priority to such action and sees local statutory agencies and other relevant agencies as important partners in ensuring such action is taken wherever needed. This guidance builds on the Government's respect for human rights and results from its firm intention to close a significant gap in the delivery of those rights alongside the coming into force of the Human Rights Act 1998.
  - 1.2** The aim should be to create a framework for action within which all responsible agencies work together to ensure a coherent policy for the protection of vulnerable adults at risk of abuse and a consistent and effective response to any circumstances giving ground for concern or formal complaints or expressions of anxiety. The agencies' primary aim should be to prevent abuse where possible but, if the preventive strategy fails, agencies should ensure that robust procedures are in place for dealing with incidents of abuse. The circumstances in which harm and exploitation occur are known to be extremely diverse, as is the membership of the at-risk group. The challenge has been to identify the next step forward in responding to this diversity.
-

- 1.3** This guidance is issued in furtherance of the Government's commitment to develop such policies at national and local level. It is commended to all commissioners and providers of health and social care services including primary care groups, regulators of such care services and appropriate criminal justice agencies. These statutory agencies should work together in **partnership** (as advocated in the Health Act 1999) to ensure that appropriate policies, procedures and practices are in place and implemented locally. They should do so in collaboration with all agencies involved in the public, voluntary and private sectors and they should also consult service users, their carers and representative groups.
- 1.4** Local authority social services departments should play a co-ordinating role in developing the local policies and procedures for the protection of vulnerable adults from abuse. Social services departments should note that this guidance is issued under Section 7 of the Local Authority Social Services Act 1970, which requires local authorities in their social services functions to act under the general guidance of the Secretary of State. As such, this document does not have the full force of statute, but should be complied with unless local circumstances indicate exceptional reasons which justify a variation.
- 1.5** This document gives guidance to local agencies who have a responsibility to investigate and take action when a vulnerable adult is believed to be suffering abuse. It offers a structure and content for the development of local **inter-agency policies, procedures and joint protocols** which will draw on good practice nationally and locally. **Coherent strategies** should be developed, in all areas of the country, by all the statutory, voluntary and private agencies that work with vulnerable adults.
- 1.6** **Structure of this document.** Section 2 covers issues of definition. Sections 3, 4, 5 and 6 provide guidance about the protection from abuse of vulnerable adults by the creation of a multi-agency administrative framework (Section 3), the development of inter-agency policies and strategies (Sections 4 and 5), and the formulation of inter-agency operational procedures designed to implement those policies when instances of abuse or suspected abuse come to light (Section 6). Section 7 discusses the provision of broader guidance for staff, users, carers and members of the public.
- 1.7** **When developing operational guidance, local agencies should refer to the publications dealing with the abuse of vulnerable adults which appear in Appendix II.**

## 2. DEFINING WHO IS AT RISK AND IN WHAT WAY

- 2.1 In defining abuse for the purpose of both national and local guidance it is important to clarify the following factors:

### Definitions

- which adults are ‘vulnerable’?
  - what actions or omissions constitute abuse?
  - who may be the abuser(s)?
  - in what circumstances may abuse occur?
  - patterns of abuse; and
  - what degree of abuse justifies intervention?
- 2.2 **Which adults are vulnerable?** In this guidance ‘adult’ means a person aged 18 years or over.
- 2.3 The broad definition of a ‘**vulnerable adult**’ referred to in the 1997 Consultation Paper *Who decides?*,\* issued by the Lord Chancellor’s Department, is a person:

**“who is or may be in need of community care services by reason of mental or other disability, age or illness; and**

---

\* See also *Making decisions* – a report issued in the light of responses to the consultation on the Law Commission’s document (1999).

**who is or may be unable to take care of him or herself, or unable to protect him or herself against significant harm or exploitation”.**

- 2.4 For the purposes of this guidance ‘community care services’ will be taken to include all care services provided in any setting or context.
- 2.5 **What constitutes abuse?** In drawing up guidance locally, it needs to be recognised that the term ‘**abuse**’ can be subject to wide interpretation. The starting point for a definition is the following statement:

**Abuse is a violation of an individual’s human and civil rights by any other person or persons.**

In giving substance to that statement, however, consideration needs to be given to a number of factors.

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- 2.6 Abuse may consist of a single act or repeated acts. It may be physical, verbal or psychological, it may be an act of neglect or an omission to act, or it may occur when a vulnerable person is persuaded to enter into a financial or sexual transaction to which he or she has not consented, or cannot consent. Abuse can occur in any relationship and may result in significant harm to, or exploitation of, the person subjected to it.
- 2.7 A consensus has emerged identifying the following main different forms of abuse:
- **physical abuse**, including hitting, slapping, pushing, kicking, misuse of medication, restraint, or inappropriate sanctions;
  - **sexual abuse**, including rape and sexual assault or sexual acts to which the vulnerable adult has not consented, or could not consent or was pressured into consenting;
  - **psychological abuse**, including emotional abuse, threats of harm or abandonment, deprivation of contact, humiliation, blaming, controlling, intimidation, coercion, harassment, verbal abuse, isolation or withdrawal from services or supportive networks;
  - **financial or material abuse**, including theft, fraud, exploitation, pressure in connection with wills, property or inheritance or financial transactions, or the misuse or misappropriation of property, possessions or benefits;
  - **neglect and acts of omission**, including ignoring medical or physical care needs, failure to provide access to appropriate health, social care or educational services, the withholding of the necessities of life, such as medication, adequate nutrition and heating; and
  - **discriminatory abuse**, including racist, sexist, that based on a person’s disability, and other forms of harassment, slurs or similar treatment.
-



Any or all of these types of abuse may be perpetrated as the result of deliberate intent, negligence or ignorance.

## Page 10 - Section 2

- 2.8** Incidents of abuse may be multiple, either to one person in a continuing relationship or service context, or to more than one person at a time. This makes it important to look beyond the single incident or breach in standards to underlying dynamics and patterns of harm. Some instances of abuse will constitute a **criminal offence**. In this respect vulnerable adults are entitled to the protection of the law in the same way as any other member of the public. In addition, statutory offences have been created which specifically protect those who may be incapacitated in various ways. Examples of actions which may constitute criminal offences are assault, whether physical or psychological, sexual assault and rape, theft, fraud or other forms of financial exploitation, and certain forms of discrimination, whether on racial or gender grounds. Alleged criminal offences differ from all other non-criminal forms of abuse in that the responsibility for initiating action invariably rests with the state in the form of the police and the Crown Prosecution Service (private prosecutions are theoretically possible but wholly exceptional in practice). Accordingly, when complaints about alleged abuse suggest that a criminal offence may have been committed it is imperative that reference should be made to the police as a matter of urgency. Criminal investigation by the police takes priority over all other lines of enquiry.
- 2.9** Neglect and poor professional practice also need to be taken into account. This may take the form of isolated incidents of poor or unsatisfactory professional practice, at one end of the spectrum, through to pervasive ill treatment or gross misconduct at the other. Repeated instances of poor care may be an indication of more serious problems and this is sometimes referred to as **institutional abuse**.
- 2.10 Who may be the abuser?** Vulnerable adult(s) may be abused by a wide range of people including relatives and family members, professional staff, paid care workers, volunteers, other service users, neighbours, friends and associates, people who deliberately exploit vulnerable people and strangers.
- 2.11** There is often particular concern when abuse is perpetrated by someone in a position of power or authority who uses his or her position to the detriment of the health, safety, welfare and general well-being of a vulnerable person.
- 2.12** Agencies not only have a responsibility to all vulnerable adults who have been abused but may also have responsibilities in relation to some perpetrators of abuse. The roles, powers and duties of the various agencies in relation to **the perpetrator** will vary depending on whether the latter is:
-

- a member of staff, proprietor or service manager;
- a member of a recognised professional group;
- a volunteer or member of a community group such as place of worship or social club
- another service user;
- a spouse, relative or member of the person's social network;
- a carer; ie: someone who is eligible for an assessment under the Carers (Recognition and Services) Act 1996;
- a neighbour, member of the public or stranger; or
- a person who deliberately targets vulnerable people in order to exploit them.

**2.13** Stranger abuse will warrant a different kind of response from that appropriate to abuse in an ongoing relationship or in a care location. Nevertheless, in some instances it may be appropriate to use the locally agreed inter-agency adult protection procedures to ensure that the vulnerable person receives the services and support that they need. Such procedures may also be used when there is the potential for harm to other vulnerable people.

**2.14 In what circumstances may abuse occur? Abuse can take place in any context.** It may occur when a vulnerable adult lives alone or with a relative; it may also occur within nursing, residential or day care settings, in hospitals, custodial situations, support services into people's own homes, and other places previously assumed safe, or in public places.

**2.15** Intervention will partly be determined by the environment or the context in which the abuse has occurred. Nursing, residential care homes and placement schemes are subject to regulatory controls set out in legislation and relevant guidance. Day care settings are not currently regulated in this way and require different kinds of monitoring and intervention to address similar risks. Paid care staff in domiciliary services may work with little or no supervision or scrutiny, and unregulated locations such as sheltered housing may require particular vigilance. Personal and family relationships within domiciliary locations may be equally complex and difficult to assess and intervene in.

**2.16** Assessment of the environment, or context, is relevant, because exploitation, deception, misuse of authority, intimidation or coercion may render a vulnerable adult incapable of making his or her own decisions. Thus, it may be important for the vulnerable adult to be away from the sphere of influence of the abusive person or the setting in order to be able to make a free choice about how to proceed. An initial rejection of help should not always be taken at face value.

**2.17 Patterns of abuse/abusing.** Patterns of abuse and abusing vary and reflect very different dynamics. These include:

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- serial abusing in which the perpetrator seeks out and ‘grooms’ vulnerable individuals. Sexual abuse usually falls into this pattern as do some forms of financial abuse;
- long term abuse in the context of an ongoing family relationship such as domestic violence between spouses or generations;
- opportunistic abuse such as theft occurring because money has been left around;
- situational abuse which arises because pressures have built up and/or because of difficult or challenging behaviour;
- neglect of a person’s needs because those around him or her are not able to be responsible for their care, for example if the carer has difficulties attributable to such issues as debt, alcohol or mental health problems;
- institutional abuse which features poor care standards, lack of positive responses to complex needs, rigid routines, inadequate staffing and an insufficient knowledge base within the service;
- unacceptable ‘treatments’ or programmes which include sanctions or punishment such as withholding of food and drink, seclusion, unnecessary and unauthorised use of control and restraint (see Harris et al 1996) or over-medication;
- failure of agencies to ensure staff receive appropriate guidance on anti-racist and anti-discriminatory practice;
- failure to access key services such as health care, dentistry, prostheses;
- misappropriation of benefits and/or use of the person’s money by other members of the household;
- fraud or intimidation in connection with wills, property or other assets.

**2.18 What degree of abuse justifies intervention?** In determining how serious or extensive abuse must be to justify intervention a useful starting point can be found in *Who decides?*. Building on the concept of ‘significant harm’ introduced in the Children Act, the Law Commission **suggested** that:

“‘harm’ should be taken to include not only ill treatment (including sexual abuse and forms of ill treatment which are not physical), but also the impairment of, or an avoidable deterioration in, physical or mental health; and the impairment of physical, intellectual, emotional, social or behavioural development’.”

**2.19** The seriousness or extent of abuse is often not clear when anxiety is first expressed. It is important, therefore, when considering the appropriateness of intervention, to approach reports of incidents or allegations with an open mind. In making any assessment of seriousness the following factors need to be considered:

- the **vulnerability** of the individual;
  - the **nature and extent** of the abuse;
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- the **length of time** it has been occurring;
- the **impact** on the individual; and
- the risk of **repeated or increasingly serious** acts involving this or other vulnerable adults.

**2.20** What this means in practice is working through a process of assessment to evaluate:

- Is the person suffering harm or exploitation?
- Does the person suffering or causing harm/exploitation meet the NHS and Community Care Act (1990) eligibility criteria?
- Is the intervention in the best interests of the vulnerable adult fitting the criteria and/or in the public interest?
- Does the assessment account for the depth and conviction of the feelings of the person alleging the abuse?



### 3. SETTING UP AN INTER-AGENCY FRAMEWORK

- 3.1 This is an area of practice which requires partnership working between statutory agencies to create a framework of inter-agency arrangements.
- 3.2 Local agencies should collaborate and work together within the overall framework of DH guidance on joint working. The lead agency with responsibility for co-ordinating such activity should be the local Social Services Authority but all agencies should designate a lead officer.
- 3.3 **Elements of an inter-agency administrative framework.** The first step in creating the necessary framework will be to **identify all the responsible and relevant agencies, including:**
- commissioners of health and social care services;
  - providers of health and social care services;
  - providers of sheltered and supported housing;
  - regulators of services;
  - the police and other relevant law enforcement agencies (including the Crown Prosecution Service);
  - voluntary and private sector agencies;
  - other local authority departments, eg housing and education;
  - probation departments;
  - DSS Benefit Agencies;
  - carer support groups;
  - user groups and user-led services;
-

- advocacy and advisory services;
- community safety partnerships;
- services meeting the needs of specific groups experiencing violence; and
- agencies offering legal advice and representation.

**3.4 A multi-agency management committee.** To achieve effective inter-agency working, agencies may consider that there are merits in establishing a multi-agency management committee (adult protection), which is a standing committee of lead officers. Such a body should have a clearly defined remit and lines of accountability, and it should identify agreed objectives and priorities for its work. Such committees should determine policy, co-ordinate activity between agencies, facilitate joint training, and monitor and review progress.

**3.5** Experience in other areas of practice has shown that such committees are often most effective where agency boundaries are coterminous.

**3.6 Further actions in such a framework will be to:**

- **identify role, responsibility, authority and accountability** with regard to the action each agency and professional group should take to ensure the protection of vulnerable adults;
- **establish mechanisms** for developing policies and strategies for protecting vulnerable adults which should be formulated, not only in collaboration and consultation with all relevant agencies but also take account of the views of service users, families and carer representatives;
- **develop procedures** for identifying circumstances giving grounds for concern and directing referrals to a central point;
- **formulate guidance** about the arrangements for managing adult protection, and dealing with complaints, grievances and professional and administrative malpractice;
- **implement equal opportunity policies and anti-discriminatory training** with regard to issues of race, ethnicity, religion, gender, sexuality, age, disadvantage and disability;
- **balance the requirements of confidentiality** with the consideration that, to protect vulnerable adults, it may be necessary to share information on a 'need-to-know basis' (bearing in mind the provisions of the Public Interest Disclosure Act 1998); and
- **identify mechanisms for monitoring and reviewing** the implementation and impact of policy.

**3.7 Roles and responsibilities within and between agencies.** When an allegation of abuse is made, the receiving agency must always notify the appropriate regulatory body, within any stipulated time limits, and also any other authority who may be using the service provider. Residential care homes are required under the Registered Homes Act 1984 (as amended in 1991) 'to notify the Registration Authority not later than 24

hours from the time of its occurrence...of any event in the home which affects the well-being of any resident', and specifically of:

- any serious injury to any person residing in the home (Regulation 14(1)(b)); and
- any event in the home which affects the well-being of any resident (Regulation 14 (1) (d)).

**3.8** Local procedures should address the issues to be considered with respect to people who live in one area but for whom some responsibility, for example in relation to the NHS and Community Care Act 1990, remains with the area from which they originated (see LAC(93)7 *Ordinary residence*). Such procedures should clearly identify the responsibilities of, and action to be taken by:

- the authority where the abuse occurred in respect of the monitoring and review of services and overall responsibility for adult protection;
- the registering body in fulfilling its regulatory function with regard to regulated establishments; and
- the placing authority's continuing duty of care to the abused person

**3.9** An effective response to the abuse of vulnerable adults requires not only effective inter-agency and inter-professional collaboration but also similar collaboration at all levels within agencies. Roles and responsibilities should be clear, and collaboration should take place at all the following levels:

- **operational;**
- **supervisory line management;**
- **senior management staff;**
- **corporate/cross authority;**
- **chief officers/chief executives; and**
- **local authority members.**

**3.10 Operational level.** Operational staff are responsible for identifying, investigating and responding to allegations of abuse. There needs to be a common understanding across agencies at operational level about what constitutes abuse and what the initial response to an allegation or suspicion of abuse should be. Arrangements must be established for the contribution of each relevant agency to be co-ordinated at this level. There must be a shared understanding about assessment and investigation processes and joint arrangements for decision making.

**3.11 Supervisory line management level.** Managers with responsibility for overseeing and supervising the investigation of, and response to, adult abuse are responsible for ensuring that all appropriate agencies are involved in the investigation and the provision of support, and that good standards of practice are maintained. They will also provide the first line of negotiation if differences arise between agencies.

Arrangements must be established to enable managers in different agencies to contact each other quickly to resolve any inter-agency problems.

- 3.12 Senior management level.** A senior manager should be identified in each agency to take the lead role with regard to the development of the policy and strategy, issuing operational guidance, promoting good practice, making policy recommendations to corporate management groups and negotiating with other agencies within an inter-agency framework. It is important that lead managers in different agencies should have comparable discretion and authority to make strategic and resource decisions. To achieve effective working relationships, based on trust and open communication, such managers will need to understand the organisational frameworks within which colleagues in different agencies work.
- 3.13 Corporate/cross authority level.** For adult protection work to be undertaken by any agency, its role and relevance to the agency's overall function must be understood and acknowledged. To achieve this, it is recommended that lead officers from each agency should submit annual progress reports to their agency's executive management body or group to ensure that adult protection policy requirements are part of the organisation's overall approach to service provision and service development.
- 3.14 Chief Officer and Chief Executive level.** It is hoped that Chief Officers and Chief Executives would contribute to national developments. Locally their role is to raise the profile, support the policy, and promote the development of initiatives to ensure the protection of vulnerable adults. Nationally, their role should include responding to, and supporting, national policy proposals. To achieve this, Chief Officers and Chief Executives should be regularly briefed on adult protection work within their agency.
- 3.15** As Chief Officer for the lead agency the Director of Social Services will have a particularly important role to play.
- 3.16 Local authority member level.** Local authority members will need to be aware of issues relating to the protection of vulnerable adults at a strategic level as well as those relating to cases of institutional and individual abuse. At the strategic and policy level an item about the protection of vulnerable adults should be included in the annual report which chief officers are required to submit to their authority or agency. With regard to institutional and individual cases of abuse, chief officers and chief executives will need to keep authority members aware of incidents of abuse and have a mechanism for doing so.
- 3.17** Each agency should be clear about the relationships between agencies and the structures for accountability flowing from that. Providers of



services should be clear that their operational procedures come within the framework set by statutory agencies and should clarify how and when to report outside their own hierarchy. Voluntary organisations – whether they provide residential, day, sheltered or supported housing services or specific services relating to abuse such as advice and help lines, or information and counselling – need to clarify how their role fits alongside that of statutory agencies in relation to abuse. Staff governed by professional regulation should be told how their professional responsibilities fit into this structure and at what point they can be deemed to have fulfilled these.

**3.18 Policy and service audit\***. The multi-agency management committee should undertake (preferably annually) an audit to monitor and evaluate the way in which their policies, procedures and practices for the protection of vulnerable adults are working. For this purpose, agencies should work together. Feedback on performance to all agencies should be a key feature of the audit process.

In determining the content of the audit process agencies must incorporate the following core elements:

- an evaluation of community understanding – the extent to which there is an awareness of the policy and procedures for protecting vulnerable adults;
- links with other systems for protecting those at risk – for example, child protection, domestic violence, victim support and community safety;
- an evaluation of how agencies are working together and how far the policy continues to be appropriate;
- the extent to which operational guidance continues to be appropriate in general and, in the light of reported cases of abuse, in particular;
- the training available to staff of all agencies;
- the performance and quality of services for the protection of vulnerable adults;
- the conduct of investigations in individual cases; and
- the development of services to respond to the needs of adults who have been abused.

The above elements should form the basis for developing outcome measures which can be used by both commissioners and providers of services to monitor and evaluate service provision.

**3.19 Learning from experience.** Agencies should routinely gather information about:

- number and source of referrals;
- information about the abused person, such as age, client group;
- information about the perpetrator;
- number of investigations and case conferences;

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Note: \*Social Services Departments will need to consider how this audit fits with the annual reports of Directors of Social Services.

- monitoring of disability, gender and ethnicity;
- whether the person is already known to any agency, particularly social services, or whether it is a new referral;
- type(s) of abuse referred using commonly agreed categories as suggested in 2.7;
- location in which abuse took place;
- outcomes of investigation;
- user/carer views on how policy has worked for them.

## 4. DEVELOPING INTER-AGENCY POLICY

**4.1 Policies.** The policy for the protection of vulnerable adults from abuse should flow from respect for their rights.

The policy should include:

- the scope of the problems being addressed;
- structures for planning and decision making;
- the principles to be upheld;
- a warning about the scale of the risk of abuse of vulnerable adults and the importance of constant vigilance;
- a definition of abuse, setting out the current state of knowledge, based on the most recent research on signs/patterns of abuse and features of abusive environments; and
- a definition of those vulnerable adults to whom the policy, procedures and practice guidance refer.

It should also be:

- available in an appropriate form to families and carers (and, where appropriate, users), not only following an instance of abuse but as a matter of routine; and
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- compatible with the statutory responsibilities of other agencies and to policies already in force within agencies including that relating to steps for seeking redress, such as grievance and disciplinary procedures.
- 4.2 Once the policy has been developed it should be ratified by chief executives/authority members of all relevant agencies.
- 4.3 **Principles.** In practice, this means that agencies should adhere to the following guiding principles:
- (i) **actively work together** within an inter-agency framework based on the guidance in Section 3;
  - (ii) **actively promote** the empowerment and well-being of vulnerable adults through the services they provide;
  - (iii) **act in a way which supports the rights of the individual** to lead an independent life based on self determination and personal choice;
  - (iv) **recognise people who are unable to take their own decisions** and/or to protect themselves, their assets and bodily integrity;
  - (v) **recognise that the right to self determination can involve risk** and ensure that such risk is recognised and understood by all concerned, and minimised whenever possible (there should be an open discussion between the individual and the agencies about the risks involved to him or her);
  - (vi) **ensure the safety of vulnerable adults** by integrating strategies, policies and services relevant to abuse within the framework of the NHS and Community Care Act 1990, the Mental Health Act 1983, the Public Interest Disclosure Act 1998 and the Registered Homes Act 1984 (the provisions of which will be extended by the Care Standards Bill).
  - (vii) **ensure that when the right to an independent lifestyle and choice is at risk the individual concerned receives appropriate help**, including advice, protection and support from relevant agencies; and
  - (viii) **ensure that the law and statutory requirements are known and used appropriately** so that vulnerable adults receive the protection of the law and access to the judicial process.
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## 5. MAIN ELEMENTS OF THE STRATEGY

5.1 A strategy is a long term plan for implementing policy and for sustaining a high level of commitment to the protection of vulnerable adults in practice. It requires the following components:

- clarification of the roles and responsibilities, authority and accountability of each agency and how these will be dovetailed in any specific investigations;
  - procedures for responding to concerns and referrals;
  - joint protocols to govern specific areas of practice such as sharing of information or the conduct of joint interviews;
  - an annual statement *see paragraph 3.18 for links with annual reports by Directors of Social Services* about prevention which highlights safeguards in place and indicates priorities for additional safeguards;
  - a dissemination plan to ensure that information is passed on to users, carers, all relevant staff groups and the management of relevant agencies, to ensure that they are aware of the policy, understand what constitutes abuse and know how to make a referral;
  - identification of matters which should be specified in contracts with independent providers and contract monitoring to enhance the safety of vulnerable people;
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- a service development plan which sets out the need for specialist services generated by this work and action to be taken to ensure that a range of services is available, including refuges, counselling for vulnerable adults who have been abused, intervention for service users who may be abusing; the plan will identify resources for these services;
- the setting up and learning from a system for monitoring the volume and outcomes, impact and resource implications of adult protection work which puts in place a mechanism for auditing individual cases; and
- a training strategy for all levels of staff.

**5.2 Training for staff and volunteers.** Agencies should provide training for staff and volunteers on the policy, procedures and professional practices that are in place locally, commensurate with their responsibilities in the adult protection process. This should include:

- basic induction training with respect to awareness that abuse can take place and duty to report;
- more detailed awareness training, including training on recognition of abuse and responsibilities with respect to the procedures in their particular agency;
- specialist training for investigators; and
- specialist training for managers.

**5.3** Training should take place at all levels in an organisation and within specified time scales. To ensure that procedures are carried out consistently no staff group should be excluded. Training should include issues relating to staff safety within a Health and Safety framework. Training is a continuing responsibility and should be provided as a rolling programme. (Unit Z1 of the NVQ Training Programme is specifically aimed at care workers in the community.)

**5.4 Commissioning of services and contract monitoring.** Service commissioners, at both national and local level, should ensure that all documents, such as service specifications, invitations to tender and service contracts, fully reflect their policy for the protection of vulnerable adults and specify how they expect providers to meet the requirements of the policy. They should require that any allegation or complaint about abuse that may have occurred within a service subject to contract specifications must be brought to the attention of the contracts officer of any purchasing authority. Monitoring arrangements should include adult protection issues.

- 5.5 Confidentiality.** Agencies should draw up a common agreement relating to confidentiality and setting out the principles governing the sharing of information based on the best interests of the vulnerable adult. In doing so they will need to distinguish between the principles of confidentiality designed to safeguard the best interests of the service user and those protecting other aspects of management.
- 5.6** The most recent discussion of all aspects of patient identifiable information and how this is to be protected is to be found in the report of the Caldicott Committee *Report on the review of patient-identifiable information*. That report recognises that confidential patient information may need to be disclosed in the best interests of the patient and discusses in what circumstances this may be appropriate and what safeguards need to be observed. The principles can be summarised as:
- information will only be shared on a ‘need to know’ basis when it is in the best interests of the service user;
  - confidentiality must not be confused with secrecy;
  - informed consent should be obtained but, if this is not possible and other vulnerable adults are at risk, it may be necessary to override the requirement; and
  - it is inappropriate for agencies to give assurances of absolute confidentiality in cases where there are concerns about abuse, particularly in those situations when other vulnerable people may be at risk.
- 5.7** Decisions about who needs to know and what needs to be known should be taken on a case by case basis, within agency policies and the constraints of the legal framework.
- 5.8** Principles of confidentiality designed to safeguard and promote the interests of service users and patients should not be confused with those designed to protect the management interests of an organisation. These have a legitimate role but must never be allowed to conflict with the interests of service users and patients. If it appears to an employee or person in a similar role that such confidentiality rules may be operating against the interests of vulnerable adults then a duty arises to make full disclosure in the public interest.
- 5.9** In certain circumstances it will be necessary to exchange or disclose personal information which will need to be in accordance with the Data Protection Act 1998 where this applies.
- 5.10** The Home Office and the Office of the Data Protection Commissioner (formerly Registrar) have issued general guidance on the preparation and use of information sharing protocols.
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## DEVELOPING AN INTER-AGENCY POLICY ON ABUSE OF VULNERABLE ADULTS

### Strategies And Plans

Management arrangements	Roles And Responsibilities	Monitoring and Audit	Dissemination Plan	Service Development Plan	Annual statement of priorities
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### Procedures And Protocols

Procedures for responding in individual cases	Joint protocols of shared practice eg: confidentiality and interviewing
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### Guidelines And Information

Internal guidelines for staff in provider agencies	Accessible information for users/carers/members of the public
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## 6. PROCEDURES FOR RESPONDING IN INDIVIDUAL CASES

- 6.1 The starting point for dealing successfully with circumstances giving ground for anxiety and allegations of the abuse of vulnerable adults must be that agencies have an organisational framework within which all concerned at the operational level understand the inter-agency policies and procedures, know their own role and have access to comprehensive guidance.
- 6.2 The first priority should always be to ensure the safety and protection of vulnerable adults. To this end it is the responsibility of all staff to act on any suspicion or evidence of abuse or neglect (see the Public Interest Disclosure Act 1998) and to pass on their concerns to a responsible person/agency.
- 6.3 **Objectives of an investigation.** The objectives of an adult abuse investigation will be to:
- establish facts;
  - assess the needs of the vulnerable adult for protection, support and redress; and
  - make decisions with regard to what follow-up action should be taken with regard to the perpetrator and the service or its management if they have been culpable, ineffective or negligent.
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**6.4** Action might be primarily supportive or therapeutic or it might involve the application of sanctions, suspension, regulatory activity or criminal prosecution, disciplinary action or de-registration from a professional body. Remember, vulnerable adults who are victims, like any other victims, have a right to see justice.

**6.5 Content of procedures.** Procedures should include:

- a statement of roles and responsibility, authority and accountability sufficiently specific to ensure that all staff understand their role and limitations;
- a statement of the procedures for dealing with allegations of abuse, including those for dealing with emergencies by providing immediate protection, the machinery for initially assessing abuse and deciding when intervention is appropriate and the arrangements for reporting to the police urgently when necessary;
- a statement indicating what to do in the event of a failure to take necessary action;
- a full list of points of referral indicating how to access support, advice and protection at all times, whether in normal working hours or outside them, with a comprehensive list of contact addresses and telephone numbers, including relevant national and local voluntary bodies;
- an indication of how to record allegations of abuse, their investigation and all subsequent action;
- a list of sources of expert advice;
- a full description of channels of inter-agency communication and procedures for decision making; and
- a list of all services which might offer victims access to support or redress.

(Procedures should be evaluated annually and routinely updated to incorporate lessons from recent cases.)

**6.6** Guidance should also summarise the provisions of the law – criminal, civil and statutory – relevant to the protection of vulnerable adults. This should include guidance about obtaining legal advice and access to appropriate remedies.

**6.7 Management and co-ordination of the response to the allegation of adult abuse. Procedures for receiving a referral:** Information suggesting that abuse may have occurred can come from a variety of sources. The matter may, for example, be raised by the person who is abused, a concerned relative, or a member of staff. It may come in the form of a complaint, it may be an expression of concern, or it may come to light during a needs assessment. Exceptionally, the first

notification may be made to the police, especially if the matter is very serious. The issue of handling information from an anonymous informant must also be addressed. The early involvement of the police may have benefits.

In particular:

- early referral or consultation with the police will enable them to establish whether a criminal act has been committed and this will give them the opportunity of determining if, and at what stage, they need to become involved;
- a higher standard of proof is required in criminal proceedings than in disciplinary or regulatory proceedings (where the test is the balance of probabilities);
- early involvement of the police will help ensure that forensic evidence is not lost or contaminated;
- police officers have considerable skill in investigating and interviewing and early involvement may prevent the abused adult being interviewed unnecessarily on subsequent occasions;
- police investigations should proceed alongside those dealing with the health and social care issues;
- guidance should include reference to support relating to criminal justice issues which is available locally from such organisations as Victim Support and court preparation schemes; and
- some witnesses will need protection. (Please see *Speaking up for Justice* (1988), including the provisions in Part II of the Youth Justice and Criminal Evidence Act 1999 – the majority of which will be implemented in the Crown Court by the end of 2000.)

This process may not always result in criminal proceedings.

**6.8** All those making a complaint or allegation or expressing concern, whether they be staff, service users, carers or members of the general public, should be reassured that:

- they will be taken seriously;
- their comments will usually be treated confidentially but their concerns may be shared if they or others are at significant risk (see 5.5 to 5.10);
- if service users, they will be given immediate protection from the risk of reprisals or intimidation;
- if staff, they will be given support and afforded protection if necessary, eg: under the Public Interest Disclosure Act 1998;
- they will be dealt with in a fair and equitable manner; and
- they will be kept informed of action that has been taken and its outcome.

**6.9** Information relating to alleged abuse will trigger these procedures to govern investigation and further work. In pursuance of the objectives

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listed in 6.3 the following processes will need to be co-ordinated and managed, in parallel where necessary:

- investigation of the complaint;
- assessment and care planning for the vulnerable person who has been abused;
- action with regard to criminal proceedings;
- action by employers, such as, suspension, disciplinary proceedings, use of complaints and grievance procedures, and action to remove the perpetrator from the professional register;
- arrangements for treatment or care of the abuser, if appropriate; and
- consideration of the implications relating to regulation, inspection and contract monitoring.

**6.10 Investigation.** A properly co-ordinated joint investigation will achieve more than a series of separate investigations. It will ensure that evidence is shared, repeated interviewing is avoided and will cause less distress for the person who may have suffered abuse. Good co-ordination will also take into account the different methods of gathering and presenting evidence and the different requirements with regard to standard of proof. The communication needs of victims including people with sensory impairments, learning disabilities, dementia or whose first language is not English must be taken into account. Interviewers and interpreters may need specific training. The goal, as noted by the *Independent Longcare inquiry*, should be that: “There have to be agreements on lead responsibilities, specific tasks, co-operation, communication and the best use of skill. Those interagency arrangements must be in place so that they can be activated quickly when needed. However, no individual agency’s statutory responsibility can be delegated to another. Each agency must act in accordance with its duty when it is satisfied that the action is appropriate. Joint investigation there may be but the shared information flowing from that must be constantly evaluated and reviewed by each agency”.

**6.11** The procedure should be clear about the role of the regulatory authority in investigations.

**6.12** Agencies receiving a complaint or allegation of abuse should inform other agencies involved of the nature of the complaint or allegation and the action being taken. The lead agency should co-ordinate and monitor action, and should ensure that other agencies involved receive updates on progress made in the investigation unless it is unsafe and inappropriate for them to do so.

**6.13** The following stages of investigation of any allegation of abuse will need to be undertaken:

- **reporting** to a single referral point;

- **recording**, *with sensitivity to the abused person*, the precise factual details of the alleged abuse;
- **initial co-ordination** involving representatives of all agencies which might have a role in a subsequent investigation and could constitute a strategy meeting;
- **investigation** within a jointly agreed framework to determine the facts of the case; and
- **decision making** which may take place at a shared forum such as a case conference.

**6.14 Record keeping.** Whenever a complaint or allegation of abuse is made all agencies should keep clear and accurate records **and each agency should identify procedures for incorporating**, on receipt of a complaint or allegation, all relevant agency and service user records into a file to record all action taken. In the case of providers of services these should be available to service commissioners and local inspection units.

**6.15** Staff need to be given clear direction as to what information should be recorded back on the user's file and in what format. The following questions will give a guide:

- what information do staff need to know in order to provide a high quality service to the person concerned?
- what information do staff need to know in order to keep people safe under the service's duty to protect vulnerable people from harm?
- what information is not necessary?
- what may be a breach of a person's legal rights?

**6.16** Records should be kept in such a way that they create statistical information as a by-product.

**6.17** All agencies should identify arrangements, consistent with principles of fairness, for making records available to those affected by, and subject to, investigation.

**6.18** If the alleged abuser is a service user then information about his or her involvement in an adult protection investigation, including the outcome of the investigation, should be included on his or her case records. If it is assessed that the individual continues to pose a threat to other service users then this should be included in any information that is passed on to service providers.

**6.19 Assessment Planning for the person's future protection.** Once the facts have been established, an assessment of the needs of the adult abused will need to be made. This will entail joint discussion, decision and planning for the person's future protection.

- 6.20** In deciding what action to take, the rights of all people to make choices and take risks and their capacity to make decisions about arrangements for investigating or managing the abusive situation should be taken into account. (Note the contents of the Power of Attorney Act 1971 and the Enduring Power of Attorney Act 1995.)
- 6.21** The vulnerable adult's capacity is the key to action since if someone has 'capacity' and declines assistance this limits the help that he or she may be given. It will not however limit the action that may be required to protect others who are at risk of harm. In order to make sound decisions, the vulnerable adult's emotional, physical, intellectual and mental capacity in relation to self determination and consent and any intimidation, misuse of authority or undue influence will have to be assessed (the Government's policy statement *Making decisions* sets out proposals for making decisions on behalf of mentally incapacitated adults).
- 6.22 Person alleged to be responsible for abuse or poor practice.**  
When a complaint or allegation has been made against a member of staff, he or she should be made aware of his or her rights under employment legislation and internal disciplinary procedures.
- 6.23** In criminal law the Crown or other prosecuting authority has to prove guilt, and the defendant is presumed innocent until proved guilty.
- 6.24** Alleged perpetrators who are also vulnerable adults themselves, in that they may have learning disabilities or mental health problems and are unable to understand the significance of questions put to them or their replies, should be assured of their right to the support of an 'appropriate' adult whilst they are being questioned by the police under the Police and Criminal Evidence Act 1984 (PACE). Victims of crime and witnesses may also require the support of an 'appropriate' adult.
- 6.25 Staff discipline and criminal proceedings.** As a matter of course allegations of criminal behaviour should be reported to the police, and agencies should agree procedures to cover the following situations:
- 6.26** Procedures.
- action pending the outcome of the police and the employer's investigations;
  - action following a decision to prosecute an individual;
  - action following a decision **not** to prosecute;
  - action pending trial; and
  - responses to both acquittal and conviction.

- 6.27 Disciplinary procedures.** Employers who are also service providers or service commissioners have not only a duty to the victim of abuse but also a responsibility to take action in relation to the employee when allegations of abuse are made against him or her. Employers should ensure that their disciplinary procedures are compatible with the responsibility to protect vulnerable adults.
- 6.28** With regard to abuse, neglect and misconduct within a professional relationship, some perpetrators will be governed by codes of professional conduct and/or employment contracts which will determine the action that can be taken against them. Where appropriate, employers should report workers to the statutory and other bodies responsible for professional regulation.
- 6.29** The standard of proof for prosecution is 'beyond reasonable doubt'.
- 6.30** The standard of proof for internal discipline is usually the civil standard of 'on the balance of probabilities'.
- 6.31 Suspension from duty.** The employee may be suspended pending the outcome of the employer's investigation. Decisions not to suspend an employee and/or not to inform the police, must be fully documented and endorsed separately by an independent senior officer from within the investigating agency.
- 6.32 Role of advocates.** In some cases, it will be necessary to appoint an independent advocate to represent the interests of those subject to abuse. In such cases, all agencies should set out how the services of advocates can be accessed, and the role they should take.
- 6.33 Decision making.** Once investigations are completed, the outcome should be notified to the lead agency which should then determine what, if any, further action is necessary.
- 6.34** One outcome of the investigation and assessment will be the formulation of agreed action for the vulnerable adult to be recorded on his or her care plan. This will be the responsibility of the relevant agencies to implement.

This should set out:

- what steps are to be taken to assure his or her safety in future;
  - what treatment or therapy he or she can access;
  - modifications in the way services are provided (eg same gender care or placement);
  - how best to support the individual through any action he or she takes to seek justice or redress; and
  - any on-going risk management strategy required where this is deemed appropriate.
-

- 6.35** In any case of a proved complaint or allegation, particularly where this involves professional malpractice, the lead agency should ensure that relevant agencies/professional bodies are appropriately informed (the 1999 Home Office document *Caring for young people and the vulnerable* offers guidance for preventing abuse of trust).
- 6.36** The Government intends to introduce a statutory workforce ban mechanism for people found to be unsuitable to work with vulnerable adults. The Care Standards Bill (see **4.3**) sets out the basis of the mechanism which closely mirrors that in the Protection of Children Act 1999. In this system 'vulnerability' of adults is defined in relation to those services where adults are inherently at risk of harm. The new mechanism, once in operation, will complement the General Social Care Council (GSCC) and, together, they will add significant new safeguards for vulnerable people.
- 6.37** If the abuse has occurred within a residential unit, once the safety of the residents has been established and any immediate investigation is completed, the appropriate regulatory body (currently the LA/HA inspection unit) should establish the need for any enforcement action under the Registered Homes Act 1984 (the provisions of which are extended by the Care Standards Bill (see **4.3 vi**)).



## 7. GETTING THE MESSAGE ACROSS

- 7.1 All *commissioners* or providers of services in the public, voluntary or private sectors, should disseminate information about the multi-agency policy and procedures. Staff should be made aware through internal guidelines of what to do when they suspect or encounter abuse of vulnerable adults. This should be incorporated in staff manuals or handbooks detailing terms and conditions of appointment and other employment procedures so that individual staff members will be aware of their responsibilities in relation to the protection of vulnerable adults. This information should emphasise that all those who express concern will be treated seriously and will receive a positive response from management.
- 7.2 **Rigorous recruitment practices.** In relation to certain employments, persons convicted of certain offences do not have the protection of the Rehabilitation of Offenders Act 1974.
- 7.3 **References.** All references, including a reference from the last employer, should be taken up before formal offers of appointment and should be provided in writing. Prospective employers including agencies should make all reasonable efforts to check that referees are bona fide and, if in doubt, should ask job applicants to provide an alternative. Please note the process of the Care Standards Bill through Parliament.
-

**7.4 Volunteers.** Where agencies make use of volunteers who have significant and regular contact with vulnerable people, they should undertake the same checks as they would when employing paid staff. Employers and supervisors should ensure that volunteers are fully aware of agency policy and procedures governing the protection of vulnerable adults and what they (volunteers) should do and to whom they can refer if they have any concerns.

**7.5 Internal guidelines for all staff.** Provider agencies will produce for their staff a set of *internal guidelines* which relate clearly to the multi-agency policy and which set out the responsibilities of all staff to operate within it. These will include guidance on:

- identifying vulnerable adults who are particularly at risk;
- recognising risk from different sources and in different situations and recognising abusive behaviour from other service users, colleagues, and family members;
- routes for making a referral and channels of communication within and beyond the agency;
- assurances of protection for whistle blowers;
- working within best practice as specified in contracts;
- working within and co-operating with regulatory mechanisms; and
- working within agreed operational guidelines to maintain best practice in relation to:
  - challenging behaviour
  - personal and intimate care
  - control and restraint
  - sexuality
  - medication
  - handling of user's money
  - risk assessment and management.

**7.6** Internal guidelines should also cover the rights of staff and how employers will respond where abuse is alleged against them within either a criminal or disciplinary context.

**7.7 Information for users, carers and the general public.** Information leaflets should be produced in different, user friendly formats for service users and their carers, These should explain clearly what abuse is and also how to express concern and make a complaint. Service users and carers should be informed that their concern or complaint will be taken seriously, be dealt with independently and that they will be kept informed of the outcome. They should be reassured that they will receive help and support in taking action on their own behalf. They should also be advised that they can nominate an advocate or representative to speak and act on their behalf if they wish.

- 7.8 In addition agencies should produce a range of information leaflets which set out how members of the public can express concern or make a complaint if they suspect or encounter abuse of a vulnerable adult. Such information must be made available in different languages and various formats and could be lodged in public places, eg libraries and doctors' surgeries
- 7.9 **Direct payments.** Anyone who is purchasing his or her own services through the direct payments system and the relatives of such a person should be made aware of the arrangements for the management of adult protection in their area so that they may access help and advice through the appropriate channels. Care managers, who play a role in direct payments, could be asked to help users who are at risk of abuse.

## THE PROJECT STEERING GROUP MEMBERSHIP

Appendix I - page

**Peter Dunn**, Department of Health and Chair of the Steering Group.

**Jeremy Ambache**, Director Knowsley Social Services Department, Chair of Older People Committee, Association of Directors of Social Services.

**Naseem Aboobaker**, Mushkil Aasaan.

**Marion Beeforth**, Survivors Speak Out.

**Hilary Brown**, Hon Professor of Social Care, Open University; Consultant, Salomons Canterbury Christ Church University College

**Sue Chilton**, Surrey Social Services Department.

**Lynn Christopherson**, North Staffordshire Combined Healthcare NHS Trust.

**Thelma Claydon**, Lewisham Social Services Department.

**Elaine Cooper**, Department of Health.

**Ian Davey**, Director of Social Services, Rochdale MBC, Chair of Disabilities Committee, Association of Directors of Social Services.

**Trish Davies**, Department of Health.

David Ellis, Department of Health.

**Brenda Fearne**, Practitioners Alliance Against Abuse of Vulnerable Adults (PAVA).

**David Gilbertson**, ACPO Metropolitan Police (represented by Sue Williams).

**Annette Goulden**, Department of Health.

**Gillian Harrison**, Home Office.

**Peter Graham**, Home Office.

**Jane Heaton**, NHS Executive, Department of Health.

**Christiana Horrocks**, VOICE UK.

**Ginny Jenkins**, Action on Elder Abuse.

**Deborah Kitson**, Ann Craft Trust (previously NAPSAC, National Association for the Protection from Sexual Abuse of Adults and Children with Learning Disabilities)

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**Ann Pridmore**, British Council of Disabled Persons (BCODP).

**Leo Quigley**, Sheffield Social Services Department.

**Angela Ruggles**, Department of Health.

**Jackie Scott**, Deaf-Blind UK (first meeting).

**Graham Sharp**, Metropolitan Police.

**Chris Vellenoweth**, NHS Confederation.

**Pat Vogt**, Inspector SSI, National Assembly for Wales.

**Richard Wood**, British Council of Organisations of Disabled Persons.

**Annette Young**, Consultant.

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40 - Appendix III

LIST OF RELEVANT STATUTES

- |   |   |
|---|---|
| Carer's (Recognition and Services) Act 1995                           | Mental Health Act 1959                              |
| Chronically Sick and Disabled Persons Act 1970                        | Mental Health Act 1983                              |
| Data Protection Act 1998  | National Assistance Act 1948                        |
| Disability Discrimination Act 1995                                    | National Health Service and Community Care Act 1990 |
| Disabled Persons (Services, Consultation and Representation) Act 1986 | National Health Service Act 1977                    |
| Employment Rights Act 1996  | Police and Criminal Evidence Act 1970               |
| Enduring Power of Attorney Act 1995                                   | Power of Attorney Act 1971                          |
| Health Act 1999   | Public Health Acts 1936 and 1961                    |
| Health Services and Public Health Act 1968                            | Public Interest Disclosure Act 1998                 |
| Housing Act 1985  | Registered Homes Act 1984                           |
| Housing Act 1996  | Registered Homes (Amendment) Act 1991               |
| Human Rights Act 1998   | Sexual Offences Act 1956                            |
| Local Authority Social Services Act 1970                              | Sexual Offences Act 1967                            |
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**Interpretation of this Part**

**49.—(1) In this Part—**

“agencies” means—

- (a) the Police Service of Northern Ireland;
- (b) the Probation Board for Northern Ireland;
- (c) the Department of Education;
- (d) the Department for Employment and Learning;
- (e) the Department of Health, Social Services and Public Safety;
- (f) the Department for Social Development;
- (g) **F1** ... **F2** HSC trusts ;
- (h) Education and Library Boards;
- (i) the Northern Ireland Housing Executive;
- (j) the National Society for the Prevention of Cruelty to Children;

**F3** “child” means a person under the age of 18;

“conviction” includes—

- (i) a conviction by or before a court outside Northern Ireland;
- (ii) any finding (other than a finding linked with a finding of insanity) in any criminal proceedings that a person has committed an offence or done the act or made the omission charged;
- (iii) a caution given to a person in respect of an offence which, at the time when the caution was given, the person has admitted;

“serious harm” means death or serious personal injury, whether physical or psychological;

“specified” means specified in guidance under Article 50.

**F4** “relevant previous conviction”, in relation to a person, means a conviction for a sexual or violent offence by reason of which the person falls within a specified description of persons;

(2) The Secretary of State may by order amend the definition of “agencies” in paragraph (1).

**Textual Amendments**

- F1** Words in art. 49(1)(g) omitted (1.4.2022) by virtue of Health and Social Care Act (Northern Ireland) 2022 (c. 3), s. 8(1) (b), Sch. 1 para. 226(4); S.R. 2022/102, art. 2(b)
- F2** Words in Order substituted (1.4.2009) by virtue of Health and Social Care (Reform) Act (Northern Ireland) 2009 (c. 1), ss. 32, 34(3), Sch. 6 para. 1(1)(d) (with Sch. 6 para. 1(3)); S.R. 2009/114, art. 2
- F3** Words in art. 49(1) inserted (14.3.2016) by Justice Act (Northern Ireland) 2015 (c. 9), ss. 48(2)(a), 106(2); S.R. 2016/136, art. 2(a)
- F4** Words in art. 49(1) inserted (14.3.2016) by Justice Act (Northern Ireland) 2015 (c. 9), ss. 48(2)(b), 106(2); S.R. 2016/136, art. 2(a)

**Guidance to agencies on assessing and managing certain risks to the public**

**50.—(1)** The Secretary of State may issue guidance to agencies on the discharge of any of their functions which contribute to the more effective assessment and management of the risks posed by persons of a specified description

(2) Guidance under this Article may contain provisions for the purpose of facilitating co-operation between agencies, including—

- (a) provisions requiring agencies to maintain arrangements for that purpose and to draw up a memorandum of co-operation;
- and
- (b) provisions regarding the exchange of information among them.

**F5** (2A) Guidance under this Article must contain provisions about arrangements for considering the disclosure, to any particular member of the public, of information concerning any relevant previous convictions of a person where it is necessary to protect a

particular child or particular children from serious harm caused by that person; and the guidance may, in particular, contain provisions for the purpose of preventing a member of the public from disclosing that information to any other person.]

~~MAHI - STM - 316 - 107~~

(3) **[F6** Paragraphs (2) and (2A) do] not affect the generality of paragraph (1).

(4) Agencies shall give effect to guidance under this Article.

(5) The Secretary of State shall consult the agencies before issuing guidance under this Article.

(6) The Secretary of State shall not specify a description of persons in guidance under this Article unless, whether by reason of offences committed by them (in Northern Ireland or elsewhere) or otherwise, the Secretary of State has reason to believe that persons of that description may cause serious harm to the public.



Department of  
**Justice**  
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# Guidance to agencies on public protection arrangements (PPANI)

Article 50, Criminal Justice (Northern  
Ireland) Order 2008

Guidance to agencies on public protection arrangements (PPANI)

## Foreword by the Minister of Justice

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Protecting the public from the risk posed by serious criminal offenders, especially risk to children and other vulnerable groups from sexual abuse, continues to be a top priority for Government. We know this is a huge problem crossing all levels of society, all walks of life and all social backgrounds. We know the depth of concern and fear that sexual offending can impart. We also know that many cases of sexual and physical abuse, particularly of children, go unreported and undetected and that often the abuse is carried out by family members and others known to the victims.

To respond to this concern, we have provisions in the Criminal Justice (NI) Order 2008 designed to increase public protection. These provisions place a duty on a number of agencies, both within the criminal justice sector and elsewhere, to cooperate in the interest of better assessment and management of risk posed by serious sexual and violent offenders. The legislation also provides for me to issue guidance to the agencies on the discharge of any of their functions which contribute to risk management.

The original guidance was issued in October 2008 and created the public protection arrangements in Northern Ireland (PPANI). This version has been updated to reflect developments and improvements to the arrangements and, perhaps most importantly, seeks to clarify and better present the context within which the arrangements work.

The arrangements outlined by this guidance, which has statutory backing, require agencies to share information and work together to manage the risk posed by both sex offenders and certain violent offenders.

The objective is to achieve maximum effectiveness in the efforts made on a multi agency basis to manage, and therefore reduce, the risk posed to the community by offenders, both sexual and violent, who might pose a serious threat to either an individual or to the public in more general terms.

This revised guidance is issued to all agencies listed in Article 49 of the Criminal Justice (Northern Ireland) Order 2008, along with the Prison Service and Youth Justice Agency. All have a duty to give effect to this guidance. All must exercise in accordance with this guidance the functions of their respective organisations where they contribute to the more effective assessment and management of the risks posed by certain sexual and violent offenders.

It is important, however, to place these arrangements in their proper context. Along with the development of risk assessment and management procedures, the Criminal Justice (NI) Order 2008 introduced a new sentencing framework, which included extended and indeterminate sentences for public protection. This means that dangerous sexual and violent offenders are in the future unlikely to be released into the community until the risk they pose is considered by the parole commissioners to be at a level which is then manageable. They will then be released under the supervision of the Probation Board, and these multi agency arrangements will be used to make the management of their risk as effective as possible.

This revised guidance, and the accompanying operational manual of practice agreed by agencies, reflects the continuing development of the public protection arrangements. The guidance reflects learning and experience gained since the public protection arrangements were launched in October 2008. The criminal justice agencies, and other stakeholders, remain committed to working together to reduce the risk of serious harm being inflicted by sex offenders and certain violent offenders.

Although police and probation are at the front line in protecting the public, there are vitally important roles played by social services, prisons and others. I am grateful that all the agencies concerned accept the need for a multi agency response to risk management and continue to provide and share much useful information.

This is both a challenging and dynamic process, and this guidance will be reviewed as necessary to ensure that agencies will be ready to respond to those challenges and to keep at the top of the agenda the importance of protecting the public from serious sexual and violent harm.

**David Ford**  
**Minister of Justice**

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# 1

## Introduction

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### 1.1 Status of the guidance

This guidance is issued by the Minister of Justice under Article 50 of the Criminal Justice (Northern Ireland) Order 2008. All “agencies” listed in Article 49 of the Criminal Justice (Northern Ireland) Order 2008 have a duty to give effect to this guidance in exercising their functions which contribute to the more effective assessment and management of the risks posed by certain sexual and violent offenders. The guidance is issued to the following agencies:

- **Police Service of Northern Ireland;**
- **Probation Board for Northern Ireland;**
- **Northern Ireland Prison Service;**
- **Youth Justice Agency;**
- **Department of Education;**
- **Department for Employment and Learning;**
- **Department of Health, Social Services and Public Safety;**
- **Department for Social Development;**
- **HSC Boards and HSC trusts;**
- **Education and Library Boards;**
- **Northern Ireland Housing Executive; and**
- **National Society for the Prevention of Cruelty to Children;**

### 1.2 Outline of the arrangements

Statutory arrangements were established in 2008 to assist in the management of risk posed by certain offenders in the community who present evidence of likelihood to cause serious harm. These arrangements are known as the public protection arrangements in Northern Ireland (PPANI). In England, Wales and Scotland there are similar arrangements known as multi agency public protection arrangements (MAPPA). The arrangements involve agencies working together and sharing information to better protect the public in a co-ordinated manner. There is no corporate body formed by the legislation to deliver these arrangements. The relevant criminal justice agencies (eg police and probation) and others, such as social services, deliver their own statutory responsibilities and obligations relating to public protection in a joined up and cooperative way. It is also important to note that the public protection arrangements do not replace existing child protection procedures. The Police Service of Northern Ireland, Probation Board for Northern Ireland, the Northern Ireland Prison Service and social services clearly have a greater public protection role than the other agencies listed and this is reflected throughout this guidance.

### 1.3 Decision Making

Agencies need to be mindful of both their own statutory obligations and the duties placed on them by this guidance. They need to ensure that their own statutory roles and functions are not compromised by the public protection arrangements. Agreement on risk management between agencies is a goal rather than a requirement. Each agency has its own statutory responsibilities to discharge. However, differences of opinion in respect of either the risk assessment or risk management plan must be fully documented. No agency should feel pressured to agree to a course of action which they consider is in conflict with their statutory obligations and wider responsibility to public protection. Each agency retains responsibility for its own actions in relation to the assessment and management of risk.

### 1.4 Revision of the guidance

The version of the guidance published on 6 October 2008 was developed through extensive consultation with agencies and with other interested parties through public consultation. This version of the guidance has been developed in light of operational experience and further consultation with key agencies listed in Article 49 of the Criminal Justice (Northern Ireland) Order 2008. While the guidance is designed to be comprehensive it is not overly prescriptive but seeks to set out broad principles to be followed by agencies. This revised version will be subject to further revision, as required, to take account of changes in practice, in legislation and other developments in public protection.

This guidance is consistent with the:

- **Prison Service's Public Protection Policies and Instructions;**
- **Probation Board for Northern Ireland Practice Standards 2006 and Risk of Serious Harm Policy;**
- **ACPO (2007) – Guidance on Protecting the Public: Managing Sexual and Violent Offenders;**
  - Area Child Protection Committees'
  - Regional Child Protection Policy and
  - Procedures (2005); and
- **Co-operating to Safeguard Children DHSSPS (2003); and**
- **Sharing to Safeguard DHSSPS Circular 3/96 (revised 2009) - Information Sharing about Individuals who may pose a risk to Children**

Following the issue of the "Report of the Multi Agency Inspection of Child Protection" by Social Services Inspectorate (DHSSPS) in January 2007, a number of reforms have been initiated. Amongst these is the "Information Sharing Policy, Standards and Criteria" for agencies working with families and children in Northern Ireland. This "protocol" is an essential guide to sharing information between practitioners in various agencies, particularly when there are safeguarding concerns. Agencies operating this guidance should be mindful of their responsibilities under this protocol.

### 1.5 Legislation

The following is the relevant underpinning legislation which allows for multi-agency co-operation:

#### **Criminal Justice (Northern Ireland) Order 2008 Part 3 - Risk assessment and management Interpretation Article 49**

- (1) In this Part "agencies"<sup>2</sup> means—
  - (a) the Police Service of Northern Ireland;
  - (b) the Probation Board for Northern Ireland;

- (c) the Department of Education;
  - (d) the Department for Employment and Learning;
  - (e) the Department of Health, Social Services and Public Safety;
  - (f) the Department for Social Development;
  - (g) HSC Board and HSC trusts;
  - (h) Education and Library Boards;
  - (i) the Northern Ireland Housing Executive;
  - (j) the National Society for the Prevention of Cruelty to Children;
- “child” means a person under the age of 18;  
“conviction” includes-
- (i) a conviction by or before a court outside Northern Ireland
  - (ii) any finding (other than a finding linked with a finding of insanity) in any criminal proceedings that a person has committed an offence or done an act or made the omission charged;
  - (iii) a caution given to a person in respect of an offence which, at the time when the caution was given, the person has admitted

“serious harm” means death or serious personal injury, whether physical or psychological;

“specified” means specified in guidance under Article 50;

“relevant previous conviction”, in relation to a person, means a conviction for a sexual or violent offence by reason of which the person falls within a specified description of persons.

(2) The Secretary of State may by order amend the definition of “agencies”<sup>3</sup> in paragraph (1).

### **Guidance to agencies on assessing and managing certain risks to the public**

#### **Article 50**

- (1) The Secretary of State may issue guidance to agencies on the discharge of any of their functions which contribute to the more effective assessment and management of the risks posed by persons of a specified description.
- (2) Guidance under this Article may contain provisions for the purpose of facilitating co-operation between agencies, including
  - allows for multi agency cooperation:
    - (a) provisions requiring agencies to maintain arrangements for that purpose and to draw up a memorandum of co-operation; and
    - (b) provisions regarding the exchange of information among them.
- (2A) Guidance under this Article must contain provisions for considering the disclosure, to any particular member of the public, of information concerning any relevant previous convictions of a person where it is necessary to protect a particular child or particular children from serious harm caused by that person; and the guidance may, in particular, contain provisions for the purpose of preventing a member of the public from disclosing that information to any other person.
- (3) Paragraphs (2) and (2A) does not affect the generality of paragraph (1).
- (4) Agencies shall give effect to guidance under this Article.
- (5) The Secretary of State shall consult the agencies before issuing guidance under this Article.
- (6) The Secretary of State shall not specify a description of persons in guidance under this Article unless, whether by reason of offences committed by them (in Northern Ireland or elsewhere) or otherwise, the Secretary of State has reason to believe that persons of that description may cause serious harm to the public.

## Review of arrangements and report on functions

### Article 51

- 1) The agencies shall, in consultation with the lay advisers appointed under paragraph (2), keep any arrangements mentioned in Article 50(2)(a) under review with a view to monitoring the effectiveness of the arrangements and making any changes which appear to be necessary or expedient.
- 2) The Secretary of State shall appoint 2 lay advisers and pay to or in respect of them such allowances as the Secretary of State may determine.
- 3) As soon as practicable after the end of each financial year, the agencies shall jointly prepare and publish a report on the discharge during that period of –
  - (a) their functions connected with assessing and managing risks posed by persons of a specified description; and
  - (b) their duty under paragraph (1).
- 4 The report must include –
  - (a) details of any arrangements mentioned in 50(2)(a), and
  - (b) information of such descriptions as the Secretary of State may determine.

## 1.6 Relevant agencies

This part briefly outlines the role each of the agencies listed in Article 49 of the Order can perform within the framework of the public protection arrangements.

### Police Service of Northern Ireland

The mission of the Police Service of Northern Ireland (PSNI) is to make Northern Ireland safer. Working together in partnership, the PSNI shares a commitment to ensure the continued delivery of high quality policing to all the communities in Northern Ireland. The PSNI is committed to providing the reassurance demanded by the people of Northern Ireland.

#### Contribution to public protection

The PSNI has a key role to play in protecting the public from those sex offenders and violent offenders who pose a risk of serious harm. The delivery of this high profile area of core business is essential in maintaining public confidence in the work of the police service.

The PPANI Administration Unit, currently staffed by police officers, is responsible for completing static risk assessments on cases and coordinating meetings of, and providing administrative support to, Local Area Public Protection Panels. Police officers also fulfill the role of designated risk manager for those offenders whose risk management is the lead responsibility of the PSNI.

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<sup>1</sup> Work is underway to establish a regional Safeguarding Board for Northern Ireland (SBNI) and a Safeguarding Panel within each of the five HSC Trust geographical areas. It is anticipated that the new structures will commence during 2011. The SBNI will become responsible for the development of regional guidance relating to the safeguarding of children.

<sup>2</sup> Northern Ireland Prison Service and Youth Justice Agency are not separately specified in the legislation as they are part of the Department of Justice.

<sup>3</sup> The functions of the Secretary of State were transferred to the Department of Justice on 12 April 2010

Local Public Protection Teams (PPT) and the inter- agency contribution of PSNI, PBNI and Social Services also provide a vital service.

The PSNI are also responsible for ensuring that all sex offenders subject to the notification requirements of the Sexual Offences Act 2003:

- Notify, as required;
- Are risk assessed; and
- That all suspected breaches of the notification requirements are investigated and appropriate action taken.

### **Probation Board for Northern Ireland**

The aim of the Probation Board for Northern Ireland (PBNI) is to help reduce crime and the harm it causes. PBNI is committed to working effectively, in partnership with a number of voluntary, private and statutory organisations. This function contributes to the public protection arrangements, which is also complemented by PBNI's professionally based case management approach to offenders.

#### Contribution to public protection

PBNI will assess, manage and supervise offenders who have been made subject to various court orders and licences to help protect the public from harm and reduce re-offending.

Probation officers also fulfill the role of designated risk manager for those offenders whose risk management is the lead responsibility of PBNI. PBNI area managers also chair the Local Area Public Protection Panels (LAPPPs).

PBNI will ensure that all relevant offenders are managed according to its practice standards. The standards provide a framework for the effective assessment, management and supervision of offenders as well as provision of reports to courts and parole commissioners. These standards are referred to in paragraph 1.4

### **Northern Ireland Prison Service**

The Northern Ireland Prison Service (NIPS) plays an important role in protecting the public. It keeps offenders in custody, enabling them to

address the causes of their offending behaviour and, by undertaking work, assists in their successful resettlement.

#### Contribution to public protection

The NIPS will:

- Provide information to the LAPPPs through regular monitoring of the behaviour of offenders in custody;
- When the offender is still in custody, participate in LAPPP meetings;
- Advise colleagues from other agencies about prison systems and procedures such as transfer between establishments and regime programmes.

## Health and Social Care Board and Social Care Trusts

Health and Social Care Boards and Trusts have responsibility for providing a range of services including:

- Mental Health Services
- Physical Disability Services
- Learning Disability Services
- Primary Care Services
- Older People Services
- Family and Childcare Services

### Contribution to public protection

The links between the responsibilities of Health and Social Care Trusts and the other agencies within the public protection framework will principally be in the area of child and vulnerable adult protection and safeguarding. However, the involvement of Trusts is also essential when dealing with offenders who have learning difficulties or mental health problems. Social Services staff will fulfill the role of designated risk manager in appropriate cases.

## Youth Justice Agency

The Youth Justice Agency (YJA) has responsibility for providing a range of statutory services for under 18s in the community and custody including

- monitoring and supervising court and diversionary Youth Conference Orders
- supervising other court Orders
- managing a secure residential centre for sentenced or remand young persons in custody
- providing family services
- providing victim services

### Contribution to public protection

The YJA will cooperate with other agencies within the framework of the public protection arrangements for those young persons under 18 years of age whose risks to the community, in exceptional cases, are to be addressed within the public protection arrangements and perform the role of designated risk manager in appropriate cases.

## Department of Health, Social Services and Public Safety

The Department of Health, Social Services and Public Safety (DHSSPS) aims to improve the health and wellbeing of people in Northern Ireland. The Department works closely with other government departments and agencies in response to meeting the needs of the population of Northern Ireland.



#### Contribution to public protection

DHSSPS will cooperate with the other relevant agencies and provide advice on policy, guidance and legislative developments which relate specifically to protecting children and vulnerable adults.

#### Department for Employment and Learning

To promote learning and skills, prepare people for work and to support the economy the Department for Employment and Learning (DEL) works with two main groups of customers:

- Individuals who are seeking to improve their levels of skills and qualifications or who require support and guidance to progress towards employment, including self-employment; and
- Businesses in both the public and private sectors.

#### Contribution to public protection

The sharing of information held by the Department can assist the police in locating offenders who fail to comply with risk management plans.

#### Department of Education /Education and Library Boards

The vision of the education system is 'to educate and develop all young people to the highest possible standards providing equality of access to all'. Realising this vision requires co-ordination across the education sector and a recognition that for young people to achieve their potential requires that they be educated in a safe and caring environment where they are respected and receive the support they need.

There is a legal duty on the Board of Governors of all grant-aided schools to safeguard and promote the welfare of pupils. In addition all schools are required by law to have a child protection policy, which takes account of guidance issued by the Department of Education (DE).

All schools should have a named designated teacher for child protection and a named deputy designated teacher. The designated teacher acts as a focal point for child protection within the school through providing advice and support to staff and by liaising with agencies outside the school as appropriate.

Schools are supported in the work of safeguarding children by the Education and Library Boards Child Protection Support Service for Schools (CPSSS). The CPSSS operates a term time advice helpline, provides training for staff across the sector and represents the sector at a local inter agency level.

Pending the establishment of a single education authority, the Department represents the sector at the PPANI Strategic Management Board.

#### Contribution to public protection

The education service, particularly schools, can assist the work of public protection in the appropriate circumstances, as:-

- pupils are encouraged to develop strategies to stay safe and this can be re-enforced at times when there is a particular local risk;
- staff are well placed to be alert and aware of activities within a locality that could be a threat to pupils' safety;
- in particular situations, and with the authorisation of the police, schools are in a position to warn individuals, groups of pupils, staff or parents of possible danger;

- schools can provide a safe environment for children and young people during school hours; and
- the local school is often the first 'port of call' for parents who have concerns about worrying activities in their area.

### Department for Social Development

The Department for Social Development (DSD) contributes to the social functioning and well-being of Northern Ireland society through its mission:

'Together, tackling disadvantage, building communities.' The Department's work centres on tackling poverty, deprivation, community division and disadvantage with interventions at various levels, targeting individual need, supporting vulnerable groups and tackling disadvantage at area and community level.

#### Contribution to public protection

The Department can contribute to the public protection agenda by sharing information about social security benefit and child maintenance details which can assist the police in locating offenders who fail to comply with risk management plans.

### Northern Ireland Housing Executive

The Northern Ireland Housing Executive (NIHE) has two main housing functions that are relevant to the resettlement of offenders – assistance with homelessness (including, in certain instances, the provision of temporary accommodation), and the provision of permanent social housing following assessment under the common selection scheme arrangements, as approved by the Department for Social Development.

The Common Selection Scheme arrangements require allocations of social housing, whether owned by the NIHE or housing associations, to be allocated on the basis of a common assessment of need and allocations policy. All applications, including those by offenders, are assessed in accordance with the rules of the approved scheme.

#### Contribution to public protection

Research has shown how having stable accommodation can have a positive impact on reducing the likelihood of an offender re-offending. The co-operation of both social and private housing providers is essential in the delivery of individual risk management plans and controlled information exchange is therefore vital. Given the importance of accommodation in the resettlement of offenders and hence in the assessment and management of risk, NIHE representatives can make an important contribution to the public protection arrangements. As indicated above this will not necessarily mean that they have a specific duty to accommodate an offender but their advice about accommodation and the procedures by which it is allocated and the suitability of particular accommodation, will provide a valuable contribution.

### The National Society for the Prevention of Cruelty to children

The National Society for the Prevention of Cruelty to children (NSPCC), as the lead voluntary child protection agency in Northern Ireland, has powers under the Children (NI) Order 1995 and Royal Charter. Its members work with victims of abuse in Northern Ireland through a range of services including: three therapeutic teams; help to witnesses through the Young Witness Service; and a specialist team that works with young people who get involved in sexually harmful behaviour.

## Contribution to public protection

The NSPCC representation ensures there is an independent child protection viewpoint.

### 1.7 Other agencies

There can be informal contributions and exchanges with other agencies, including the voluntary sector, which are not listed in the Criminal Justice (NI) Order 2008 but which may be of benefit to the operation of the public protection arrangements. For example, the Ministry of Defence, through the service police, holds information relating to offenders and victims which may need to be disclosed to agencies within the context of the public protection arrangements.

# Section 2

## PPANI Structures, Governance and Accountability

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- 2.1 Introduction
- 2.2 Structures - Local Area Public Protection Panels
- 2.3 Governance - oversight of the arrangements
- 2.4 Membership of the strategic forum
- 2.5 Meetings of the strategic forum
- 2.6 Business delivery
- 2.7 Funding
- 2.8 Accountability
- 2.9 Relationship with the Department of Justice
- 2.10 Communication
- 2.11 Monitoring and evaluation
- 2.12 Annual report
- 2.13 Training
- 2.14 Serious case reviews
- 2.15 Links with other public protection arrangements
- 2.16 Development of the public protection arrangements

# 2

## PPANI Structures, Governance and Accountability

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### 2.1 Introduction

It is important that the legislative context is given proper regard in determining the strategic functions which the agencies statutorily need to fulfil. There are three main areas:

- **The Criminal Justice (NI) Order 2008 provides** a power to allow the Department of Justice to issue guidance to the agencies on the discharge of any of their functions which contribute to the more effective assessment and management of the risks posed by certain persons.
- **The legislation also tasks the agencies to** keep the arrangements under review with a view to monitoring their effectiveness and making any necessary changes. They are assisted in this review function by two lay advisers appointed by the Department of Justice.
- **The agencies must also jointly prepare and** publish an annual report on the provisions contained in this guidance requiring agencies to maintain arrangements for facilitating cooperation, along with any other information required by the Department.

This guidance therefore provides detail on how the agencies comply with their statutory obligations and the structures which should underpin the joint working arrangements. This section also clarifies responsibilities, governance and lines of accountability.

### 2.2 Structures – Local Area Public Protection Panels

The practical operation of the multi agency arrangements in assessing risk and working to reduce risk is undertaken by the agencies through a number of local area public protection panels (LAPPPs). These panels are not set up by statute, but this guidance, which has been agreed by the agencies, provides the basis for their operation. The structure of the panels allows the agencies to assess offenders and develop risk management plans. The LAPPP process also allows agencies to review implementation of risk management plans and adjust if necessary. While much of this activity may take place at formal meetings, a great deal of the practical work is done day-to-day, week-to-week through a range of other formal and informal contacts and actions.

LAPPPs are set up to coordinate the risk management of cases within different areas of Northern Ireland. The panels are chaired by probation area managers. Police are a major contributor as the main public protection agency, along with probation. Prisons are the other criminal justice arm, with contributions from Social Services, the Housing Executive and other, less direct, interests as appropriate. Details of the LAPPP process are given in chapter nine.

There is also a co-located public protection team staffed by police and probation and with a social services representative, which takes responsibility for the day to day management of cases where the risk to the public is assessed at the highest level.

## 2.3 Governance - oversight of the arrangements

The agencies have a duty, under Article 51 (1) of the Criminal Justice (Northern Ireland) Order 2008, to keep any arrangements mentioned in Article 50(2)(a) under review, in consultation with the lay advisers appointed under paragraph (2), with a view to monitoring the effectiveness of the arrangements and making any changes which appear to be necessary or expedient. In order to fulfil this duty, the agencies have chosen to form a strategic forum with responsibility for shaping the operational development of the public protection arrangements. This includes agreeing the strategic role of different agencies and their representation on the strategic forum and brokering the protocols and memoranda of understanding which formalise those roles.

The following are the core responsibilities of the agencies which are progressed through the strategic forum:

- Monitoring and evaluating the overall operation of the arrangements;
- Planning the longer-term strategic operational development of the arrangements in the light of regular (at least every three years) reviews of the arrangements, having regard to legislative and wider criminal justice changes;
- Producing and implementing an annual business plan and the formation of sub- groups to achieve that plan.
- Producing and implementing a media strategy and annual communication plan which promotes understanding of the public protection arrangements;
- Preparing and publishing an annual report;
- Identifying and planning how to meet common training and developmental needs of agency staff involved in the public protection arrangements.

## 2.4 Membership of the strategic forum

All agencies listed in Article 49 of the Criminal Justice (NI) Order 2008 can be members and attend the forum. However, membership and attendance at meetings should reflect the level of responsibility and contribution made by each agency to the arrangements. While this should not exclude any agency from contributing to the development, decision-making and operational functions of the public protection arrangements it should facilitate engagement at a level which reflects their statutory responsibility.

In order for the agencies to carry out their duties and functions in reviewing the arrangements effectively, the forum must have senior representation from the three core criminal justice agencies (police, probation and prisons) and from social services. However, there may be a need at times for the forum to reflect more fully the diversity of multi-agency involvement in the risk assessment and management arrangements, while recognising that some of the agencies have a greater role in the arrangements than others.

Two lay advisers, appointed by the Minister of Justice, should also be full members.

The general principle as to the level of seniority required is that the person has the necessary authority to enable them to:

- contribute to developing and maintaining strong and effective inter-agency public protection procedures and protocols on behalf of their agency;
- address the practical and resource implications of the arrangements;

- Where they are representing a particular sector, they should have the confidence of colleagues to represent their interests and relay decisions taken.

The forum can make arrangements to involve in its work, as needed, representatives from other agencies which contribute to the operation of the public protection arrangements. These other agencies can provide a conduit to their respective sectors for disseminating relevant good practice, or pinpointing a relevant contact for, and providing advice to, those more actively involved in the risk management of offenders.

It is also important that the forum can obtain wider views from a mixture of statutory and voluntary representation that will help shape the strategic operational development of the public protection arrangements.

## 2.5 Meetings of the strategic forum

### i. Chairperson

The forum will be chaired by a senior representative from one of the main criminal justice agencies - police, probation or prisons. The post of chair can be rotated between those agencies on a basis suitable for effective business. The role of the chair is to facilitate discussion to progress business relating to the strategic oversight of the operation of the arrangements.

Whoever performs the role must have sufficient standing to command the respect and support of agencies, and have a firm grasp of operational and strategic issues. The role of chair does not carry with it accountability for decisions made by the forum. Accountability rests with the agencies represented on the forum for decisions affecting the discharge of the functions of their own organisations.

### ii. Frequency

The frequency and structure of the meetings will be a matter for the forum. However, full meetings should be no less frequent than quarterly to enable the agencies to effectively monitor the operation of the arrangements. This does not exclude business being conducted, where appropriate, outside of full meetings, through correspondence or by other means. It is also open to the forum to agree that appropriate business, such as reacting quickly to a public interest matter, is conducted by relevant core agency representatives only.

## 2.6 Business delivery

The agencies will jointly prepare an annual business plan to deliver action on the core business areas outlined in section 2.3. Oversight of delivery of the objectives may be allocated to a number of sub groups, each chaired by an agency listed in Article 49.

The work of the strategic forum will be supported by a PPANI coordinator, assisted by support staff as necessary. The role of the coordinator is to assist the agencies to deliver the business objectives and to facilitate the effective and efficient working of the strategic management arrangements.

The strategic forum will be responsible for agreeing objectives for the PPANI coordinator post to assist in delivery of the business plan. The post will be accountable to the forum for delivering the objectives agreed.

## 2.7 Funding

The Department of Justice will provide core ring-fenced funding for the agencies to jointly carry out their statutory review and monitoring role, as set out in Article 51 of the Criminal Justice (NI) Order 2008. The funding will include the cost of the strategic coordination function outlined above. The funding will be provided to one of the lead agencies – either police or probation – who will be responsible for recruitment, employment and maintenance of

the PPANI coordinating function. The agencies on the strategic forum should agree how the programme costs are allocated to meet the business objectives.

## 2.8 Accountability

The agencies are individually accountable for their duty to cooperate within the legislative framework and in accordance with this guidance. They are also accountable for all actions taken to deliver public protection within their own statutory functions. There is no corporate responsibility attached to either the LAPPPs or the strategic forum and the members of both answer to their own agencies and established individual lines of accountability for any actions taken within the public protection framework.

The Department of Justice is responsible for the statutory framework and the policy underpinning this legislation. Accountability by the agencies for delivery of the operational functions connected with the assessment and management of risk is met through the preparation and publication of an annual report as set out in Article 51 of the Criminal Justice (NI) Order 2008.

## 2.9 Relationship with the Department of Justice

The Department of Justice has policy responsibility for the risk assessment and management arrangements set out in the Criminal Justice (NI) Order 2008 and has statutory authority to issue this guidance to agencies. The Department of Justice acts to ensure that the funding provided is allocated to effectively deliver oversight of arrangements which seek to reduce risk to the public. It also acts to ensure that all appropriate information regarding the public protection arrangements is provided to the Minister. It is not represented as a member on the forum, as it does not have statutory responsibility for the strategic review arrangements set out in Article 51. However, a Departmental representative will be available to attend meetings of the strategic forum and the sub groups for discussions on particular relevant issues or on a recurring basis as needed.

## 2.10 Communication

The agencies, through the strategic forum, will develop a full communications strategy, which will include engagement by agencies with the media, public and political representatives and the community, both proactively with regard to the operational delivery of the arrangements and in response to specific issues concerning risk assessment and risk management of individual cases.

## 2.11 Monitoring and evaluation

Monitoring and evaluation by the forum will contribute to the annual report and provide the means of reviewing effectiveness of the public protection arrangements. The forum should analyse the relevant data on at least a quarterly basis to allow some bench marking and the opportunity for timely intervention where issues are identified. The statistical information provided in the annual report should include: offender totals, a more detailed breakdown of those assessed as requiring management of risk within the public protection arrangements, civil orders obtained under the Sexual Offences Act 2003, enforcement action taken and details of those who have been charged with further serious sexual or violent offences.

In addition to considering this quantitative data, the forum should consider qualitative information, which can best be sourced from a review of individual cases. These reviews will help establish good practice and identify and address operational and organisational difficulties.

## 2.12 Annual report

The preparation and publication of the annual report is an important statutory function of the agencies, delivered through the forum. It should focus on the operation of the arrangements in the relevant year and on developments that have taken place. It should report on progress against the main business objectives set for that year. A prime



objective for the report is to offer a vehicle for educating public opinion and managing public expectations.

A critical aspect will be the presentation of statistics for the number of cases assessed and the number risk managed within the public protection arrangements.

## 2.13 Training

Work with those who pose a significant risk of serious harm is recognised as being challenging and demanding and staff should be sustained and supported in this through proper training and supervision arrangements.

While agencies have a responsibility for the training and supervision of their own members of staff, it is clearly in the interests of the public protection arrangements that agency representatives on the strategic forum consider collectively how training needs for their agency's staff involved in delivering the arrangements might best be addressed on a joint agency basis.

## 2.14 Serious case reviews

The strategic forum must be informed by the relevant agency of any case where an individual, whose risk of serious harm is being managed through the public protection arrangements, is charged with a serious sexual offence or violent offence (includes any assault involving GBH or above), or where a significant failure occurs in their risk management.

The forum may commission a serious case review of the management of any case. The objectives of a serious case review are:

1. To look at whether agencies involved in the management of risk posed by the individual did all that could reasonably be expected of them to manage the assessed risks; and
2. Whether there are lessons to be learned about the effectiveness of the public protection arrangements.

Serious case reviews can have two levels:

1. An internal multi-agency review
2. An independent case review

Where it is deemed necessary to commission an independent case review the following steps must be taken:

1. An independent person should be commissioned to undertake a serious case review and to chair a serious case review panel.
2. Each agency should appoint a representative to conduct an internal agency review and to provide a report to the chairperson.
3. Each agency should appoint a representative at appropriate level to represent his/her agency on the serious case review panel.
4. The independent chairperson should convene meetings of the serious case review panel as considered necessary and produce a report on findings and recommendations.
5. Where the death or serious harm of a child has occurred there must be cooperation with any case management review or child death review initiated by the Regional Child Protection Committee (SBNI).

Any report produced following a serious case review will be jointly owned by the agencies represented on the strategic forum who will make all decisions in relation to its circulation and use. Costs for the appointment of an independent reviewer should be met from the central budget.

## **2.15 Links with other public protection arrangements**

Agencies involved in other multi agency forums should ensure recognition of the commonality of some of the public protection issues being faced and establish effective mechanisms for jointly addressing them. This is particularly relevant as a number of the same agencies are involved in each multi agency forum though not always with the same personnel.

## **2.16 Development of the public protection arrangements**

The Department of Justice retains the power to issue guidance to agencies on the discharge of their functions which contribute to the public protection arrangements. However, the development and improvement of the operational delivery of public protection is a matter for agencies represented on the strategic forum.

# Section 3

## PPANI in Practice

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- 3.1 Introduction
- 3.2 The arrangements
- 3.3 PPANI administration
- 3.4 Victim focus
- 3.5 The offender's role
- 3.6 Identification of relevant offenders
- 3.7 Hospital and Guardianship Orders
- 3.8 Links with Parole Commissioners
- 3.9 Links to other multi agency forums
- 3.10 Risk assessment
- 3.11 Public protection arrangements management of risk
- 3.12 Risk of serious harm - definition
- 3.13 Young persons under 18

# 3

## PPANI in practice

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### 3.1 Introduction

This section describes the core functions and key responsibilities of agencies in relation to the public protection arrangements and clarifies how risk is assessed and managed. It:

- Gives a brief overview of the public protection arrangements;
- Describes what is meant by PPANI administration;
- Sets out how victims must be considered within the public protection arrangements;
- Describes the offender's role in the arrangements.

The effectiveness of the public protection arrangements depends largely on close working relationships between the police, prisons, probation and social services, and their relationship with the other agencies.

Agencies must ensure that the core functions of PPANI are established across the agencies and procedures are in place to:

- Identify relevant offenders;
- Share information safely and securely;
- Risk assess offenders; and
- Manage offender risks with the most suitable risk management plans.

### 3.2 The arrangements

Multi agency public protection arrangements are broadly understood as co-operation between police, probation and social services, with contributions from others, focused almost exclusively on the assessment and management of risk posed by offenders in the community.

Public safety considerations are an increasingly important aspect of sentencing undertaken by courts and of sentence planning conducted by prisons and other custodial settings, e.g. juvenile justice centre and hospital secure units. Also, the availability of criminal intelligence about offending behaviour has already provided assistance to the police in effecting early detection for serious sexual and violent offences. The public protection arrangements contribute significantly towards the integration of the work of a number of criminal justice agencies, together with social care agencies such as health, social services and housing, in order to reduce serious offending, minimise serious harm to the public and assist in the early detection of repeat offenders. This is the context in which the arrangements should be understood.

The public protection arrangements have been developed from best practice identified in previous multi agency working and in close consultation with operational practitioners within each of the agencies involved. The arrangements encapsulate the core functions of public protection and clarify the procedures for assessing and managing risk and provide the basis upon which consistent public protection practice can be developed within Northern Ireland.

The arrangements comprise five core functions:

- i. The identification of relevant offenders;
- ii. The identification of lead agency responsibility for management of risk;
- iii. The sharing of relevant information among agencies;
- iv. The assessment of risk; and
- v. The management of risk.

An essential feature of the arrangements is that its functions are dynamic and overlapping i.e. they complement and are an integral part of one another. Risk assessment is not a 'one off activity' but one which ensures that whenever any new information, relevant to the risk posed by the offender, becomes known to an agency, it is shared to update the risk assessment. Thus risk assessment is itself a dynamic process, which must be capable of responding to the changing circumstances of the offender or his environment.

### **3.3 PPANI administration**

The efficient administration of the public protection arrangements is key to ensuring that agencies efforts are co-ordinated and meaningfully contribute to public protection. The purpose of the administration role is to ensure that the identification of offenders and information sharing functions operate effectively. The administration role also comprises the provision of data to support strategic oversight and monitor effectiveness.

The PPANI administration unit, currently within the police, aims to:

- a. Provide a focal point of contact and advice for agencies on all aspects of the public protection arrangements;
- b. Receive details of all offenders who pose a significant risk of serious harm to others and for whom a multi-agency risk management plan is necessary to manage that risk;
- c. Coordinate meetings and refer cases to the relevant meeting which require management of risk through the multi-agency arrangements;
- d. Maintain case records, utilising relevant information systems;
- e. Receive risk management plans and minutes from all LAPPP meetings showing clearly the status of each offender and the agencies delivering components of the risk management plan;
- f. Provide quality assurance and audit including reviewing the effectiveness of communication by and between agencies;
- g. Collate data returns at LAPPP meetings for strategic monitoring; and
- h. Ensure recording of the LAPPP individual case papers facilitate data collection.

PPANI administration is a dedicated resource that aims to support the work of the LAPPPs and ensure the effective administration of the public protection arrangements.

### 3.4 Victim focus

Victim safety, preventing re-victimisation and avoiding the creation of new victims is fundamental to the effective fulfilment of public protection overall. However, the primary focus of these arrangements is to manage the risk presented by an offender. Nevertheless, victims' issues are also part of the effective operation of the arrangements. Agencies need to ensure that decision making is informed by appropriate engagement with current victims and/or families/ carers, and, where practicable and appropriate, with potential victims. This approach allows risk assessment and risk management plans to properly reflect victim concerns and provide appropriate measures to protect them.

The agencies should consider victims of the offence as well as those who, whilst not directly involved, have been seriously affected by it – the family of a murder victim, for example. Agencies must also consider new or potential victims, such as an offender's new partner.

### 3.5 The offender's role

There is a contribution that offenders can make to changing their behaviour. Measures which impose external controls and prohibitions such as: conditions in licences, including residence requirements, and Sexual Offences Act (2003) civil order provisions, such as Sexual Offences Prevention Orders and Risk of Sexual Harm Orders, can provide the offender with a clear and partly self-policed set of behaviour boundaries. These boundaries can increase therapeutic benefits and enhance public protection practice, for example, police and probation undertaking joint visits to offenders and working closely with prisons to establish suitable licence conditions for offenders prior to release.

Offenders and, in the case of offenders with a **mental disorder or learning disability, their carer/** appropriate adult, should be provided with an opportunity to inform the process of assessing and managing the risks they present. Similar **provision for an appropriate adult/parent should** be made for any young person under 18 whose management of risk is referred into the public protection arrangements on the exceptional need basis set out in section 3.13.

It is good practice for offenders to know that the assessed risks they present are being managed through the public protection arrangements, what the arrangements are and what this means for them. This responsibility should be discharged by the designated risk manager who should ensure that the offender fully understands the content of any written or oral communication.

Offenders do not attend LAPPP meetings. However, offenders, whose risks are being managed through the public protection arrangements, following initial assessment of risk, should be allowed the opportunity to present information relevant to the management of their risk to the LAPPP meeting through their designated risk manager.

The LAPPP must only consider information provided by the offender which is relevant to the management of the risk posed by the offender in the community.

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<sup>3</sup> Section 29 of the Data Protection Act (1998) enables personal data to be stored within a confidential section if it is necessary to prevent or detect crime or apprehend or prosecute offenders; and where disclosing information to the offender would be likely to prejudice these purposes

There are some cases where information about the risk management plan should be withheld from the offender on the grounds that it may increase their risk or compromise the effectiveness of the measures involved. Confidential information<sup>[3]</sup> will not be disclosed to the offender. Information from victims, some third parties and details of police operations are highly confidential and must be adequately protected by all agencies involved in the arrangements. The decision to withhold information from the offender must be agreed at a LAPPP meeting and the reasons clearly recorded in the minutes and the case record.

Engaging the offender in the reality of management of risk can be very productive, although it will not be appropriate for every individual. Offenders can make a positive contribution to their own management of risk and should not be viewed only as part of the problem. Agencies should ensure that there is a clearly stated mechanism for informing offenders and that the information to be shared is fully recorded in minutes and case records.

### 3.6 Identification of relevant offenders: persons of a specified description

Article 50(6) of the Criminal Justice (NI) Order provides for the Department to specify in guidance, for the purposes of these arrangements, a description of persons which it believes may cause serious harm to the public. This description is provided at (a) and (b) below.

Effective multi agency public protection starts with an accurate identification of relevant offenders. Prompt and accurate identification will allow agencies to gather and share relevant information and enable them to complete the correct initial assessment of risk. In the absence of this initial accuracy there are real dangers that important information will not be gathered and shared or that information will be shared inappropriately, and the energy of agencies will be diverted from those offenders posing the highest risk of serious harm. The criteria for initial assessment to determine if management of risk through the public protection arrangements is required are as follows:

#### (a) Relevant Sexual Offender

A person is a relevant sex offender if he/she:

- is subject to the notification requirements of Part 2 of the Sexual Offences Act 2003, or
- has been convicted of a sexual offence or sexually motivated offence, is not subject to the notification requirements of Part 2 of the Sexual Offences Act 2003, but about whom an agency has current significant concerns.

#### (b) Relevant Violent Offender

A person is a relevant violent offender if he/she:

- has been convicted, on or after 6th October 2008, of a violent offence against a child or vulnerable adult; or who has a previous conviction for a violent offence against a child or vulnerable adult and about whom an agency has current significant concerns.
- has been convicted, on or after 1 April 2010, of a violent offence in domestic or family circumstances; or who has a previous conviction for a violent offence in domestic or family circumstances and about whom an agency has current significant concerns.
- has been convicted, on or after 1st September 2011, of a violent offence where the offence, in certain circumstances, has been aggravated by hostility and about whom an agency has current significant concerns.

For the purpose of this guidance:

*a conviction for a violent offence involving an assault in domestic or family circumstances excludes an offence under section 42 of the Offences Against the Person Act 1861, other than in exceptional circumstances where it is determined that an assessment of risk is necessary.*

For the purpose of this guidance 'significant concerns' is defined as:

*"Where an agency has current evidence of behaviour on the part of an offender that indicates the risk of his/her causing serious harm to others has increased."*

For the purpose of this guidance 'vulnerable adult' is defined as:

*"A person aged 18 years or over, who is in receipt of or may be in need of community care services by reason of mental or other disability, age or illness and who is or may be unable to take care of him or herself, or unable to protect him or herself against significant harm or exploitation."*

For the purpose of this guidance 'serious sexual assault' is defined as<sup>[4]</sup>:

- Rape.
- Sexual assault by penetration.
- Sexual assault where the assault is particularly serious or features of the offence are aggravated.
- Causing a person to engage in sexual activity without consent.
- Any other offence of a sexual nature deemed especially serious by the investigating officer.
- An attempt to commit any of the above offences.

Identification of relevant offenders is primarily the responsibility of the police but any agency can refer an individual for initial risk assessment where the above criteria are fulfilled. Agencies such as probation, social services, including mental health and learning disability services, will hold the most comprehensive information, and must liaise with local police regarding having cases scheduled for inclusion in Local Area Public Protection Panel (LAPPP) meetings for risk assessment and consideration of the need for multi agency management of risk.

For agencies or individuals that are not formally part of the public protection arrangements, concerns about individuals posing a risk of serious harm must be taken seriously and should be referred directly to the police, who will determine whether such individuals pose a risk and what actions are necessary. Where the assessment of risk of serious harm does not meet the criteria for management of risk within the public protection arrangements the cause for concern may still be dealt with under the procedures set out in HSC Circular 3/96 (revised) Sharing to Safeguard (Information Sharing About Individuals Who May Pose a Risk to Children).

The relationship between the public protection arrangements and Circular 3/96 (revised) Sharing to Safeguard, needs to be proactively examined in all cases for applicability and overlap. Good co-operation and communication between agencies and professionals is vital.

### 3.7 Hospital and Guardianship Orders

Offenders who commit serious sexual and/or violent offences and who receive a hospital or guardianship order may require management of their risk within the public protection arrangements. The hospitals where they are detained, therefore, have a responsibility to notify the PPANI Administration Unit when the offender is admitted to hospital and to notify the Administration Unit when the offender/patient is likely to return to the community as soon as the prospect of the patient's discharge has been confirmed. Notification must include an assessment of potential risks of serious harm, any identified victims and how these risks are to be managed.

### 3.8 Links with Parole Commissioners

Although a number of the agencies involved in the public protection arrangements will contribute information to the Parole Commissioners to assist decisions on release, it is only after a decision is made by the parole

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<sup>[4]</sup> The National Centre for Policing Excellence (NCP) "Guidance on the investigation of serious sexual offences", ACPO - 2005.



commissioners to release that a case is referred to a LAPPP and an assessment of risk undertaken and a management plan developed where appropriate.

### 3.9 Links to other multi agency forums

It is vital that the agencies involved in operating the public protection arrangements coordinate their PPANI input with other multi agency participation: Regional Child Protection Committee/SBNI; the Domestic Abuse Forum and Sexual Violence Forum, including MARAC, to ensure that identified risks are being effectively managed and that there is no duplication of effort, as this could reduce the effectiveness of risk management plans

### 3.10 Risk assessment

The definition of 'risk assessment' used in this guidance is:

*"The collection, analysis and interpretation of the relevant available facts and information on a relevant sexual or violent offender in order to understand, assess and classify his/ her behaviour with regard to his/her current likelihood to cause serious harm and the potential danger to victims should such harm be caused."*

Risk assessment procedures require accurate and detailed information. This information will include previous convictions, previous assessments where these are available, progress reports on offender programmes, witness and victim statements and details of interviews with the offender.

### 3.11 Public protection arrangements management of risk

The purpose of risk assessment is to enable agencies to identify relevant offenders who present evidence<sup>5</sup> of likelihood to cause serious harm which necessitates multi agency management of risk within the public protection arrangements.

The risks posed by offenders whose initial, and any subsequent, risk assessment indicates they present evidence of likelihood to cause serious harm which necessitates multi agency management of risk, must be addressed through an agreed multi agency risk management plan. The management of risk will require meaningful multi agency co-operation, collaboration and support, within the bounds of agencies existing statutory duties, to manage the risk.

Management of risk should be understood as harm reduction either through the reduction of the likelihood of risk occurring, or the reduction of its impact should it occur. Risk management plans should address the specific risk factors presented by the individual. Actions should address both the likelihood of the risk occurring and the reduction of its impact should it occur.

The risks presented by offenders assessed as not requiring multi agency management of risk will not be addressed within the context of the public protection arrangements. However, agencies will be expected to be vigilant and keep such cases under review as they continue to discharge their individual statutory responsibilities for public protection as follows:

- Probation Board for Northern Ireland, where the offender is either subject to a statutory court based probation supervision requirement, or where the offender has voluntarily agreed to work with PBNI.
- Northern Ireland Prison Service, where the offender is in prison.
- Youth Justice Agency, where the offender is a young person under 18 and not subject to probation supervision.

<sup>5</sup>Evidence in its broadest sense includes everything that is used to determine or demonstrate the accuracy of an assertion.

- Relevant Health and Care Trust, where an individual is subject to a Hospital Order, a Guardianship Order, a Supervision and Treatment Order, is a resident

in a Residential Care home or is an inpatient or outpatient receiving psychiatric treatment or is otherwise regarded as posing a risk of harm.

- **Police Service of Northern Ireland, in** relation to offenders subject to notification requirements of the Sexual Offences Act 2003 and their general public protection duties.

The nature of the management of risk necessary for these cases is to be determined by the lead relevant agency. If an agency has a significant concern about the behaviour of an offender whose likelihood to cause serious harm is not being addressed through the public protection arrangements, they can refer the case through the PPANI Administration Unit for reassessment by the Local Area Public Protection Panel (LAPPP). It is important that there is continued information sharing across agencies about cases not subject to multi agency management of risk under the public protection arrangements.

### 3.12 Risk of serious harm - definition

For the purpose of this guidance the definition of 'serious harm' set out in Article 49 of the Criminal Justice (NI) Order 2008 has been further defined and explained as follows:

***"Harm (physical or psychological) which is life threatening and/or traumatic and from which recovery is usually difficult or incomplete".***

Risk of serious harm is the likelihood of this event happening. It should be recognised that the risk of serious harm is a dynamic concept and should be kept under review. In determining whether an individual presents a risk which fits this definition a number of factors must be taken into consideration:

(a) The nature of the persons previous offending and whether it resulted in serious harm being caused. For the purpose of this guidance, previous offending involving the following characteristics will be viewed as having caused 'serious harm':

- Homicide;
- Rape;
- Indecent Assault involving an oral act (fellatio or cunnilingus);
- Vaginal or anal intrusion by the offender on the victim either digitally or with the use of a foreign object;
- Assault involving the use of a weapon or instrument resulting in really serious physical harm;
- Coercion involving the use of a weapon or instrument;
- The use of intentional/expressive violence over and above that required to control the victim or where the victim has been subjected to a level of violence, which has resulted in serious injuries requiring hospital treatment;
- Assault in circumstances where the victim has been abducted or imprisoned; and
- The use of drugs or other substances by the offender on the victim during the commission of the assault (this should exclude the voluntary acceptance of alcohol by the victim – unless the drink is believed to have been spiked.

(b) Whether there are identifiable indicators of the likelihood of serious harm being caused either imminently or at

any time.

- (c) Whether evidence indicates that physical harm caused by the risk would be life threatening or so serious that any potential victim's recovery would be difficult or incomplete.
- (d) Whether evidence indicates that psychological harm caused by the risk would be life threatening or so serious that any potential victim's recovery would be difficult or incomplete.

### 3.13 Young persons under 18

Management of the risks posed by young persons under the age of 18 who fall within the definition of relevant sexual or violent offender should not normally require management of risk within the public protection arrangements. In the vast majority of cases, those risks will be effectively managed under the present social services child protection and children in need arrangements, as set out in current Area Child Protection Committees' (ACPC) Regional Policy and Procedures and Co-operating to Safeguard Children Guidance, or Youth Conference Order/Plan. ACPC Regional Policy and Procedures and Co-operating to Safeguard Children Guidance and Youth Conference Order/Plan are multi agency processes (involving criminal justice as well as social care and education) and should ensure implementation of a sufficient management plan. However, exceptionally when either a Health and Social Care Trust, the Youth Justice Agency, the Northern Ireland Prison Service or the Probation Board for Northern Ireland consider that multi agency risk assessment and management of risk within the public protection arrangements is necessary, in respect of the risks posed by a young person under 18, who would, if he/ she were an adult, fit the criteria of a relevant offender, they should seek assistance by referring the case to the PPANI Administration Unit for initial assessment by a LAPP.

Agencies referring the case of a young person under the age of 18 must evidence the risk of serious harm which cannot be adequately managed under the existing ACPC Regional Policy and Procedures and Co-operating to Safeguard Children Guidance or Youth Conference Order/ Plan.

When the risk of serious harm which gave rise to the referral diminishes sufficiently to enable management of the risk under ACPC Regional Policy and Procedures and Co-operating to Safeguard Children Guidance or Youth Conference Order/Plan, assistance in the management of risk within the public protection arrangements should no longer be required.

Contact with a young person under the age of 18, their appropriate adult/parent, about any public protection arrangements involvement in the management of risk of serious harm remains the responsibility of the referring agency. Agencies must make appropriate provision to address the specific needs of engaging with a young person on such matters.

Identifying the level of risk presented by a young person under the age of 18 can be particularly challenging given that they may have a limited criminal history and that patterns of behaviour can often change rapidly during adolescence. Therefore, managing the assessed risks posed by young people under 18 through the public protection arrangements should only occur on an exceptional basis. However, the agencies involved are aware that there are a very small number of young people who can present a very serious risk to others. The management of this exceptional risk may be more effectively addressed through liaison between the current normal child protection and children in need arrangements or Youth Conference Order/Plan and the public protection arrangements.

# Section 4

## PPANI co-operation

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- 4.1 Introduction
- 4.2 The nature of co-operation
- 4.3 The principles of co-operation
- 4.4 The practicalities of co-operation
- 4.5 Memorandum of co-operation

# 4

## PPANI co-operation

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### 4.1 Introduction

The Police Service of Northern Ireland, the Probation Board for Northern Ireland, the Northern Ireland Prison Service, and the Health and Social Care Board and Health and Social Care Trusts have a well defined and widely recognised lead role to play in protecting people from harm. These agencies, in consultation with the remaining agencies, should take the lead

in the development of a memorandum setting out the ways co-operation within PPANI will take place.

This section of the guidance:

- Defines the nature of co-operation between agencies and explains what it can involve in practice;
- Sets out the principles of co-operation;
- Explains the key practicalities of co-operation;
- Outlines the role of each agency listed in Article 49 of the Order and the type of involvement each may have in the public protection arrangements; and
- Provides advice about the 'memorandum of co-operation' required under Article 50 of the Order.

### 4.2 The nature of co-operation

The Order requires agencies to cooperate with each other in assessing and managing the risks posed by certain offenders. It does not define the activities involved in that co-operation. Rather, it requires that co-operation is determined through a memorandum drawn up by agencies.

The purpose of the memorandum is to enable the practicalities of co-operation to be agreed. This makes good sense because it allows due account to be taken of the variations in the structure and relationships between all the agencies concerned.

Agencies are required to co-operate only in so far as this is compatible with their existing statutory responsibilities. Therefore, co-operation does not require agencies to do anything other than what they are already required to do under their existing functions. However, it does require that they discharge their functions, where these relate to relevant offenders, as set out in this guidance, collaboratively with the other agencies.

The requirement to co-operate in accordance with this guidance is imposed only on those agencies identified in Article 49 of the Order which can only be varied by order of the Minister of Justice. Agencies cannot decide to exclude those stipulated in Article 49 from the arrangements and any agency listed cannot opt out of cooperating with the arrangements.

### 4.3 The principles of co-operation

Respect for role: co-operation depends upon respecting the different role each agency performs and the boundaries which define

it. Unless clarity on authority is maintained, responsibility and accountability will become clouded and agencies may misunderstand the basis upon which they co-operate. In turn, this may cause representatives of those agencies to feel disempowered or professionally compromised

– a result which PPANI co-operation is explicitly intended to prevent. Without this clarity, agencies may assume that a referral of a case for assessment and risk management under the public protection arrangements somehow diminishes or even absolves them of any continuing responsibility, which is not the case.

Co-ordination not conglomeration: the public protection arrangements are a means of enabling different agencies to work together and share information. The public protection arrangements do not create a legal entity or statutory body but simply offer a way of allowing relevant agencies to maximise their effectiveness in dealing with risk in the community by operating within a formal multi agency framework. Authority rests with each of the agencies involved. While consensus may be reached and joint action agreed, that consensus and action remain the responsibility of each agency. PPANI co-operation does not aggregate the responsibility and authority of the agencies involved, rather it clarifies the roles each agency is to play.

PPANI co-operation is based on the integrity of each agency's existing statutory role and responsibilities. It must be based upon informing and influencing partners. Co-operation cannot be based on the command and control of one agency by another.

### 4.4 The practicalities of co-operation

Engaging an agency's co-operation is therefore dependent upon:

- Identifying that an agency has a legitimate interest or specific responsibility.
- Advising about how best it can become involved and helping it to co-ordinate its involvement with that of other agencies.

The memorandum agencies must draw up should describe the ways in which they agree to cooperate. The specific activities involved in co-operation will however be determined by the circumstances of each case. The type of activities co-operation will involve can be broken down into four areas:

- Providing a point of contact for other agencies. While much of the formal business of co-operation will be conducted at LAPPP meetings, co-operation will also entail informal contact. To enable that informal contact, and to channel the more formal engagement, it is important that each agency provides a point of contact, someone who can at least signpost the direction to take if not help smooth the way by brokering introductions and other arrangements.
- Providing general advice about an agency's role and the type of services it provides. This can helpfully involve advice about how those services can be accessed.
- Providing specific advice about the assessment and/or the management of the risks a particular case poses.
- Co-ordination: this key partnership function requires each agency to perform its role and to carry out its responsibilities in ways which at best complements the work of other agencies, or at the least does not frustrate or compromise their work.

## 4.5 Memorandum of co-operation

Under Article 50(2)(a) of the Order the Department of Justice requires agencies to maintain arrangements for facilitating co-operation and to draw up a memorandum of co-operation. The purpose of this requirement is to enable the practicalities of co-operation to be determined.

The memorandum should make clear the purpose of co-operation; the principles upon which co-operation will take place; the activities involved in cooperating and the systems and procedures which support them; and the partners to the agreement. The memorandum should be based on the structure outlined below.

### Purpose and Basis of Co-operation

- Statutory basis: Criminal Justice (NI) Order 2008 and possible reference to other local protocols and agreements;
- Local statement of the broad purpose or objectives outlining the value of the public protection arrangements multi agency joint working, which may, for example, highlight the particular significance the memorandum has in cementing the relationships and arrangements underpinning other protection work such as safeguarding children and domestic abuse work; and
- Principles: as outlined in 4.3 above and the general principles underpinning the public protection arrangements as covered throughout this guidance. For example, defensible decision making and prioritising the use of resources to where they are most needed.

### Scope and Practice

- Identify relevant caseload within the public protection arrangements;
- Outline the levels of assessment and risk management;
- How information sharing takes place;
- How the annual report is going to be prepared;
- How the media and public interest enquiries will be handled; and
- How and when the memorandum will be reviewed.

### Partners

- Identify the agencies party to the agreement of the memorandum;
- Identify principal point of contact for operational/case-related matters as well as the 'senior officer' underwriting the agreement on behalf of the agency; and
- Set out the role of each agency, level of commitment that is practicable and appropriate.

Co-operation is not new and the memorandum of co-operation will in several respects confirm existing good practice arrangements already in place.

# Section 5

## Information sharing

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- 5.1 Introduction
- 5.2 Information sharing between agencies within PPANI
- 5.3 Information sharing principles
- 5.4 Freedom of Information and data protection requests
- 5.5 Summary



# 5

## Information sharing

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### 5.1 Introduction

The effectiveness of the public protection arrangements depends upon the delivery of risk management plans devised by agencies to address the specific risk factors posed by individual offenders in the community. Risk management plans are dependent upon the quality of the risk identification and assessment **processes; and the quality of both the risk** assessment and the risk management plan are heavily influenced by the effectiveness of information sharing arrangements. Unless all relevant information is available, in good time, to those making the assessments and drawing up risk management plans, public protection may be compromised. Agencies involved in the public protection arrangements must have effective arrangements in place for practicable information sharing with each other.

Given that the exchange of information is essential to effective public protection, this guidance clarifies the principles upon which agencies may exchange information amongst themselves, and where a decision may be taken to disclose such information to other persons or organisations outside the public protection arrangements, for example, to an employer, voluntary group organiser or church leader who has a position of responsibility/control over the offender and other persons who may be at risk from the offender.

This guidance only applies to information that relates to individuals, i.e. personal information, as it is this type of information on which the law confers heightened protection. The principles contained in this guidance on information sharing and disclosure take into account the common law duty of confidence, the Data Protection Act 1998 and the European Convention on Human Rights (as incorporated into domestic law by the Human Rights Act 1998).

### 5.2 Information sharing between agencies within PPANI

This guidance simply sets out the basic principles upon which information sharing protocols should be drawn up for the purposes of public protection. The principles outlined in this guidance not only ensure compliance with the law, but are also aimed at promoting trust between agencies.

That trust must be nurtured and sustained by professional integrity and by procedures which ensure that the process of sharing information is safe and secure. To ensure that this is effectively achieved, the agencies must have in place an agreed information sharing protocol. It is also important that agencies are mindful of the Department of Health, Social Services and Public Safety: Information Sharing Policy, Standards and Criteria for Agencies Working with Families and Children.

## 5.3 Information sharing principles

Information sharing must:

- Have lawful authority;
- Be necessary;
- Be proportionate; and done in ways which ensure the safety and security of the information shared; and
- Be accountable.

The meaning of each of these principles is explained below.

### Lawful authority requirement (vires)

Each agency sharing information within the public protection arrangements must have either a prima facie statutory or common law power to do so. The police, probation, and prison services, in respect of their wider criminal justice responsibilities, social services in respect of their child protection, mental health and learning disability responsibilities, have clearly recognised statutory duties, which will necessarily involve sharing information. The Criminal Justice (NI) Order 2008 also recognises that co-operation between agencies in operating the public protection arrangements will also include the exchange of information.

Therefore, due to the above, all relevant agencies have the prima facie legal power to exchange information relating to public protection.

To identify the purpose of sharing information and to ensure the agencies' obligations to retain and use the information lawfully, the persons with whom the information is shared must know:

- **Why they have been given it, i.e. the purpose** for which the information has been given must be connected either to that person's authority and role as a representative of
  - an agency involved in the public protection
  - arrangements or because they are someone to whom disclosure is justified because of the exceptional risk posed to them by the **offender**;
  - That it must remain confidential, be kept and shared safely and securely and retained for as long as necessary; and
  - What they are expected to do with that information.

### Necessity

Information should only be exchanged where it is necessary for the purpose of properly assessing and managing the risks posed by offenders within the public protection arrangements. The specific purposes of sharing information within the context of the public protection arrangements are:

- To identify those offenders who present a serious risk of harm to the public;
- To ensure that the assessment of the risks they present is accurate; and
- To enable the most appropriate risk management plans to be drawn up and implemented to manage the assessed risks and thereby protect the public.

**Proportionality in information sharing**

In order to satisfy this criterion, it must be shown that the managing and assessing of the risk posed by the offender could not effectively be achieved other than by the sharing of the information in question. Clearly, in almost all cases of identifying, assessing and managing risk within the public protection arrangements, this principle will easily be met.

**Ensure the safety and security of the information shared**

Good practice must ensure that all information about offenders is kept securely and is shared with and available only to those who have a legitimate interest in knowing it; that is, agencies and individuals involved in the public protection arrangements. Safeguards must be in place to ensure those who do not have a legitimate interest in the information cannot access it accidentally or deliberately.

**Accountable information sharing**

So that information is shared accountably the agencies must ensure that the administrative procedures underpinning the efficient operation of meetings as part of the public protection arrangements have the confidence of participants. The importance of accurate, clear and timely record keeping is necessary to demonstrate that accountable information sharing occurs. Also, that safe and secure information storage and retrieval procedures are evident.

## 5.4 Freedom of information and data protection requests

Freedom of Information and data protection requests should in the first instance be referred to the agency with lead responsibility for holding the information requested and processed in line with that agency's procedures for dealing with such requests.

## 5.5 Summary

This guidance, issued by the Department of Justice under Article 50 of the Criminal Justice (Northern Ireland) Order 2008, provides a framework which supports and enables lawful, necessary, proportionate, secure and accountable information sharing, whilst the Data Protection Act (1998) puts controls on data sharing so, together, they facilitate responsible information sharing between agencies for legitimate purposes.

The detailed sections within this guidance on multi agency meetings and case conferences provide answers to questions on how information about offenders should be shared within the context of the public protection arrangements. Agencies must have relevant and consistent information sharing protocols that provide a clear framework for data sharing and give confidence to all parties about what is expected of them, their roles and their responsibilities.

Compliance with this guidance should mean that few difficulties with sharing information will arise. This guidance does not, however, prescribe how all cases involving information sharing will be dealt with. Whether information should be shared and if so, how much information and with whom, must be decided on a case-by-case basis.

# Section 6

## Disclosure

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- 6.1 Introduction
- 6.2 Definition of disclosure
- 6.3 Reasons for disclosure
- 6.4 Requests by members of the public under Article 50(2A) of the Criminal Justice (NI) Order 2008: Child Protection Disclosures
- 6.5 Applications for disclosure
- 6.6 Confidentiality
- 6.7 Disclosure to other third parties
- 6.8 Disclosure to courts and parole commissioners
- 6.9 Decision to disclose information to the general public
- 6.10 Disclosure of LAPPP meeting minutes to offenders or other third parties
- 6.11 Summary

# 6

## Disclosure

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### 6.1 Introduction

Effective risk management requires that the risk assessment process identifies those persons who may be at risk of serious harm from the offender. The risk management plan must identify how those risks will be managed. As part of this process, consideration must be given in each case as to whether disclosure of information about an offender to others should take place to protect victims, potential victims, staff and other persons in the community. **This includes consideration of requests by individual members of the public under Article 50(2A) of the Criminal Justice (NI) Order 2008.**

The purpose of disclosure of information is: to facilitate risk management, to facilitate public protection and to reduce the risk of serious harm. It is normally preferable that the offender is aware that disclosure is taking place and, on occasion, it may be appropriate for them to make the disclosure themselves in the presence of a suitable agency representative, such as a Designated Risk Manager (DRM), or the content of the disclosure would be confirmed subsequently by the DRM or other representative. However, there will be cases where informing the offender that disclosure is taking place could increase the potential risks to the victim(s) and, in those cases, the offender will not be informed. Any decision to disclose information must be clearly recorded, where appropriate, at the Local Area Public Protection Panel (LAPPP).

Voluntary and private sector services who engage with offenders, on behalf of agencies operating the public protection arrangements, and who are involved in risk management, will normally have a service level agreement (SLA) or formal contract agreed with the statutory organisations for whom they are undertaking the sub-contracted work. This SLA/contract will address the issues of disclosure and confidentiality. If this is in place then agencies should treat such “intermediate” organisations in the same manner as they treat other statutory bodies. Where no such SLA/contract is in place, then consideration must be given as to their confidentiality status and what information should be disclosed. In such situations, the LAPPP should treat them as they would a member of the public and have appropriate safety considerations in place. The agencies, through the strategic forum, must ensure that there is in place a means to capture information relating to disclosure.

### 6.2 Definition of disclosure

*“The communication to any party, outside those involved in the public protection arrangements, of any information that relates to an individual, whose management of risk is being delivered by agencies through a multi-agency risk management plan or by a single agency. The disclosure will in most cases be a component of the risk management plan for that identified individual.”*

### 6.3 Reasons for disclosure

The agencies are responsible for maintaining confidentiality in respect of all cases. However, occasionally that duty to maintain confidentiality will be overridden by a greater need to protect the public, or any individual or section of the community. This situation may arise when intelligence or information indicates that an individual may assault or cause serious harm to another. Disclosure may become justifiable where it is not possible to reduce the risk through other means.

It will be necessary to demonstrate how disclosure is likely to assist the containment or removal of the identified risk. There can be no general rule of disclosure; each case must be decided on its merits. The following points must be considered:

- The nature and the extent of the information to be disclosed;
- The person receiving the information;
- How the receiver will utilise the information.

The principles underpinning disclosure to third parties are the same as for information sharing, but inevitably involve greater sensitivities given that disclosure may be to individual members of the public as opposed to central or local government or law enforcement bodies. Because of this, great caution should be exercised before making any such disclosure: the issue of disclosure must always be considered and a record made of the reason for either making a disclosure or not making a disclosure. This guidance presumes that disclosure will not only be considered in each case but will be made where management of the assessed risk requires it. If such a course of action is required, it must be in the context of risk management and be formally agreed.

Disclosure should be considered:

- When a request has been made by a member of the public under Article 50(2A) Criminal Justice (NI) Order 2008 (see sections 6.4 to 6.6 below);
- When there is evidence that grooming behaviours may take place, for example, through leisure clubs, churches, employment;
- If there is a condition in a Sexual Offences Prevention Order/licence excluding offenders from a specific location and/or having contact with named persons;
- Where others (including other service users) may be at risk, for example, in supportive accommodation. This may include other service users, but usually it will be staff and managers who are told in order to enable more appropriate placements and for greater vigilance to be exercised;
- Where there is a need to protect past or potential victims, in particular where offenders strike up new relationships with partners who have children or grandchildren. In some cases, this may include friends or neighbours who have children;

To schools and colleges if grooming behaviours need to be prevented;

- For young people under 18 who attend school or college, limited and controlled disclosure may be made to designated school or college staff;
- Where a person may be in a position to actively assist in the management of risk of an offender by being familiarised with risk factors and scenarios.

The lawful authority and necessity requirements described in section 5 (Information Sharing) will be met in cases where making the disclosure is for the purposes of the management of risk posed by offenders within the context of risk management. The critical factor in determining if a disclosure is lawful is therefore likely to be the proportionality requirement.

The following criteria should be met before disclosing information about an offender to a third party:

- (i) The offender presents a risk of serious harm to the person, or to those for whom the recipient of the information has responsibility (for example, children).
- (ii) There is no other practicable, less intrusive means of protecting the individual(s), and failure to disclose would put them in danger. Also, only that information which is necessary to prevent the harm may be disclosed, which will rarely be all the information available.
- (iii) The risk to the offender should be considered although it should not outweigh the potential risk to others were disclosure not to be made. The offender retains his rights (most importantly his Article 2 right to life) and consideration must be given to whether those rights are endangered as a consequence of the disclosure. It is partly in respect of such consideration that widespread disclosure of the identity and whereabouts is rarely advisable.
- (iv) Disclosure is made to the right person and they understand the confidential and sensitive nature of the information they have received. The right person will be the person who needs to know in order to avoid or prevent the risks.
- (v) The involvement of the offender (where risk factors allow) both in the decision regarding the need to disclose and in the actual disclosure itself. In some cases, the ideal situation is for the offender to give their consent and to undertake the disclosure themselves. This could be either in the presence of their DRM or other agency representative, or for the content of the disclosure to be confirmed/verified by the DRM/agency representative subsequently.
- (vi) Preparation and discussion with those third parties receiving the information. This includes: checking what they already know; that they understand the confidential and sensitive nature of the information they may receive; that they know how to make use of the information, and what to do in the event of anything occurring which they need to report, and that they know whom to contact.

Disclosure of information will not abrogate agencies of any of their responsibilities.

Disclosure of information to a third party must be viewed as only one component of risk management.

## **6.4 Requests by members of the public under Article 50(2A) of the Criminal Justice (NI) Order 2008: Child Protection Disclosures**

Article 50(2A) of the 2008 Order requires that this guidance must contain provisions about arrangements for considering the disclosure, for child protection reasons, to any particular member of the public, of information concerning convictions for a sexual or violent offence committed by any person who has been identified under section 3.6 of this guidance as a relevant sexual offender or a relevant violent offender. *In the event of reports to the police about*

*concerns of immediate risk to children, it is important to ensure that these arrangements are not used to replace normal criminal investigation procedure. These arrangements are not designed to deal with concerns relating to immediate risk of harm and such circumstances should continue to be addressed through current child protection protocols and procedures.*

The definitions of sexual and violent offender are set out in detail in section 3.6 and should be used for the provisions of the child protection disclosure arrangements.

To summarise, a relevant sexual offender is a person who is subject to the notification requirements of Part 2 of the Sexual Offences Act 2003, or someone who has been convicted of a sexual offence and is not subject to notification but about whom the agencies still have significant concerns. A relevant violent offender is a person convicted of a violent offence against a child or vulnerable adult; a violent offence in domestic or family circumstances, or where a violent offence, in certain circumstances, have been aggravated by hostility.

Disclosure in these circumstances can only take place where it is deemed necessary to protect a particular child or particular children from serious harm caused by that person. Disclosure will only take place to a person who has responsibility for the child and/or is best placed to safeguard the child, for example a parent, carer or guardian. Information will, therefore, not always be provided to the person who made the initial application.

In assessment of the case for disclosure will be made in accordance with the general guidelines set out in this section.

For the purpose of these arrangements the application by a member of the public must concern a child or children who may be put at risk of serious harm by a person who can be named or identified. For example, if a new person has moved into the child's life and the applicant would like to ensure that this person does not have a known history of offending which would mean that they would pose a risk of serious harm to children. However, there does not need to be a specific evidenced concern in order to make an application. ***Specified evidenced concerns or immediate risk should be dealt with through current child protection procedures.***

## 6.5 Applications for disclosure

A person may make an application for disclosure at any police station by completing an application form. The information the person must give before an application will be considered is:

- Name and address of applicant
- Name and address of child/children for whom the person is concerned
- Relationship/connection to the child/children
- Name and address of adult responsible for the child/children
- Name and address of individual about whom the request for disclosure is being made
- Reasons why a request for disclosure is being made

The applicant should also be asked for some credible photographic proof of identity. Acceptable forms may include passport, driving licence or other trusted form of photo identification. The application should also be told they will not necessarily be the recipient of any information as a result of the application.



Following an application, further detail may be requested by the police to help in making an assessment of any risk to the child. It is essential to obtain as much information as possible in order to meet the statutory test that disclosure can only take place where it is deemed necessary to protect a particular child or particular children for serious harm caused by a particular person.

Relevant initial check should be completed by the police using the information given in this form as soon as possible and within 24 normal working hours. The results of these checks will be used to assess whether immediate action is needed to safeguard children from harm.

Where there is no conviction data, and the applicant is not the person to whom information would be disclosed as they do not have primary responsibility or safeguarding role for the child, no action need to be taken other than a letter to the applicant confirming that the application has been dealt with but as they are not the person with primary responsibility for the child they will not receive any further information. If the applicant is the person with responsibility for the child, the police will arrange to pass the information to the applicant that the subject has no convictions. This will not necessarily mean that the person does not pose a risk and the applicant should be given appropriate child protection information. It may be necessary for the police on discovery of relevant non-conviction data to formally advise social services under existing child protection arrangements.

Where there is conviction data relating to sexual offences or violent offences as described above, then the police, in cooperation with other PPANI agencies where appropriate, will assess, in accordance with the general guidance set out in this chapter, whether it is necessary to disclose that information, and to whom, to protect a particular child or particular children from serious harm caused by that person.

Where it is assessed that disclosure should take place, the police should make the necessary arrangements to inform the appropriate person as soon as possible and within 28 days of the initial application, unless there are specific reasons why this timescale cannot be achieved. Where the offender is subject to multi agency risk management, the appropriate DRM or agency should be informed about the forthcoming disclosure and discussion held about the form that disclosure should take. Where it is agreed that there is a need to disclose, the process of disclosing should take place as a matter of urgency in order to safeguard children.

Where the applicant is not the person to whom the information is being disclosed, they should receive a similar letter as outlined above confirming that the application has been dealt with.

Consideration should be made at this point as to whether the offender should also be informed about the disclosure and whether that person should be asked if he wishes to make representations. In a court ruling in England (*X(South Yorkshire) v Secretary of State for the Home Department* [2012] EWHC 2954) the judge said that in the generality of cases, without the person having an opportunity to make representations, *'the decision maker might not have all the information necessary to conduct the balancing exercise which he is required to perform justly and fairly. Whilst each case will turn on its own facts, it is difficult to foresee cases where it would be inappropriate to seek representations, unless there was an emergency or seeking the representations might itself put the child at risk.'*

## 6.6 Confidentiality

Article 50(2A) states that the guidance may contain provisions for the purpose of preventing a member of the public from disclosing that information to any other person.

At the stage when an application is being made, the applicant should be warned that if they wilfully or maliciously provide false information to the police in order to try and obtain a disclosure they are not entitled to, that they may risk prosecution, for example if they have provided false details in an attempt to make a malicious application they may have committed an offence of wasting police time.

Before any disclosure is made, the person who is to receive the information should be informed that the information disclosed by the police must only be used for the purpose for which it was shared i.e. in order to safeguard children.

The person to whom the disclosure is made should be asked to sign an undertaking that they agree that the information is confidential and that they will not disclose this information to any person who does not have a verifiable safeguarding role in respect of the particular child or children.

A warning must be given that legal proceedings are likely to result if this confidentiality is breached outside of the above and this is an offence under Section 55 of the Data Protection Act 1998 for a person to knowingly or recklessly obtain or disclose personal data without the consent of the data controller (i.e. the agency holding the information that will be disclosed, which in most cases will be the police).

This should be explained to the person and their signature obtained on this undertaking. If the person is not willing to sign the undertaking the police will need to consider if disclosure should still take place.

## **6.7 Disclosure to other third parties**

When necessary, representatives from other agencies and from outside Northern Ireland may be invited to participate in a Local Area Public Protection Panel (LAPPP), to contribute to the assessment and management of risk posed by offenders. Such representatives will be required to sign a confidentiality agreement and will be required only to share such information as is required for the purpose of contributing to the assessment and management of risk posed by a particular offender and which is compliant with current legislation. It is against this background of sharing information that the issue of disclosing information by agencies to the public arises.

There may be some case where the management of risk posed by an offender in the community cannot be carried out without the disclosure of some information to a third party. For example, management of risk may be improved through disclosure to an employer, voluntary group organiser or church leader who has a position of responsibility/control over the offender and other persons who may be at risk from the offender. Such disclosures must be made on the basis of clear justification and be supported by all of the agencies involved.

## **6.8 Disclosure to courts and parole commissioners**

The lawful authority and necessity requirements described in chapter 5 (Information Sharing) will clearly be met when disclosure is to the courts, when considering dangerousness prior to sentence, or to the parole commissioners, when considering suitability for release back into the community. The confidentiality agreement which will be signed by agencies who participate in a LAPPP will clearly state that information shared for the purpose of contributing to the assessment and management of risk posed by a particular offender will be made available to the courts or parole commissioners on request.

Where the court or parole commissioners are asking for agency-specific information, for example, specific information which fed into the risk assessment process, then the request should generally be sent to that agency. Most, if not all, of the information provided to LAPPP meetings is derived from information stored on the individual agency's database(s) and the provision of that information to third parties is the responsibility of that agency.

## **6.9 Decision to disclose information to the general public**

Any decision to disclose information to the general public has wide ranging implications, therefore the PSNI, at an appropriately senior level, will exercise the final responsibility for the decision to disclose personal or confidential information to the public about an individual whose management of risk is being addressed within the public protection arrangements.

## **6.10 Disclosure of LAPPP meeting minutes to offenders or other third parties**

In working with offenders, victims and other members of the public, all agencies have agreed boundaries of confidentiality. The information contained in the LAPPP meeting minutes respects those boundaries of confidentiality and is distributed under a shared understanding that the meeting is called in circumstances where it is felt that the risk presented by the offender is so great that issues of public or individual safety outweigh those rights of confidentiality.

These minutes are likely to include personal, confidential third party (including victim) and operationally sensitive information and are, therefore, not suitable for disclosure under one or more of these exemptions of the Freedom of Information Act (2000):

- Investigations and proceedings by Public Authorities (section 30(1)(B));
- Health and safety (section 38);
- Personal information (section 40); and
- Information provided in confidence (section 41).

There may also be restrictions on disclosing this information to others under the Data protection Act (1988) and the Human Rights Act (1998) and related European case law.

There may be increased requests for copies of LAPPP meeting minutes from offenders and other third parties. A full copy of the LAPPP meeting minutes should not be provided. Instead, redacted minutes should be provided. All requests from offenders or other third parties for LAPPP must be responded to. All requests and decisions relating to disclosure of the LAPPP meeting minutes must be recorded on case risk management records.

## **6.11 Summary**

This guidance identifies the principles to be followed in the decision making process where, for the purpose of public protection, disclosure of personal and confidential information to any party outside the public protection arrangements is to be considered. Each agency should work to a corporate agreement on information sharing and confidentiality within the public protection arrangements. The purpose of an identified process will lead to clarity as to when disclosure is justifiable, and will also provide evidence of objectivity and proportionality in the event the decision is challenged.

# Section 7

## Risk assessment

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- 7.1 Introduction
- 7.2 Criteria for choosing a risk assessment tool
- 7.3 Other contributions to risk assessment
- 7.4 Summary

# 7

## Risk assessment

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### 7.1 Introduction

The assessment of risk posed by an offender, and the identification of the factors that have contributed to the offending are the starting points for all work with offenders. There must be a professional discussion and agreement regarding the level of risk of serious harm and the type of management of risk required.

### 7.2 Criteria for choosing a risk assessment tool

It is expected that properly validated methods of risk assessment will be used by agencies to assess risk posed by offenders.

### 7.3 Other contributions to risk assessment

One of the benefits of close working relationships between agencies within the public protection arrangements, is that access to other forms of needs assessment are made available, which can complement formal risk assessment. These assessments will be of particular importance in assessing offenders with, for example, mental health problems or learning difficulties. Needs assessments made by colleagues in other agencies, including those in health, education, housing and social services, can critically inform the assessment of the risk of serious harm. The key principle for agencies operating the public protection arrangements is that risk assessments, undertaken by individuals within agencies, should be based on the tools and procedures currently approved for use within that agency. Agency protocols and procedures must be carefully adhered to and current guidance on the use of the respective tools must be followed.

### 7.4 Summary

The assessment of risk of serious harm posed by an offender, and the identification of the factors that have contributed to the offending, form the key building blocks of offender management of risk. Formal risk assessments inform and underpin defensible decision making. As further risk assessment tools are developed and validated, agencies may wish to consider review and revision of the risk assessment instruments used.

# Section 8

## Management of risk

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- 8.1 Introduction
- 8.2 Types of management of risk
- 8.3 Management of risk within the public protection arrangements
- 8.4 Management of risk outside the public protection arrangements
- 8.5 Delivery of risk management plans

# 8 Management of risk

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## 8.1 Introduction

While the management of risk of serious harm posed by offenders is both complex and difficult it is central to the purposes of the public protection arrangements and the agencies have a duty to ensure that the assessed risk of serious harm is managed. In practice this means that agencies must seek to ensure that strategies to address the risks are identified and where necessary a multi agency risk management plan is developed, delivered and reviewed on a regular basis.

Management of risk is the process of addressing the identified risks of serious harm by putting an appropriate risk management plan in place. Management of risk is both complex and dynamic and it is not possible to eliminate risk entirely. It is therefore critical that: the decisions made **are defensible; that the risk management plan** is implemented and monitored through regular reviews and that adjustments to the plan are made, as necessary.

Risk management plans must include action to monitor the behaviour and attitudes of the offender and when necessary intervene in the individual's life in order to minimise the risk of serious harm to others. It is important that plans relate not only to the risk situation as it is now but are also capable of addressing risk as it may develop in the future, drawing upon information from all agencies within the public protection arrangements.

The ability of agencies operating the arrangements to deliver effective management of risk will depend on a number of factors. Case specific details such as the nature and severity of the risk posed, factors that may trigger re-offending behaviour, and whether any statutory powers exist to modify or contain behavior are all highly relevant in determining what risk management options are appropriate. So too is the engagement of a range of agencies that are able to make a specific contribution to the development of appropriate strategies and to directly deliver elements of the risk management plan.

Effective management of risk is the core purpose of the public protection arrangements and requires all agencies sharing relevant information to ensure that it can be achieved.

## 8.2 Types of management of risk

The management of risk within the public protection arrangements is intended to enable resources to be deployed to manage identified risk in the most efficient and effective manner. It is based on the principle that cases should be managed at the lowest level consistent with providing a defensible risk management plan. Oversight of delivery of management of risk within the public protection arrangements will be carried out by Local Area Public Protection Panels (LAPPPs).

## 8.3 Management of risk within PPANI

Multi agency management of risk within the public protection arrangements should be used only where it is considered necessary to address the risk of serious harm posed by the offender. In these cases the active involvement of more than one agency will be required to deliver the risk management plan.

Good practice suggests that the following agencies should routinely play an active role in the management of risk within the public protection arrangements:

- **police;**
- **probation;**
- **prison service;**
- **social services.**

Representation on LAPPPs from the above agencies should be supplemented by other agencies, such as the Northern Ireland Housing Executive, depending on the particular circumstances of each case, to ensure full information sharing and engagement of other service providers in the delivery of the risk management plan.

Management of risk within the public protection arrangements will generate a significant caseload that will require active management and review by the LAPPPs. To achieve this, LAPPPs must be effectively managed and supported. The frequency of LAPPP meetings is a matter for the agencies themselves to decide, and will largely depend on the number and complexity of the caseload. However, a multi agency risk management plan should be reviewed to ensure that the plan is effective and that identified actions have been progressed no later than every 12 weeks.

Agencies should not expect that management of risk within the public protection arrangements will apply indefinitely. Once an effective risk management plan is firmly established, and the risk is reduced so that it no longer necessitates multi agency involvement, the case should revert for risk management purposes to the relevant agency with responsibility for that particular offender. Should the assessed risk increase the type of risk management should be reviewed.

## 8.4 Management of risk outside the public protection arrangements

The risk posed by offenders assessed by the multi agency LAPPP as not requiring multi agency intervention, will not be addressed within the context of the public protection arrangements. However, agencies do have existing individual statutory responsibilities for elements of public protection, which will be performed outside the multi agency public protection arrangements.

Cases where the management of risk is addressed outside the public protection arrangements, by an agency exercising its individual statutory responsibility for public protection can be referred at any stage to the LAPPP for further assessment where significant concerns<sup>6</sup> arise. It is therefore essential that good information sharing takes place to enable any concerns to be identified in a timely manner for referral back into the multi agency arrangements.

Agencies must remain alert to the fact that just as risk can and will change, so the means of managing risk should change. The public protection arrangements provide the framework within which changes in the management of risk can be effectively and consistently addressed within the overriding principle that cases should be managed at the lowest appropriate level, determined by defensible decision making.

## 8.5 Delivery of risk management plans

There is a clear expectation that agencies will discharge actions falling to them as part of the risk management plan, and for which they have a statutory responsibility, in an expedient manner and report on delivery of those actions in an open fashion at the LAPPP.

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<sup>6</sup> 'Significant concerns' is defined in section 2.6 as "Where an agency has current evidence of behaviour on the part of an offender that indicates the risk of his/her causing serious harm to others has increased."



# Section 9

## Local area public protection panel meetings

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- 9.1 Introduction
  - 9.2 Purpose of meetings
  - 9.3 Agency representation
  - 9.4 Conducting meetings
  - 9.5 Chairing
  - 9.6 Identifying LAPPP responsibility
  - 9.7 Transferring cases between LAPPPs

# 9

## Local area public protection panel meetings

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### 9.1 Introduction

The importance of holding effective Local Area Public Protection Panel (LAPPP) meetings, to share information within the public protection arrangements to support risk assessment and formulate risk management plans, in order to protect victims and communities, cannot be over emphasised.

An effective meeting requires:

- **Good identification of and representation by those agencies which need to be present;**
- **The right people in attendance who have the capability and authority to make the necessary decisions;**
- **All the pertinent information being available;**
- **Good organisation and management of the meeting; and**
- **Proper record keeping.**

### 9.2 Purpose of meetings

The purpose of the meeting is for agencies to share information which:

- **Is pertinent to undertaking multi agency risk assessments;**
- **Identifies the likelihood of re-offending;**
- **Identifies serious risk of harm issues and their imminence;**
- **facilitates the delivery, review and adjustment of effective risk management plans.**

### 9.3 Agency representation

Key to the effectiveness of LAPPP meetings is multi agency involvement and representation. In determining the level of the representation, and the nature of each agency's involvement, three factors must be considered:

1. The representatives must have the authority to make decisions committing their agency's involvement. If decisions have to be deferred, due to the inability of agency **representatives to take decisions and/or** commit resources, then the effectiveness of the multi agency operation will be weakened and may compromise the risk management plan.
2. The representative must have relevant **experience of risk/needs assessment and** management of risk, and the analytical and team-working skills to inform discussions. Such experience and skills can usefully contribute both to case-specific management of risk and in providing advice on management of risk more generally.
3. Continuity of personnel. The effectiveness of LAPPP meetings is dependent upon establishing good working relationships across agencies. Multi agency work is often complex and benefits greatly from the continuity of personnel and their professional engagement.

Multi agency management of risk is an expensive resource and should only be used where it is necessary to manage the risk of serious harm in a collaborative and co-ordinated manner. Involvement of agencies, when they have no information or advice to offer and no services for the offender, wastes agency time and may undermine involvement in other relevant cases. As referrals to LAPPPs increase, it is essential that a flexible and focused approach is taken to ensure that the right agencies attend to develop the right risk management plans for the right cases. Where agencies fail to attend or provide information, and this affects the ability of the meeting to construct an effective risk management plan, the chair of the LAPPP meeting will initially follow this up locally with the agency. If this is not successful, then it should be brought to the attention of the strategic forum.

## 9.4 Conducting meetings

It is important that LAPPP meetings are well organised and allow sufficient time to discuss the case properly. Accurate records must be made using an agreed format. These records must be written in a way which allows those not present at the meeting to understand the nature of the discussion. The records must also demonstrate defensible decision making.

## 9.5 Chairing

Police and probation clearly have a significant role in the day to day operation of the public protection arrangements. For this reason it is important that the LAPPP meetings are chaired by a representative of one of these agencies. The chair should be someone who has the necessary skills and ability required to fulfil the role. All new chairs should receive induction, which provides access to an experienced chair for advice and guidance. They should also receive appropriate training.

Chairing LAPPP meetings is essentially one of combining the roles of facilitator and leader. The task is to ensure that the business of the meeting i.e. the identification of risks, with the production and appropriate review of the risk management plan, is conducted in an effective and efficient manner. It is expected that the chair will ensure that:

- **The agenda is followed and all items are fully discussed;**
- **Meetings are properly recorded and minutes are circulated within the specified timescales;**
- **Meetings run to the time allocated to them but the time allowed should be sufficient to address the issues;**
- **Practice guidelines are adhered to; and**
- **Where agencies fail to attend meetings and this affects the ability to fully assess risk and establish management plans, or where agencies have not undertaken agreed tasks, that this is followed up with the respective agency locally.**

This will involve:

- **Enabling appropriate contributions from all participants;**
- **Summarising key points;**
- **Testing for consensus; and**
- **Suggesting options for moving forward.**

## 9.6 Identifying the relevant LAPPP

For the vast majority of offenders in the community, identification of the relevant LAPPP is easily determined by place of residence. However, in a small number of cases offenders may have no fixed residence or there may be some other grounds for questioning which is the relevant LAPPP. In these circumstances agencies will need to agree by reference to other factors such as previous statutory responsibility, knowledge of past offending or the current provision of services which is the relevant LAPPP.

## 9.7 Transferring cases between LAPPPs

It is not uncommon for offenders to move from one relevant LAPPP area to another. The responsibility for arranging the transfer of all the relevant information to the new LAPPP lies with the chair of the LAPPP from whom the case is being transferred.

The requirements of the procedures set out in the HSC Circular 3/96 (revised); **Sharing to Safeguard must also** be satisfied to ensure that notification of a change of domicile of an offender is exchanged between agencies.

# Section 10

## Good practice standards

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- 10.1 Introduction
- 10.2 The four features of good practice
- 10.3 Defensible decision making
- 10.4 Rigorous (evidence based) risk assessment
- 10.5 Management of risk
- 10.6 Evaluating performance

# 10

## Good practice standards

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### 10.1 Introduction

Previous experience, research and the continual review and development of multi agency risk assessment and management arrangements in Northern Ireland and Great Britain have led to improved understanding of what works best in the effective risk management of offenders. The challenge is not only to match current practice with what is already known but also to respond rapidly to new learning.

### 10.2 The four features of good practice

Professor Hazel Kemshall (2003)<sup>7</sup> in her research into the community management of high-risk offenders in England and Wales clarified that public protection depends upon:

**Defensible decisions;**

- **Rigorous (evidence based) risk assessments;**
- **The delivery of risk management plans which match the identified risk factors; and**
- **The evaluation of performance to improve delivery.**

### 10.3 Defensible decision making

Although the public protection arrangements represent a significant strengthening of public protection, the arrangements cannot provide absolute protection. Research<sup>8</sup> has shown that 32% of first-time murderers and 36% of serious sexual offenders have no previous convictions. In many cases, the decision making involved in the assessment of risk and its management can, and indeed often does, prevent re-offending but it is not infallible. Even the most diligent efforts by agencies cannot always prevent serious harm. In place of infallibility great emphasis must be **put on defensibility; making the most reasonable** decisions based on the information available at the time and carrying them out professionally.

The idea of defensible decisions is not about being defensive, rather it is making sure that decisions are transparent and can be easily understood. It is intended to embed risk assessment with rigour and management of risk with robustness and ensure that practice is evidence based. Kemshall<sup>9</sup> summarised its criteria as:

**All reasonable steps have been taken;**

- **Reliable assessment methods have been used;**
- **Information has been collected and thoroughly evaluated;**
- **Decisions are recorded (and subsequently carried out);**
- **Policies and procedures have been followed; and**
- **Practitioners and their managers adopt an investigative approach and are proactive.**

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<sup>7</sup> Kemshall, H. (2003) The Community Management of High-Risk Offenders, Prison Service Journal, March 2003

<sup>8</sup> Soothill, K, Francis, B., Ackerley, E, and Fligelstone, R. (2002) Murder and Serious Sexual Assault: What criminal histories can reveal about future serious offending. Police Research Series Paper 144 <sup>9</sup> Kemshall, H (2003) *ibid.*

## 10.4 Rigorous (evidence based) risk assessment

No risk assessment tool can be 100% predictive. Good risk assessment practice is dependant upon those undertaking it having all the relevant information and time to consider it. For this reason, this guidance places great emphasis upon the identification of risk and information sharing to assess risk. Once risk has been identified, and after information has been shared, it is the skills of practitioners, enhanced by the involvement of other professionals, which make the procedure meaningful. We know, for example, that while an offender's past convictions and other "static" factors are reliable indicators of risk, the risk assessment skill often lies in discerning the "dynamic" risk factors and, more importantly, in drawing up the risk management plan.

It is important to include the victim perspective in the public protection arrangements. The victim is central to the offence and the risks to the victim must be properly assessed and managed. In addition, with proper care and support, victims can provide vital information for the assessment and management processes. Indeed, the victim may be the person who best knows the true risk posed by the offender.

It is precisely because risk assessment can never become formulaic, and because there will always be a place for using discretion, agencies must ensure that risk assessment is a dynamic and continuous process. It must never become a "one off event", especially with offenders who present the highest risk.

## 10.5 Management of Risk

Management of risk begins with planning how the assessed risks are to be managed and matching risk with lawful, necessary and proportionate responses to protect the public. The implementation of the risk management plan, like risk assessment, is dynamic. It must respond to changes in risk and in the circumstances likely to affect risk. This should be supported by drawing up the plan using clear objectives for the offender and for those managing the risk.<sup>10</sup>

This guidance does not provide detailed strategies for management of risk and specific means of achieving objectives but highlights the principles of good practice in managing the higher risks. These are as follows:

1. By co-ordinating how each agency fulfils its respective responsibilities, the public protection arrangements ensure that the co-ordinated outcome is greater than the sum of its individual parts. This principle is of particular significance when the arrangements engage with agencies less familiar and confident about focused public protection work.
2. Integration of the measures used to promote the offender's self management (sometimes referred to as the "internal controls") with those which are designed principally to constrain risk (sometimes referred to as the "external controls"). Very few risk management plans are constructed with only one or other of these measures as internal and external controls are rarely mutually exclusive.
3. Each case is managed at the lowest appropriate level that is consistent with providing a defensible risk management plan. The principles of good defensible decision-making will ensure that this is achieved and that the "inflation" of low risk cases, with the consequent inappropriate use of resources, is avoided. Integral to this principle is the need for appropriate contingency plans in the event of a breakdown in risk management arrangements.

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<sup>10</sup> Kemshall, H. (2001 and 2002) suggests these objectives are best defined using the SMART criteria: Specific, Measurable,

## 10.6 Evaluating performance

While nothing can detract from the importance of high quality risk assessment and management, good and better practice is contingent upon a regime of planning, enacting, reviewing and evaluating, which leads to better public protection.

The agencies, through the strategic forum, discharge the formal responsibility for the statutory duty to review, monitor and to make necessary changes to the risk assessment and management arrangements.

Evaluating performance is not only at the **strategic level**; **evaluation is part of good** professional practice. Whether through formal supervision or in the continuous process of reconsidering risk and its management, evaluation is one of the core skills of practitioners operating the public protection arrangements. Finally, evaluation is important because it helps identify more sharply where resources are best deployed and where additional resources are most needed.



# Section 11

## Lay advisers

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- 11.1 Introduction
- 11.2 Role of the lay adviser and the strategic forum
- 11.3 Appointment of lay advisers
- 11.4 Short-listing and selection process
- 11.5 Appointment by the Minister of Justice
- 11.6 Induction and training
- 11.7 Support role of the strategic forum
- 11.8 Annual review process
- 11.9 Confidentiality
- 11.10 Expenses
- 11.11 Change in circumstances
- 11.12 Reappointment
- 11.13 Termination of appointment

# 11

## Lay advisers

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### 11.1 Introduction

Article 51 (2) of the Criminal Justice (Northern Ireland) Order 2008 requires the Department of Justice to appoint two lay advisers. The Order makes clear that the lay advisers will be appointed to assist in the review and reporting functions and not operational decision making. Lay advisers will therefore be expected to contribute to the strategic forum and may also participate in any sub-groups. Lay advisers will be encouraged to develop effective links and share experience with lay advisers performing a similar role in other parts of the UK under multi agency public protection arrangements.

### 11.2 Role of the lay adviser and the strategic forum

The lay adviser role is a statutory appointment with a modest remuneration. They act as informed observers and provide a challenge function to put questions which the professionals closely involved in the work might not necessarily think of asking.

The agencies, through the strategic forum, have a duty to consult with the lay advisers on issues relating to their monitoring role. The forum should ensure that reports from lay advisers are commissioned and tabled and discussed at regular meetings and that business planning and annual reports are shared in draft with the lay advisers. The forum should review the role and performance of the lay adviser on an annual basis and report to the Department on developmental issues in relation to the role.

It is expected that advisers will attend meetings of the strategic forum and undertake such familiarisation and reading as necessary to enable them to understand and to contribute to those meetings. They are not expected to **become experts; their value is to provide** a challenge to the professionals by acting as a "critical friend", and bring to the review and monitoring function their understanding and perspective as lay persons from the community. A more detailed list of their functions is provided in the lay adviser's handbook.

Lay advisers will be expected to provide between eight and 16 hours per month to their role. They will contribute to the monitoring and evaluation of the operation of the public protection arrangements, as stated in Article 51(1) of the Criminal Justice (NI) Order 2008. They will not participate in the decision making on risk assessment and risk management or have any involvement in operational activity, nor will they act alone as a representative of the arrangements.

### 11.3 Appointment of lay advisers

Lay advisers are appointed by the Department of Justice for a period of three years. They can apply to serve for a further period of three years should they wish to and if the agencies support their reappointment (see 11.12 below). All

applicants for positions as lay advisers must apply for a basic disclosure, through Access NI, as part of the recruitment process. The strategic forum will ensure this check is carried out. In addition, two personal references must be obtained, and verified by the forum, as to the suitability of the person to become a lay adviser.

The specification for a lay adviser is as follows:

- **No formal educational qualifications** are necessary but must be able to understand complex information in written and numerical form;
- **An interest in community and social issues, preferably with a history of involvement;**
- **Ability to make decisions based on and supported by available information;**
- **Capacity for emotional resilience, retaining sensitivity** whilst dealing with tragic or painful human situations. In particular, this includes an ability to understand the needs and **feelings of victims;**
- **Ability to accept the complexity of human behaviour;**
- **Good social skills, able to work effectively with people in groups and informal meetings**
- **An awareness of, and commitment to, equality and diversity;**
- **Ability to challenge constructively the views and assumptions of senior professionals; and**
- **Ability to maintain confidentiality.**

In order to preserve the “lay” status of those who are appointed to the role, and to avoid any potential conflict of interest, there are certain categories of people who are ineligible for appointment due to their current or previous experience. These comprise:

- **Members of Parliament or the NI Assembly;**
- **Local Councillors;**
- **Civil servants at the Department of Justice;**
- **Members of staff from any criminal justice agency (and within seven years of leaving such employment);**
- **Current members on the Probation Board for Northern Ireland;**
- **Current members of the Northern Ireland Policing Board;**
- **Current members of district policing partnerships;**
- **Current members of prison independent monitoring boards;**
- **Anyone who is conducting research on subjects that fall within the remit of PPANI (and within eight years of completing such research);**
- **Anyone who through personal or family circumstances may not be able to provide an unbiased view of PPANI; and**
- **Anyone whose paid employment involves working with offenders that fall within the remit of PPANI.** A similar exclusion may apply to voluntary work where the primary focus is with PPANI offenders, such as sexual offenders.

In order to attract suitable candidates for selection, the strategic forum must consider how to reach out to communities in order to stimulate people’s interest in the work of the public protection arrangements locally and the role of the lay adviser. The forum may wish to advertise in the local press, local radio, libraries, and agency websites.

## 11.4 Short-listing and selection process

The selection process employed by the strategic forum must help identify individuals who are able and suitable to

undertake the role of lay adviser. It is important that the forum attracts a sufficient pool of candidates to enable it to effectively short-list suitable candidates. Good practice principles must apply to the short-listing and selection process. All papers must be retained throughout the lay adviser's time in post.

## **11.5 Appointment by the Department of Justice**

Once the strategic forum has reached a decision to nominate a lay adviser as being suitable for appointment, the chair should write to the Department of Justice. This letter should include the proposed lay adviser's full personal details and a biographical pen-picture as this detail is required to make the appointment.

Once the Minister has agreed an appointment, the Department will write directly to the applicant and to the strategic forum informing the agencies of that decision.

## **11.6 Induction and training**

All newly appointed lay advisers must, following their appointment, be provided with appropriate induction. The PPANI co-ordinator will facilitate their induction and provide ongoing support and guidance. The shape and duration of the induction period will vary between individuals but it is essential that it equips the lay adviser to undertake their role. The lay adviser should be provided with an opportunity to be informed of the basic structure of the criminal justice system, as well as the roles of each agency involved in the public protection arrangements.

## **11.7 Role of the strategic forum**

The strategic forum should facilitate ongoing support for the work of the lay advisers. The forum should also ensure that the lay advisers are given full opportunity to raise issues for discussion at each meeting.

Opportunities should be identified for lay advisers to engage with lay advisers performing a similar role throughout the UK under similar multi agency public protection arrangements.

An informal review should be conducted once a year between the lay advisers and the chair or other member of the strategic forum.

The PPANI co-ordinator will provide lay advisers with ongoing support and guidance and will meet with them on at least a quarterly basis.

Details of induction requirements, lay adviser functions and other useful information are provided in the lay adviser's handbook.

## **11.8 Annual Review Process**

An informal review should be conducted once a **year between the lay adviser and the chair and/** or other members of the strategic forum. The review will focus on the annual programme of activities.

It is a two way review and a forum for discussing how the lay adviser sees their contribution over the year to the oversight of the public protection arrangements, and for any feedback that the forum chair or member might be able to give.

The lay adviser may be accompanied by the PPANI co-ordinator if they wish.

## **11.9 Confidentiality**

Lay advisers must not disclose information given to them in confidence in consequence of their work with the strategic forum or information acquired by them in any aspect of their role, which they believe to be of a confidential nature, without the consent of a person authorised to give it or unless required to do so by law.

## 11.10 Remuneration

The lay adviser receives a modest remuneration and an entitlement to legitimate expenses such as travel and refreshments and, where necessary, **accommodation, for attending official functions/** conferences. Compensation for loss of earnings or child care expenses should also be available. These issues should be identified prior to appointment and addressed during the induction process.

## 11.11 Change of circumstances

Lay advisers must notify the forum chair of any change in circumstances that could affect their suitability to undertake their role. This would certainly involve being charged or summonsed for any criminal offence, or a change in personal circumstances that would affect their role as a lay adviser. It would also include any circumstances where a member of the public, having knowledge of the relevant facts, could reasonably regard it as so significant as to compromise the lay adviser's ability to discharge their responsibilities. The chair of the forum, in conjunction with other agency colleagues, will determine what action is appropriate.

## 11.12 Re-appointment

Lay advisers are appointed by the Department of Justice for a period of three years. Lay advisers can apply to serve for a further period of three years should they wish to and if the agencies, through the strategic forum, support their reappointment. Where the forum is proposing that the lay adviser should continue in post, the chair should write to the Department of Justice confirming that this is supported by the agencies. The Department will confirm the continuation of the lay adviser in post and write to this effect to the chair of the strategic forum and the lay adviser.

## 11.13 Termination of appointment

The Department of Justice retains the right to terminate the appointment of a lay adviser whose conduct or performance is not felt to be of the required standard. Misconduct will encompass such matters as lack of commitment, conviction for a criminal offence, unauthorised disclosure of information or abusing their position as a lay adviser. Performance will include such matters as not fulfilling the annual programme of activities. These examples should not be interpreted as establishing a prescriptive list. Recommendation for the termination of an appointment will require the endorsement of the strategic forum.

A letter should be sent from the forum to the Department of Justice, who will consider the recommendation for termination of appointment. If the Department considers that the recommendation meets the necessary criteria for termination of appointment, a letter will be sent to the lay adviser and copied to the forum notifying the termination of appointment.

# Section 12

## Performance and standards

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- 12.1 Performance
- 12.2 Quantitative data
- 12.3 Qualitative data
- 12.4 Key performance

# 12

## Performance and standards

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### 12.1 Performance

The agencies, through the strategic forum, need to be satisfied that the public protection arrangements are working well and that the management of risk posed by relevant offenders within the arrangements meet the defensibility test. The defensibility test is:

***“Was everything that could reasonably have been done to prevent offenders from re-offending actually done?”***

This applies to how each individual agency fulfils their legal obligation and how the agencies work together in achieving comprehensive management of risk. The agencies, through the strategic forum, need to be able to demonstrate this empirically through monitoring and evaluation of performance.

The monitoring and evaluation activities of the forum contribute to the annual report, drive the business planning process, provide the means of reviewing the effectiveness of the public protection arrangements and contribute to public confidence in the arrangements. It involves the collection and analysis of both quantitative and qualitative data.

The forum should analyse this data on at least a quarterly basis to allow some bench marking and the opportunity for timely intervention where issues are identified.

### 12.2 Quantitative data

The strategic forum must have arrangements in place to collect data and monitor the following for sexual and violent offenders whose management of risk is addressed through the public protection arrangements:

- **The total caseload;**
- **New cases in a specific time period;**
- **The number of “wanted/missing” sexual and violent offenders ;**
- **The number of offenders who commit a further offence which necessitates the commissioning of an independent serious case review as set out in 9.5 of this guidance;**
- **Disclosure (excluding self disclosure) – decisions regarding limited/full public disclosure detailing where disclosure has taken place, to whom and by whom and those cases where it has not;**
- **Civil orders which have been applied for – the number granted, the number refused and the number made by the court at point of criminal conviction – sexual offences prevention orders (SOPOs), notification orders, foreign travel orders and risk of sexual harm orders;**

- **The number of breaches of SOPO and action taken; and**
- **Number of cases where a breach of licence**  
has resulted in a recall to custody.

### **12.3 Qualitative data**

Qualitative data to determine how effectively the public protection arrangements have operated should be obtained from:

- **Case audits;**
- **Serious case reviews, and**
- **Policy reviews and inspections**

The forum should undertake an audit of all cases whose management of risk is addressed through the public protection arrangements at least annually.

### **12.4 Key performance indicators**

The following key performance indicators will measure the adherence to best practice within the framework of the public protection arrangements:

- **All cases in the community whose management of risk is addressed through the public protection arrangements reviewed no less than once every 12 weeks (see section 8.3);**
- **Disclosure to be considered by the LAPPP in all cases; and**
- **Full attendance by each agency at an appropriate level of seniority at LAPPP meetings over each calendar year.**



**1. Investigate cases of crime against missing vulnerable persons as directed by PPU Sergeant / Inspector**

(The majority of cases will be investigated by uniform, CID or in serious cases Crime Ops)

- Police Powers - use of child abduction legislation – Art 4 Child Abduction (NI) Order 1985 and Art 68 Children's (NI) Order 1995
- Suspect interviews
- Child and Vulnerable Adult Clarifications/ABE's

**2. Develop strategies with police departments and key agencies to respond to missing vulnerable persons who are likely to be at risk**

- Develop strategies using available systems, departments and agencies for research purposes – e.g. analysts reports on repeat missing persons  
Child/young person contacts e.g. education welfare services, children's charities  
Vulnerable adult contacts e.g. vulnerable adult HSCT teams
- Tactical options e.g. ABC contracts - child to agree to curfew, links to local youth groups, follow up letters/information to families, incentive schemes

**3. Conduct 'Joint Protocol' interviews in line with MVPO**

- SPOC for PSNI and agencies e.g. children's services and vulnerable adult teams
- Conduct child/young person, vulnerable adult return interview when required

**4. Prioritise cases where persons have been identified as 'at risk' or are missing from Residential Care Homes. Ensure these cases are being properly monitored / investigated and provide assistance where required**

- Establish all contacts relating to a new admittance for children's residential units
- Re: the sharing of information agreement between police and HSCT, relevant information to be added to Niche to assist in the prevention of child exploitation
- Communicate relevant information with police departments. Encourage officers to provide information from the community to help curb absconding or episodes of missing reports
- Develop and maintain children's residential unit staff briefings / training on a regular basis

**5. Attend case conferences etc. where necessary, for cases relating to police reports of missing children and vulnerable adults**

- Children under 16 years - Initial Strategy Meeting, Child Protection Case Conference, Risk Strategy Meeting, LAC (Looked After Children) Meeting, Core Group Meeting
- Children age 16 -18 years - Leaving & Aftercare (Transition) Meeting. Liaise with YDO
- Vulnerable Adults - Risk Strategy Meetings

**6. Support the DIU in preparing target profiles and intelligence briefings in respect of vulnerable persons who are likely to go missing**

- Liaise with the DIU on a regular basis - briefings / E-briefs / Form A / CI1 / District analysis

**7. Support District Colleagues in respect of all missing person reports by providing specialist knowledge in relation to persons who are at risk**

- Expertise to assist police departments i.e. PPU / YDO / CID / DIU / RCU / Neighbourhood etc. Use of agency contacts

## **8. Research cases involving missing vulnerable persons to look for patterns that might identify cases of exploitation / criminal activity**

- Using data from Niche / C&C / Form 57 / DIU and information sharing with agencies
- Research cases with PPANI, CAIU, DIU re: familial links/new people to community who may pose a risk of drugs, alcohol etc
- Research information obtained from missing person return interview
- Liaise with agencies e.g. education welfare officers, Barnardo's etc.

## **9. Monitor all police reports of missing vulnerable persons to identify cases of concern, for pro-active steps to be taken by police and / or other agencies**

### **(a) Monitor C&C serials**

- Person found PRFD must be added to closing codes. If not person remains missing
- Scrutinise C&C for potential vulnerable cases i.e.  
Report of missing 3 times in one month period  
Report of missing on 1 occasion where circumstances give rise to significant harm  
Vulnerable due to e.g. age (under 18yrs, 65yrs+), mental, physical, learning disability,  
Refer to Social Services (Gateway Team) or relevant Vulnerable Adult HSCT department

### **(b) Missing Person recorded onto Niche**

- Missing person must be created on Niche (if not already created), on a person tab with each missing occurrence linked. This ensures that all occurrences relating to that person are identified and will highlight if an action is required by police and or other agency
- Additional addresses, associates, contacts linked to the person tab on Niche.
- All contacts –to be added to missing person tab (Contact/employment or Contact for)
- MVPO actions to be updated onto Niche general report for each occurrence  
Incidents of note reported to PPU sergeant and briefing manager for morning meetings

### **(c) Monitor Form 57**

- Apprise duty sergeant with additional information if available, from social services etc.
- Check return interview has been conducted to required standard as set out in Police Action in Respect of Missing Person Procedure 29/2009
- Any issues arising with reference to the correct completion of the Form 57 to be addressed with PPU sergeant

### **(d) MVPO Database - Xcel spreadsheet**

- MVPO database tool to record LAC reviews, agency meetings etc. attended plus strategies and actions put in place between police and social services
- Provides weekly/monthly returns to PPU and is available to the District to view

## **10. Management of Form 57**

### **(a) Record management of Form 57's – recording and storage**

- Form 57's dating back over 3 year period from current year to be stored in an accessible location for ease of retrieval and monitoring purposes
- Historic Form 57's to be retained in safe location – labelled by year
- MVPO designated District Record Reviewer for Form 57 as per Records Management Policy Directive 06/04. Appropriate forms RM1 / RM3 to be completed re: retention or disposal process. MVPO to liaise with Record Auditor (Brooklyn) where necessary  
Niche to be updated accordingly

### **(b) Quality assurance**

- Quality assures a **dip sample** of between 10% - 15% of the district missing person reports to ensure compliance with service policy.
- MVPO to date stamp and sign Form 57 to indicate PPU check made. Perfect records and highlight deficiencies to the PPU sergeant / Inspector

**Protocol for**

**JOINT INVESTIGATION**

**of Alleged and Suspected  
Cases of Abuse of  
Vulnerable Adults**

**July 2009**



**Health and  
Social Care**



**The Regulation and  
Quality Improvement  
Authority**

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## **APPENDICES**

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## FOREWORD

In recent years, significant efforts have been made within Health and Social Services and the Police Service to establish procedural and operational arrangements in order to respond effectively to the abuse or exploitation of vulnerable adults. This has involved a considerable degree of interagency liaison in order to develop effective partnership working which will help to prevent abuse and respond appropriately and sensitively when it is alleged, suspected or occurs.

Measures designed to support vulnerable and intimidated witnesses introduced in 2003 have contributed to even closer working arrangements between police officers and health and social services staff.

This Protocol is an important aspect of these changes. It outlines the roles and responsibilities of the respective agencies and provides guidance about joint working arrangements and investigation. It has been developed in partnership between the Police Service of Northern Ireland (PSNI), Department of Health, Social Services and Public Safety (DHSSPS), the Regulation and Quality Improvement Authority (RQIA), the Health and Social Care Trusts and the former Health and Social Services Boards in Northern Ireland. It is based on the recognition of the need for more co-ordinated interagency working to ensure that vulnerable adults, who are at risk of abuse, receive protection, support and equitable access to the criminal justice system.

The Protocol has been developed on the basis of research, best practice and on extant guidance, both regional and from elsewhere in the UK which requires agencies to develop interagency policies, procedures and joint protocols that draw on good practice and to investigate and take action when a vulnerable adult is believed to be at risk of abuse.<sup>1,2,3</sup>

<sup>1</sup> Bailey A (2001) 'Factors influencing police investigation of sexual crimes committed against people who have a learning disability and implications for public policy'.

<sup>2</sup> 'No Secrets: Guidance on developing and implementing multi-agency policies and procedures to protect vulnerable adults from abuse'. Home Office/DOH 2000.

<sup>3</sup> 'Safeguarding Vulnerable Adults Regional Adult Protection Policy & Procedural Guidance', September 2006.

Although other agencies will be involved in aspects of the investigative process, the PSNI, Trusts and the RQIA have traditionally taken the lead roles in investigating abuse and reporting crimes. The Protocol has been designed as a basis for improved interagency working and will need to be closely monitored, reviewed and revised in the light of experience. It is supported by an ongoing programme of interagency training.

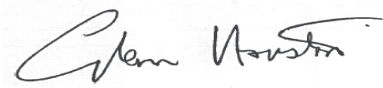
We commend this Protocol to all who are involved in this critical and demanding area of work and would like to place on record our thanks to all who contributed to its development.



Chief Executive  
Health and Social  
Care Board



Assistant Chief  
Constable Criminal  
Justice  
Police Service of  
Northern Ireland



Chief Executive  
Regulation and Quality  
Improvement Authority

# 1 Introduction

- 1.1 The PSNI and Health and Social Care (HSC) bodies are committed to tackling abuse in all its forms and to the development of collaborative working which will enhance arrangements for the protection and support of vulnerable individuals and groups. This will include responding to the specific needs of vulnerable and intimidated victims of crime. In 1998, the Home Office published a report prepared by an Interdepartmental Working Group on the treatment of vulnerable victims and witnesses, entitled 'Speaking Up for Justice'.<sup>4</sup> The report recommended that the existing special measures introduced for children, e.g. live CCTV links and video recorded evidence-in-chief, be extended to include vulnerable adults.
- 1.2 The subsequent enactment of the Criminal Evidence (Northern Ireland) Order in 1999 (the 'Criminal Evidence Order') made provision for these arrangements, or 'special measures' to be introduced locally. Guidance on the application of special measures can be found in 'Achieving Best Evidence in Criminal Proceedings: Guidance for Vulnerable Intimidated Witnesses, including Children' ('Achieving Best Evidence').<sup>5</sup>
- 1.3 Other statutory agencies, for example, the RQIA, and voluntary organisations may be involved in aspects of the investigative process. However, the PSNI and HSC Trusts are primarily responsible for the investigation of abuse and the protection of vulnerable adults. This Protocol is designed to ensure staff from these agencies work together in a way that ensures the well-being and rights of vulnerable adults are paramount. It also helps to ensure that people receive equitable access to justice.
- 1.4 This Protocol sets out a framework for joint working in a complex area of practice and emphasises the need to involve all other relevant agencies in information sharing, early assessment and the planning process. It is important that Trust and PSNI staff read this Protocol in conjunction with 'Safeguarding Vulnerable Adults

<sup>4</sup> 'Speaking up for Justice' - Home Office (1998).

<sup>5</sup> 'Achieving Best Evidence in Criminal Proceedings: Guidance for Vulnerable or Intimidated Witnesses, including Children' - Home Office Communication Directorate (2002). Work is currently being done to produce a version specifically for Northern Ireland.



Regional Adult Protection Policy and Procedural Guidance', September 2006 ('Safeguarding Vulnerable Adults'). Police officers should also be mindful of relevant PSNI Service Procedures. This Protocol extends to suspected crimes in domiciliary, community and hospital care if the victim is a vulnerable adult as defined in paragraph 2.1.

- 1.5** The Aims and Objectives (Section 3), Principles (Section 4) and Rights and Responsibilities (Section 5) set out in this Protocol extend to vulnerable adults both as victims and as witnesses.

## 2 Definition

### Definition of a Vulnerable Adult

2.1 For the purposes of this Protocol the definition of a vulnerable adult has been taken from 'Safeguarding Vulnerable Adults'. It applies to adults:

- a) **who are 18 years old and over; and**
- b) **who are, or may be, in need of community care services OR are resident in a continuing care facility by reason of mental or other disability, age or illness OR who are, or may be, unable to take care of themselves, OR unable to protect themselves against significant harm or exploitation.**

2.2 This is more inclusive than the definition of vulnerability contained in the Criminal Evidence Order. It is likely that some cases of alleged or suspected abuse against vulnerable adults will require a joint approach to investigation but will not qualify for the special measures outlined in the Order in relation to accessing the criminal justice system. It should also be borne in mind that the human and civil rights of the individual may have been breached.

2.3 'No Secrets' which was produced by the Department of Health, London and the Home Office offered a brief definition of abuse as being:

**'the violation of an individual's human and civil rights by any other person'.**

The original DHSS guidance, produced in 1996 as a basis for developing Board and Trust adult protection policies, offered a more detailed definition of abuse as being:

**'the physical, psychological, emotional, financial, sexual maltreatment or neglect of a vulnerable adult by another person. The abuse may be a single act or repeated over a period of time. It may take one form or a multiple of forms. The lack of appropriate action can also be a form of abuse. Abuse can occur in a relationship where there is the expectation of trust and can be perpetrated by a person/persons, in breach of that trust, who have influence over the life of a dependant, whether they be informal or formal carers, staff or family members or others. It can occur outside such a relationship'.**

## **3 Aims and Objectives**

- 3.1** The overall aim of the Protocol is to prevent abuse by promoting a multi-agency approach to the protection of vulnerable adults, and to ensure that they receive equitable access to justice in a way that promotes their rights and well-being.
- 3.2** The Protocol aims to:
- ensure effective communication and collaboration between Trusts, RQIA and PSNI to protect vulnerable adults;
  - involve Trusts and PSNI in determining whether a single agency or a joint agency investigation is required;
  - provide a framework for early consultation, cross referral of appropriate cases and joint working arrangements for investigation and interviewing;
  - define the roles and responsibilities of PSNI and Trust staff in the joint investigation;
  - minimise the number of interviews conducted with the victim; and
  - ensure that protective measures are paramount and run in parallel with the criminal inquiry or any other lines of enquiry, such as civil action or disciplinary proceedings.

## **4 Principles**

**4.1** The Protocol aims to promote the following principles in protecting vulnerable adults from abuse and the investigation of alleged or suspected crimes:

- the well-being and rights of the vulnerable adult are paramount;
- the processes should minimise distress to the vulnerable adult by maximising co-operation between agencies;
- adult protection procedures must be properly followed; and
- mechanisms should be available to resolve differences of opinion amongst staff/agencies through appropriate management structures.

## 5 Rights and Responsibilities

**5.1** The Protocol is also committed to ensuring that the rights of vulnerable adults are upheld. These include the right to:

- receive protection for themselves and their property under the law;
- be supported in reporting the circumstances of any abuse;
- have alleged, suspected or confirmed cases of abuse thoroughly investigated as a matter of urgency;
- have options for resolution and the appropriate processes explained to them;
- be supported in making decisions about how they wish to proceed in the event of abuse and to be kept informed of progress;
- have issues of consent and capacity considered;
- be given information in accessible formats on how to protect themselves;
- be given practical help in protecting themselves;
- be supported when deciding whether to pursue a formal complaint;
- be subjected to the minimum degree of disruption; and
- receive support on a longer-term basis, following the abuse.

**5.2** In order to promote these rights effectively PSNI, Trust and RQIA staff must be aware of their responsibilities in this very difficult area of work. If an allegation of abuse does not appear to relate to criminal conduct, there is no statutory duty to report the matter to the PSNI and the decision about whether or not to investigate should be judged on the 'best interest' test. In the case of non-criminal matters it may not be in the best interests of the vulnerable adult to investigate if the person has specifically indicated a preference for no investigation. However, in reaching this conclusion, it is necessary to take into account the capacity of the person making the decision and any other regulatory or personnel arrangements, e.g. disciplinary procedures, referral to a

professional body such as the Northern Ireland Social Care Council (NISCC); etc.

- 5.3** Although all members of society are duty bound to report offences, this Protocol requires staff to consider the cross-referral of alleged or suspected offences. In general, the PSNI is authorised to investigate alleged or suspected criminal abuse against the vulnerable adult where this is agreed to be in the best interests of the person. In the majority of cases, in particular where the vulnerable adult is deemed to have capacity, the PSNI will only proceed with the consent of the vulnerable adult. In practice this means that the vulnerable adult should be willing to make a complaint to the PSNI. However, there are some exceptions to this e.g. where the vulnerable adult is deemed not to have capacity, is subject to undue influence or where others may be at risk. In some circumstances the PSNI may also intervene to prevent a crime being committed.
- 5.4** Where criminal abuse may have been committed a referral between the agencies should be made and an agreed strategy should be developed which takes account of the wishes of the alleged victim. The PSNI and Trust should work sensitively in these enquiries and must secure the co-operation and consent of the victim unless there may be issues in relation to capacity and/or the potential for abuse to third parties. After referral between agencies the agreed strategy should take account of the wishes of the alleged victim. When there are concerns, but no real grounds to suspect that an offence may have been committed, there is a duty on Trust staff to investigate and report any criminal offences or concerns that may be identified as a result of the investigation.
- 5.5** When judging whether the individual has capacity to give or withhold consent, guidance in 'Safeguarding Vulnerable Adults' should be followed. This should take into account professional opinion as appropriate e.g. psychiatrists, psychologists, GPs, nurses and social workers.
- 5.6** The Human Rights Act 1998 has been fully effective from 2<sup>nd</sup> October 2000. It incorporates the European Convention for the Protection of Human Rights and Fundamental Freedoms into United Kingdom Domestic Law. This makes it unlawful for public authorities to act in a manner which is incompatible with the rights and freedoms guaranteed by the Convention. **Appendix 1** sets out the main Convention Rights enshrined in the 1998 Act.

Public authorities can interfere with an individual's rights providing it is lawful, proportionate and necessary in a democratic society.

**Lawful** means 'prescribed by law' and the legal basis for any restriction on rights and freedoms must be established and identified.

**Proportionate** means any interference with a Convention Right must be proportionate to the intended objective and not arbitrary or unfair.

**Necessary in a Democratic Society** means (1) Does it fulfil a pressing social need? (2) Does it pursue a legitimate aim? and (3) Is it proportionate to the aims being pursued?

### **The Decision Making Process**

In applying the key principles of lawfulness, proportionality and whether it is necessary in a democratic society, a public authority representative must ask the following questions:

- Is there a legal basis for my actions?
- Is it proportionate and necessary in a democratic society?
- Is the procedure involved in the decision-making process fair and does it contain safeguards against abuse?
- Was there an alternative and less restrictive course of action available? (The intervention should be strictly limited to what is required to achieve the objective).
- Is the restriction required for legitimate purposes?
- If I fail to interfere with this individual's rights could there be a more serious outcome in not affording the individual adequate protection in fulfilment of their Article 2 rights?

Decisions to interfere with an individual's rights may be subject to scrutiny by the Courts. However, if public authorities can show that they applied the relevant Human Rights principles when making their decision, they are less likely to be over-ruled. It is very important to keep notes and decisions should be recorded in full (see **Appendix 2**).

## 6 Reporting

**6.1** This Protocol is designed to be compatible with current 'Safeguarding Vulnerable Adults' guidance in requiring all staff to report suspected, alleged or confirmed instances of abuse. It provides a framework within which staff exercise their professional judgement and discharge their legal responsibility. It ensures that all cases are given appropriate consideration and are not screened out inappropriately. Added safeguards to prevent this include the requirement to report cases to a designated adult protection officer ('Designated Officer') and to consult, where necessary, with the relevant Police Liaison Officer (see paragraph 6.6). Where a crime is suspected or alleged and the vulnerable adult does not wish to make a formal complaint, the agencies should consider the following factors:

- the individual's capacity to provide consent to a formal complaint;
- the opportunity to prevent crime being committed;
- the extent to which other vulnerable persons, including children, are likely to be at risk; and
- whether the vulnerable adult is subject to undue influence or coercion.

**6.2** A referral to the PSNI does not automatically mean that a joint investigation will be initiated. Such a decision should involve discussion with the Police Liaison Officer. Where the PSNI is informed directly of suspected abuse which is clearly non-criminal, the individual should be made aware of other sources of support and options to have the matter resolved and his/her agreement sought to refer to the Trust.

**6.3** Alleged or suspected instances of abuse occurring in a regulated service must be reported to the RQIA. The RQIA must ensure that alleged or suspected instances of abuse in regulated services are referred to the PSNI and the appropriate Trust.

**6.4** Reports of alleged or suspected abuse, which may be a criminal offence, will be categorised as:

- (a) Sexual** (e.g. rape, indecent assault); or
- (b) Non-sexual** (e.g. physical assault, theft).



The PSNI will be responsible for determining the category of offence.

**6.5** Where alleged or suspected crimes are reported to the PSNI they have a duty to conduct criminal investigations. The decision to investigate will be made at a Strategy Discussion and will be informed by the views of the victim and Trust staff.

### **6.6 Referral to PSNI by Health and Social Care Trusts**

- a) In all cases of alleged or suspected criminal abuse the Designated Officer for the Trust should discuss the case with the relevant Police Liaison Officer. It will be the responsibility of the Police Liaison Officer to help determine whether the matter may involve criminal abuse and thereby to inform the decision concerning what level of enquiry/investigation is necessary.
- b) Alleged or suspected abuse, whether sexual or non-sexual, should be reported to the Inspector, Public Protection Unit (PPU) or nominated deputy who holds the role of Police Liaison Officer. The Inspector or nominated deputy will allocate any investigation regarding the alleged abuse whether it is uniform or the Criminal Investigation Department (CID).
- c) Outside of PPU working hours (9.00 am – 5.00 pm Monday to Friday), the Duty Inspector in the relevant district should be contacted who will determine what preliminary action is required. In all such reported cases of alleged abuse the Duty Inspector will inform the PPU Inspector or nominated deputy as soon as is practicable.
- d) A list of contact numbers for the PPU's is contained in **Appendix 3**.

### **6.7 Referral to Health and Social Care Trusts by PSNI**

- a) Police officers who encounter vulnerable adults who may have been the subject of abuse, whether criminal or not, should contact the relevant Designated Officer to establish whether the vulnerable adult is known, or should be referred, to the Trust.
- b) Where concerns are raised in relation to the care or treatment, which may involve criminal abuse of a vulnerable adult outside normal working hours (9.00 am - 5.00 pm Monday to Friday),

these concerns should be referred immediately to the Out-of-Hours Social Work Co-ordinator (the Co-ordinator).

- c) The Co-ordinator will take whatever action is necessary to ensure the protection of the vulnerable adult. Depending on the scale of the concern this may involve referral to other agencies. The Co-ordinator will make the appropriate Designated Officer for the Trust aware of the referral details and any action taken/required, as a matter of urgency on the first working day following the date of the referral being made.
- d) Contact details for Trusts and contact points for Out-of-Hours Services can be found in **Appendix 4**.

### **Alleged or Suspected Criminal Abuse in a Regulated Service**

- 6.8** When criminal abuse is alleged or suspected to have occurred in a regulated service and is reported to, or comes to the attention of the RQIA, the relevant programme head at the RQIA should ensure that the matter is referred to both the Police Liaison Officer and to the relevant Trust Designated Officer as soon as is practicable (see **Appendix 5** for contact details). If an incident of suspected or alleged criminal abuse in a regulated service comes to the attention of Trust staff, the RQIA must be informed by the Designated Officer as soon as is practicable.

### **Referral from PSNI to RQIA**

- 6.9** Police officers, who encounter a vulnerable adult who is a service user within a regulated service and who may have been subjected to abuse, whether criminal or not, should contact the relevant Trust Designated Officer and RQIA. This will enable RQIA to establish if there has been any breach in the relevant legislation that requires regulatory action.

### **Inappropriate Referral**

- 6.10** In any event where a referral is made inappropriately between agencies the receiving agency will have responsibility for referring the matter to the appropriate agency.

## 7 Initial Assessment Consultation - Planning and Investigation

### Clarification of Roles

- 7.1** The PSNI and Trust staff have specialist and complementary skills in terms of assessing and investigating allegations of abuse of vulnerable adults. The process is outlined in **Figure 1** (see page 17). In appropriate cases it is necessary to combine these skills to provide maximum protection and support for those individuals who have been the subject of, or are at risk of harm. This Protocol recognises that the various agencies may have different priorities or emphasis in relation to adult protection work.
- 7.2** The Protocol is not designed to make Trust or PSNI personnel undertake roles which are at variance with their primary professional responsibilities. However it is intended to provide a basis for maximising co-operation and a shared understanding of the issues involved. Differences of opinion, or approach, amongst staff should be resolved in a manner that does not hinder the protection of the vulnerable adult. Protection of the individual is paramount and staff should not inappropriately screen out cases by failure to follow this Protocol.
- 7.3** The strategy to be adopted must be informed by the professional views of PSNI, Trust and, as appropriate, RQIA staff. The strategy for investigation should always be influenced by information gained from professionals or other persons who may have knowledge of the vulnerable adult, his/her family or circumstances.
- 7.4** The primary objective of PSNI, Trust and RQIA is the protection of the vulnerable adult. In addressing this shared objective, the primary role of PSNI personnel is determined by their statutory responsibility to protect life and property, preserve order, prevent crime and, where a criminal offence has been committed, bring offenders to justice.
- 7.5** The primary role of Trust and RQIA staff is determined by their statutory responsibility and Duty of Care, to promote the care and well-being of vulnerable adults in situations of alleged or confirmed abuse.

- 7.6** Assaults (including minor assaults), thefts, criminal damage, sexual assaults and threats of force or violence are all likely to be criminal offences. PSNI and Trust staff must recognise that the non co-operation of the victim does not always preclude a prosecution. However, the views of the victim are vital to the decision to prosecute.

### **Joint Agency Consultation**

- 7.7** When either Trust or PSNI personnel identify the need for a joint agency approach, a staff member from the referring agency will take responsibility for instigating a Joint Agency Consultation. This should be the person within the Trust deemed to be responsible for the decision to proceed in cases of alleged or confirmed abuse. The Designated Officer will take responsibility for co-ordinating the practical arrangements associated with this action.
- 7.8** The purpose of the Consultation is to discuss the case with other relevant agencies and organisations and to reach a decision on the need for a Joint Investigation involving Trust and PSNI. This communication may be by telephone or direct contact and should occur within 24 hours of the decision that Consultation with the other agency is necessary.
- 7.9** The outcome of this Consultation may be:
- no further action;
  - a Trust investigation;
  - a criminal investigation by PSNI; or
  - a Joint Investigation involving Trust and PSNI.

The results of this Consultation must be clearly recorded and shared between agencies. Form AJP1 - Record of Joint Agency Consultation (**Appendix 6**) should be used for this process. The completion and appropriate sharing of this and other records, e.g. Form AJP2 - Strategy for Investigation (**Appendix 7**) and Form AJP3 - Clarification Discussion (**Appendix 8**) is the responsibility of the lead agency in the investigation. Where it is agreed that a Trust investigation is appropriate the guidance contained in 'Safeguarding Vulnerable Adults' should be followed.

## **Criteria for Joint Investigation by Trust and PSNI**

**7.10** A detailed consideration of the need for a Joint Investigation will be triggered when there is an allegation or suspicion that one of the criminal offences described below has been committed against a vulnerable adult. The likelihood or otherwise of a prosecution is not a criterion for a Joint Investigation.

- A sexual offence committed against a vulnerable adult;
- Physical abuse or ill treatment amounting to a criminal offence;
- Financial abuse involving a criminal offence, e.g. fraud, theft; or abuse which involves a criminal offence e.g. blackmail.

## **Preliminary Information Gathering**

**7.11** Following the decision of the Joint Agency Consultation to initiate a Joint Investigation, each agency will nominate a staff member to gather information for the Strategy Planning Meeting which will be the basis for planning any subsequent investigation. The nominated officer will carry out checks on internal systems for information that may be of use in deciding the strategy to be employed. At this stage consideration must be given to the communication needs of all those involved.

## **Strategy Planning Meeting**

**7.12** When sufficient preliminary information is available to facilitate the development of a strategy for dealing with the case, a Strategy Planning Meeting should be convened. This should occur as soon as is practicable. The responsibility for convening this meeting lies with the designated staff member who initiated the Joint Agency Consultation.

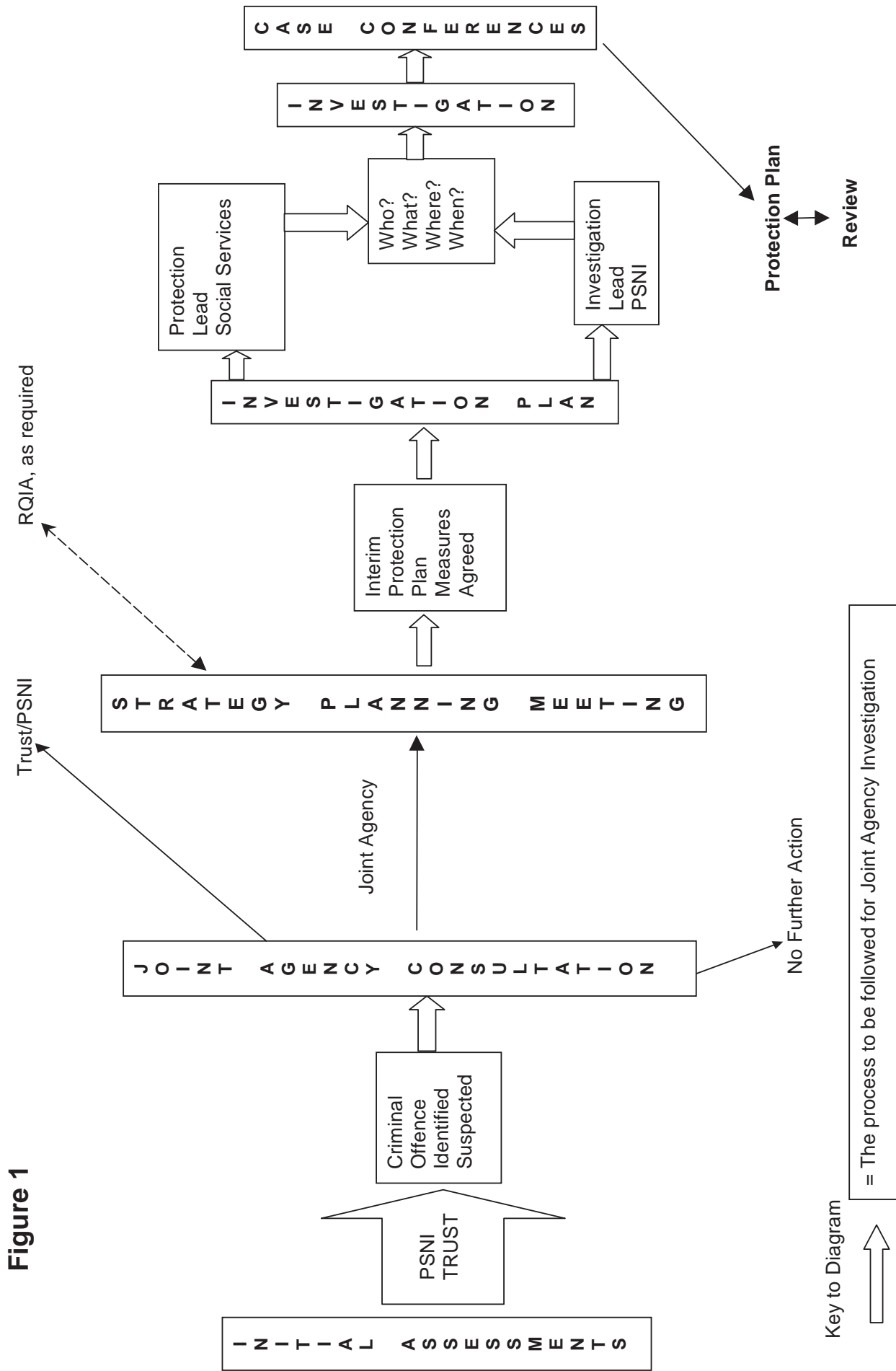


Figure 1

Key to Diagram



= The process to be followed for Joint Agency Investigation

**7.13** The purpose of the Strategy Planning Meeting is to ensure an early exchange of information and to clarify what action needs to be taken jointly or separately in the investigation. It is an action orientated discussion, which should be convened to plan the investigation and agree any necessary interim protection measures.

**7.14** A Strategy Planning Meeting will always include PSNI, Trust and RQIA staff, where appropriate. Other professionals, agency representatives and persons with specialist knowledge/skills may also be included to ensure the protection of the vulnerable adult.

**7.15** Where the Strategy Planning Meeting concludes that a vulnerable adult has been the victim of criminal abuse or may be at risk of serious criminal abuse and that issues arise about the protection of the individual, the Strategy Planning Meeting should address the following points:

- whether action is needed to protect the vulnerable adult and who will be responsible for such action;
- the need to consider the issue of capacity to consent and the most appropriate person to deal with it;
- the requirement for a medical examination to be undertaken and if so, by whom;
- what issues of special needs, race, culture, gender, language, communication or religion are raised in the case, how and by whom they are to be addressed and what advice needs to be sought;
- what specialist support or advice may be needed and who obtains it;
- what other information is needed to complete the investigation and who will seek it;
- the order in which the interviews will take place and who will carry out each interview;
- practical arrangements for reporting back to those involved in the investigation; and

- refining internal processes for communication and agreeing the communication strategy, and who should lead it, where there are matters likely to be of public interest.

**7.16** It is the responsibility of the person who convenes the meeting to ensure that a record of the Strategy Planning Meeting is made and shared between agencies. Form AJP2 - Strategy for Investigation (**Appendix 7**) should be used for this purpose. Although strategy planning will generally take place in a formally constituted meeting, there may be occasions where this may need to be conducted by telephone.



## **8 Joint Investigation Interviews**

- 8.1** Interviews with vulnerable adults will be conducted in accordance with the guidelines contained in 'Achieving Best Evidence'.

### **Joint Interviews by Police Officers and Social Workers**

- 8.2** Where it is agreed in the Strategy Planning Meeting that interviews should be conducted jointly by a police officer and social worker the following procedures will apply. It must be emphasised that the decision about which interviews should be conducted jointly, and the sequence of interviews, is a matter for the group planning the investigation at the Strategy Planning Meeting.

### **Selection of Interviewers**

- 8.3** Only PSNI and Trust personnel, who have received specialist training in joint interviewing, should be appointed to the task. Where a vulnerable adult has requested the interviewer to be of a specific gender all reasonable steps must be taken to facilitate this request.

### **Supervision of Interviewers**

- 8.4** It will be the responsibility of each agency to ensure that the interview and investigation process is properly supervised and supported by relevant managers who have been trained in these procedures.

### **Clarification Discussion**

- 8.5** In making decisions about the method of interviewing vulnerable adults it may be necessary to have a short Clarification Discussion. This should normally be undertaken by the persons who will conduct any subsequent interview. However, where this is not possible, the Clarification Discussion may be carried out by other staff who have received Joint Protocol training. Once a decision has been made that an interview of a vulnerable adult should be conducted on video, a specialist investigative interviewer will be tasked to carry out the interview.

## 8.6 The purpose of the Clarification Discussion is:

- to establish whether or not the vulnerable adult has made an allegation or raised suspicions which have led to the referral. The substance and detail of the allegation or disclosure should not be part of the Clarification Discussion;
- to assess the vulnerable adult's willingness and ability to pursue the matter to court;
- to inform the PSNI decision about which format should be used for the interview, (e.g. videotape, statement or question and answer. Videotaping is the preferred method of interviewing vulnerable adults. Statements are the alternative and questions and answers should only be used when neither videotaping or statements are possible) and whether the use of video in the interview is likely to maximise the quality of that particular vulnerable adult's evidence.

## 8.7 The Clarification Discussion must be recorded and responsibility for this will lie with the person conducting it. The Clarification Discussion is not an investigative interview and should never replace or over-shadow the Joint Investigation interview with the vulnerable adult. Strictly no further examination of the allegation should take place beyond that which has been disclosed. It is important not to coach the interviewee in respect of the interview. If the discussion includes the disclosure of a criminal offence, that part must be recorded verbatim and contemporaneously, or at the very least as soon as possible after the contact. Even if no criminal disclosure is made, accurate recording is essential. Decisions about risk may be made on the strength of the Clarification Discussion. Form AJP3 (**Appendix 8**) must be completed in respect of every Clarification Discussion.

### **Preparation for a Joint Interview**

## 8.8 The following should be considered when preparing for a Joint Interview:

- the needs and circumstances of the vulnerable adult (e.g. development, impairments, degree of trauma experienced, whether he/she is now in a safe environment);
- the vulnerable adult's state of mind (e.g. likely distress, and/or shock);

- perceived fears about intimidation and recrimination;
- the circumstances of the suspected offence (e.g. relationship of the vulnerable adult to the alleged offender);
- location of interview;
- time of interview;
- preferred gender of interviewer; and
- additional requirements (e.g. preparation of staff and interpreters).

**(Note:** Where a language barrier exists an independent interpreter should be used as opposed to a family member).

Other persons with specialist skills may be needed to assist the interviewer conduct the interview. This might include, specialist communicators using sign language, etc.

## 8.9 Purposes of the Joint Interview

The purposes of the Joint Interview are to:

- promote the well-being and protection of the vulnerable adult;
- validate or negate allegations or suspicions of abuse by helping the vulnerable adult to give as much information as possible;
- avoid multiple interviews where possible;
- identify the suspected abuser;
- ensure that all decisions made are based on the experience of the vulnerable adult and not the influence or beliefs of the interviewer; and
- provide a record of the vulnerable adult's evidence-in-chief which may be used at a consequent criminal hearing.

## **Persons Present at Joint Interview**

- 8.10** Normally no-one else should be in the interview room apart from the vulnerable adult and the interviewers. Limiting the number of people present at the interview should lessen the possibility of the vulnerable adult feeling overwhelmed by the situation and uncomfortable about revealing information.
- 8.11** It is good practice for the vulnerable adult to know that a supportive person is available in an adjoining room. A suspected offender should never be present in an interview. However, if it is the vulnerable adult's wish to have a supportive person present in the interview room it should be made clear to that person that he/she must take no part in the interview.

## **Recording Information that is not Video Recorded**

- 8.12** When a Joint Interview with a vulnerable adult is not video recorded a written account of the information given should be made. If it is assessed by the interviewers, or on the basis of consultation with other expert opinion, that the vulnerable adult is capable of giving an account of relevant matters, the police officer may invite the adult to make a signed, written statement on Form 38/36. The evidence of a vulnerable adult who is not capable of making a statement should be recorded as questions and answers and certified by them and any other person present.

## **The Video Interview**

- 8.13** The Criminal Evidence Order provides for the video recording of interviews with vulnerable adults to be admitted as evidence-in-chief at criminal proceedings. The guidance accompanying the legislation is designed to help those police officers and any Trust staff involved in making a video recording of an interview with a vulnerable adult, where it is intended that the result should be admissible in criminal proceedings.
- 8.14** The Order is 'Permissive' legislation. There should be a general assumption that a video interview will be conducted where the criteria are met (e.g. an eligible witness in an indictable [Crown Court] case). Use of a video for interviews is not necessary in all cases and, on occasions, might add to the interviewee's trauma unnecessarily. The decision as to whether the interview will be videotaped will be taken by

the investigating police officer in consultation with Trust staff following the Clarification Discussion.

### **Planning the Joint Interview**

- 8.15** In order to be fully and properly prepared for an interview the Joint Investigation Team of PSNI and Trust staff should normally plan the interview in line with the 'four phased' approach set out in 'Achieving Best Evidence' and adhere to the criteria which it has identified. The four phases are:
- **Rapport;**
  - **Free Narrative;**
  - **Questioning; and**
  - **Closure.**
- 8.16** Planning should include deciding whether PSNI or Trust team member should take the role of lead interviewer, the proposed time scale, any special arrangements/allowances which are required to take account of the vulnerable adult's individual difficulties, agreed signals on when to take breaks or terminate the interview. As video recording of investigative interviews is aimed at providing evidence-in-chief at criminal courts, planning must include coverage of the 'points-to-prove' in criminal offences.
- 8.17** Where it appears, before interviewing a vulnerable adult, that the history of the case indicates a considerable amount of information is likely to be forthcoming, a series of interviews may be planned. The second, third, etc, interviews in this series will be considered part of the original interview without any automatic need to consult with the Public Prosecution Service (the PPS).
- 8.18** The Joint Investigation Team must be given sufficient time to carry out this planning process, prior to a Joint Investigative Interview. Failure to do so may limit the effectiveness of the process and do a disservice to the vulnerable adult. Preparation will include the following activities:
- **Technical Preparation;**
  - **Consideration of Consultation with Specialists; and**
  - **Consideration of Communicative Competency of Vulnerable Adult and Interviewer.**

## Technical Preparation

- 8.19** The Joint Investigation Team will need to carefully prepare for the interview, ensure that the equipment is in working order, test for vision and sound quality and ensure that tapes are correctly prepared, checked and inserted. Consideration should also be given to whether other equipment will be needed, e.g. hearing aids, communication boards, etc.

## Consideration of Consultation with Specialists

- 8.20** The Joint Investigation Team should consider the conclusions of the Clarification Discussion about the need to involve staff with specialist skills in the Joint Investigative Interview and any role they should take in it. Due to the nature of this type of investigative interviewing it will often be necessary to seek specialist assistance with issues such as communication difficulties, mental ill-health or learning disability. If a specialist is asked to facilitate the Joint Interview, he/she should be informed of the purpose of the interview and the limitations placed on his/her role.
- 8.21** If an interpreter is required to assist in criminal proceedings involving a vulnerable adult who uses sign language the person must have attained at least Stage 3 British Sign Language or Irish Sign Language qualification, as appropriate.

## Consideration of Communicative Competency of Vulnerable Adult and Interviewer

- 8.22** The vulnerable adult and interviewers need to be able to achieve the minimum requirements for communication. The Joint Investigation Team must establish whether a vulnerable adult has a reliable method of communication which he/she can use intentionally and that the interviewers can understand either directly or via a suitable interpreter.
- 8.23** If the vulnerable adult has specific difficulties with comprehension or use of language (vocabulary, ideas and grammar) associated with physical or intellectual impairment careful consideration must be given to how these could be overcome. Speech and language therapists, sign language interpreters or facilitators in augmentative communication may be required.
- 8.24** The competency of the interviewers in communicating will be the single greatest factor in determining whether a vulnerable adult will be able to deal with, and participate effectively in, an interview situation. The

interviewer will also require information about the vulnerable adult's knowledge and understanding of him/herself, about objects, about places and events and how these things may be affected by his/her impairment or disability.

### **Conduct of the Interview**

**8.25** The interviewers need to provide the vulnerable adult with information at a level which will help him/her to understand who and what will be involved. Initially they should cover:

- introduction of the social worker (or other professional), the police officer and any other person who requires to be present, with an explanation of each of their roles;
- an explanation of the purpose of the interview in a sensitive way that the vulnerable adult can understand;
- an acknowledgement that it is a difficult situation for the vulnerable adult and that some things, particularly sexual assault, may be difficult to talk about; and
- introduction of the video equipment and seeking consent to use it in the interview.

**8.26** The following are categories of facts, which, if contained in the vulnerable adult's evidence, will enable properly informed decisions to be taken regarding the subsequent conduct of the investigation and ultimately whether or not to prosecute any person for any offence committed against the vulnerable adult:

- name/identity of the alleged abuser/offender, his/her present whereabouts, and the relationship of that individual to the vulnerable adult;
- the duration and extent of the abuse/offence;
- what happened in detail, when it happened, where, and how often, being mindful of the 'points-to-prove' for each offence;
- date/time of last occurrence, likelihood of physical evidence;

- names/identity of anyone else having knowledge of the abuse/offence;
- names of anyone else involved in, or observing, the abuse/offence; and
- identity of anyone the vulnerable adult has told about the abuse/offence.

**8.27** After the interview, the vulnerable adult and/or their representative should be given as much information as possible about what will happen next including arrangements for his/her protection. If he/she is to be interviewed again, he/she should be informed of where and when it may take place.

**8.28** If the interview or series of interviews has/have been completed and further information comes to light which makes it necessary to conduct another interview with the vulnerable adult, or where it is believed the vulnerable adult has more to tell, this should be considered a further or supplementary interview. In this case the matter should be discussed with the PPS. This will cover cases where, for example, conflicting evidence comes to light, a vulnerable adult makes further disclosures or names other suspects. 'Achieving Best Evidence' should be referred to when considering the further interview of a vulnerable adult.

**8.29** Once the interview is complete, the Joint Investigation Team should give consideration to the individual's need for any counselling or therapeutic requirements which this may have indicated. PSNI and the PPS must be informed about the nature of such therapy in each case. This is to ensure that the evidence provided to a court is not contaminated or contradicted by the vulnerable adult.

### **The Vulnerable Adult who Becomes a Suspect**

**8.30** If a vulnerable adult becomes suspected of a crime during the course of an interview, a decision will have to be made on whether to proceed or terminate the interview. The interviewers should take a short break to consult, and if necessary seek advice, on the matter, in addition to being mindful of the need for sensitive handling of the situation. If it is concluded that the evidence of the vulnerable adult as a suspect is paramount in a particular case, the interview should be terminated so that any further questioning can be carried out in accordance with the Police and Criminal Evidence (NI) Order 1989, (PACE) at an appropriate location.



## Further Interviews

- 8.31** Occasions may arise where a police officer or a social worker may wish to further interview a vulnerable adult who is the victim of some criminal offence. It will be the responsibility of that police officer or social worker to advise the other agency of the intention to further interview the individual. The same procedures will apply to a further interview as apply to the original interview. No agency should unilaterally conduct further interviews with the vulnerable adult who may be central to criminal proceedings.

## Records of Joint Investigative Interviews

- 8.32** PSNI staff will retain a written statement, recorded as a Joint Interview, for evidential purposes. A copy may be provided to Trust staff, provided that the vulnerable adult agrees. Where a Joint Interview has been video recorded the original will be labelled and secured for court purposes by the PSNI. The working copy will be available for viewing by Trust staff by arrangement with the officer-in-charge of the case. A log will be completed on each occasion that the tape is viewed by anyone and will detail the reasons for it having been viewed. This will be retained with the working copy of the tape.
- 8.33** Arrangements for viewing the tape by persons other than those identified above, e.g. defence or any subsequent court hearing will be the responsibility of the PSNI. PSNI General Order C(c) 70/96 must be complied with. Where investigation involves PSNI and HSC participation, the police officer in the case will be responsible as the prime keeper of all exhibits, letters, drawings, notes, etc.

## Review of Ongoing Management of the Case

- 8.34** When the formal Joint Interview process has been concluded there may be a need for further interagency discussions, outside of any judicial procedures, to agree a course of action to address the practical and emotional implications for the vulnerable adult, his/her carers and staff involved in the case. In the majority of cases this can be most comprehensively dealt with by convening a Case Conference, although other, less formalised, mechanisms should be considered to optimise client/family involvement in the process. This is the responsibility of the Designated Officer from the relevant Trust in consultation with PSNI colleagues. Consultation should also take place on an interagency basis to identify the need for any staff debriefing/counselling which may be required as a result of the work which has been undertaken.

## Glossary of Terms

## Glossary of Terms

### **Achieving Best Evidence**

A voluntary code of practice for interviewing vulnerable witnesses for criminal proceedings and where video is used to record the witness' testimony.

### **Case Conference**

Is a meeting of those involved in a case which can include the client/victim. The purpose is to establish potential risk to the individual and what action, if any, would be required.

### **Criminal Investigation Department (CID)**

Police team of Detective Officers based in each District Command Unit with responsibility for the investigation of crime other than sexual crime.

### **Cross Examination**

The secondary stage of evidence giving in Court where the testimony that a witness has already given is examined by counsel for the defence.

### **Counsel for the Defence**

The legal representative responsible for conducting the case for the defence.

### **Designated Officer**

Person within the Trust responsible for managing investigations of suspected, alleged or confirmed instances of abuse against vulnerable adults.

### **District Command Units**

There are eight District Command Units in Northern Ireland headed by a Chief Superintendent.

### **Evidence**

The term 'evidence' in its legal sense embraces all matters exclusive of mere argument, which can be placed before a Court to prove or disprove any matter or fact, the truth of which is the subject of judicial investigation.

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## **Evidence-In-Chief**

The initial stage of giving evidence in Court where the witness is taken through their evidence by counsel for the prosecution.

## **Form 38/36**

Form used by PSNI for making a written record of witness evidence when video is not seen as an appropriate form of recording - known as 'a statement'.

## **Hearsay Evidence**

Evidence of what a person has heard another person, not the accused, say. It is not admissible in criminal proceedings.

## **Investigating Officer**

Trust professional with responsibility for investigating the alleged abuse. Their role is to establish the facts, look at alternatives available and to provide counselling and support.

## **Line Manager**

Management grade within the Trust to whom an individual directly reports.

## **Live Television Link**

A system allowed under the Police and Criminal Evidence (NI) Order 1989 whereby certain witnesses can give evidence from a television monitor in a room separate from the main body of the Court.

## **NISCC (Northern Ireland Social Care Council)**

NISCC is the independent regulatory body for the Northern Ireland Social Care workforce, established to increase public protection by improving and regulating standards of training and practice for social care workers.

## **Nominated Officer**

The agency staff member with the delegated role of gathering information for the Strategy Planning Meeting which will be the basis for planning any subsequent investigation. The nominated officer will check internal systems for information that may be of use in deciding the strategy to be employed.

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## **Points to Prove**

The ingredients of a criminal offence, each of which must be satisfactorily proven in a criminal trial.

## **Police Service Procedure**

A written instruction, which is issued to the PSNI.

## **Protection Plan**

A plan developed to clarify the protection measures put in place to protect the individual. Roles and responsibilities for doing so are clearly identified.

## **Public Prosecution Service (PPS)**

A body of legal staff who work independently from the Police and who are responsible for directing on cases forwarded for prosecution or otherwise.

## **Public Protection Units (PPUs)**

Police team with specific responsibility for the following:

- Child Abuse Enquiry Unit;
- Domestic Violence;
- Management of Violent/Sex Offenders;
- Missing and Vulnerable Persons Enquiries/Investigations.

## **Regulation and Quality Improvement Authority (RQIA)**

The RQIA is the independent body responsible for monitoring and inspecting the availability and quality of Health and Social Care services in Northern Ireland, and encouraging improvements in the quality of those services. The role of RQIA is to ensure that the Health and Social Care services in Northern Ireland are accessible, well managed and meet the required standards.

## **Regulated Service**

The RQIA is responsible for registering, inspecting and encouraging improvement in a range of health and social care services delivered by statutory and independent providers, in accordance with The Health and Personal Social Services (Quality, Improvement and Regulation) (Northern Ireland) Order 2003 and its supporting regulations.

The services which it regulates include residential care homes; nursing homes; children's homes; independent health care providers; nursing agencies; adult placement agencies; domiciliary care agencies; residential family centres; day care settings; and boarding schools.

### **Third Party Material**

Matters of potential relevance to a Police investigation, which are not in possession of PSNI.



# APPENDICES



## Appendix 1

### THE EUROPEAN CONVENTION FOR THE PROTECTION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS INTO THE UK DOMESTIC LAW

#### THE HUMAN RIGHTS ACT 1998

##### MAIN CONVENTION RIGHTS:

- Article 2 - Right to life
- Article 3 - Prohibition of torture
- Article 4 - Prohibition of slavery and forced labour
- Article 5 - Right to liberty and security of person
- Article 6 - Right to a fair trial
- Article 7 - No punishment without law
- Article 8 - Right to respect for private and family life
- Article 9 - Freedom of thought, conscience and religion
- Article 10 - Freedom of expression
- Article 11 - Freedom of assembly and association
- Article 12 - Right to marry
- Article 14 - Prohibition of discrimination
- Article 16 - Restrictions on political activity of aliens
- Article 17 - Prohibition of abuse of rights
- Article 18 - Limitation on use of restriction on rights

##### FIRST PROTOCOL:

- Article 1 - Protection of property
- Article 2 - Right to education
- Article 3 - Right to free elections

##### SIXTH PROTOCOL:

- Article 1 - Abolition of the death penalty

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**NOTE:** The following Articles are omitted from the Act:

- Article 1** - Obligation to respect Human Rights
- Article 13** - Right to effective remedy
- Articles 15 - 59** - Operational provisions for the European Court

## Appendix 2

### HUMAN RIGHTS - List of Considerations

If you cannot answer a question, you cannot proceed to the next question. Only take action when you have completed the list.

1. Is there any necessity to take action? What are you doing? Why are you doing it?
2. Is there any legal basis upon which to take action? Is there a statutory/mandatory/discretionary power you are using? If so, state it. If not, on what basis are you taking action? (You should seek legal advice).

3. What are the Human Rights implications of the proposed action? (Go through Convention List and mark the relevant article and the relevant limitation).  
**(See Appendix 1)**

Specify Article and Limitation

4. Is the proposed action proportionate? Is the scale of the action appropriate to the size of the problem? (i.e. consider whether it is intrusive or invasive). Is there an alternative?

Give reasons for your decision

5. Is there an independent public remedy available? If not, consider what will be the effect of failure to give a remedy i.e. Ombudsman/Judicial Review/other Court action).

Specify all available remedies

6. If action is taken, is there "equality of arms"?  
Does the person have the same opportunity to gather evidence as you and present it to the Court/Tribunal?
7. Is the action the least possible one?  
Is it the least intrusive or invasive?

**POST-EVENT EVALUATION**

**Signed:**

**Dated:**

**Print Name:**

**Position/Rank:**

## Appendix 3

**Police Service of Northern Ireland - Contact Number (028) 9065 0222**  
**Contact details for referrals to PPU's between**  
**9.00 am - 5.00 pm Monday to Friday**

**A District - North and West Belfast**

Inspector Ext 28950 Sergeant Ext 28826

**B District - South and East Belfast**

Inspector Ext 23594 Sergeant Ext 23579

**C District - North and South Down, Ards and Castlereagh**

Det/Inspector Ext 31160 Sergeant Ext 15782

**D District - Antrim, Lisburn, Newtownabbey and Carrickfergus**

Inspector Ext 30321 Sergeant Ext 27630

**E District - Lurgan, Craigavon, Armagh, Banbridge and Newry and Mourne**

Inspector Ext 34022 Sergeant Ext 34017

**F District - Fermanagh, Omagh, Cookstown, Dungannon and South Tyrone**

Inspector Ext 54194 Sergeant Ext 54118

**G District - Foyle, Limavady, Strabane and Magherafelt**

Det/Inspector Ext 58565 Sergeant Ext 57019

**H District - Coleraine and Ballymena**

Inspector Ext 63901 Sergeant - Coleraine Ext 83102  
Sergeant - Ballymena Ext 63253

**In all referrals regarding Vulnerable Adults the Sergeant attached to the relevant PPU will be the first point of contact.**

**Outside of usual office hours (9.00 am - 5.00 pm, Monday to Friday) the Duty Inspector in the relevant District should be contacted.**

## Appendix 4

### Contact details for Designated Officers and Contact points for Out-of-Hours Emergency Social Work Co-ordinators

<b>HSC Trust</b>	<b>Designated Officer Contact</b>
<b>Belfast</b>	Phone: (028) 9032 7156
<b>South Eastern</b>	Phone: (028) 9266 5181 Ext 4544
<b>Western</b>	Phone: (028) 7131 4090
<b>Northern</b>	<b>Learning Disability</b> Phone: (028) 2766 1393
	<b>Mental Health</b> Phone: (028) 9441 3114
	<b>Older People</b> Phone: (028) 2563 5558
	<b>Physical Disability and Sensory Impairment</b> Phone: (028) 2766 1217
<b>Southern</b>	<b>Learning Disability</b> Phone: (028) 3752 2381
	<b>Mental Health</b> Phone: (028) 3883 1983
	<b>Older People</b> Phone: (028) 3082 5120
	<b>Physical Disability and Sensory Impairment</b> Phone: (028) 3833 3332

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## **Out-of-Hours Emergency Social Work Co-ordinators - Contact Points**

Belfast Health and Social Care Trust and  
South Eastern Health and Social Care Trust  
(Knockbracken Healthcare Park) (028) 9056 5444

Northern Health and Social Care Trust  
(Holywell Hospital) (028) 9446 8833

Southern Health and Social Care Trust  
(Daisy Hill Hospital) (028) 3083 5000

Western Health and Social Care Trust  
(Altnagelvin Hospital) (028) 7134 5171

## Appendix 5

### **Contact details for the Regulation and Quality Improvement Authority between 9.00 am - 5.00 pm Monday to Friday**

The RQIA's headquarters is located in Belfast at :

The Regulation and Quality Improvement Authority  
9th Floor Riverside Tower  
5 Lanyon Place  
BELFAST  
BT1 3BT  
Phone: (028) 9051 7500

Contact details for the RQIA's Omagh office are:

The Regulation and Quality Improvement Authority  
Hilltop  
Tyrone and Fermanagh Hospital  
OMAGH  
BT79 0NS  
Phone: (028) 8224 5828



## Appendix 6

### ADULT PROTECTION: FORM AJP1 - RECORD OF JOINT AGENCY CONSULTATION

Referral by telephone on _____ / _____ / _____
To: _____ Designation: _____
Person referring: _____ Designation: _____
Address: _____
Contact Tel No: _____

Name of Vulnerable Adult: \_\_\_\_\_ DOB: \_\_/\_\_/\_\_  
 Home Address: \_\_\_\_\_  
 Present Location: \_\_\_\_\_

Gender\*: M  F

Nature of Vulnerability\*:  Frail Older Person  Dementia  Learning Disability  
 Physical/Sensory Disability  Mental Illness  Other (please specify)

Is the Vulnerable Adult subject to any legal/statutory status?\*(  
 e.g. Guardianship, Non-Molestation Order) Yes  No

If yes please provide details: \_\_\_\_\_

Details of any current or past involvement with Social Services, Police and/or the Regulation and Quality Improvement Authority: \_\_\_\_\_

Name of Carer/Next of Kin: \_\_\_\_\_

Address: \_\_\_\_\_

Contact Tel No: \_\_\_\_\_

WHAT IS THE MAIN FORM OF SUSPECTED, ADMITTED OR KNOWN ABUSE?\*

- |   |                                  |  |
|---|----------------------------------|--|
| <input type="checkbox"/> Physical               | <input type="checkbox"/> Sexual  | <input type="checkbox"/> Psychological/Emotional |
| <input type="checkbox"/> Financial              | <input type="checkbox"/> Neglect | <input type="checkbox"/> Institutional Abuse     |
| <input type="checkbox"/> Other (please specify) |                                  |  |

HAS THERE BEEN PREVIOUS CONCERN OR EVIDENCE OF ABUSE?\*

Yes  No  Don't know

If yes, what was the nature of the concern and the outcome?

\_\_\_\_\_  
 \*Please tick appropriate box/es

**ORIGINAL FOR POLICE FILE AND COPY TO SOCIAL SERVICES**

Outcome of Joint Agency Consultation\*

Single Agency Investigation by:

Social Services       Police       RQIA

Joint Investigation by:

Social Services       Police       RQIA

OR

Protocol for Joint Investigation of alleged and suspected cases of abuse of vulnerable adults

Please specify if any other follow up will take place.

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Signature of person completing form: \_\_\_\_\_

Print Name: \_\_\_\_\_

Designation: \_\_\_\_\_

Date: \_\_\_\_\_

- Please tick appropriate box/es

**ORIGINAL FOR POLICE FILE AND COPY TO SOCIAL SERVICES**

**Appendix 7**

**ADULT PROTECTION: FORM AJP2 - STRATEGY FOR INVESTIGATION**

Name of Vulnerable Adult: \_\_\_\_\_ DOB: \_\_/\_\_/\_\_

(A) PEOPLE IN ATTENDANCE/INVOLVED (NAME & AGENCY):

\_\_\_\_\_  
\_\_\_\_\_

OTHERS CONSULTED:

\_\_\_\_\_  
\_\_\_\_\_

(B) INITIAL STRATEGY: Date: \_\_/\_\_/\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Next of Kin/Carer to be informed: YES/NO By Whom: \_\_\_\_\_

(i) Amendments to strategy

Date:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Telephone/Meeting\*  
Persons Involved/Designation:

\_\_\_\_\_  
\_\_\_\_\_

(ii) Amendments to strategy

Date:

(C) PERSONS TO BE INTERVIEWED

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Telephone/Meeting\*  
Persons Involved/Designation:

\_\_\_\_\_  
\_\_\_\_\_

\* Please delete as appropriate

**ORIGINAL FOR POLICE FILE AND COPY TO SOCIAL SERVICES**

1 Person making the allegation to clarify all facts about referral

Name: \_\_\_\_\_

Address: \_\_\_\_\_

2 Next of kin or other carers:

Name: \_\_\_\_\_ Relationship to Vulnerable Adult: \_\_\_\_\_

Address: \_\_\_\_\_

3 Significant others  
(attach separate sheet if necessary)

Name: \_\_\_\_\_

Relationship: \_\_\_\_\_

Address: \_\_\_\_\_

\_\_\_\_\_

Date & Time: \_\_\_\_\_

Venue: \_\_\_\_\_

**Who will conduct?**

SW: \_\_\_\_\_

PSNI: \_\_\_\_\_

Other: \_\_\_\_\_

4 The Vulnerable Adult

Name: \_\_\_\_\_

Address: \_\_\_\_\_

\_\_\_\_\_

Date & Time: \_\_\_\_\_

Venue: \_\_\_\_\_

**Who will conduct?**

SW: \_\_\_\_\_

PSNI: \_\_\_\_\_

Other: \_\_\_\_\_

5 The Alleged Perpetrator

Name: \_\_\_\_\_

D.O.B: \_\_\_\_\_

Address: \_\_\_\_\_

Date & Time: \_\_\_\_\_

Venue: \_\_\_\_\_

**Who will conduct?**

SW: \_\_\_\_\_

PSNI: \_\_\_\_\_

Other: \_\_\_\_\_

Relationship to Vulnerable Adult: \_\_\_\_\_

\* Please delete as appropriate

**ORIGINAL FOR POLICE FILE AND COPY TO SOCIAL SERVICES**

(D) Has a statement of complaint been made? YES/NO\*

By Whom: \_\_\_\_\_

Does the vulnerable adult have the capacity to:

(a) Consent to interview? YES/NO\*

b) Consent to medical examination? YES/NO\*

On what basis were these decisions made? \_\_\_\_\_

\_\_\_\_\_

Signature: \_\_\_\_\_

Designation: \_\_\_\_\_

(of Person completing form)

Print Name: \_\_\_\_\_

Date: \_\_\_\_\_

\* Please delete as appropriate

**ORIGINAL FOR POLICE FILE AND COPY TO SOCIAL SERVICES**

## Appendix 8

### ADULT PROTECTION: FORM AJP3 - CLARIFICATION DISCUSSION

Name: \_\_\_\_\_ DOB: \_\_\_\_/\_\_\_\_/\_\_\_\_

Address:

\_\_\_\_\_

Date: \_\_\_\_\_ Time: \_\_\_\_\_

Venue: \_\_\_\_\_

#### CONSIDERATIONS:

- 1 Has the adult previously made a clear disclosure of abuse or are there substantive grounds for suspecting abuse has occurred?

Comment:

\_\_\_\_\_  
\_\_\_\_\_

- 2 Is the adult willing to engage in an interview?

Comment:

\_\_\_\_\_  
\_\_\_\_\_

- 3 Is the adult able to engage in an interview?

Comment:

\_\_\_\_\_  
\_\_\_\_\_

- 4 Has the purpose of the interview been explained to the adult?

Comment:

\_\_\_\_\_  
\_\_\_\_\_

- 5 Which format is the most suitable for the interview? If a video interview appears to be the most appropriate option assess the adult's willingness to be interviewed on video.

Comment:

\_\_\_\_\_  
\_\_\_\_\_

Decision: VIDEO                      STATEMENT                      QUESTION AND ANSWER

(Circle format to be used)



NATURE OF DISCUSSION:

CONTEMPORANEOUS, VERBATIM RECORD OF DISCLOSURE:

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(Please close with diagonal line)

SIGNATURE OF PERSON MAKING NOTES: \_\_\_\_\_

PRINT NAME: \_\_\_\_\_

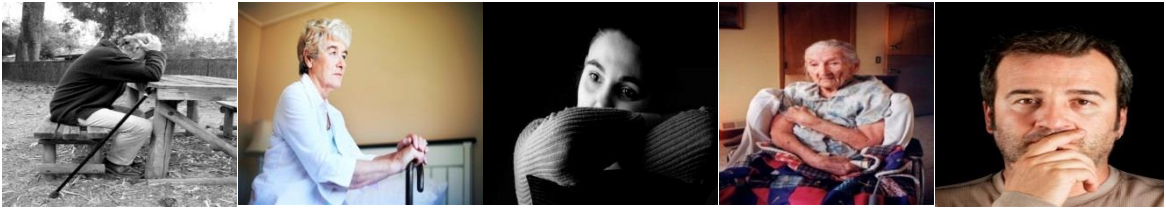
DESIGNATION: \_\_\_\_\_ DATE: \_\_\_\_\_

(NOTE: Responsibility for completion rests with either **Police** or **Social Services**)

The Protocol has been produced by the Health & Social Care Board in partnership with the Health & Social Care Trusts, Police Service of Northern Ireland and The Regulation and Quality Improvement Authority.



**NORTHERN IRELAND ADULT SAFEGUARDING PARTNERSHIP**



# **Protocol for Joint Investigation of Adult Safeguarding Cases**

**August 2016**

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8.	<ol style="list-style-type: none"> <li>1. Definitions of Abuse, Neglect, Exploitation and Related Definitions</li> <li>2. Role of HSC Trust staff and HSC Trust contact details</li> <li>3. PSNI contact details</li> <li>4. Public Prosecution Service – Test for Prosecution</li> <li>5. RQIA contact details; List of RQIA Regulations relating to Regulated Services</li> <li>6. Definitions of Harm and Serious Harm <i>and</i> Factors to be considered in the assessment of the seriousness of Harm and Risk of Harm</li> <li>7. Human Rights, Consent and Capacity including The European Convention for the Protection of Human Rights and Fundamental Freedoms (Human Rights Act 1998)</li> <li>8. Section 5 Criminal Law (Northern Ireland) Act 1967</li> <li>9. Article 121 Mental Health Northern Ireland Order (1986)</li> <li>10. HSC Trust Joint Protocol flowcharts</li> <li>11. PSNI and CRU Process flow chart</li> <li>12. RQIA Adult Safeguarding Processes</li> <li>13. Role of Registered Intermediaries</li> <li>14. AJP forms; PJI1 form</li> </ol>

## SECTION 1

### 1.1 Introduction

Living a life that is free from harm and abuse is a fundamental right for every person.

There has been growing recognition that a wide range of adults may, for a variety of reasons, be at risk of harm from abuse, exploitation or neglect. This has been reflected in the continuing evolution of government thinking and policy in relation to adult safeguarding at national, regional and local levels.

In a Northern Ireland context, there has been a series of documents published in recent years that have had considerable influence in the delivery of safeguarding services.

They include The Protocol for the Joint Investigation of Alleged and Suspected Cases of Abuse of Vulnerable Adults (2003 and revised in 2009) and Achieving Best Evidence in Criminal Proceedings (Northern Ireland) (2003, revised in 2010 and again in 2012) which set out in detail how health and social care and criminal justice professionals should work together to more effectively support adult victims when harm/abuse constitutes a possible crime.

'Adult Safeguarding in Northern Ireland: Regional and Local Partnership Arrangements' (DHSSPS and DoJ) was published in 2010 and led to the establishment of the Northern Ireland Adult Safeguarding Partnership (NIASP) and the five Local Adult Safeguarding Partnerships (LASPs).

It is important to note that there have also been many developments over the last few years in terms of entitlements and support to victims of crime.

The Victim Charter (Justice Act (Northern Ireland) 2015) Order 2015 sets out requirements in relation to entitlements and supports to victims of crime and the standards of service that victims can expect to receive when they come in contact with the Criminal Justice System.

The Victim Charter - a Charter for Victims of Crime, published by the Department of Justice in September 2015, provides information on the range of entitlements aimed at supporting victims of crime and details the roles and responsibilities of relevant agencies in relation to delivering of these supports. Some of the entitlements are available to all victims of crime such as crime information leaflets and access to Victim Support Northern Ireland.

Other entitlements are targeted at the most vulnerable in our society and include, but are not limited to, Achieving Best Evidence in Criminal Proceedings, the use of Special Measures and, where appropriate, use of Registered Intermediaries.

These supports aim to assist the victim through the criminal justice process from the point of referral to PSNI, making a statement of complaint, giving evidence in Court and follow up in terms of outcome. There are other arrangements in place to support a vulnerable individual who is suspected of committing a crime.

In July 2015 the Adult Safeguarding Prevention and Protection in Partnership Policy (the Policy) was produced jointly by the Department of Health Social Services and Public Safety (DHSSPS) and Department of Justice.

The Policy sets out the future agenda for adult safeguarding in a Northern Ireland context. It extends safeguarding to encompass both prevention and protection and places a very strong emphasis on partnership working. The responsibilities of different organisations are clearly set out within the Policy which includes thresholds for referrals to adult protection services.

This Protocol for Joint Investigation of Adult Safeguarding Cases (the Joint Protocol) will provide clarity in respect of the roles and responsibilities of adult protection services where the nature of the harm to the adult in need of protection constitutes a potential criminal offence.

## 1.2 Background

This is the third edition of the Joint Protocol and replaces the Protocol for Joint Investigation of Alleged and Suspected Cases of Abuse of Vulnerable Adults 2009. It should be read in conjunction with the regional adult safeguarding policy Adult Safeguarding: Prevention and Protection in Partnership (DHSSPS & DOJ) 2015 and Adult Safeguarding Operational Procedures (NIASP) 2016.

Health and Social Care Trusts (HSC Trusts) and the Police Service of Northern Ireland (PSNI) are identified as the lead agencies with responsibility for adult protection. The Regulation and Quality Improvement Authority (RQIA) is recognised as a key partner when the concern relates to a regulated service.

The Joint Protocol aims to provide a framework within which HSC Trusts, PSNI and RQIA can work in partnership to ensure adults at risk and in need of protection have equal access to the justice system when harm/abuse constitutes a potential crime.

It reflects the experience and learning of practitioners from a range of agencies, including HSC Trusts, PSNI, RQIA and the Public Prosecution Service (PPS). It also incorporates recommendations contained in the Joint Review by RQIA and CJINI of the Protocol for Joint Investigation of Alleged and Suspected Cases of Abuse of Vulnerable Adults, 2009.

## 1.3 Scope of the Protocol

The Joint Protocol relates to adults who are at risk and in need of protection where the harm caused by abuse, exploitation or neglect constitutes a potential criminal offence.

It adopts the definitions of an adult at risk and in need of protection as detailed in Adult Safeguarding Prevention and Protection in Partnership 2015:

An **adult at risk of harm** is a person aged 18 or over, whose exposure to harm through abuse, exploitation or neglect may be increased by their:

- i) **personal characteristics** (may include but are not limited to age, disability, special educational needs, illness, mental or physical frailty or impairment of, or disturbance in, the functioning of the mind or brain);

**and/or**

- ii) **life circumstances** (may include, but are not limited to, isolation, socio-economic factors and environmental living conditions);

An **adult in need of protection** is an adult at risk of harm (above):

- i) who is **unable to protect** their own well-being, property, assets, rights or other interests;

**and**

- ii) where the **action or inaction of another person or persons** is causing, or is likely to cause, him/her to be harmed.

“Harm” is defined as the impact on the victim of abuse, exploitation or neglect (Appendix 1 Definitions of Abuse, Neglect, Exploitation and related definitions).

The decision as to whether the definition of an adult in need of protection is met will require the careful application of professional judgement on a case by case basis. This should take into account all the available evidence, concerns, the impact of harm, degree of risk and other matters relating to the individual and his or her circumstances. The seriousness and the degree of risk of harm are key to determining the most appropriate response and establishing whether the threshold for protective intervention has been met.

It is important to note that when harm caused by abuse, exploitation or neglect constitutes a potential crime, the PSNI have the lead role and responsibility to investigate. The adult in need of protection should be made aware of their fundamental right to make a report to the police.

The Joint Protocol recognises the dilemmas and complexities posed when an adult in need of protection withholds consent to a police referral and/or there is a lack of clarity regarding whether a concern constitutes a potential crime.

The Joint Protocol provides a framework to support the HSC Trust Designated Adult Protection Officers (DAPO) in making decisions. It is intended as a guide only and there is an expectation that the HSC Trust DAPO must ensure that a professional assessment/risk assessment is carried out for each individual. While each case is unique, this professional assessment process will begin from the perspective that any potential criminal offence should be reported to the PSNI.

The Joint Protocol sets out requirements to ensure that the welfare and protection needs of the adult in need of protection are met as fully as possible. Throughout the Joint Protocol processes, HSC Trusts and PSNI will work in partnership to take these needs into account.

Where the adult in need of protection is known to regulated services, RQIA and the Registered Provider/Manager will be expected to co-operate fully with all processes being put in place to support them.

## 1.4 Aim and Objectives

### Aim

The aim of the Joint Protocol is to ensure that the adult in need of protection is supported in a manner which upholds his/her rights, in particular their right to equal access to the criminal justice system and to prevent further abuse through a collaborative multi-agency partnership.

### Objectives

- To provide a framework for effective communication and collaboration between HSC Trusts, PSNI, RQIA and PPS in relation to Joint Protocol referrals and investigations
- To support staff in the decision making process involved in the Joint Protocol
- To provide details of the Joint Protocol processes to be followed.



## 1.5 Underpinning Principles

Adult safeguarding is complex and challenging and therefore should at all times be guided by a number of underpinning principles. In this context the Joint Protocol adopts the same guiding principles as the Adult Safeguarding: Prevention and Protection in Partnership regional policy:

- **a rights-based approach** which promotes and respects an adult's rights to the protection of the law; to freedom from harm and coercion; to privacy; to confidentiality; to equality of treatment, free from discrimination; and to be safe and secure
- **an empowering approach** which empowers adults to keep themselves safe and free from harm in ways that manage exposure to risk and maximise opportunities to participate in wider society
- **a person-centred approach** which promotes and facilitates full participation by the adult in all decisions affecting his or her life and take full cognisance of the views, wishes and feelings of the individual and, where safe and appropriate, the views of others who have an interest in his or her well-being
- **a consent-driven approach** which makes a presumption of the adult's decision-making capacity and ability to make informed choices; to help inform choice through the provision of information, and advocacy where needed, and the identification of options and alternatives; to have particular regard to the needs of individuals who lack the capacity to consent; and intervening in the life of an adult against his or her wishes only in very particular circumstances, for very specific purposes and always in accordance with the law
- **a partnership approach** which acknowledges that safeguarding will be most effective when it has the full support of the wider public and of safeguarding partners across the statutory, voluntary, community and private sectors working together with and for adults at risk; and is delivered in a way where roles, responsibilities and lines of accountability are clearly defined and understood.

## **1.6 Roles and Responsibilities of Key Agencies**

### **Health and Social Care Trusts**

There are 5 Health and Social Care (HSC) Trusts - Belfast HSC Trust, South Eastern HSC Trust, Western HSC Trust, Southern HSC Trust and Northern HSC Trust. The HSC Trusts provide integrated health and social care services across Northern Ireland. HSC Trusts manage and administer hospitals, health centres, residential homes, day centres and other health and social care facilities and they provide a wide range of health and social care services to the community. HSC Trusts have a significant role in adult safeguarding, including both prevention and protection of adults at risk.

Within each HSC Trust there are key personnel with responsibility for delivering on the requirements set out in the Joint Protocol. These are Designated Adult Protection Officers (DAPOs); Investigating Officers (IOs) and Specialist ABE Interviewers.

### **HSC Regional Emergency Social Work Service**

The Regional Emergency Social Work Service (RESWS) provides an emergency social work service outside normal office hours including weekends and public holidays. These are 5pm to 9am Monday to Thursday and 5pm on Friday to 9am on Monday. There is 24 hour cover over public holidays. Contact details are contained in Appendix 2.

The RESWS responds to a wide range of people in crisis and deals with situations which cannot be left until the next working day. People in crisis can include older people, people with mental health issues, learning disabilities, physical disabilities and children and young people.

There are a number of situations in which the RESWS will become involved or work with other agencies to ensure the safety of an individual and others who may be at risk. Examples of emergency situations are where:

- There are immediate significant protection and welfare concerns in relation to an adult at risk and/or an adult in need of protection;
- There are immediate significant protection and welfare concerns in relation to children and young people;
- Urgent advice and/or support is required by families or carers;
- Older people are at risk;
- There is consideration that compulsory admission to hospital under the Mental Health Order (NI) 1986 is required.

Staff within RESWS will provide an adult safeguarding and adult protection service where required and staff will therefore fulfil the role of DAPOs. As DAPOs, RESWS will respond to all elements of the role in emergency situations which require an urgent response.

**Police Service of Northern Ireland**

The Police Service of Northern Ireland (PSNI)'s purpose is 'keeping people safe'. This goal is achieved through policing in partnership with the community. This proactive, community-driven approach sees the police and local community working together to identify and solve problems.

The Central Referral Unit (CRU) is the regional PSNI centre for all referrals made by either HSC Trusts or PSNI where harm caused by abuse, exploitation or neglect to adult in need of protection constitutes a potential crime. The CRU will, in consultation with HSC Trust DAPO determine whether a criminal investigation is appropriate and, if required, CRU will make a decision regarding which branch of the police service is best placed to conduct the criminal investigation.

In many cases the PSNI Public Protection Branch (PPB) will be appointed to conduct the criminal investigation. CRU and PPB have officers experienced in adult protection work and officers trained as specialist interviewers under Achieving Best Evidence (ABE).

Depending on the nature of the crime CRU may refer the case to other PSNI branches, for example Response Teams, the Rape Crime Unit or CID. These branches will also include specially trained officers in adult protection work and ABE.

It is the responsibility of the PSNI to investigate alleged offences and to gather evidence about what has occurred. When the police have obtained evidence that an identifiable individual may have committed an offence, a file will be prepared and forwarded to the Public Prosecution Service (PPS).

PSNI contact details can be found in Appendix 3.

**Public Prosecution Service**

The Public Prosecution Service takes prosecution decisions and conducts prosecutions on behalf of a number of Government bodies, including the PSNI. The PPS will determine whether criminal proceedings should be instituted or, where criminal proceedings have been instituted, whether they should be continued or discontinued, and also what charges should be preferred. The PPS provides the people of Northern Ireland with an independent, fair and effective prosecution service.

The PPS is wholly independent from both the police and government and its decisions are based on an impartial and professional assessment of the available evidence and the public interest. All actions are undertaken with complete impartiality, to the highest ethical and professional standards. All persons, including those accused of offences, will be treated fairly. All victims and witnesses will be treated with respect and sensitivity. All prosecution decisions are taken and every prosecution conducted in an

effective and efficient manner (Appendix 4 - Guidance in Relation to Test for Prosecution).

**Regulation and Quality Improvement Authority (RQIA)**

RQIA is an independent regulator with responsibility for registering, inspecting and encouraging improvement in a range of health and social care services delivered by statutory and independent providers, in accordance with The Health and Personal Social Services (Quality, Improvement and Regulation) (Northern Ireland) Order 2003 and its supporting regulations. The services which it regulates include residential care homes; nursing homes; supported living facilities; supporting people services; children's homes; independent health care providers; nursing agencies; adult placement agencies; domiciliary care agencies; residential family centres; day care settings; and boarding schools. RQIA also have a specific role in relation to inspections in mental health and learning disability hospitals. Other inspections or reviews can be commissioned and conducted across a range of health and personal social services. Where the service inspected is not meeting the required quality standards or where compliance issues or concerns are identified, there are a range of robust sanctions and powers available to RQIA.

RQIA's remit therefore involves prevention, safeguarding and protection of adults at risk of harm and adults in need of protection. With regard to the Joint Protocol RQIA are a key partner in relation to investigations and protection planning in all regulated services.

Contact details can be found in Appendix 5.

## **1.7 Reporting and Referral Arrangements**

Harm to adults in need of protection can take place in any setting; in the person's own home, in the wider community, in a residential or nursing home, hospital or indeed anywhere. It can also be perpetrated by anyone - family, friends, paid staff including professional staff such as doctors, nurses, social workers, police, volunteers, clergy, etc.

Where the harm constitutes a potential criminal offence the adult in need of protection has a right to make a report to the police and should if necessary be supported to make this report.

The arrangements below set out the requirements for reporting a concern which may constitute a criminal offence to either the HSC Trust and/or the PSNI.

### **a) Referrals to HSC Trusts and/or PSNI by organisations that have direct contact with adults at risk:**

The regional policy places a responsibility on organisations that have direct contact with adults at risk to nominate an Adult Safeguarding Champion (ASC). One of the key responsibilities of the ASC is to advise and support staff when there are concerns that an adult at risk may have been subjected to serious harm through abuse, neglect or exploitation (Appendix 6 Definitions of Harm and Serious Harm).

The ASC should ensure that a referral to HSC Trust Adult Protection Gateway Service is made. The ASC should also consider whether there is a need to make an immediate report to the PSNI where there is an imminent risk to the adult.

The adult in need of protection's views and wishes are paramount and any decisions taken should involve consultation with them. Where it is feasible to do so, the consent of the individual should be sought before a referral/report is made to the HSC Trust or PSNI.

However, if there is an adult protection concern which constitutes a possible crime the ASC must consult with the HSC Trust Adult Protection Gateway Service and/or PSNI as appropriate.

### **b) Referrals/Reports to HSC Trusts by PSNI**

Where PSNI have a concern that the individual may be an adult in need of protection, and a crime is suspected, the individual should be advised of the support and protection role of the HSC Trust. In these situations the consent of the individual to contact the relevant HSC Trust should be sought (Appendix 7 Consent and Capacity).

Where an adult in need of protection withholds consent to a referral to the HSC Trust for support and/or protection, the police officer will need to make a professional assessment based on available information as to whether a report/referral to the HSC Trust is nonetheless appropriate.

The following factors should be considered:

- whether the individual has the capacity to make an informed decision in relation to a referral; and
- the level of risk of harm to the individual and /or others including children

Where a police officer decides that a referral to the HSC Trust against the expressed preference of the individual involved is appropriate the rationale for the decision must be clearly recorded.

Each HSC Trust has an Adult Protection Gateway Service which is the central point of contact for all new adult in need of protection referrals. (Appendix 2: HSC Trust Adult Safeguarding contact details).

If a police officer has any concerns that a child or children are in any danger or at risk of harm they should contact the local HSC Trust's Child Protection Gateway Team (Appendix 2 HSC Trust Child Protection contact details).

Where there is a concern regarding the safety of an adult in need of protection or a child outside of normal working hours (Monday-Friday 9am to 5pm) the HSC Regional Emergency Social Work Service (RESWS) will work with the PSNI to ensure the immediate protection of the Adult at Risk and/or a child/children.

It will be the responsibility of the RESWS to either update the relevant HSC DAPO if the person is already known to HSC, or to make a referral to the Adult Protection Gateway Service (Appendix 2 RESWS contact details).

Where PSNI identify an adult at risk and have a welfare or care concern that falls outside the Joint Protocol, consideration should be given to whether a referral to HSC Trusts might be appropriate. General referrals in relation to an adult at risk can be made to local Trust offices.

### **c) Referrals to PSNI by HSC Trusts**

In all cases of alleged or suspected harm caused by abuse, exploitation or neglect of an adult in need of protection which constitutes a potential crime, a report to PSNI should be made **except where there is clear and compelling evidence which supports a decision not to report** (see below).

In situations where there is a potential relevant offence under Section 5 of the Criminal Law Northern Ireland Act 1967, HSC Trusts **must** report the matter to the PSNI. (See Appendix 8 Section 5 Criminal Law (Northern Ireland) Act 1967)

The adult in need of protection should always be advised of their right to have the incident reported to the PSNI for investigation. However, if they withhold consent to the referral to the PSNI, then immediate consideration should be given to the balance between the individual's human rights and the obligation to address the risks to the individual and/or others, including children.

Issues in relation to the individual's capacity to consent should be considered (Appendix 7 Human Rights Consent and Capacity) alongside the HSC Trust's legal obligation to report the matter to the PSNI.

No action should be taken until the Joint Agency Consultation (see below) takes place.

Section 2 of this document provides detailed guidance for HSC Trust DAPOs in relation to referrals to PSNI.

In all emergency cases there should be no delay in contacting PSNI via telephone using the 999 telephone number.

The central point of contact for all other reports/referrals to the PSNI is the Central Referral Unit (CRU). Referrals to PSNI CRU will be made by forwarding an AJP1 form to the CRU. This must only be done via secure email using the Criminal Justice Secure Messaging (CJSM) system. All related correspondence must be sent via the same secure system (Appendix 3 PSNI Contact Details; Appendix 14 Adult Joint Protocol Forms).

#### **d) Referrals/Reports to HSC Trusts and/or PSNI by RQIA**

RQIA have a responsibility to identify issues that may have an impact on the wellbeing and welfare of adults at risk and to address safeguarding concerns in relation to regulated services. RQIA have a range of mechanisms in place to respond to and address such issues (Appendix 5 RQIA Contact Details and list of RQIA Regulations).

Where there is a concern regarding an individual or group of individuals, RQIA should consider whether this has been caused by abuse, exploitation or neglect. In these circumstances a report to the relevant HSC Trust should be made.

In situations where there is an alleged or suspected concern which constitutes a potential crime, consideration should be given as to whether a referral to the HSC Trust should be made alongside a report to the PSNI. RQIA will make an immediate report to the PSNI if there is an imminent risk to any service user.

## 1.8 Escalation Arrangements

At any point of the Joint Protocol process where an adult in need of protection and/or their family have a concern regarding how the situation is being handled by any agency, that agency's arrangements for addressing such concerns should be implemented. This can include, for example, local resolution, escalation through the line management structure, or application of the relevant complaints procedure. If the concern remains unresolved, it can be referred to either the Ombudsman for HSC Trust issues or the Police Ombudsman for Northern Ireland.

In the majority of situations it is hoped that positive outcomes will be achieved for the adult in need of protection through effective joint working.

Where there is a difference of opinion between agencies regarding how a case is being managed, every effort should be made to resolve this locally.

In the event that a situation cannot be resolved at this level the following process should be followed:

### **Within HSC Trusts:**

The process of escalating a concern regarding how a case is being managed will involve raising the matter with the following Trust officers in sequence as required:

- DAPO
- DAPO's professional supervisor
- Adult Safeguarding Lead in the relevant Programme of Care
- Trust Adult Safeguarding Specialist Manager (TASS)
- Co-director/ Assistant Director / LASP Chair
- Executive Director of Social Work.

### **Within the PSNI:**

The process for escalating a concern regarding any aspect of the management of a case is as follows and should again be followed in sequence as required.

At point of referral to CRU:

- CRU Sergeant
- CRU Inspector
- CRU Chief Inspector.

Following allocation of a case:

- Sergeant in relevant PSNI branch, i.e. Public Protection branch, CID
- Inspector in relevant PSNI branch or nominated Adult Safeguarding PSNI Lead within Branch
- relevant Chief Inspector



- Chief Inspector with regional responsibility for Adult Safeguarding.

**Within the RQIA:**

- Inspector aligned to the Regulated Service Provider
- Senior Inspector
- Head of Inspection

There is an expectation that escalation within each organisation will result in senior managers linking with their equivalents, i.e. Trust Adult Safeguarding Leads in each programme would link with the relevant PSNI Inspector.

If a Joint Protocol process has been initiated or a joint agency investigation is taking place, any relevant information arising from a Review should be shared with the other agency/agencies involved.

The framework for requesting a review as detailed above does not exclude normal line management reporting responsibilities.

## SECTION 2 Joint Agency Working

### 2.1 Thresholds for referral to PSNI

The Joint Protocol outlines the thresholds within which a report **must** be made to PSNI and also provides a framework for consideration of a decision not to report to PSNI. The thresholds are intended as a guide for the HSC Trust DAPO and are not intended to be used as exclusion criteria. In some situations a Joint Agency Consultation will be the most appropriate way forward in determining whether a criminal offence may have been committed and/or whether a criminal investigation is required.

All harm is unacceptable and will require and receive a safeguarding response. The nature of that response will be determined by a range of factors. A critical first consideration is whether or not the harm constitutes a criminal offence.

A crime is a breach of the criminal law which is contained in statute or of common law. Not all harm constitutes a crime and only when a criminal offence is suspected is the Joint Protocol applicable.

Where harm constitutes a potential criminal offence the Joint Protocol seeks to ensure that the adult in need of protection has equal access to the criminal justice system. When a report of a potential criminal offence is made PSNI and HSC Trust Adult Protection Gateway Services will work together to:

- a) support the individual through the criminal justice process; and
- b) collaborate to ensure their welfare and protection needs are identified are addressed.

The Joint Protocol recognises that conflict that can arise when an adult in need of protection, who has capacity to give informed consent, withholds that consent to a police referral.

The HSC Trust DAPO has a significant role and responsibility in balancing the individual's human rights, which include the right to choice, with the obligation to address the risks to the adult in need of protection and/or others including children.

**The Protocol is predicated on the principle of reporting alleged or suspected criminal acts to PSNI. Any decision by a DAPO not to report an incident which may constitute a possible crime is a serious and significant decision which must always be supported by clear rationale.**

## **2.2 Roles and Responsibilities of the HSC Trust DAPO**

The role of the HSC Trust DAPO is to screen the referral and any other available information to ensure that all relevant HSC adult protection processes are implemented as applicable (Section 3 HSC Adult Protection Processes).

The safety of the person who is being abused is paramount. Appropriate action **must** be taken to safeguard the adult in need of protection. This should involve consultation with, and consent of, the individual concerned.

Where there is a concern regarding imminent danger to an adult in need of protection the HSC Trust DAPO must consider whether an immediate report to PSNI should be made.

When a potential crime has been committed, the HSC Trust DAPO will decide if there is a duty to report a relevant offence as outlined in the Criminal Law Act 1967 Section 5 (Appendix 7

Where any crime is suspected the issue of possible PSNI involvement should be discussed with the adult in need of protection. Their consent for contact with the PSNI should be sought and details of the nature and content of that contact should be provided.

The adult in need of protection should be provided with as much information as possible to assist them in making an informed decision about how they wish the situation to be handled, including information on their right to make a report to the PSNI. Details of all support available through the course of any investigation should also be provided.

Where there is a query regarding the capacity of the adult to make an informed decision regarding whether to report to the PSNI, the HSC Trust DAPO should ensure that every effort is made to maximise their capacity to make this decision.

In all situations where the individual and/or their family take the view that a report to the PSNI should be made, the HSC Trust should facilitate and assist them with this report.

The HSC Trust DAPO is responsible for ensuring that the adult in need of protection's views and all other relevant information inform professional judgements as to any further action to be taken. They must give full consideration to issues of consent and capacity in every case and in every circumstance (Appendix 8 Human Rights, Consent and Capacity).

In situations where the individual lacks capacity to make an informed decision regarding a report, the HSC Trust DAPO should ensure that, where appropriate, the individual's family are consulted.

Where the individual lacks capacity to make an informed judgement and he/she has no family, the HSC Trust DAPO should ensure that 'best interest' principles are applied. This can also apply in circumstances where the family of the adult in need of protection do not agree with a referral to the PSNI. In some situations use of an independent advocate may also need to be considered and/or legal advice sought.

Actions to protect the individual or other adults in need of protection or children should not be delayed pending any assessment of capacity.

Decisions taken to report to PSNI without the consent of the adult in need of protection are serious and significant decisions. The HSC Trust DAPO will need to consider whether undue influence or coercion have been factors influencing the individual's decision.

In making these decisions the HSC Trust DAPO must balance the individual's human rights under Article 8 (Right to Private and Family Life) within the context of possible risk to the individual or others at risk or children. A decision not to make a complaint to the PSNI may be outweighed by the need to ensure that other adults are given the full protection available to them under Article 3 (Prohibition of Torture, Inhuman or Degrading Treatment) **OR** where the HSC legal obligation is to report a relevant offence.

In these circumstances any decision to report a concern to the PSNI against the expressed wishes of the adult in need of protection should be based on careful consideration of the exercise of both these Articles which indicates that there are reasonable grounds for such a report to be made. The referral to the PSNI should record the basis for this determination. (Appendix 7 Human Rights, Consent and Capacity; Appendix 8 Definition of Relevant Offence)

### **2.3 Joint Protocol Pathways**

The HSC Trust DAPO, in applying the Joint Protocol, has three possible pathways to consider. They should use the following options to achieve the best possible outcome for the adult in need of protection.

- A.** There is a potential crime which must be reported to PSNI
- B.** There is a need for a Joint Agency Consultation with PSNI CRU to determine the most appropriate course of action

C. The criteria for reporting to PSNI under the Joint Protocol are met

#### A. There is a potential crime which must be reported to PSNI

In the following situations there **must** be a report of the incident to the PSNI:

- An adult in need of protection is in **imminent danger** and there is a need for an immediate report to PSNI

**OR**

- There has been an incident which may constitute a **relevant offence** under Section 5 of the Criminal Law Act (NI) 1967 (Appendix 8)

**OR**

- Referral information clearly states the adult in need of protection wishes or has consented to PSNI involvement

**OR**

- The referral information clearly states that the adult in need of protection lacks capacity to give informed consent to PSNI involvement and family members and/or professionals involved take the view that PSNI involvement is required.

When considering the urgency of the response required the following should be used as appropriate:

- 999 call – if an imminent danger has been identified
- CRU (Central Referral Unit) via email on CJSM system (Mon-Fri 8am-9pm; Sat & Sun 9am-5pm)
- Outside the CRU hours call 101 if required (non-emergency)

#### Incidents which may constitute a relevant reportable offence and which must be referred to the PSNI

In some situations it will be evident from the outset that a relevant offence has occurred. In other situations, assessment, professional judgement and joint agency consultation will be required to properly determine this. For example a situation where both adults at risk lack capacity and are found in bed together does not necessarily mean that a sexual offence has been committed. A professional assessment should take place to decide the most appropriate response.

- **Physical assault**

Any form of assault is unacceptable. There are a range of potential offences which include common assault, assault occasioning actual bodily harm, grievous bodily harm, and grievous bodily harm with intent, attempted murder, manslaughter and murder. However in terms of relevant offences, common assault is not a relevant

offence under section 5 of the Criminal Law (Northern Ireland) Act 1967 (as it attracts a sentence of less than 5 years).

- **Sexual offences**

Most sexual offences will be relevant offences under section 5 of Criminal Law Act (Northern Ireland) 1967. The DAPO as part of the professional assessment should ascertain whether any non-consensual sexual activity has occurred and taking into consideration the views of the alleged victim and/or their next of kin determine whether harm has taken place.

- **Domestic abuse incidents**

The definition of domestic violence and abuse incorporates issues such as forced marriage, female genital mutilation and honour based violence, as well as abuse of adult in need of protection within the family or by an intimate partner.

However not all acts which may amount to domestic abuse constitute criminal offences. For example psychological abuse, name calling or controlling behaviour are not criminal offences per se but may still require an alternative safeguarding response.

Whether a criminal offence has been committed will depend on the circumstances of each individual case. In all domestic violence cases the CAADA/DASH/RIC form **must** be completed to determine whether a referral to MARAC is required and/or serious harm has been caused which requires a report to the PSNI.

- **Financial abuse incidents**

Where there are reasonable grounds to suspect that a crime has been committed or there is an allegation of fraud, theft and/or misuse of finances.

- **All cases of Human Trafficking and Modern Slavery**

Most cases of human trafficking and modern slavery will be complex in nature and may involve serious organised crime where the risk to victims and /or others can be significant. Therefore consultation with the victim and PSNI should take place and the wider public interests must be taken into consideration. The HSC Trust DAPO should seek further advice from the HSC Trust Lead officer for cases of human trafficking and modern slavery.

- **All cases where the person alleged to have caused the harm is a paid employee or a volunteer in a position of trust and there is a reasonable suspicion that a crime has been committed.** Where poor practice may constitute ill-treatment or wilful neglect, consideration may need to be given to Article 121 of the Mental Health (Northern Ireland) Order 1986. (Appendix 9)

Not all incidents of poor practice constitute serious harm and/or an offence but may still require an alternative safeguarding response.

- **Institutional abuse** can take many forms, ranging from issues associated with poor practice to situations where serious harm may have been caused and/or a criminal offence may have been committed.
- **Historical abuse** can relate both to childhood abuse or past abuse in adulthood. The main forms of historical abuse to date have been sexual, physical, financial and institutional abuse. In cases of alleged historical childhood abuse, the lead agency will be the PSNI.

However if the adult is considered to be an adult at risk, HSC Trusts should consider whether the individual would benefit from the support offered through the Joint Protocol process. In these cases it is essential that there is robust joint agency consultation between PSNI CRU and the Adult Protection Gateway Service. Child Protection Gateway Services should be involved as appropriate.

In cases of historical child abuse, a PJI1 form (Appendix 14) should be completed and forwarded to the PSNI using the secure email CJSM system. Where the professional assessment indicates that the adult in need of protection will require the support mechanisms offered via the Protocol process, this should be recorded on the PJI1 form clearly stating that the Pre-Interview Assessment and Achieving Best Evidence processes should be followed.

Where there are reasonable grounds to suspect that a relevant offence has been committed, the HSC Trust has a legal obligation to report the matter to the PSNI. However this does not negate the HSC Trust responsibility to ensure that all human rights obligations are fully considered.

In order to meet these obligations there is a clear and explicit requirement for the DAPO to ensure that the HSC Investigating Officer (IO), where it is safe to do so, engages with the adult in need of protection to discuss the incident and their view on any action to be taken.

Where the individual does not want to make a report to the PSNI and the professional view is that a relevant crime may have been committed, there must be evidence of the rationale for any decisions to report the matter to the PSNI. This rationale should be recorded on the Regional ASP and Joint Protocol AJP forms (Appendix 14 AJP Forms).

## **B. There is a need for a Joint Agency Consultation with PSNI CRU to determine the most appropriate course of action**

Where there are reasonable grounds to suspect that an adult in need of protection may be a victim of a potential criminal offence and there is uncertainty regarding the

most appropriate course of action, a Joint Agency Consultation should be considered. The views and wishes of the individual should be sought and a full explanation of the process provided.

Where the individual withholds consent to a Joint Agency Consultation, the HSC Trust DAPO may need to consider seeking legal advice on the appropriate way to proceed.

The purpose of a Joint Agency Consultation is for the HSC Trusts and PSNI to work together to reach an informed decision regarding the best possible outcome for the adult in need of protection. It ensures and facilitates an early exchange of relevant information.

This consultation should involve the relevant HSC Trust DAPO and the PSNI CRU officer and should determine whether a PSNI investigation is required and if so whether this should be a joint agency investigation.

Referrals for a Joint Agency Consultation should be made using the AJP1 form (Appendix 14). This form must be forwarded via the CJSM secure email system. On completion and forwarding of the AJP1, the referrer should make contact with the PSNI CRU and the process of Joint Agency Consultation will begin.

Not all consultations will automatically result in a police investigation. However they will be treated as a potential crime and as such will be issued a crime reference number.

Careful consideration will need to be given to all available information including active consideration of the views and wishes of the adult in need of protection and/or their family and relevant others as appropriate.

PSNI, as the lead agency in relation to criminal matters, will have a pivotal role in determining whether a criminal investigation needs to take place. Nevertheless, it is anticipated that there will be joint agency discussion and decision making.

PSNI CRU, like the HSC Trust DAPO, will need to consider issues of consent, capacity and human rights when deciding what action needs to be taken. Where a criminal investigation is to proceed against the expressed wishes of an adult in need of protection, there should be clear evidence and record of the balancing of rights and a rationale to support any decision taken.

The detail of any decision and rationale should be recorded by PSNI CRU on the AJP1 form (Section 3 and Appendix 14), along with details of agreed actions to be taken. The Joint Agency Consultation must agree a decision as to the way forward. This should not preclude an interim protection plan being implemented if required. The AJP1 outcome will be forwarded to the DAPO by PSNI.



## Outcome of an Initial Joint Agency Consultation

There are a number of possible outcomes from a Joint Agency Consultation:

**1. There is insufficient information available to make a decision.**

In such cases the PSNI/CRU must provide detailed instructions regarding any additional preliminary information to be gathered by the HSC Trust. It will be for the PSNI to ensure that an effective balance is drawn between seeking sufficient information from the HSC Trust to make an informed judgement and not jeopardising a possible PSNI investigation.

**2. Single agency HSC Trust adult protection investigation**

Where a single agency HSC Trust investigation is considered to be the appropriate response, HSC Trust staff should refer to the Adult Safeguarding Operational Procedures (2016) for detailed guidance on conducting a single agency HSC Trust adult protection investigation. The decision to conduct a single agency investigation should be kept under review as new information may indicate a need to reconsider the decision in relation to the Joint Protocol.

**3. Single agency PSNI investigation**

Where a single agency PSNI investigation is considered to be the appropriate response, PSNI officers should refer to Police Service Procedures.

During a single agency PSNI investigation, where appropriate the HSC Trust will respond to any adult safeguarding or protection issues identified. Strategy discussions/meetings provide a forum in which any potential conflict between safeguarding adults in need of protection and criminal investigations can be discussed and resolutions agreed.

The PSNI should continue to liaise with the relevant HSC Trust DAPO in relation to any adult safeguarding or protection issues. The HSC Trust will co-operate with any PSNI request to provide a Specialist Interviewer.

**4. Joint Agency collaborative working**

In some cases both the PSNI and the HSC Trust will have a role. In these circumstances close liaison and communication between the two agencies and an agreed action/strategic plan will be required. This plan should, at a minimum, include:

- Clarification of the roles and responsibilities of the two agencies including details of nominated officers
- Details of the communication strategy between the two agencies

- The communication strategies with victims, carers and families and when applicable with RQIA and service providers. This should include agreed time scales and details of the named staff responsible for this
- Details of the agreed actions and sequencing of actions with associated timescales
- Arrangements for ongoing adjustments and review of the action plan

Outcomes should be formally agreed and joint agency decisions taken regarding closure.

PSNI must inform the HSC Trust DAPO of the outcome of any single agency investigation. This will allow the HSC Trust to consider if there are any additional actions and/or protective measures required.

5. Joint Agency investigation involving the PSNI and HSC Trust.  
In some cases where the PSNI are taking the lead investigative role but the HSC Trust continue to be involved with the adult(s) in need of protection; joint agency collaborative working will be required.

In joint agency investigative interviews involving the HSC Trust and PSNI, the requirements in relation to collaborative working will apply (See Section 2.3).

6. No further action under the Joint Protocol.  
PSNI, HSC Trusts and/or RQIA will need to consider possible alternative responses or support mechanisms, e.g. enforcement action by RQIA.

### **C. Criteria for NOT reporting to the PSNI using the Protocol for Joint Investigation of Adult Safeguarding Cases**

There is always a need for a balanced and proportionate response to concerns. In some instances it will be clear from the outset that the harm or likelihood of harm caused by abuse, exploitation or neglect does not meet the threshold of criminality and that a single agency response under adult protection procedures is more appropriate.

In other situations referral information can be limited and where there is insufficient information to determine what is the appropriate course of action careful consideration must be given to how to proceed. (See section 3.2)

Where the threshold for a potential criminal offence is met the HSC Trust position is that reports to PSNI should be made.

In circumstances where the adult in need of protection has the capacity to make an informed decision and withholds consent to a report being made to the police, attention must be paid to the individual's right to respect, dignity and choice.

A first consideration for the DAPO will be whether there is a legal obligation to report to the police under Section 5 of the Criminal Law Act (NI) 1967 (Appendix 8).

Where there is no legal obligation to report the matter, the DAPO will need to balance the HSC Trust's broad position of reporting to the PSNI with the individual's human rights and, if applicable, the rights of others. The nature of the incident, its impact on the individual and/or others and likelihood of reoccurrence are among a number of factors which must be taken into consideration. Full consideration of all legal obligations will be required when determining the actions to be taken. The DAPO should ensure that a comprehensive risk assessment is conducted to support decision making.

**A decision not to report an incident to the PSNI is a serious and significant decision and therefore only HSC Trust DAPOs who have conducted or co-ordinated an initial professional assessment will have the authority to make these decisions.**

In making the decision **NOT** to report to the PSNI, the HSC Trust DAPO must as a minimum demonstrate consideration of the following:

- The adult in Need of protection has capacity to make an informed decision and does not want to make a complaint to PSNI. Full consideration will need to be given to all elements of consent, capacity and human rights, including issues of undue influence and possible coercion (Appendix 7 Consent/Capacity/Human Rights).

**AND**

- The Trust is not required by law to make a referral to PSNI (if the potential offence committed is not a relevant offence under Section 5 of the Criminal Law Act (NI) 1967 (Appendix 8 Section 5 Criminal Law (Northern Ireland) Act 1967)

**AND**

- It is a minor incident. A comprehensive assessment of all the factors **MUST** be completed to evidence a thorough risk assessment of these cases. This will include consideration of whether repeat incidents have occurred and/or whether other adults at risk or children have been or are likely to be at risk of harm (Appendix 6 Factors to be considered in the assessment of the seriousness of Harm and Risk of Harm)

**AND**

- The situation is being managed through an adult safeguarding process and/or there are other protective measures in place

The HSC Trust DAPO must ensure that **all** the above criteria are met and take into consideration any other relevant information. The rationale for a decision not to report an incident to PSNI must be clearly evidenced and recorded on the Regional Adult Joint Protocol forms (Appendix 14).

Where the individual lacks capacity to give informed consent and their next of kin take the view that a report should not be made to the PSNI, this should be adhered to, provided all other above criteria are met and this decision is consistent with best interest principles.

**Under NO circumstances should any adult in need of protection's request for a report to be made to PSNI be refused. The entitlement of all individuals to equal access to the justice system is absolute and begins with a report to PSNI.**

#### **2.4 Factors to be considered when the person alleged to have caused harm is themselves an Adult at Risk**

The HSC Trust will have responsibility in situations where the person alleged to have caused the harm is also an adult at risk. The HSC Trust should take into consideration the human rights and need for protection for this individual. The HSC Trust responsibility in relation to protection remains a constant, irrespective of which pathway the investigation takes i.e. adult safeguarding, adult Protection, PSNI only or joint investigation.

The HSC Trust DAPO should consider the likelihood that the person causing the harm may present an ongoing risk to the victim and/or others including children

In situations where the victim or the victim's family decide not to make a complaint to the PSNI the HSC Trust DAPO should consider:

- The criteria for not reporting to PSNI
- The need for a Joint Agency Consultation

Obligations to report serious harm which may constitute a relevant offence to the PSNI continue to apply.

In all situations where a report is being made to the PSNI, the fact that the person causing harm is also an adult at risk should be clearly highlighted. The PSNI should also be advised if there is a concern that the adult at risk and/or the individual who is

alleged to have caused harm, may not have the capacity to engage in a PSNI interview and to give legal instruction.

There should be no assumptions made about an individual's capacity, even in situations where there is an existing diagnosis affecting cognitive functioning such as dementia or learning disability. Each case should be assessed on an individual basis to determine the person's level of cognitive functioning, whether the harm caused was intentional or unintentional and whether the person can be reasonably held accountable for their actions (Appendix 7 Human Rights, Consent and Capacity).

Capacity assessments should be carried out by an appropriately trained professional. In cases where the person alleged to have caused harm is themselves an adult in need of protection and is already known to specialist services the professional involved may be able to provide an informed opinion in relation to the individual's capacity.

Capacity assessments/reassessment should consider as a minimum:-

- The extent to which the person causing harm is able to understand his/her actions and whether there is an awareness of or intent to cause harm; and
- Whether the behaviours of the person causing harm may be associated with learning disability, mental ill-health or dementia.

In situations where the adult at risk has allegedly caused harm and is deemed to lack capacity to understand his/her actions, the harm was unintentional and does not constitute serious harm or a relevant offence, then consideration should be given to whether a single agency HSC Trust investigation may be a more appropriate response than a PSNI investigation.

In all cases where serious harm has occurred or where the potential offence reaches the threshold of a serious relevant crime, a Joint Agency Consultation with PSNI CRU must take place.

The Public Prosecution Service (PPS) will provide early direction to PSNI in relation to whether a fast track disposal can be considered (Appendix 4 PPS Test for Prosecution). In all cases where PSNI are involved a case file should be prepared by the PSNI.

In certain types of offences the PSNI can consider Discretionary Disposal. In these instances the decision regarding Discretionary Disposal is for the adult in need of protection and/or their family the detail regarding resolution is reliant on the person alleged to have caused the harm acknowledging wrong-doing and complying with the protection plan and any sanctions agreed.

In cases which require the PSNI to submit a case file to the PPS, the PSNI should liaise at an early stage with the PPS to ascertain whether a full investigation file is required to be submitted for consideration or whether a streamline file would suffice.

In any event the file submitted should provide a comprehensive record of all the relevant information and actions taken. The case file should also clearly identify if the person alleged to have caused the harm is an adult at risk and has been assessed as lacking capacity to understand the consequences of his/her actions.

In some situations the adult at risk who is allegedly causing harm will already be known to the HSC Trust and may be resident in a care setting (Residential/Nursing Home, specialist hospital or specialist facility) or in receipt of community services. In light of any identified concerns a full reassessment of this adult at risk's needs should always be conducted.

Where the victim and person alleged to have caused the harm are both considered to be adults at risk and are in the same environment, effective risk management is critical. The likelihood that the person causing the harm will present an ongoing risk to the victim and/or others including children must be considered by the HSC Trust DAPO under both the Adult Protection Operational Procedures and the Joint Protocol.

In situations where the PSNI are the first responders and have concerns that the person allegedly causing harm is an adult at risk, it is their responsibility to make a professional judgement as to whether a referral should be made to the appropriate HSC Trust.

At a minimum this judgement should consider the needs, capacity and consent of the individual and whether there are wider protection issues in relation to other Adults at Risk or children.

## SECTION 3

### 3.1 HSC Trust Adult Protection Processes

The following grid outlines the HSC Trust Adult Protection Processes to be followed in cases where there is a concern that harm caused to an adult in need of protection which may constitute a potential criminal offence.



## MAHI - STM - 316 - 264

Stages in Joint Protocol Process	Decision	Action	Decision Process	Forms
<b>Stage 1</b> DAPO screens referral to determine if Adult Protection criteria is met	a) Criteria not met	Refer to appropriate service/agency	Complete appropriate referral	Record decision on Regional Adult Protection forms
	b) Criteria met	Proceed to <b>Stage 2</b>		Record decision on Regional Adult Protection forms
<b>Stage 2</b> DAPO assesses referral information to determine if a potential crime has been committed	a) Where the referral information clearly states that the adult in need of protection and/or their next of kin wants to make a complaint to the PSNI (section 2.2)	DAPO will ensure that the individual is supported in making a report to the PSNI	DAPO ensures that an immediate report is made to PSNI: - 999 if there is imminent danger to a person. - In all other cases report to CRU (Mon-Fri 8am-9pm; Sat & Sun 9am-5pm) - 101 at all other times  PSNI and the DAPO will consult with the person and decide what level of response is required	Record decision on Regional Adult Protection forms  DAPO completes AJP1 section 1 & 2 and forwards to CRU without undue delay
	b) Insufficient information to make decision	DAPO considers follow up actions required (section 3.2)	The DAPO will consider the additional information and decide whether a potential crime has or has not been committed and follow either (b), (c) or (d)	Record on Regional Adult Protection forms
	c) Potential crime <b>NOT</b> identified	Proceed to Regional Adult Protection Procedures	DAPO initiates single agency Adult Protection investigation	Record on Regional Adult Protection forms
	d) Potential crime identified	Trust DAPO applies threshold criteria (see section 2)	The DAPO should also consider potential additional factors e.g. - the person alleged to have caused harm is themselves an adult at risk. DAPO also needs to consider the needs of this person (see section 2.4) - the case may constitute organised or multiple abuse (see section 6) Proceed to <b>Stage 3</b>	Record decision on Regional Adult Protection forms



Stages in Joint Protocol Process	Decision	Action	MAHI - STM Decision Process 265	Forms
<p><b>Stage 3</b> Trust DAPO applies threshold criteria to the specifics of referral and considers which of the three options should be implemented (section 2)</p>	<p><u>Option 1</u>  Potential Crime which must be reported to the PSNI (see section 2)</p>	<p>DAPO ensures that the adult in need of protection is informed of requirement to make report to the PSNI</p>	<p>DAPO ensures that in completion of the AJP1 all the individuals and/or others human rights are considered. The rationale for decisions should be recorded (section 2 &amp; Appendix 8)</p>	<p>DAPO completes AJP1 form sections 1 &amp; 2 and forwards to CRU without undue delay via CJSM system DAPO contacts CRU to discuss referral and agree action plan. CRU officer completes AJP1 section 3 and forwards to DAPO on same day</p>
		<p>Where criteria for relevant offence / reportable crime are met, DAPO proceeds to report to PSNI. (see section 2)</p>	<p>DAPO should consider whether there is a need for an immediate report to PSNI via 999 (if there is imminent danger to a person). In all other cases report to CRU (Mon-Fri 8am-9pm; Sat &amp; Sun 9am-5pm) and 101 at all other times (see Stage 4)</p>	<p>Recorded on Regional Adult Protection and AJP forms</p>
	<p><u>Option 2</u> Joint Agency Consultation</p>	<p>Where the HSC Trust DAPO requires clarification on whether there is a need for a Police investigation, the joint agency consultation process should be initiated. HSC Trust DAPO must provide information on views and wishes of the individual and/or family if applicable. This should be central to the decision making for both agencies. The PSNI expertise in criminal offences will inform this decision (see section 2)</p>	<p>The joint agency consultation should agree a decision as to which option is most appropriate and any actions which are required. There are a range of options which can be considered (see section 2).  The decisions regarding which option is agreed should be clearly recorded. If the decision is for joint agency collaborative working, proceed to <b>Stage 4</b>.  Single Agency Trust investigations follow the Regional Adult Safeguarding Operational Procedures – Adults in Need of Protection.</p>	<p>CRU completes AJP1 section 3 and forwards to HSC Trust DAPO on same day</p>
	<p><u>Option 3</u> <b>NOT</b> reporting case to PSNI</p>	<p>HSC Trust DAPO applies criteria for <b>NOT</b> reporting potential crime to PSNI (see section 2)</p>	<p>Where the criteria for <b>NOT</b> reporting is met HSC Trust DAPO follows Regional Single Agency adult protection procedures. Decision not to report must be kept under ongoing review</p>	<p>The rationale for a decision <b>NOT</b> to report an incident to PSNI must be clearly evidenced and recorded on the Regional Adult Protection Procedures forms by the HSC Trust DAPO.</p>

**MAHI - STM - 316 - 266**

<b>Stages in Joint Protocol Process</b>	<b>Decision</b>	<b>Action</b>	<b>Decision Process</b>	<b>Forms</b>
<b>Stage 4</b>				
<p><b>Stage 4</b></p> <p>Joint Agency Collaborative Working</p>	<p>Joint Agency strategy discussion / meeting following CRU allocation of case to appropriate PSNI Sergeant</p>	<p>HSC Trust DAPO co-ordinates Joint Agency Strategy discussion / meeting</p> <p>Contact made between PSNI Sergeant and agrees Interim Protection Plan</p> <p>All immediate protection measures required should be taken in liaison with the PSNI</p> <p>HSC Trust DAPO ensures that adult in need of protection is informed of the report to the PSNI and their views are considered and recorded on Regional Adult Protection forms and the AJP forms</p>	<p>HSC Trust DAPO agrees interim protection measures as part of strategy discussion / meeting with PSNI Investigating Officer</p> <p>Joint agency agreement in relation to:</p> <ul style="list-style-type: none"> <li>- lead agency in investigation</li> <li>- Clarify roles and responsibilities</li> <li>- Identify key PSNI and Trust Investigating Officers</li> <li>- Agreed investigation plan</li> <li>- Agreed communication strategy</li> </ul>	<p>HSC Trust DAPO records decision in both the Regional Adult Protection forms and the AJP2 form</p>
<b>PIA and ABE</b>				
<p>Joint Agency Investigation Process</p> <p>PIA and ABE Planning</p>	<p>Joint Agency investigation planning</p>	<p>HSC Trust DAPO and PSNI agree to proceed to PIA</p> <p>Specialist Interviewers identified</p> <p>Where appropriate, ABE arranged</p> <p>PSNI consider referral for Registered Intermediary</p>	<p>Joint Agency consideration of need for PIA and ABE interview (Section 5)</p>	<p>AJP3 completed if PIA agreed</p> <p>AJP4 and AJP4(a) if ABE interview required</p>

## MAHI - STM - 316 - 267

Closure				
<b>Stage 5</b>  Exit Joint Protocol Investigation	No further action under Protocol	Agreed by all agencies involved in investigation		Decisions recorded on AJP5
	PSNI single Agency Investigation	PSNI responsibility		Decisions recorded on AJP5
	PSNI progresses file to PPS	PSNI responsibility		Decisions recorded on AJP5
	Trust Single Agency Investigation	Trust continues single agency protection planning / agreed actions as appropriate		Decisions recorded on AJP5
	RQIA single agency	RQIA continues to consider regulatory issues and enforcement options as appropriate		Decisions recorded on AJP5

### **3.2 Initial Decision Making by HSC DAPO where there is insufficient information**

Where the HSC Trust DAPO is unable to make an informed decision as to whether a report to the PSNI is appropriate, the following range of options can be considered as part of the preliminary information gathering under the adult protection process:

- Further clarification to be sought from referrer and/or relevant others as part of a preliminary screening process;
- Allocation of the case to an HSC Trust IO for an initial assessment and/or implementation of an Interim Protection Plan

#### **Rationale for Initial Decision Making**

The HSC Trust DAPO may decide that an initial Trust single agency assessment or intervention is required. There should be a clear rationale to support this decision which may include:

- There is insufficient information regarding whether serious harm has been caused
- or***
- There is no indication from the information currently available that a relevant crime and/or a reportable offence has been committed
- or***
- There are safety concerns regarding the adult in need of protection and the HSC Trust considers that it is best placed to take immediate action to assess and/or manage this risk. The safety of any adult at risk/in need of protection or children will always be paramount in any investigation process. (The DAPO must also consider whether there are any safety issues for staff)
- or***
- There is insufficient information to determine if the adult in need of protection has the ability to give informed consent and there are no immediate protective actions required or actions under relevant offences.
- or***
- There are queries regarding the reliability of the information and further checks need to be carried out.

The list above is not exhaustive. Decisions need to be taken on a case by case basis and the application of professional judgement will be critical.

However there should be no delay in establishing whether there is a protection issue to be addressed.

The HSC Trust DAPO is required to consider whether an early referral to the PSNI is appropriate. The HSC Trust DAPO needs to be mindful not to jeopardise a potential PSNI investigation and all actions taken must be considered in this context. If there is the potential to secure forensic evidence and/or possible investigative opportunities, there should be no delay in making a report to the PSNI.

If the HSC Trust DAPO takes the decision that there a need for an initial HSC Trust single agency risk assessment, the HSC Trust DAPO will appoint an IO and give explicit instructions in relation to what actions are to be taken. The HSC Trust DAPO will determine what level of information and assessment is required in order to make an informed decision regarding the nature and level of intervention.

The agreed actions should be recorded on the Regional Adult Safeguarding forms (Appendix 14).

#### Initial Assessment by HSC Investigating Officer

IOs conducting interviews with the adult in need of protection should be mindful not to jeopardise any potential police investigations and be aware that information obtained may be used as part of any subsequent police investigation.

An initial assessment should, as a minimum, include:

- meeting with the adult in need of protection to establish the facts of the allegation to determine whether there are reasonable grounds to suspect that a crime may have occurred;
- advising the adult in need of protection of the options available to them in terms of making an informed decision regarding their wishes;
- where the concerns constitute a possible crime, advising the adult in need of protection of their right to a referral to the PSNI and providing them with an outline of the Protocol process;
- ascertaining what course of action the adult wishes to take;
- where a **relevant offence** or other reportable offences has taken place the adult in need of protection should be advised of the HSC Trust's legal obligation to report the matter to the PSNI. At this stage particular focus should

be given to the individual's human rights and if contravention of these rights is deemed necessary the rationale for this decision should be explained to the individual and recorded using the Regional Adult Safeguarding forms.

Every effort should be made to maximise the adult's capacity to make informed decisions. However if there are issues in relation to the adult's capacity then best interests principles should be applied and, where appropriate, their carer/family should be consulted.

The rights of the adult in need of protection are of paramount importance. However when the investigation and/or protection plan have the potential to infringe on the human rights of others, focused consideration needs to be given to this issue.

### **Critical Factors to be considered by the HSC Trust DAPO in the assessment process**

When there is sufficient information to make a professional judgement regarding whether the harm constitutes a potential crime, it is the role and responsibility of the HSC Trust DAPO to fully apply the guidance provided in Section 2.

In addition the following factors should be considered:

- where the person alleged to have caused harm is themselves an Adult at risk, consideration should be given to how best to proceed. This will include a requirement to review at the needs of the person who is alleged to have caused harm (see Section 2.4)
- where the information provided indicates that there are reasonable grounds to suspect that more than one person has been harmed or there are potentially more than one person alleged to have caused the harm, consideration should be given to whether the criteria for Organised or Multiple Abuse has been met.

While a number of cases may meet the criteria of organised or multiple abuse, it will be for the professionals involved to determine on a case by case basis whether the additional structures and supports available in these types of cases are required. Any decision not to avail of this should be agreed with senior managers and should be kept under review (Section 6 Large Scale or Complex Investigations).

- where the person under investigation is a member of staff or a paid carer there are potentially a number of investigative processes which will be required. These include a PSNI investigation, an investigation by the employing organisation, an adult safeguarding investigation and a referral to professional or regulatory body.

The interface between these investigative processes and the timescales for investigation should take into consideration the rights of the adult in need of protection and **also** the rights of the person under investigation. Any decision to delay an adult safeguarding or an agency investigation pending the outcome of a PSNI investigation should be kept under active review.

### **3.3 Application of Joint Protocol Threshold by HSC Trust DAPO**

The HSC Trust DAPO, having made a decision based on the available information and/or the initial assessment outcome of the specific case, will determine which of the following thresholds for intervention is deemed to be the most appropriate (see Section 2)

- a) Relevant crime and/or reportable crime referred to PSNI for joint agency investigation
- b) Joint Agency Consultation with PSNI to determine most appropriate option
- c) Criteria for not reporting to PSNI are met, in which case regional Adult Safeguarding Procedures should be followed

(Appendix 10 Joint Protocol flow charts)

### **3.4 Joint Agency Working**

In most situations it is expected that a level of joint agency collaborative working required. The nature of this will depend on the individual case and can include the HSC Trust, PSNI, RQIA and any other relevant organisations. The HSC Trust DAPO will have the lead role in co-ordinating any joint agency meetings required.

#### **Joint Agency Collaborative Working**

In cases where the PSNI are taking the lead investigative role but the HSC Trust continue to be involved with the adult(s) in need of protection, joint agency collaborative working will apply. This requires close liaison and communication between the key agencies. It is essential that all key agencies engage in strategy discussions or meetings to facilitate close communication and coordination and effective action plan.

Where the concern relates to an individual or group of individuals known to regulated services, RQIA will be a key partner in terms of joint agency working. Clarification of roles and responsibilities specific to the case and the development of an agreed action plan will be required.

## Joint Agency Investigations

It is critical that in joint agency investigations the two key agencies (PSNI and HSC Trust DAPO) work together to ensure that the adult in need of protection is supported in a manner which enables them to have equal access to the justice system. This begins with a process of joint agency strategy planning.

## Joint Agency Strategy Planning

The purpose of strategy planning is to:

- share and assess available information
- agree roles and responsibilities in conducting the investigation
- agree /review the interim protection plan
- gather additional information
- formulate a multi-agency plan for the assessment of risk
- address any protection issues
- address any investigation requirements
- consider referral to other agencies or services as required
- decide whether the ABE process may be applicable
- agree a communication strategy

A number of factors will determine which method is used for strategy planning, such as the urgency of the situation, the nature of the allegation, the type of investigation required and so on.

While initial strategy discussions can take place by telephone, a comprehensive planning session can only be achieved when all key personnel are present and can contribute to the risk management process. It is recommended that in most situations where joint agency working is required, a strategy planning meeting should take place.

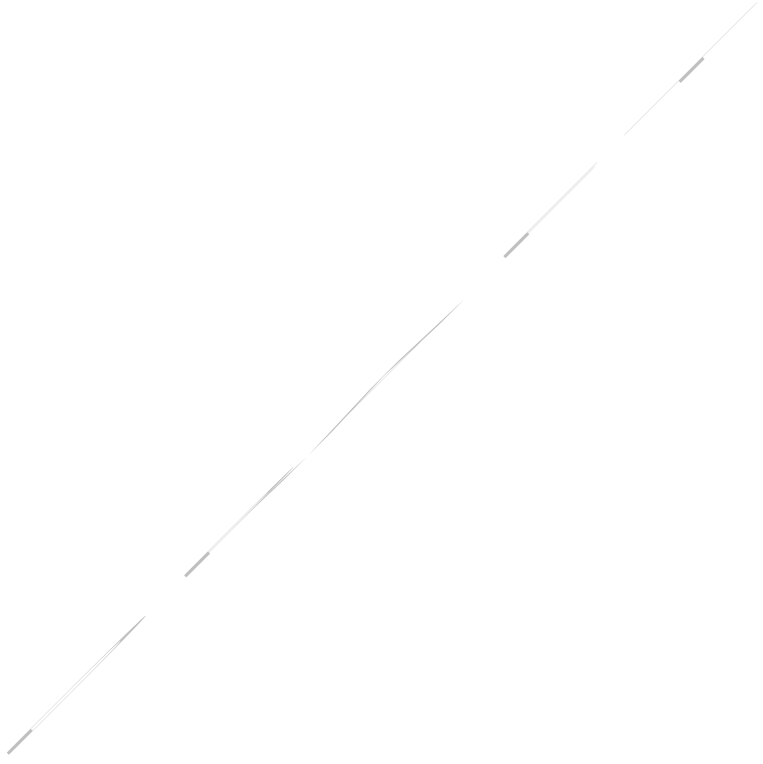
It is essential that the PSNI and HSC Trust are present at any strategy planning meeting. Decisions regarding the need for PSNI investigation will be reviewed in light of the information provided during the course of the meeting.

Where an allegation relates to a regulated service RQIA should be invited to attend the strategy planning meeting.



Joint Agency closure of case

It is acknowledged that the closure process can be lengthy, particularly in circumstances where a file has been sent to the PPS for a decision on whether a case will be taken forward to prosecution. Therefore it is essential that the agencies involved agree a strategy of closure including communication arrangements with adults in need of protection and relevant others when appropriate. Agreed actions should be recorded by all agencies involved and communicated by the identified lead agency, with clear arrangements in place for any ongoing work.



## SECTION 4

### **PSNI CRU Procedures when HSC Trust DAPOs make a referral and/or seek a joint agency consultation**

The HSC Trust DAPO should initially provide information on the AJP1 form via CJSM. Contact can then be made to discuss the details of the case.

The PSNI CRU Constable should establish from the information and discussion whether this relates to a report of a crime to be actioned or if this is a joint agency consultation to determine whether a criminal investigation is appropriate. Record checks should be carried out to inform the decision making process. Particular attention needs to be paid to the views and wishes of the adult in need of protection where they have the capacity to make informed decisions.

Officers need to consider issues of consent, capacity and human rights. A decision to proceed with an investigation against the expressed wishes of an adult in Need of protection is a breach of human rights and therefore any decision to do so must be supported by a clear rationale.

PSNI CRU will have the lead role in determining the most appropriate course of action, however joint agency discussion and decision making should take place where possible. In complex referrals where a joint agency strategy meeting is required, PSNI CRU will not be in a position to attend. Therefore referral information will be passed to the relevant Public Protection Branch and an officer from there will attend.

Section 3 of the AJP1 form should be completed by PSNI CRU, detailing the rationale for any decisions taken and agreed actions. The completed form should be shared between the HSC Trust and PSNI. Where a decision cannot be reached regarding this matter it should be raised immediately with the PSNI CRU Sergeant before any action is taken. If the case is to be allocated for investigation by PSNI, CRU will do this in line with the PSNI Crime Allocation Policy.

Collaborative working should be a feature throughout the Joint Protocol process, both at the point of referral and on allocation. This should ensure an agreed structure in terms of the investigation and protection planning (see Section 3.3 & 3.4).

See Appendix 11 PSNI and CRU Process Flow Chart.

### **Internal Reporting to PSNI CRU of Adult in Need of Protection referrals**

Where PSNI become aware of an Adult in Need of Protection case which meets the threshold for the Protocol they should report this to PSNI CRU without undue delay.

PSNI CRU will then complete the AJP1 form and share with the relevant HSC Trust, emailing via CJSM.

PSNI CRU will then contact the HSC Trust by telephone to discuss the referral and the normal process of liaison will take place with the appropriate HSC Trust DAPO to discuss and agree actions. Section 3 of the AJP1 will be completed and shared between PSNI and Trust to evidence this process.

### **Adult in Need of Protection Referred by the Public**

Where a member of the public rings the PSNI, existing call handling procedures will apply. Full details should be obtained and the occurrence tasked to the PSNI CRU whiteboard. If a call of this nature is received outside PSNI CRU operating hours, consideration should be given to the urgency and seriousness of the incident. In some situations there may be a need to maximise early investigative opportunities. If an immediate police response is required an appropriate call-sign/resource should be tasked as per existing practice. In all other circumstances the matter should be tasked to the PSNI CRU whiteboard as outlined above.

### **On Allocation**

Where matters have been agreed as a joint investigation or police only investigation, the PSNI will allocate the case to the relevant Public Protection Unit, local policing team or Reactive & Organised Crime Unit for further investigation (Appendix 11 flow chart re PSNI and CRU Processes).

Where a strategy meeting is required the relevant PSNI Investigating Officer will be expected to attend this meeting and any other related meetings required to ensure that a co-ordinated joint agency approach which supports the adult in need of protection is taken. In joint agency investigations close communication and co-ordination in relation to the investigation will be required. It is however important to note that in a single agency police investigation there will also be a need for ongoing communication to ensure that protection needs and/or any other actions can be progressed.

In complex cases PSNI may be asked to attend to provide advice and may be required to be members of the Strategic Management Group (see Section 6, Investigation of Organised or Multiple Abuse Cases).

For full details of procedures to be followed by PSNI, Officers should refer to Service Procedure 'Adults at Risk of Harm and Safeguarding Procedures' produced by Crime Operations, Public Protection Branch.

## SECTION 5

### **Special Measures Investigative Interviews**

The Criminal Evidence (NI) Order 1999 makes special provision for the gathering of evidence from adults in need of protection or intimidated witnesses.

Detailed guidance on interviewing adults as either adults in need of protection and/or intimidated witnesses, including victims, and the use of special measures in order to enable them to give their best evidence in criminal proceedings, is contained in “Achieving Best Evidence in Criminal Proceedings: Guidance on interviewing victims and witnesses, the use of special measures and the provision of pre-trial therapy (2012)”.

### **Pre-Interview Assessment**

In all situations where a decision has been taken to conduct a joint agency investigation PSNI and HSC Trust Specialist Interviewers should meet with the adult in need of protection and complete the AJP 3 form.

Only those staff that have completed specialist training will be eligible to conduct a pre-interview assessment (PIA).

The purpose of the PIA is to:

- establish with the individual whether they are willing to make a statement of complaint;
- discuss with the individual the options regarding how this statement may be made: video or ABE statement;
- discuss in full the investigative process and the possible use of Special Measures, including the use of a Registered Intermediary (RI) (Appendix 13). This discussion should highlight to the individual that the decision regarding whether the case goes forward to Court is a decision for the PPS. The decision regarding whether the video and/or statement or other form of Special Measures are used in Court is a decision for the trial Judge;
- discuss and agree the practical arrangements regarding conducting the ABE interview and complete the AJP4 and AJP4(a) forms (Appendix 14).

### **Achieving Best Evidence Interviews**

Only those staff that have completed further specialist training will be eligible to undertake the role of Interviewer and Second Interviewer in special measures investigative interviews.

The purpose of an investigative interview is to ascertain the witness's account of the alleged event(s) and any other information that would assist the investigation. A well conducted interview will only occur if appropriate planning has taken place. Interviews should be planned and carried out in accordance with Achieving Best Evidence Part 3A – Planning and Preparing for Interviews. The planning of the interview should be recorded using the AJP 4 form.

**NB: Interviewers must be given sufficient time prior to a special measures investigative interview to carry out this planning process.**

Information obtained in the planning process should be used to:

- set the aim and objectives for the interview
- determine the techniques used within the phased interview
- agree the means by which the interview is to be recorded
- who should conduct the interview and if anyone else should be present (including support for the witness such as an Interpreter or RI)
- if anybody should monitor the interview
- who will operate the equipment
- the location of the interview
- the timing of the interview
- the duration of the interview (including pace, breaks and the possibility of more than one session)
- what is likely to happen after the interview

Consideration should also be given to who is best qualified to lead the interview. The lead Interviewer should be a person who has or is likely to establish rapport with the adult in need of protection, who understands how to communicate effectively with witnesses who might become distressed and who has a proper grasp of the rules of evidence and criminal offences. The lead Interviewer must have a good knowledge of information important to the investigation, including the points needed to prove particular offences.

The presence of a Second Interviewer is desirable because they can help to ensure that the interview is conducted in a professional manner, can assist in identifying any gaps that emerge in the witness's account and can ensure that the witness's needs are kept paramount.

Statements of Evidence (PSNI Form 38/36) recorded in special measures investigative interviews will be retained by the PSNI for evidential purposes. A copy may be provided to the HSC Trust, provided that the adult in need of protection or their representative agrees.

Where an interview has been video-recorded, the original will be labelled and secured for court purposes by the PSNI. The working copy will be available for viewing by HSC Trusts by prior arrangement only. A log will be completed on each occasion that the tape is viewed by anyone which details the reason for viewing. This will be retained with the working copy of the tape.

Arrangements for viewing the tape by persons other than the HSC Trusts, or at any subsequent court hearing, will be the responsibility of the PSNI. PSNI General Order C(c) 70/96 must be complied with.

The police officer in charge of the case will be responsible as the prime keeper of all exhibits, including any drawings, letters, notes etc. made in the course of the special measures investigative interview. The disclosure of third party material which may be relevant to an investigation must only be made in compliance with the Criminal Procedures Investigation Act 1996.

## SECTION 6

### Investigation of Large Scale and Complex Abuse Cases

Complex (organised or multiple) abuse may be defined as abuse involving one or more abusers and a number of related or non-related adults at risk. The alleged abusers concerned may be acting in concert to abuse adults at risk, may be acting in isolation, or may be using an institutional framework or position of authority to access adults at risk.

Such abuse occurs both as part of a network across a family or community and within institutions such as residential or nursing homes, supported living facilities, day support settings and in other provisions such as voluntary groups. There may also be cases of adults at risk being abused through the use of the internet. Such abuse is profoundly traumatic for the adults at risk who become involved. Its investigation is time-consuming and demanding work which requires specialist skills from PSNI and HSC Trust staff.

Each investigation of organised or multiple abuse will be different, according to the characteristics of each situation and the scale and complexity of the investigation. However, every investigation will require careful and thorough planning, effective inter-agency working and attention to the needs of the adult(s) in need of protection and the adult(s) at risk involved.

Some investigations become extremely complex because of the number of people or places involved and the timescale over which the abuse is alleged to have occurred.

### Process for Investigation of Large Scale and Complex Abuse Cases

On receipt of information which may indicate organised or multiple abuse, the HSC Trust DAPO should immediately consider whether a report to the PSNI is appropriate. A Joint Agency Strategy Meeting with representatives from the key agencies should then take place as a matter of urgency to discuss and agree roles, responsibilities and an interim action plan.

Where the strategy meeting confirms that the investigation relates to organised or multiple abuse, a multi-agency Strategic Management Group will be appointed to oversee the process.

### Strategic Management Group

The Strategic Management Group (SMG) will manage and support the investigation and provide the necessary response to the needs of both the adult(s) in need of

protection and the adults at risk. The SMG is comprised of the following core representatives:

- PSNI;
- HSC Trust DAPO;
- a senior manager from the relevant HSC Trust adult Programme of Care; and
- RQIA (where the allegation relates to a regulated service).

The SMG will be convened and chaired by the appropriate agency. SMG representatives may co-opt representation from relevant other disciplines or agencies, dependant on the type of alleged abuse under investigation.

Appropriate legal advice will be necessary and should be sought through PSNI and HSC Trust legal advisers.

### Functions of the SMG

The SMG will:

- establish the principles and practice of the investigation and ensure regular review of progress against that plan;
- prioritise and allocate expedient resources to establish an Investigative Team within their respective agencies;
- ensure co-ordination between the key agencies and the Investigative Team within the HSC Trusts and PSNI. This includes resolving any interagency operational interface challenges between various established processes;
- ensure decisions of the strategy planning group are actioned in a timely manner.
- act in a consultative capacity to those professionals who are involved in the investigation;
- draw up a media strategy to respond to public interest issues and agree who will take responsibility for responding to media enquiries;
- have oversight of the agreed communication strategy/liaison with adults in need of protection/families and carers involved in the investigation;
- at the conclusion of the investigation, discuss salient features of the investigation with a view to making recommendations for improvements either in policy or in practice.
- The closing process must be signed off by the SMG in the case of a serious/complex Adult Protection situation.

Following agreement between the PSNI and HSC Trust that referral meets the criterion for organised or multiple abuse, the SMG will meet within 2 working days. Thereafter the SMG will meet as required to discuss and review the progress of the



investigation. The frequency will be determined by the complexity of the case. Managerial representation of the Investigative team will be present at each meeting of the SMG.

The aim of these meetings is to:

- Review all aspects of the strategy for investigation
- Provide advice on the appropriate strategic direction
- Ensure the continuing active co-operation of all relevant agencies
- Agree a response to victims, families and carers if appropriate
- Agree a joint media response
- Produce an accurate record of all meetings held.

At the conclusion of the investigation, the Joint Investigative Team should meet with the SMG to discuss salient features of the investigation with a view to making recommendations for improvements either in policy or in practice.

## SECTION 7

### **Information Management / Information Sharing / Records Management**

Adult Safeguarding: Prevention and Protection in Partnership Policy provides detailed information regarding requirements in relation to information management and information sharing. All organisations must comply with these requirements including PSNI, HSC Trusts and RQIA. It will be for each organisation to ensure they are meeting the requirements as detailed in this Policy. The Protocol must be considered within this context with agencies understanding their obligations within this.

In terms of record management it is important for all professionals involved in this process to keep factual, contemporaneous records and understand that these records are critical to the investigation. As records of investigations are likely to be subject to some level of review, judicial or otherwise and are also discoverable, accurate and timely record keeping is essential.

Manual/electronic record keeping should include a detailed rationale for decision making at all stages of the adult safeguarding process. This is particularly important when there are potential contraventions of an individual's Human Rights. Use of CJSM is considered an absolute requirement in this context.

## SECTION 8

### REFERENCES

- Safeguarding Vulnerable Adults: Regional Adult Protection Policy and Procedural Guidance  
Regional Adult Protection Forum (2006)
- The Protocol for the Joint Investigation of Alleged and Suspected Cases of Abuse of Vulnerable Adults (2003 and revised in 2009)  
Regional Adult Protection Forum (2006)
- Achieving Best Evidence in Criminal Proceedings (Northern Ireland)  
Department of Justice (2003, revised in 2010 and again in 2012)
- Safeguarding Vulnerable Adults: A Shared Responsibility  
Volunteer Now (2010),
- Adult Safeguarding in Northern Ireland: Regional and Local Partnership Arrangements  
Department of Health Social Services and Public Safety (DHSSPS) and the Northern Ireland Office (now Department of Justice) 2010
- The Victim Charter (Justice Act (Northern Ireland) 2015) Order 2015;
- The Victim Charter – a Charter for Victims of Crime, published by DOJ in September 2015
- MARAC – Operating Protocol for Northern Ireland Multi-agency Risk Assessment Conferences (August 2014);
- Guidance to Agencies on Public Protection Arrangements (PPANI) Article 50, Criminal Justice (Northern Ireland) Order 2008;
- Working Arrangements for the Welfare and Protection of Adult Victims of Human Trafficking (October 2012);
- The Health and Personal Social Services (Quality, Improvement and Regulation) (Northern Ireland) Order 2003.

## SECTION 9

### GLOSSARY OF TERMS

**Abuse** is ‘a single or repeated act, or lack of appropriate action, occurring within any relationship where there is an expectation of trust, which causes harm or distress to another individual or violates their human or civil rights’ Abuse is the misuse of power and control that one person has over another. It can involve direct and indirect contact and can include online abuse.

**ABE (Achieving Best Evidence) Interviewer** – The Specialist Achieving Best Evidence Interviewer must be a professionally qualified Social Worker. The Specialist Interviewer will be responsible for planning and conducting interviews with service users who may have been the victim of a crime. These interviews will be undertaken jointly with the PSNI and in accordance with the guidance laid out in “Protocol for Joint Investigation of Adult Safeguarding cases” and “Achieving Best Evidence in Criminal Proceedings.”

**Adult Protection Gateway Service** – is the central referral point within the HSC Trust for all concerns about an adult who is, or may be, at risk.

**Adult Safeguarding** - encompasses both activity which **prevents** harm from occurring in the first place and activity which **protects** adults at risk where harm has occurred or is likely to occur without intervention.

**Adult at risk of harm** – A person aged 18 or over, whose exposure to harm through abuse, exploitation or neglect may be increased by their:

iii) **personal characteristics** (*may include but are not limited to age, disability, special educational needs, illness, mental or physical frailty or impairment of, or disturbance in, the functioning of the mind or brain*);

**and/or**

iv) **life circumstances** (*may include, but are not limited to, isolation, socio-economic factors and environmental living conditions*);

**Adult in need of protection** - An adult at risk of harm (above):

iii) who is **unable to protect** their own well-being, property, assets, rights or other interests;

**and**

iv) where the **action or inaction of another person or persons** is causing, or is likely to cause, him/her to be harmed.

**ASC (Adult Safeguarding Champion)** - The ASC should be within a senior position within the organisation and should be suitably skilled and experienced to

carry out the role. The ASC provides strategic and operational leadership and oversight in relation to adult safeguarding for an organisation or group and is responsible for implementing its adult safeguarding policy statement. The ASC is also the main point of contact with HSC Trusts and the PSNI for all adult safeguarding matters.

**Case Conference** - The purpose of the case conference is to evaluate the available evidence and to determine an outcome based on balance of probability

**CRU (Central referral Unit)** – The central point of referral to PSNI in relation to adult protection is based in Belfast.

**CJINI** (Criminal Justice Inspection Northern Ireland) - an independent legal inspectorate with responsibility for inspecting all aspects of the criminal justice system in Northern Ireland apart from the judiciary. It also inspects a number of other agencies and organisations that link into the criminal justice system

**Domestic Abuse** - Domestic violence and abuse is threatening behaviour, violence or abuse (psychological, physical, verbal, sexual, financial or emotional) inflicted on one person by another where they are or have been intimate partners or family members, irrespective of gender or sexual orientation. Domestic violence and abuse is essentially a pattern of behaviour which is characterised by the exercise of control and the misuse of power by one person over another. It is usually frequent and persistent. It can include violence by a son, daughter, mother, father, husband, wife, life partner or any other person who has a close relationship with the victim. It occurs right across society, regardless of age, gender, race, ethnic or religious group, sexual orientation, wealth, disability or geography.

**Designated Adult Protection Officer (DAPO)** – the person responsible for the management of each referral received by a HSC Trust. DAPOs will be in place both within the Adult Protection Gateway Service, and within core service teams. The DPAO will provide formal / informal support and debriefing to the Investigating Officer / ABE interviewer; analyse the adult safeguarding data within their service area and contribute to the governance arrangements as appropriate; and ensure that the connections are made with related interagency mechanisms.

DBS (Disclosure and Barring Service - helps employers make safer recruitment decisions and prevent unsuitable people from working with vulnerable groups, including children. It replaces the Criminal Records Bureau (CRB) and Independent Safeguarding Authority (ISA).

**Exploitation** - the deliberate maltreatment, manipulation or abuse of power and control over another person; to take advantage of another person or situation usually, but not always, for personal gain from using them as a commodity. It may manifest itself in many forms including slavery, servitude, forced or compulsory labour, domestic violence and abuse, sexual violence and abuse, or human

trafficking.

**FGC (Family Group Conferencing)** - A family group conference is a process led by family members to plan and make decisions for a person who is at risk. People are normally involved in their own family group conference, although often with support from an advocate. It is a voluntary process and families cannot be forced to have a family group conference.

**Hate Crime** - Hate crime is any incident which constitutes a criminal offence perceived by the victim or any other person as being motivated by prejudice, discrimination or hate towards a person's actual or perceived race, religious belief, sexual orientation, disability, political opinion or gender identity.

**Harm** - the impact on the victim of abuse, exploitation or neglect. It is the result of any action whether by commission or omission, deliberate, or as the result of a lack of knowledge or awareness which may result in the impairment of physical, intellectual, emotional, or mental health or well-being.

**Investigating Officer (IO)** - is a HSC Trust professionally qualified practitioner. Their role is to establish matters of fact, how best to protect the adult in need of protection and/or others, to explore alternatives available and to provide advice and support. The Investigating Officer alongside relevant professionals will be responsible for direct contact with the adult in need of protection, their carers and relevant others.

**The Protocol – (Protocol for Joint Investigation of Adult Safeguarding Cases)** - - The Protocol sets out a framework for joint working in a complex area of practice and emphasises the need to involve all other relevant agencies in information sharing, early assessment and the planning process. The overall aim of the Protocol is to prevent abuse by promoting a multi-agency approach to the protection of vulnerable adults, and to ensure that they receive equitable access to justice in a way that promotes their rights and well-being.

**LASP (Local Adult Safeguarding Partnerships)** - The five local multi-agency, multi-disciplinary partnerships located within their respective HSC Trusts.

**MARAC (Multi Agency risk Assessment Conference )** - It is a forum for local agencies to meet with the aim of sharing information about the highest risk cases of domestic violence and abuse and to agree a safety plan around victims.

**Modern Slavery** - Human trafficking involves the acquisition and movement of people by improper means, such as force, threat or deception, for the purposes of exploiting them. It can take many forms, such as domestic servitude, forced criminality, forced labour, sexual exploitation and organ harvesting. Victims of human trafficking can come from all walks of life; they can be male or female, children or adults, and they may come from migrant or indigenous communities.

**NIASP (Northern Ireland Adult Safeguarding Partnership)** – The regional multi-agency, multi-disciplinary partnership that brings together representatives from organisations and communities of interest who have a significant contribution to make to adult safeguarding.

**NISCC (Northern Ireland Social Care Council)** – is the independent regulatory body for the NISC workforce, established to increase public protection by improving and regulating standards of training and practice for social care workers.

**NMC (Nursing and Midwifery Council)** – is the independent regulator for nurses and midwives in England, Wales, Scotland and Northern Ireland. NMC sets standards of education, training, conduct and performance so that nurses and midwives can deliver high quality healthcare throughout their careers.

**Protection Plan** - A plan agreed with the adult at risk (or the person representing them or their best interests) detailing the actions to be taken, with timescales and responsibilities, to support and protect the person from harm.

**Registered Intermediary** - RIs have a range of responsibilities intended to help adult witnesses who are in need of protection, defendants and criminal justice practitioners at every stage of the criminal process, from investigation to trial.

**RQIA (Regulation and Quality Improvement Authority)** - Northern Ireland's independent health and social care regulator, responsible for monitoring and inspecting the availability and quality of health and social care services in Northern Ireland, and encouraging improvements in the quality of those services.

**SAI (Serious Adverse Incident)** - An adverse incident is an event which causes, or has the potential to cause, unexpected or unwanted effects that will involve the safety of patients, staff, users and other people.

**Serious Harm** – is a professional decision considering the impact, extent, degree, duration and frequency of harm; the perception of the person and their preferred outcome.

**Single Agency Investigation** – A single agency adult protection investigation is a **professional assessment** which analyses the risk of harm and serious harm, the impact of that harm on the adult in need and determines if this may have led to abuse. Such assessment requires experienced professional judgement to ensure outcomes are proportionate, necessary and lawful.

**Special Measures** - The measures specified in the Criminal Evidence (NI) Order 1999, as amended, which may be ordered in respect of some or all categories of eligible witnesses by means of a special measures direction. The special measures are the use of screens; the giving of evidence by live link; the giving of evidence in private; the removal of wigs and gowns; the showing of video recorded evidence in chief, and aids to communication.

**SMG (Strategic Management Group)** – has responsibility to oversee the process of investigation. Core representatives of SMG are PSNI; HSC Trust nominated Adult protection Gateway DAPO; a senior manager from the relevant adult programme of care; and RQIA (where the allegation relates to a regulated service).

**Strategy Meeting** - In complex situations the strategy discussion is normally a meeting of key people to decide the process to be followed after considering the initial available facts.





## APPENDICES

### *Appendix 1*

#### **Definitions of Abuse, Neglect, Exploitation and Related Definitions**

**Abuse** is 'a single or repeated act, or lack of appropriate action, occurring within any relationship where there is an expectation of trust, which causes harm or distress to another individual or violates their human or civil rights'.

Abuse is the misuse of power and control that one person has over another. Abuse may be perpetrated by a wide range of people who are usually physically and/ or emotionally close to the individual and on whom the individual may depend and trust. This may include but is not limited to, a partner, relative or other family member, a person entrusted to act on behalf of the adult in some aspect of their affairs, a service or care provider, a neighbour, a health or social care worker or professional, an employer, a volunteer, another service user. It may also be perpetrated by those who have no previous connection to the victim. All forms of abuse may constitute a crime.

The main forms of abuse are:

#### **Physical abuse**

Physical abuse is the use of physical force or mistreatment of one person by another which may or may not result in actual physical injury. This may include hitting, pushing, rough handling, exposure to heat or cold, force feeding, improper administration of medication, denial of treatment, misuse or illegal use of restraint and deprivation of liberty.

#### **Sexual violence and abuse**

Sexual abuse is any behaviour perceived to be of a sexual nature which is unwanted or takes place without consent or understanding<sup>6</sup>. Sexual violence and abuse can take many forms and may include non-contact sexual activities, such as indecent exposure, stalking, grooming, being made to look at or be involved in the production of sexually abusive material, or being made to watch sexual activities. It may involve physical contact, including but not limited to non-consensual penetrative sexual activities or non-penetrative sexual activities, such as intentional touching (known as groping). Sexual violence can be found across all sections of society, irrelevant of gender, age, ability, religion, race, ethnicity, personal circumstances, financial background or sexual orientation.

**Psychological / emotional abuse**

Psychological / emotional abuse is behaviour that is psychologically harmful or inflicts mental distress by threat, humiliation or other verbal/non-verbal conduct. This may include threats, humiliation or ridicule, provoking fear of violence, shouting, yelling and swearing, blaming, controlling, intimidation and coercion.

**Financial abuse**

Financial abuse is actual or attempted theft, fraud or burglary. It is the misappropriation or misuse of money, property, benefits, material goods or other asset transactions which the person did not or could not consent to, or which were invalidated by intimidation, coercion or deception. This may include exploitation, embezzlement, withholding pension or benefits or pressure exerted around wills, property or inheritance.

**Institutional abuse**

Institutional abuse is the mistreatment or neglect of an adult by a regime or individuals in settings which adults who may be at risk reside in or use. This can occur in any organisation, within and outside the HSC sector. Institutional abuse may occur when the routines, systems and regimes result in poor standards of care, poor practice and behaviours, inflexible regimes and rigid routines which violate the dignity and human rights of the adults and place them at risk of harm. Institutional abuse may occur within a culture that denies, restricts or curtails privacy, dignity, choice and independence. It involves the collective failure of a service provider or an organisation to provide safe and appropriate services, and includes a failure to ensure that the necessary preventative and/or protective measures are in place.

**Neglect** occurs when a person deliberately withholds, or fails to provide, appropriate and adequate care and support which is required by another adult. It may be through a lack of knowledge or awareness, or through a failure to take reasonable action given the information and facts available to them at the time. It may include physical neglect to the extent that health or well-being is impaired, administering too much or too little medication, failure to provide access to appropriate health or social care, withholding the necessities of life, such as adequate nutrition, heating or clothing, or failure to intervene in situations that are dangerous to the person concerned or to others particularly when the person lacks the capacity to assess risk. This policy does not include self-harm or self-neglect within the definition of an 'adult in need of protection'. Each case will require a professional Health and Social Care (HSC) assessment to determine the appropriate response and consider if any underlying factors require a protection

response. For example self-harm may be the manifestation of harm which has been perpetrated by a third party and which the adult feels unable to disclose.

**Exploitation** is the deliberate maltreatment, manipulation or abuse of power and control over another person; to take advantage of another person or situation usually, but not always, for personal gain from using them as a commodity. It may manifest itself in many forms including slavery, servitude, forced or compulsory labour, domestic violence and abuse, sexual violence and abuse, or human trafficking. This list of types of harmful conduct is neither exhaustive, nor listed here in any order of priority. There are other indicators which should not be ignored. It is also possible that if a person is being harmed in one way, he/ she may very well be experiencing harm in other ways.

### **Domestic violence and abuse**

Domestic violence and abuse is threatening behaviour, violence or abuse (psychological, physical, verbal, sexual, financial or emotional) inflicted on one person by another where they are or have been intimate partners or family members, irrespective of gender or sexual orientation. Domestic violence and abuse is essentially a pattern of behaviour which is characterised by the exercise of control and the misuse of power by one person over another. It is usually frequent and persistent. It can include violence by a son, daughter, mother, father, husband, wife, life partner or any other person who has a close relationship with the victim. It occurs right across society, regardless of age, gender, race, ethnic or religious group, sexual orientation, wealth, disability or geography.

### **Human trafficking**

Human trafficking involves the acquisition and movement of people by improper means, such as force, threat or deception, for the purposes of exploiting them. It can take many forms, such as domestic servitude, forced criminality, forced labour, sexual exploitation and organ harvesting. Victims of human trafficking can come from all walks of life; they can be male or female, children or adults, and they may come from migrant or indigenous communities.

### **Hate crime**

Hate crime is any incident which constitutes a criminal offence perceived by the victim or any other person as being motivated by prejudice, discrimination or hate towards a person's actual or perceived race, religious belief, sexual orientation, disability, political opinion or gender identity. Victims of domestic violence and abuse, sexual violence and abuse, human trafficking and hate crime are regarded as adults in need of protection. There are specific strategies and mechanisms in

place designed to meet the particular care and protection needs of these adults and to promote access to justice through the criminal justice system. It is essential that there is an interface between these existing justice-led mechanisms and the HSC Trust adult protection arrangements described in this policy.



**HSC Trust contact details**

<b>HSC Trust</b>	<b>Adult Safeguarding Number</b>
Belfast	028 9504 1744
Northern	028 2563 5512
Western	028 7161 1366
South Eastern	028 9250 1227
Southern	028 3741 2015/2354

**Regional Emergency Social Work Service (RESWS)**

Tel: 028 9504 9999 (Mon-Fri 5pm-9am; Saturday & Sunday)

**HSC Trust Child Protection Contact Details**

<b>HSC Trust</b>	<b>Child Protection Gateway Number</b>
Belfast	028 9050 7000
Northern	0300 1234 333
Western	028 7131 4090
South Eastern	0300 1000 300
Southern	0800 7837 745

PSNI Contact Details

Immediate report to if there is imminent danger to a person.	PSNI via 999
PSNI Central Referral Unit (CRU)  CRU Hours	Contact Number 02890259299  Mon-Fri 8am-9pm; Sat & Sun 9am-5pm
At all other times	101

Completed AJP1 form should be emailed via CJSM secure email system to:

**CRU@psni.**

**pnn.police.uk.cjasm.net**

In historical child abuse cases, completed PJI1 form should be emailed via CJSM secure email to:

**CRU@psni.pnn.police.uk.cjasm.net**

### **Public Prosecution Service (PPS) – The Test for Prosecution**

The Code for Prosecutors provides guidance on how the Public Prosecution Service makes decisions about whether or not to prosecute. It is a public document and is available upon request or can be found on the PPS website at [www.ppsni.gov.uk](http://www.ppsni.gov.uk).

Prosecutions are initiated or continued by the Public Prosecution Service only where it is satisfied that the Test for Prosecution is met. This is a two stage test as follows;

- i. The Evidential Test - the evidence which can be adduced in court is sufficient to provide a reasonable prospect of conviction; and
- ii The Public Interest Test - prosecution is required in the public interest.

The Public Prosecutor will analyse and evaluate all of the material submitted in a thorough and critical manner. The Evidential Test must be passed before the Public Interest Test can be considered. Each of these Tests must be separately considered and passed before a decision to prosecute can be taken.

#### **The Evidential Test**

Public Prosecutors determine whether there is sufficient evidence to provide a reasonable prospect of conviction against each defendant on each charge.

A reasonable prospect of conviction exists if, in relation to an identifiable individual, there is credible evidence which can be adduced before a court upon which evidence an impartial jury or judge properly directed in accordance with the law, may reasonably be expected to find proved beyond reasonable doubt the commission of a criminal offence by the person who is prosecuted. It is necessary that each element of this definition is fully examined when considering the Evidential Test for each particular case.

The police will gather all available evidence and report the case to the PPS. The Public Prosecutor will consider the evidence carefully and make a decision as quickly as possible. If necessary the Public Prosecutor may have to seek further information from police to enable a decision to be made. The PPS will also try to ensure that cases progress through the court without unnecessary delay.

#### **The Public Interest Test**

If a case passes the Evidential Test, the Public Prosecutor must decide if a prosecution is required in the public interest.

Prosecutors must exercise their discretion as to whether a prosecution is required in the public interest. The granting of such discretion to the prosecutor is consistent with the prosecution process in similar legal jurisdictions. In taking decisions as to prosecution the prosecutor is taking decisions for the benefit to society as a whole.

Broadly, the presumption is that the public interest requires prosecution where there has been a contravention of the criminal law. This presumption provides the starting point for consideration in each individual case. A prosecution will usually take place unless there are public interest factors tending against prosecution which clearly outweigh those tending in favour. However, there are circumstances in which, although the evidence is sufficient to provide a reasonable prospect of conviction, a court based outcome is not required in the public interest. For example, Public Prosecutors should positively consider the appropriateness of prosecuting by way of a diversionary disposal, particularly where the defendant is a young person or a vulnerable adult.

In deciding whether a prosecution is required in the public interest, prosecutors should take into account the views expressed by the victim and the impact of the offence on a victim and, in appropriate cases, their family, where such views are available. However PPS does not represent victims or their families in the same way as solicitors act for their clients. It is the duty of Public Prosecutors to form an overall view of the public interest.



**RQIA Contact details**

The Regulation and Quality Improvement Authority  
 9th Floor Riverside Tower  
 5 Lanyon Place  
 BELFAST BT1 3BT  
 info@rqia.org.uk  
 028 9051 7500 - telephone  
 028 9051 7501 – fax

The Regulation and Quality Improvement Authority  
 Hilltop  
 Tyrone and Fermanagh Hospital  
 Omagh  
 Co Tyrone BT79 0NS  
 028 8224 5828 - telephone  
 028 8225 2544 - fax

**List of Regulations Relating To Regulated Services**

Potential Articles relating to RQIA Enforcement Procedures for Regulated Services:

- Improvement Notice - *Article 39 of the 2003 Order*
- Failure to Comply Notice – *Article 15 of the 2003 Order*
- Notice of Proposal to Cancel, Refuse, Vary, and Remove or Impose Conditions in Relation to Registration – *Article 18 of the 2003 Order*
- Issuing of a Notice of Decision – under *Articles 18 & 20 of the 2003 Order*
- Urgent Procedure for Cancellation of Registration or to Vary, Remove or Impose a Condition of Registration – *Article 21 of the 2003 Order*
- Appeals to the Care Tribunal – *outlined under Article 22 of the 2003 Order*

The Residential Care Homes Regulations (Northern Ireland) 2005  
 The Children's Homes Regulations (Northern Ireland) 2005  
 The Nursing Homes Regulations (Northern Ireland) 2005  
 The Nursing Agencies Regulations (Northern Ireland) 2005  
 The Independent Health Care Regulations (Northern Ireland) 2005  
 The Day Care Setting Regulations (Northern Ireland) 2007  
 The Residential Family Centres Regulations (Northern Ireland) 2007  
 The Domiciliary Care Agencies Regulations (Northern Ireland) 2007  
 The Adult Placement Agencies Regulations (Northern Ireland) 2007  
 The Voluntary Adoption Agencies Regulations (Northern Ireland) 2010

**Definitions of Harm and Serious Harm and factors to be considered in the assessment of the seriousness of harm and risk of harm**

**What is meant by harm?**

Adult Safeguarding – Prevention and Protection in Partnership 2015 notes that harm resulting from abuse, exploitation or neglect can be experienced by adults in a range of circumstances, regardless of age, class or ethnicity. Harm is the impact on the victim of abuse, exploitation or neglect. It is the result of any action whether by commission or omission, deliberate or as the result of a lack of knowledge or awareness, which may result in the impairment of physical, intellectual, emotional, or mental health and well-being. This includes:

(i) **Conduct which causes physical harm**, i.e. physical mistreatment of one person by another which may or may not result in physical injury. This may include, among other things, hitting; slapping; pushing or pulling; kicking; rough handling; shaking; exposure to heat and cold; not giving adequate food or drink; force-feeding; unreasonable confinement (e.g. locked in, tied to a bed or chair); the improper administration of drugs or treatments or the denial of prescribed medication; misuse of medication; misuse or illegal use of restraint, or physical interventions and/or deprivation of liberty; misuse of manual handling techniques; or inappropriate sanctions (e.g. controlling access to personal resources or withholding basic necessities of life such as food and drink).

(ii) **Conduct which causes sexual harm**, i.e. the involvement of a person in sexual activities or relationships that either he or she does not want and has not consented to or cannot consent to. This may include, among other things, use of offensive, suggestive or sexual language; indecent exposure; inappropriate touching; not allowing expression of sexuality; withholding appropriate educational information; sexual harassment; sexual assault; rape; 'grooming'; 'stalking'; or human trafficking.

(iii) **Conduct which causes psychological harm**, i.e. behaviour that is psychologically harmful or inflicting mental distress by threat, humiliation or other verbal/non-verbal conduct. This may include, among other things, threats of harm or abandonment; withholding of security, affection, care or support; deprivation of contact; provoking fear of violence; threat of institutional care; humiliation or ridicule; denial of the opportunity for privacy; shouting, yelling and swearing; blaming; controlling; intimidation; coercion; harassment; isolation or withdrawal from services supportive networks or cyber bullying/threats

(iv) **Conduct which causes financial, property or material harm**, i.e. misappropriation or misuse of money, material goods or other assets; transactions to which the person did not consent to, could not consent to, or which were invalidated by intimidation or deception. This may include, among other things, theft; fraud; exploitation; embezzlement; withholding pension; not spending allowances on the individual; denying the person access to his or her money; misuse of benefits; mismanagement of bank accounts; pressure in connection with wills, property, inheritance or financial transactions; unreasonable restriction of a person's right to control his or her life in financial/material terms.

(v) **Neglect** is the deliberate withholding, or failure through a lack of knowledge or awareness, to provide appropriate and adequate care and support, which is necessary for the adult to carry out daily living activities. It may include, among other things, the physical neglect of someone to such an extent that health, development and/or well-being is impaired; administering too much or too little medication; failure to provide access to appropriate health, social care or educational services; withholding the provision of the necessities of life such as adequate nutrition, heating or clothing; failure to intervene in situations that are assessed as being dangerous to the person concerned or to others, particularly when the person lacks the capacity to assess risk.

(vi) **Institutional harm**, which can occur in care settings and services as a result of poor standards, practices and behaviours, inflexible regimes and rigid routines, that place adults at risk and which violate their human rights. It involves the collective failure of an organisation to provide safe and appropriate services, and includes a failure to ensure that the necessary preventive and/or protective measures are in place; failure to maintain good standards of care in accordance with individual needs; failure to properly train, manage and supervise staff; poor record keeping; an inability or unwillingness to implement best practice guidelines; poor liaison with other providers of care; a culture that denies, restricts or curtails the dignity, privacy, choice, independence or fulfilment of adults at risk.

Generally, harm falls into one or more of the six categories listed above. However, it is important to recognise its manifestation in other ways, including

(i) **Domestic violence and abuse** is essentially a pattern of behaviour which is characterised by the exercise of control and the misuse of power by one person over another within an intimate relationship or a family. It is usually frequent and persistent. It can include violence by a son, daughter or any other person who has a close or blood relationship with the victim. It can occur right across society and is not bound by age, gender, race, ethnic or religious group, sexual orientation, wealth, disability or geography. **Forced marriage** of an adult, who may be unwilling or lack the capacity to agree to getting married is an abuse of human rights and is a form of domestic abuse, and should be treated as such. A clear distinction must be made between a forced marriage and an arranged marriage.

In arranged marriages, the families of both spouses take a leading role in arranging the marriage but the choice whether or not to accept the arrangements remains with the adult or young person. In forced marriage one or both spouses do not consent to the marriage and some element of duress is involved. Duress may include conduct which causes physical and or emotional harm. **Honour-based violence or honour crime** are also forms of domestic abuse and encompass a variety of crimes of violence (mainly but not exclusively against women), including assault, imprisonment and murder, where the person is being punished by their family or their community for actually, or allegedly, undermining what the family or community believes to be the correct code of behaviour.

(ii) **Hate crime** is any incident which constitutes a criminal offence, perceived by the victim or any other person as being motivated by prejudice or hate towards a person's actual or perceived race; faith or religion; sexual orientation; disability; political opinion or gender identity. The legislative provisions underpinning hate crime offences and penalties in Northern Ireland are set out in the Public Order (Northern Ireland) Order 1987 and the Criminal Justice (No2) (Northern Ireland) Order 2004.

(iii) **Human trafficking** involves the recruitment, transportation, transfer, harbouring or receipt of persons, by means of threat or use of force or other forms of coercion, abduction, fraud, of deception, of the abuse of power or of a position of vulnerability, or of the giving or receiving of payments or benefits to achieve the consent of a person, or have control over another person for the purpose of exploitation. There are many forms of exploitation, including prostitution or other types of sexual exploitation, forced labour, slavery, domestic servitude or the removal of organs. Human trafficking should be differentiated from 'people smuggling' which is normally defined as the facilitation of entry to the UK either secretly or by deception (whether for profit or otherwise). The immigrants concerned are normally complicit in the offence so that they can remain in the UK illegally. There is normally little coercion/violence involved or required from those assisting in the smuggling.

(iv) **Harm through discrimination** may manifest itself as any of the other categories of harm previously set out. What is distinctive, however, is that it is motivated by oppressive and discriminatory attitudes towards a person's disability; mental disorder; physical and/or mental infirmity; race; gender; age; religious belief; political opinion; cultural background; appearance; marital status; sexual orientation; whether or not he/she is a carer; or any other aspect of a person's individuality.

(v) **Harm by a professional/staff member** is the misuse of power and abuse of trust by professionals/staff members; the failure to adhere to best practice guidelines and professional codes of conduct/practice; the failure of professionals/staff members to act on suspected abuse/crimes, poor care practice

or neglect in services, resource shortfalls or service pressures that lead to service failure and culpability as a result of poor management systems.

The examples listed in each of the categories above are not exhaustive nor should they be taken as definitive proof that harm has taken place. There may be other indicators which should not be ignored. Also, some indicators may point to more than one form of harm; often if a person is being harmed in one way, he or she is being harmed in other ways. Any suggestion that all is not well should be seen as an indicator of possible harm of one form or another. It is important that any safeguarding concern is acted upon to ensure that the appropriate preventive or protective response is made.

All harm caused to adults in need of protection adult should be responded to in the context of safeguarding. It is recognised that the level of response needs to be sensitive and proportionate to the specific harm caused.

### **Factors to be considered in the assessment of the seriousness of harm and risk of potential harm**

Consideration of the seriousness of harm and risk are central to determining which response is the most appropriate and key to establishing whether the threshold for a protective investigation/intervention has been met.

The criteria of what constitutes serious harm is imprecise and demands a careful application of professional judgment along with consideration of the available evidence, concerns raised, degree of risk and other matters relating to the individual and his or her context. Sometimes, a single traumatic event may constitute serious harm, e.g. a violent assault, sexual assault, suffocation or poisoning. More often, it is a series of events, both acute and long-standing, which interrupt, change or damage the individual's physical and/or psychological well-being. Also, it is important to note that harm does not need to be deliberate, that is, intent does not always have to be present to elevate harm to a level of seriousness, which might trigger a protective investigation/intervention. Any assessment of seriousness and risk should include

- (a) the impact on the adult at risk, e.g. what is the degree of distress experienced; how resilient is the individual and his/her support networks;
- (b) the reactions, perceptions, wishes and feelings of the adult at risk, e.g. how has the person responded; is he/she: shocked/resigned/cowed; aware of the harm caused;
- (c) the frailty or vulnerability of the adult at risk, e.g. any special needs, such as a medical condition, communication impairment or disability that may affect care and support within the family;
- (d) the ability of the adult at risk to consent, e.g. does he or she understand the nature of the concerns raised and the choices he or she faces;
- (e) the illegality of the act or acts, e.g. has a criminal offence taken place;

- (f) the nature, degree and extent of the harm, e.g. has it caused injury to the person's physical, sexual, psychological or financial wellbeing or property;
- (g) the pattern of the harm causing behaviour, e.g. its intensity and frequency; one-off event or part of a long-standing pattern; have there been previous concerns (consider this in the widest sense, i.e. not just previous safeguarding referrals, but also whether the adult at risk has been a victim of anti-social behaviour, etc.);
- (h) the level of threat to the individual's right to independence, e.g. the extent of support the person usually needs, and whether, and how much of, that support is normally provided by the alleged perpetrator;
- (i) the intent of the person alleged to have caused the harm and extent of premeditation, and the presence or degree of threat, coercion, sadism, and bizarre or unusual elements, e.g. was this a deliberate act or a lack of awareness; was it a serious unprofessional response to difficulties in care giving; what is the attitude of the person alleged to have caused the harm now regarding the incident;
- (j) the relationship between the person alleged to have caused the harm and the adult at risk, e.g. a balanced consideration of any positive benefits which the person may get from the relationship with the person alleged to have caused the harm/abusive situation;
- (k) the context in which the alleged harm takes place, e.g. in a relationship; at home or in a care setting; in the context of a duty of care or trust that has been breached;
- (l) the risk of repetition or escalation of harm involving increasingly serious acts relating to this individual or other adults at risk, to children under the age of 18 who may be at risk, or to the wider public, e.g. is there a risk that serious harm could result if no action is taken; is immediate protective action required; and
- (m) the factors which mitigate the risk (protective factors), e.g. support services in place; awareness of what constitutes harm; awareness of how to raise concerns/seek help.

Consideration should also have to be given to the vulnerability of the person alleged to have caused the harm, e.g. are they an adult in need of protection or a child under the age of 18? If so, what actions are needed to support and safeguard them? Making a judgement here may mean having regard to some or all of the factors listed to inform the appropriate course of action.

The list of factors set out above is not exhaustive, and does not imply a hierarchy of importance; their analysis may point to a particular kind of response. In this context, it will also be necessary to:

- evaluate the reliability of the evidence upon which an assessment is made;
- consider any disparity between the strength of conviction of the person reporting the safeguarding concern (e.g. what was the basis of his/her concern or purpose in raising it), and the outcome of the assessment; and
- determine the need for further information gathering.

The safeguarding response made, however, should not undermine the risks identified and the outcomes sought.

**Where an adult in need of protection has the ability to consent, appears to be able to make informed choices and is not being unduly intimidated, the available options should be explored with him/her and his/her wishes respected, unless these conflict with a statutory duty to intervene, or unless another person(s) is considered to be at risk.**

## **Human Rights, Consent and Capacity, The European Convention for the Protection of Human Rights and Fundamental Freedoms (Human Rights Act 1998)**

### **Human Rights - Consent & Capacity**

The Human Rights Act 1998 has been fully effective from 2nd October 2000. It incorporates the European Convention for the Protection of Human Rights and Fundamental Freedoms into United Kingdom Domestic Law. This makes it unlawful for public authorities to act in a manner which is incompatible with the rights and freedoms guaranteed by the Convention sets out the main Convention Rights enshrined in the 1998 Act.

Decisions taken not to comply with the wishes of the adults in need of protection adult/adult at risk may constitute a breach of Human Rights legislation. Where consideration is being given not to comply with the wishes of the adults in need of protection adult/adult at risk, the decision taken must be lawful, proportionate and in keeping with what is in the public interest.

Public authorities can interfere with an individual's rights providing it is lawful, proportionate and necessary in a democratic society.

**Lawful** means 'prescribed by law' and the legal basis for any restriction on rights and freedoms must be established and identified Reporting a relevant offence as defined in the Criminal Law Northern Ireland Order 1967, is not only lawful but a legal requirement on public authorities.

**Proportionate** means that the proposed action is viewed by any reasonable person as fair, necessary and the least restrictive in order to benefit the individual.

**Necessary in a Democratic Society** means

- (1) Does it fulfil a pressing social need?
- (2) Does it pursue a legitimate aim? And
- (3) is the proposed action in the public interest taking into consideration whether other Adults at risk or children may be at risk of harm?

### **The Decision Making Process**

In applying the key principles of lawfulness, proportionality and whether it is necessary in a democratic society, a public authority representative must ask the following questions:

- Is there a legal basis for my actions?



- Is it proportionate and necessary in a democratic society?
- Is the procedure involved in the decision-making process fair and does it contain safeguards against abuse?
- Was there an alternative and less restrictive course of action available? (The intervention should be strictly limited to what is required to achieve the objective).
- Is the restriction required for legitimate purposes?
- If I fail to interfere with this individual's rights could there be a more serious outcome in not affording the individual adequate protection in fulfilment of their human rights

Decisions to interfere with an individual's rights may be subject to scrutiny by the Courts. However, if public authorities can show that they applied the relevant Human Rights principles when making their decision, they are less likely to be over-ruled. It is very important to keep notes and decisions should be recorded in full.

### **Consent**

The wishes of the adult in need of protection are of paramount importance in all cases of alleged or suspected abuse. Where a crime is suspected the issue of possible PSNI involvement should be discussed with the adult in need of protection.

The consent of the adult in need of protection for contact with the PSNI should be sought as a first step and details of whether this relates to a referral to PSNI or a Joint Agency consultation should be provided.

The adult in need of protection should be provided with as much information as possible to assist them in making an informed decision regarding how they wish the situation to be handled. They should be fully advised by the Trust Investigating Officer of the Joint Protocol process and of their right to have a referral made to the PSNI. Details of all supports available to assist in the JP process should also be provided, i.e. ABE 2012 document.

The adult in need of protection should be advised that agreeing to a joint agency consultation does not in its self-constitute their agreement to a full PSNI investigation. The benefits of a joint agency consultation in terms of information gathering (cross referral to ensure a comprehensive assessment of all available information) should be explained to the adult in need of protection. Their entitlement to full consultation and involvement at each stage in the joint protocol process should also be explained. All staff involved must ensure that this person centred approach is strictly adhered to. The Joint Protocol should make a

significant contribution to ensuring that the individual's human rights are upheld, protected and delivered on.

In the majority of cases where the adult in need of protection is deemed to have capacity, the PSNI will only proceed to a full investigation with the consent of the adult in need of protection. In practice this will mean that the adult in need of protection should be willing to make a complaint to the PSNI. However there are some exceptions to this.

### **Dispensing with Consent**

In exceptional circumstances the DAPO may need to consider overriding the wishes of an adult in need of protection if they do not consent to a joint agency consultation with the PSNI. These include situations where:

1. there is reasonable evidence or information to indicate that a possible relevant offence has been committed and the Trust have a legal obligation to report to the PSNI
2. there is a significant query regarding the individual capacity to make an informed decision and therefore their ability to give or withhold consent is in question. Actions taken must be proportionate to the level of concern and the views of substitute decision makers.
3. information available clearly demonstrates that the individual is subject to undue influence or coercion (must be substantial)
4. there is a significant risk to other adults at risk and/or children
5. the likelihood of further harm is high and there is a substantial opportunity to prevent further crime.

The PSNI also have the authority to investigate alleged or suspected criminal abuse where this is agreed to be in the best interests of the adult in need of protection and or others.

The above list indicates possible situations where the DAPO may need to consider overriding the wishes of an adult in need of protection adult. The list is not exhaustive. Cases will need to be assessed on a case by case basis and requirements in relation to making decisions which are lawful, proportionate and necessary in the public interests are applicable.

### **Acting without Consent in Emergency Situation**

In situations where the adult in need of protection is in imminent danger it may not be possible to discuss with them their wishes and obtaining a valid consent may not be achievable. Trust staff, under these circumstances, should take whatever action they feel is appropriate to protect the adult in need of protection, including seeking medical and/or PSNI intervention.

Where there is no information and/or clarity regarding the wishes of the adult in need of protection and it is safe to do so, consideration should be given to deferring a decision re a joint agency consultation until such time as the adult in need of protection's views and permission can be sought. The DAPO will need to consider this on a case by case basis, mindful that a number of factors will need to be taken into account. Where a decision is taken to consult with the PSNI and the adult in need of protection has not consented to this, a detailed rationale for this decision should be recorded.

### **Capacity**

There should be no assumptions made regarding an individual's capacity or incapacity and in the first instance unless there is contrary information, every individual should be viewed as having the capacity to make decisions about their own situation. However, if an issue is raised in relation to any individual's cognitive ability to make an informed decision about their safety, a capacity assessment should be sought.

Capacity assessments should be carried out by an appropriately trained professional. In cases where the adults in need of protection is already known to specialist services the professional involved may be able to provide an informed opinion in relation to the individual's capacity.

Capacity assessments/reassessment should determine:

- a. the extent to which the adults in need of protection adult/adult at risk is able to make informed decisions about their safety and protection
- b. whether the adults in need of protection adult/adult at risk is able to make a complaint to the PSNI and/or give legal instruction
- c. whether the adults in need of protection adult/adult at risk has the capacity to be interviewed by the PSNI
- d. the needs of the adults in need of protection adult/adult at risk.

It is important to note that any and all information provided by an adult in need of protection adult is relevant and should be considered in a safeguarding context

## THE EUROPEAN CONVENTION FOR THE PROTECTION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS

### The Human Rights Act 1998

#### Main Convention Rights

- Article 2 -** Right to life
  - Article 3 -** Prohibition of torture
  - Article 4 -** Prohibition of slavery and forced labour
  - Article 5 -** Right to liberty and security of person
  - Article 6 -** Right to a fair trial
  - Article 7 -** No punishment without law
  - Article 8 -** Right to respect for private and family life
  - Article 9 -** Freedom of thought, conscience and religion
  - Article 10-** Freedom of expression
  - Article 11-** Freedom of assembly and association
  - Article 12-** Right to marry
  - Article 14-** Prohibition of abuse of rights
  - Article 16-** Restrictions on political activity of aliens
  - Article 17-** Prohibition of abuse of rights
  - Article 18-** Limitation of use of restriction of rights
- 
- Article 1, 1<sup>st</sup> protocol** Protection of property
  - Article 2, 1<sup>st</sup> protocol** Right to education
  - Article 3, 1<sup>st</sup> protocol** Right to free elections
  - Article 1, 6<sup>th</sup> protocol** Abolition of the death penalty

### **Section 5 Criminal Law (Northern Ireland) Act 1967**

A crime is a breach of the criminal law which is contained in statute or common law. Not all harm, abuse or exploitation of an adult in need of protection constitutes a possible crime.

However where an adult in need of protection and/or a relative or other professional (if the individual lacks capacity) makes a decision to access the Criminal Justice system, HSC Trusts in keeping with the principles of the Joint Protocol will support and assist in this process.

In cases of ill-treatment or wilful neglect by a staff member Article 121 of the Mental Health Order may need to be considered to determine if a possible offence has been committed.

#### **The Criminal Law Act (NI) 1967**

Section 5 of the Criminal Law Act (NI) 1967 states that where a person has committed a relevant offence, it shall be the duty of every other person, who knows or believes:-

- (a) that the offence or some other **relevant offence** has been committed; and
- (b) that he has information which is likely to secure, or to be of material assistance in securing, the apprehension, prosecution or conviction of any person for that offence,

to give that information, within a reasonable time, to a constable and if, without reasonable excuse, he fails to do so he shall be guilty of an offence and shall be liable on conviction on indictment to imprisonment according to the gravity of the offence about which he does not give that information, as follows:-

- (i) if that offence is one for which the court is required by law to sentence an offender to death or to imprisonment for life or to detention during the pleasure of the Governor of Northern Ireland, he shall be liable to imprisonment for not more than ten years [or a fine or both];
- (ii) if it is one for which a person (of full age and capacity and not previously convicted) may be sentenced to imprisonment for a term of fourteen years, he shall be liable to imprisonment for not more than seven years [or a fine or both];
- (iii) if it is not one included above but is one for which a person (of full age and capacity and not previously convicted) may be sentenced to imprisonment for a term of ten years, he shall be liable to imprisonment for not more than five years [or a fine or both];

(iv) in any other case, he shall be liable to imprisonment for not more than three years [or a fine or both].

(2) It shall not be an offence under this section for the person suffering loss or injury by reason of the commission of the offence (in this section referred to as “the injured person”) or some other person acting on his behalf not to disclose information upon that loss or injury being made good to the injured person or upon the injured person being reasonably recompensed therefore so long as no further or other consideration is received for or on account of such non-disclosure.

**Relevant offence** is defined in Section 4(1A) of the Act:

4(1A) In this section and section 5, “*relevant offence*” means—

- (a) an offence for which the sentence is fixed by law,
- (b) an offence for which a person of 21 years or over (not previously convicted) may be sentenced to imprisonment for a term of five years (or might be so sentenced but for the restrictions imposed by Article 46(4) of the Magistrates’ Courts (Northern Ireland) Order 1981),

but in section 5(1) “relevant offence” does not include an offence under Article 20 of the Sexual Offences (Northern Ireland) Order 2008 (Article 20 of the Sexual Offences (NI) Order 2008 relates to certain sexual offences committed by persons under 18 years of age)

Basically this includes any offence for which a person may be sentenced to 5 years or more in prison.

Examples of some offences which attract a sentence of 5 years or more imprisonment would include;

**Offences against the person**

- Murder
- Attempted murder
- Grievous bodily harm with intent
- Grievous bodily harm
- Assault occasioning actual bodily harm
- Threats to kill

**Sexual offences**

- Rape
- Attempted rape
- Assault by penetration
- Sexual assault
- Causing or inciting a person to engage in sexual activity without consent

- Sexual activity with a person with a mental disorder impeding choice
- Engaging in sexual activity in the presence of a person with a mental disorder impeding choice
- Causing a person with a mental disorder to engage or agree to engage in sexual activity by inducement, threats or deception

**Dishonesty offences**

- Theft
- Attempted theft
- Burglary with intent to steal
- Burglary with intent to cause criminal damage
- Fraud
- Conspiracy to defraud

In relation to dishonesty offences section 5(2) would be relevant i.e.-

“It shall not be an offence under this section for the person suffering loss or injury by reason of the commission of the offence (in this section referred to as “the injured person”) or some other person acting on his behalf not to disclose information upon that loss or injury being made good to the injured person or upon the injured person being reasonably recompensed therefore so long as no further or other consideration is received for or on account of such non-disclosure”.

**Article 121 of the Mental Health NI Order (1986)*****Ill-treatment of patients***

**121.** (1) Any person who, being an officer on the staff of or otherwise employed in a hospital, private hospital or nursing home or being a member of the [F1 Board or a director of the [F2HSC trust] managing] a hospital, or a person carrying on a private hospital or nursing home—

(a) ill-treats or wilfully neglects a patient for the time being receiving treatment for mental disorder as an in-patient in that hospital or nursing home; or

(b) ill-treats or wilfully neglects, on the premises of which the hospital or nursing home forms part, a patient for the time being receiving such treatment there as an out-patient, shall be guilty of an offence.

(2) Any individual who ill-treats or wilfully neglects a patient who is for the time being subject to his guardianship under this Order or otherwise in his custody or care (whether by virtue of any legal or moral obligation or otherwise) shall be guilty of an offence.

(3) Any person guilty of an offence under this Article shall be liable—

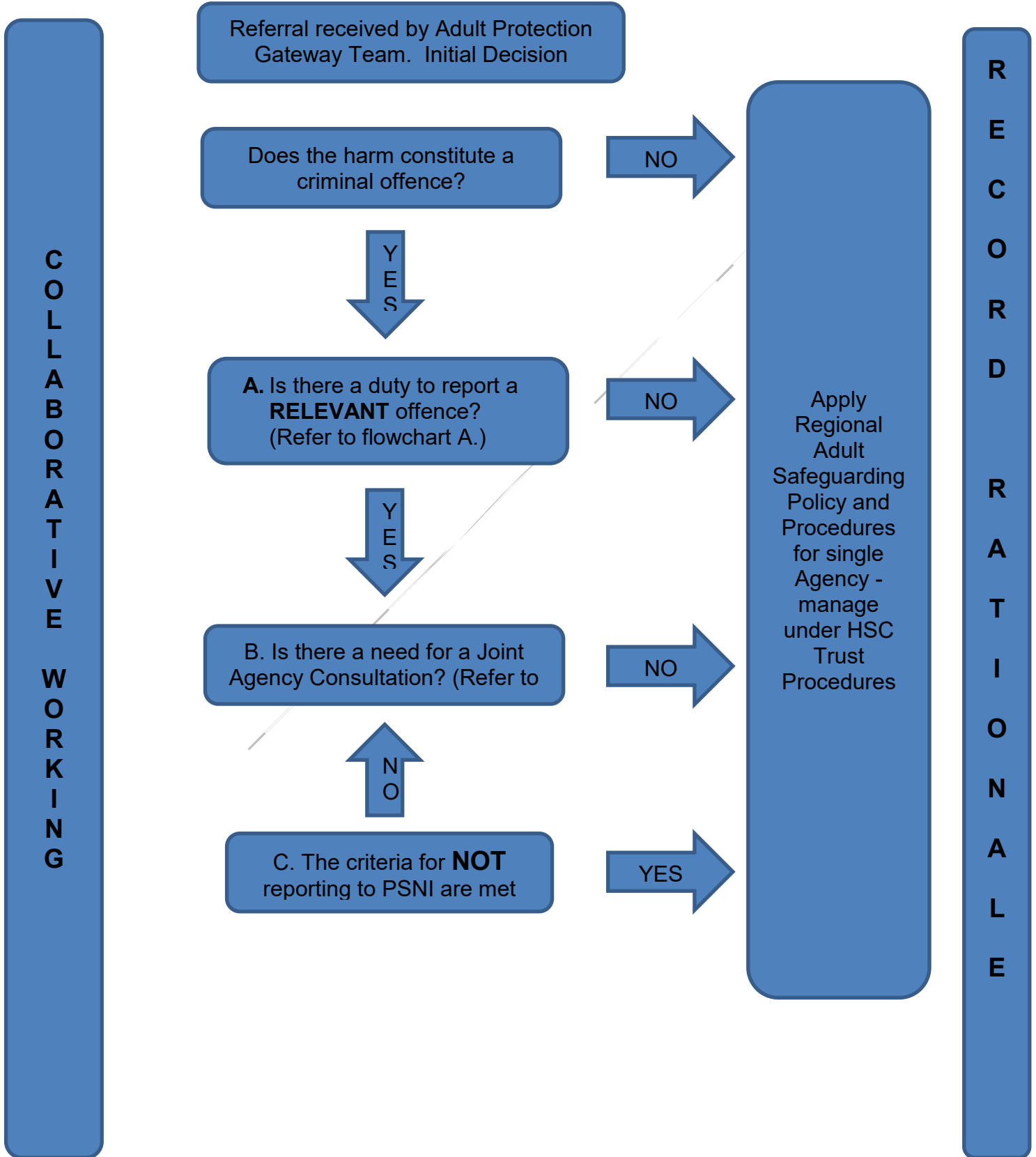
(a) on summary conviction, to imprisonment for a term not exceeding six months or to a fine not exceeding the statutory maximum, or to both;

(b) on conviction on indictment, to imprisonment for a term not exceeding two years, or to a fine of any amount, or to both.



Appendix 10

HSC Trust Flowchart for decision making and referral to PSNI CRU



**A. Relevant crime and/or reportable crime referred to PSNI CRU for consideration of Joint Agency investigation**

An adult in need of protection is in **imminent danger** and there is a need for an immediate report to PSNI CRU

**OR**

Where there has been an incident which may constitute a **relevant offence** under Section 5 of the Criminal Law Act (NI) 1967 (*Appendix 7*)

**OR**

Referral information clearly states the adult in need of protection **wishes** or has consented to PSNI involvement (*Appendix 8 Human Rights*)

**OR**

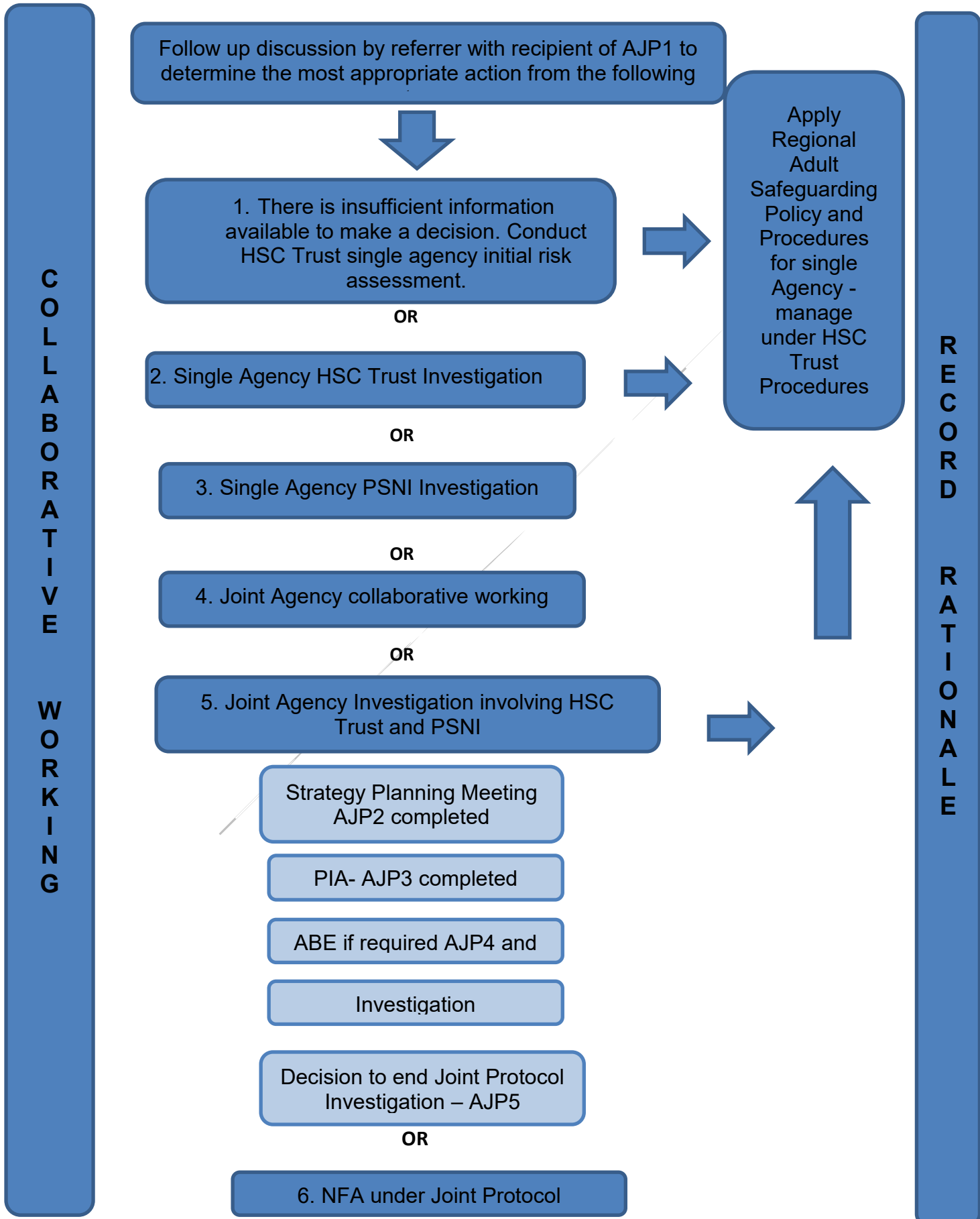
If the referral information clearly states that the adult in need of protection lacks capacity to give informed consent to PSNI involvement and **the next of kin and/or professionals involved take the view that PSNI involvement is required.**

Relevant offences include

- Sexual offences
- Domestic abuse incidents which constitute a criminal offence
- Financial abuse incidents
- Human Trafficking
- All cases where alleged offender is a paid employee / volunteer or in a position of trust
- Institutional abuse
- Historical abuse

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**B. Joint Agency Consultation with PSNI CRU and HSC Trust**  
 - AJP1 completed and forwarded to CRU via CJSM



### C. Criteria for **NOT** reporting to PSNI

**DAPO must as a minimum demonstrate consideration of the following:**

The adult in need of protection has capacity to make an informed decision and does not want to make a complaint to PSNI. Full consideration will need to be given to all elements of consent, capacity and human rights including issues of undue influence and possible

**AND**

The Trust is not required by law to make a referral to PSNI (if the incident does not meet the threshold of **relevant offence** under section 5 of the Criminal Law Act (NI) 1967 (*Appendix 7* Definition of Relevant Offence))

**AND**

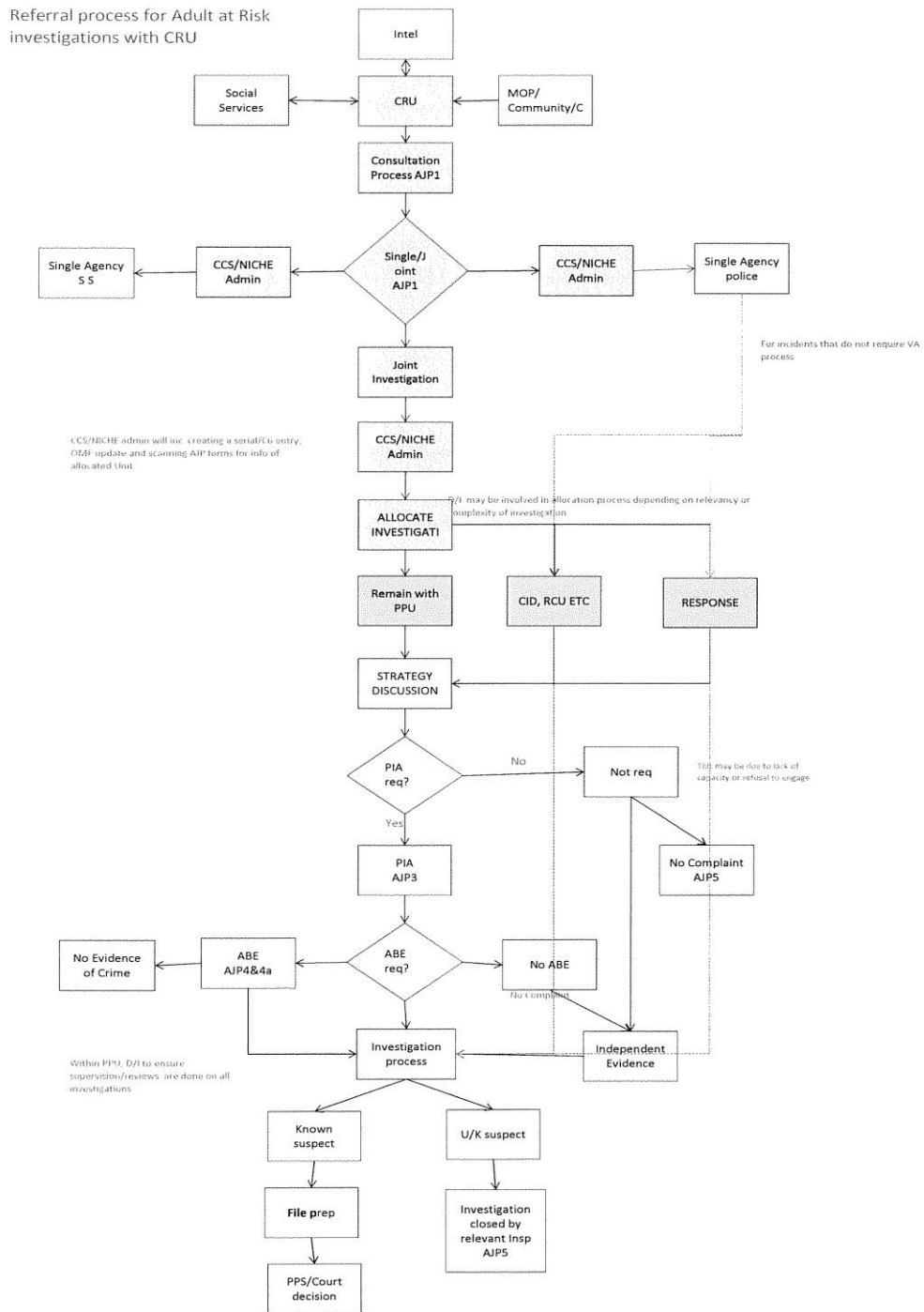
It is a minor incident. A comprehensive assessment of all the factors **MUST** be completed to evidence a through risk assessment of these cases. This will include consideration of whether repeat incidents have occurred and/or whether other adults at risk or children have been or are likely to be at risk of harm (*Appendix 10 Factors to be considered in the assessment of the seriousness of Harm and Risk of Harm*)

**AND**

The situation is being managed through an Adult Safeguarding process and/or there are other protective measures in place

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Referral Process for Adult at Risk Investigations with CRU



## Regulation and Quality Improvement Authority

### Adult Safeguarding Processes

Where there is a breach of regulations RQIA have the statutory authority to issue requirements in relation to a Quality Improvement Plan, Enforcement Orders or to de-register facilities depending on nature and seriousness of the concern.

In all regulated facilities where an alleged or suspected criminal offence has occurred, RQIA should ensure that this is reported to the relevant HSC Trust Gateway Team/ DAPO and PSNI/nominated officer within Public Protection Unit. Where an incident relates to a regulated service RQIA will attend adult protection strategy meetings and case discussions to contribute to joint agency information sharing and joint agency action planning.

HSC Trusts should also ensure that RQIA are notified of these incidents (**Appendix 6 RQIA contact details**). Where an incident occurs outside normal working hours, it is the responsibility of the Registered Manager or Senior Manager on duty to contact the Regional Out of Hours Service and if applicable the PSNI. If reports are made directly to PSNI from regulated facilities, the PSNI should contact the Regional HSC Regional Emergency Social Work Service.

### **Registered Intermediaries**

The Criminal Evidence (NI) Order 1999 provides for a number of special measures, such as video recorded evidence-in-chief and giving evidence by live link, to assist vulnerable and intimidated witnesses (both for the prosecution and the defence) give their best possible evidence in criminal proceedings.

Article 17 of the 1999 Order provides for the examination of a witness through an intermediary.

Article 21BA of the 1999 Order, as inserted by section 12 of the Justice Act (NI) 2011, provides for the examination of a vulnerable defendant when they are giving oral evidence.

The creation of the Registered Intermediary (RI) role represents a statutory recognition that adults in need of protection witnesses and defendants with communication needs may require help and facilitation with giving evidence. RIs have a range of responsibilities intended to help adults in need of protection witnesses, defendants and criminal justice practitioners at every stage of the criminal process, from investigation to trial.

It is the responsibility of the DOJ- PPU, PSNI, and PPS, to request an assessment from a Registered Intermediary.

RI's come from a number of professional backgrounds. It is a highly specialised role and requires expertise in dealing with the communication needs of individuals with the following types of conditions

- Aphasia/Dysphasia
- Autistic Spectrum Disorder
- Brain and/or Head Injury
- Deafness/hearing Impairment
- Dementia
- Dysarthria/Dyspraxia
- Fluency Difficulties
- Language Delay/Disorder
- Learning disability
- Mental health Issues
- Neurological and other Progressive Disorders
- Phonological Delay/Disorder
- Physical Disability
- Selective/Elective Mutism
- Voice Disorders (including laryngectomy)

The above list is intended to be illustrative rather than exhaustive and whether someone should be provided with RI assistance will need to be determined on a case-by-case basis, based on the particular needs of the individual witness or defendant. It is also important to note that not all witnesses or defendants with the conditions listed above will necessarily require assistance, if their disability does not affect their ability to communicate effectively.

For police interviews, the RIs duty is to assess and facilitate effective communication and understanding between the police and the witness or defendant. In terms of the court stage, the RIs duty is to the court. RIs are there to ensure the court has access to the best possible evidence and that this can be properly examined so that justice can be done.

#### How the RI role is exercised

An RI will carry out an assessment of a witness or defendant's communication abilities and needs. In this assessment the RI will

- Evaluate the abilities and needs of the witness/defendant, including whether they have the ability to communicate their evidence during a police interview and at court;
- Ascertain if the witness/defendant needs an RI;
- Consider if the witness/defendant would be able to give evidence at all, even with the assistance of an RI;
- Indicate whether, in the absence of an intermediary, the quality of a witness's evidence would be diminished or a defendant would not receive a fair trial; and
- Make recommendations as to special measures to enable the best communication with and evidence from, the witness.

An RI also directly assists in the communication process – helping a witness or defendant understand the questions during an investigative interview or testimony at the trial and helping them communicate their answers. Effective means of communication may include speech, symbols, communication aids, drawing and writing.



**AJP Forms**

- AJP1** Referral Information
- AJP2** Record of Joint Agency Strategy Decision Making and Investigation Planning
- AJP2 (a)** Amendments to Strategy For Investigation
- AJP3** Pre- Interview Assessment (PIA)
- AJP4** Planning the Joint Investigation Interview (ABE)
- AJP4 (a)** Joint Protocol ABE Interview
- AJP5** Decision to End Joint Protocol Investigation

In addition PJI1 form to be used in relation to adults at risk when disclosures of historical abuse have been made. There is a requirement to clearly state whether this needs to be addressed under Adult Safeguarding Joint Protocol procedures

- PJI1** Referrals to PSNI of Historical Child Abuse

# AJP1

## JOINT PROTOCOL – ADULT PROTECTION

### Referral Information

PSNI Reference Number: \_\_\_\_\_

Date of Referral: \_\_\_\_\_

Referred To: \_\_\_\_\_

Designation: \_\_\_\_\_

Referred By: \_\_\_\_\_

Designation: \_\_\_\_\_

Referrer's Address: \_\_\_\_\_

Referrer's Telephone Number: \_\_\_\_\_

Referrer's Email: \_\_\_\_\_

### **SECTION ONE** (Please ensure Sections 1 & 2 are fully completed by referrer)

DETAILS OF ALLEGED VICTIM		
Name:	Date of birth or approximate age:	Gender: Male <input type="checkbox"/> Female <input type="checkbox"/>
Address and Postcode:	Contact No:	Programme of care if known:
Information system no:		
Present Location: (if different from above)		
Incident Location:		
Nature of vulnerability: (please tick all relevant boxes)		
<input type="checkbox"/> Frail Older Person <input type="checkbox"/> People experiencing dementia or memory impairment <input type="checkbox"/> Learning Disability <input type="checkbox"/> Physical/Sensory Disability <input type="checkbox"/> Mental Health Difficulties <input type="checkbox"/> Other (give details) _____		

Relevant Contacts		
	Name	Address & Tel. No.
Key Worker		
Care Manager		
G.P		
Other Professionals		
Next of Kin		
Significant other		

Who Was The First Person To Note Concern:	
Name & Tel No:	Date:

Does This Referral Originate From:			
<input type="checkbox"/> Acute Hospital Name:	<input type="checkbox"/> Adult Mental Health Unit Name:	<input type="checkbox"/> Learning Disability Unit Name:	<input type="checkbox"/> Regulated Facilities Name:
<input type="checkbox"/> Community	<input type="checkbox"/> MARAC	<input type="checkbox"/> Other (give details)	

**SECTION 2**

DETAILS OF REFERRAL
<b>Incident Report</b> – (Please give exact details of what has been reported and if appropriate, note injuries on the attached body chart ONLY if witnessed or observed)
Date / Time Of Incident:
Location:
Details:
<p><b>Have There Been Previous Concerns Or Evidence Of Abuse To Your Knowledge?</b></p> <p><input type="checkbox"/> Yes   <input type="checkbox"/> No   <input type="checkbox"/> Not Known</p> <p>If yes, what was the nature of the concern and the outcome:</p>

<b>The Service User's Usual Living Arrangements:</b>	
Does service user live alone? (if No give details)	<input type="checkbox"/> Yes <input type="checkbox"/> No
Does the service user live with the person whom has allegedly caused the abuse?	<input type="checkbox"/> Yes <input type="checkbox"/> No
Are there any support services in place? (if yes give details)	<input type="checkbox"/> Yes <input type="checkbox"/> No
Are there any current court orders in place? (if yes give details)	<input type="checkbox"/> Yes <input type="checkbox"/> No
Are there any concerns regarding risk to a child/children? (if yes give details)	<input type="checkbox"/> Yes <input type="checkbox"/> No
Are there any concerns regarding risk to other adults in need of protection? (if yes give details)	<input type="checkbox"/> Yes <input type="checkbox"/> No
<b>Service User's Knowledge Of Referral</b>	

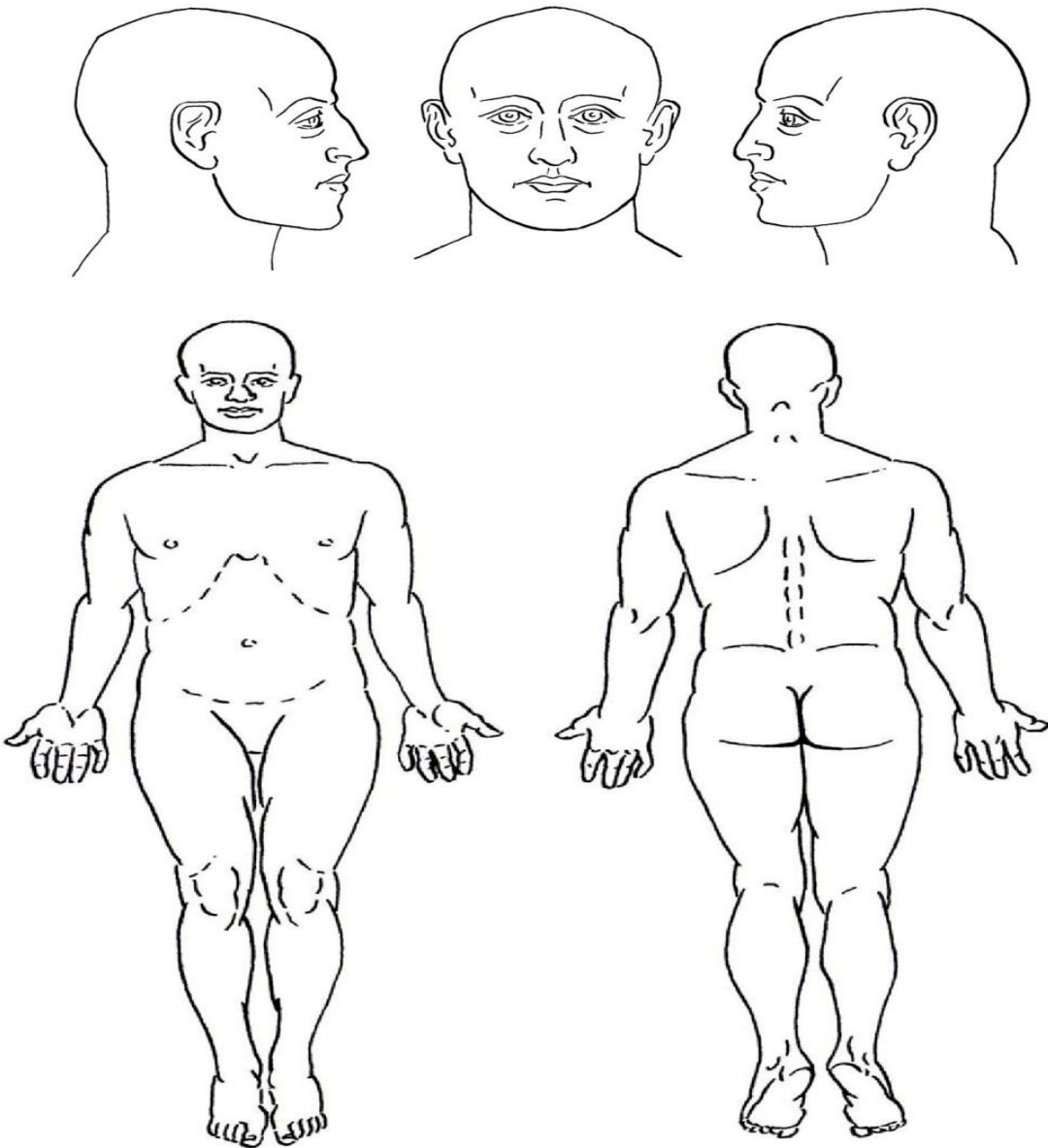
Does person know that a referral may be made?	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Not Known
Has the relevant explanation/information been provided in an appropriate manner? <i>(for example Easy Read Leaflets)</i>	<input type="checkbox"/> Yes <input type="checkbox"/> No
In your view has the person capacity to make an informed decision about the referral/report?	<input type="checkbox"/> Yes <input type="checkbox"/> No
Has the person consented to a referral? <i>If no give details</i> _____	<input type="checkbox"/> Yes <input type="checkbox"/> No
_____	<input type="checkbox"/> Yes <input type="checkbox"/> No
If the person lacks capacity what are the views of the next of kin about the referral? <i>If yes: Name: _____</i> <i>Address: _____</i> <i>Contact No: _____</i> <i>Date: _____</i>	<input type="checkbox"/> Yes <input type="checkbox"/> No
Is there a need to consider any immediate Human Rights issues? <b><u>(If yes identify which human rights have been considered and rationale for the decision)</u></b>	

DETAILS OF PERSON/S ALLEGED TO HAVE CAUSED HARM <i>(If known)</i>		
Name provided by:	Date:	
Name:	Date of birth:	<input type="checkbox"/> M <input type="checkbox"/> F
Address:		
Does the person alleged to have caused harm know that an allegation has been made against them?	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Not Known	
Has the person alleged to have caused harm any known vulnerabilities? <i>If yes please specify:</i>	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Not Known	
Is the person alleged to have caused harm known to service user? <i>If yes please specify below:</i>	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Not Known	
<input type="checkbox"/> Family member	<input type="checkbox"/> Another service user	<input type="checkbox"/> Paid carer
<input type="checkbox"/> Trust employee	<input type="checkbox"/> Other	

**BODY CHART**

**PLEASE USE THE BELOW IMAGE TO MARK ANY:**

- **SCRATCH**
- **SKIN ABRASION**
- **CUT**
- **BRUISE**
- **BURN**
- **BITE**
- **FRACTURE**



**SECTION 3** (To be completed and shared following Joint Agency Consultation)

**PSNI Reference Number** \_\_\_\_\_

OUTCOME OF CONSULTATION	
<input type="checkbox"/> Single agency investigation by PSNI	Allocated to: _____
<input type="checkbox"/> Single agency investigation by Trust	Allocated to: _____
<input type="checkbox"/> Joint Protocol investigation	Allocated to: _____
<input type="checkbox"/> Referral to RQIA	
<input type="checkbox"/> No further action	
<input type="checkbox"/> Other <i>(give detail below)</i>	

RATIONALE

**Agreed By**

**Designated Adult Protection Officer:** \_\_\_\_\_

**PSNI CRU Officer:** \_\_\_\_\_

**Approved By PSNI Sergeant:** \_\_\_\_\_

**Date:** \_\_\_\_\_

Completed form to be emailed via CJSM secure email system to [cru@psni.pnn.police.uk.cjasm.net](mailto:cru@psni.pnn.police.uk.cjasm.net)  
Joint consultation will take place on receipt of this form and outcome to be recorded and shared by PSNI  
CRU contact number 028 9025 9299

**AJP2 Record of Joint Agency Strategy Decision Making and Investigation Planning**

DETAILS OF ALLEGED VICTIM		
Name:	Date of Birth: <i>(if not known, please give approximate age)</i>	Gender: Male <input type="checkbox"/> Female <input type="checkbox"/>
Address and Postcode:	Contact No:	Service Group:
Present Location: <i>(if different from above)</i>		PSNI Reference Number: <i>(if known)</i>

STRATEGY DISCUSSION	
Date & time of consultation:	<input type="checkbox"/> Telephone <input type="checkbox"/> Meeting
Names of persons involved:	Designation:
1. _____	_____
2. _____	_____
3. _____	_____
4. _____	_____
5. _____	_____

DETAILS OF DISCUSSION

<b>AGREED ACTIONS</b>		
<b>Forensic Considerations</b> <i>Need for medical, secure possible forensic evidence</i>		
<b>Communication Strategy</b> <i>Record agreed level of information sharing and with whom</i>		
Name of:  PSNI Investigating Unit _____  Name of PSNI Investigating Officer _____  Name of PSNI Line Manager _____  Name of Trust Investigating Officer _____  Name of Trust Designated Adult Protection Officer _____  Name of RQIA Inspector(if appropriate) _____	Contact number  _____  _____  _____  _____	
Please provide details below:		
<b>Media Considerations</b> <i>Record agreed level of information sharing and with whom</i>		
<b>Interviews</b> <i>(Provide name, address, contact number and nature of vulnerability ( if applicable) of person(s) to be interviewed)</i>		
<b>Victim(s):</b>  1. _____ _____ _____  2. _____ _____ _____	<input type="checkbox"/> None <input type="checkbox"/> Frail Older Person <input type="checkbox"/> Physical/Sensory <input type="checkbox"/> Learning Disability <input type="checkbox"/> Mental Health <input type="checkbox"/> Dementia or memory impairment <input type="checkbox"/> Other( <i>give details</i> )  <input type="checkbox"/> None <input type="checkbox"/> Frail Older Person <input type="checkbox"/> Physical/Sensory <input type="checkbox"/> Learning Disability <input type="checkbox"/> Mental Health <input type="checkbox"/> Dementia or memory impairment <input type="checkbox"/> Other( <i>give details</i> )	<b>Type of interview and by whom</b> <i>(If known)</i>  <input type="checkbox"/> PSNI <input type="checkbox"/> PIA/ABE <input type="checkbox"/> Trust PSNI _____  Trust _____  <input type="checkbox"/> PSNI <input type="checkbox"/> PIA/ABE <input type="checkbox"/> Trust PSNI _____  Trust _____



<p><b>Witnesses:</b></p> <p>1. _____          _____          _____</p> <p>2. _____          _____          _____</p>	<p><input type="checkbox"/> None   <input type="checkbox"/> Frail Older Person  <input type="checkbox"/> Physical/Sensory  <input type="checkbox"/> Learning Disability  <input type="checkbox"/> Mental Health  <input type="checkbox"/> Dementia or memory impairment  <input type="checkbox"/> Other (give details)</p> <p><input type="checkbox"/> None   <input type="checkbox"/> Frail Older Person  <input type="checkbox"/> Physical/Sensory  <input type="checkbox"/> Learning Disability  <input type="checkbox"/> Mental Health  <input type="checkbox"/> Dementia or memory impairment  <input type="checkbox"/> Other (give details)</p>	<p><b>Who will conduct interview:</b></p> <p><input type="checkbox"/> PSNI      <input type="checkbox"/> Trust</p> <p>PSNI _____          Trust _____</p> <p><input type="checkbox"/> PSNI      <input type="checkbox"/> Trust</p> <p>PSNI _____          Trust _____</p>
<p><b>Person/s alleged to have caused harm :</b>          (as provided by Trust or other agencies)</p> <p>1. _____          _____          _____</p> <p>2. _____          _____          _____</p>	<p><input type="checkbox"/> None   <input type="checkbox"/> Frail Older Person  <input type="checkbox"/> Physical/Sensory  <input type="checkbox"/> Learning Disability  <input type="checkbox"/> Mental Health  <input type="checkbox"/> Dementia or memory impairment  <input type="checkbox"/> Other (give details)</p> <p><input type="checkbox"/> None   <input type="checkbox"/> Frail Older Person  <input type="checkbox"/> Physical/Sensory  <input type="checkbox"/> Learning Disability  <input type="checkbox"/> Mental Health  <input type="checkbox"/> Dementia or memory impairment  <input type="checkbox"/> Other (give details)</p>	<p><b>Who will conduct interview:</b></p>
<p><b>Joint Agency Interim Protection Plan</b></p>		
<p><b>Adult Safeguarding Investigation Strategy and Protection Plan</b></p>		

**Signature of DAPO** \_\_\_\_\_

**Signature PSNI Officer:** \_\_\_\_\_

**Date:** \_\_\_\_\_

**AJP2a**

**AMENDMENTS TO STRATEGY FOR INVESTIGATION**

Completed form to be emailed via CJSM secure email system

DETAILS OF VICTIM		
Name:	Date Of Birth or Approximate Age:	Gender: Male <input type="checkbox"/> Female <input type="checkbox"/>
Address and Postcode:	Contact No:	Service Group:
Present Location: <i>(if different from above)</i>		PSNI Reference Number: <i>(if known)</i>

INFORMATION UPDATE

AGREED AMENDMENTS TO INVESTIGATION PLAN

AGREED AMENDMENTS TO PROTECTION PLAN

**Agreed by:**

**Police Officer:** \_\_\_\_\_

**DAPO:** \_\_\_\_\_

**Date:** \_\_\_\_\_

AJP3

**PRE- INTERVIEW ASSESSMENT (PIA)**

To be completed and shared by PSNI

DETAILS OF VICTIM		
Name:	Date Of Birth or Approximate Age:	Gender: Male <input type="checkbox"/> Female <input type="checkbox"/>
Address and Postcode:	Contact No:	Service Group:
Present Location: <i>(if different from above)</i>		PSNI Reference Number: <i>(if known)</i>

PIA PLANNING	
Date & Time Of Interview:	Venue
Names Of Interviewers: _____ _____	Designation _____ _____
Names of any other persons who will be present: _____ _____	Role: _____ _____
NOTE ANY SPECIAL REQUIREMENTS <i>(please give relevant details)</i>	

DETAILS OF PIA	
Has the purpose of the interview been explained to the adult? Comment:	<input type="checkbox"/> Yes <input type="checkbox"/> No
Have any capacity issues been identified? Comment:	<input type="checkbox"/> Yes <input type="checkbox"/> No
Have the types of formats for the interview been explained to the adult? Comment:	<input type="checkbox"/> Yes <input type="checkbox"/> No
Has the adult stated a preference for which format is most suitable for him/her? Comment:	<input type="checkbox"/> Yes <input type="checkbox"/> No
Has the adult any specific needs in relation to the interview? Comment:	<input type="checkbox"/> Yes <input type="checkbox"/> No

<b>Is the adult willing to engage in an interview?</b> Comment:	<input type="checkbox"/> Yes <input type="checkbox"/> No
<b>Has a need for a Registered Intermediary been identified?</b> Comment:	<input type="checkbox"/> Yes <input type="checkbox"/> No

OUTCOME OF PIA	
<input type="checkbox"/> <b>Registered Intermediary required</b>	
<input type="checkbox"/> <b>Video interview</b>	Venue: _____
<input type="checkbox"/> <b>Written interview</b>	Venue: _____
<input type="checkbox"/> <b>Victim declines criminal investigation</b>	

**AJP4 PLANNING THE JOINT INVESTIGATION INTERVIEW (ABE)**


DETAILS OF VICTIM		
Name:	Date Of Birth or Approximate Age:	Gender: Male <input type="checkbox"/> Female <input type="checkbox"/>
Address and Postcode:	Contact No:	Service Group:
Present Location: <i>(if different from above)</i>		PSNI Reference Number: <i>(if known)</i>

ABE INTERVIEW PLANNING	
Date & Time Of Interview:	Venue
Names Of Interviewers: _____ _____	Designation _____ _____
Names of any other persons who will be present: _____ _____	Role/Relationship: _____ _____

DETAILS OF PIA PLANNING <i>(please give relevant details)</i>	
Do any special considerations apply? <i>(If yes give details)</i>	<input type="checkbox"/> Yes <input type="checkbox"/> No
Will a Registered Intermediary/ Interpreter attend? <i>(If yes give details)</i>	<input type="checkbox"/> Yes <input type="checkbox"/> No
Name: _____	
Grade/Qualification: _____	

**DETAIL SPECIFIC ARRANGEMENTS PLANNED FOR INTERVIEW**

*(Who? What? When? Where? How?)*



**SIGNATURES OF JOINT INVESTIGATIVE INTERVIEWERS:**

**Police Officer:** \_\_\_\_\_

**Social Worker:** \_\_\_\_\_

**Date:** \_\_\_\_\_

AJP4a

JOINT PROTOCOL ABE INTERVIEW

To be completed by PSNI

Name of Adult: \_\_\_\_\_

Date of Interview: \_\_\_\_\_

Page No: \_\_\_\_\_

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**AJP5 DECISION TO END JOINT PROTOCOL INVESTIGATION**

To be completed and shared by the responsible DAPO/PSNI Officer

DETAILS OF VICTIM		
Name:	Date Of Birth or Approximate Age:	Gender: Male <input type="checkbox"/> Female <input type="checkbox"/>
Address and Postcode:	Contact No:	Service Group:
Present Location: <i>(if different from above)</i>		PSNI Reference Number:

OUTLINE THE REASONS FOR ENDING JOINT PROTOCOL INVESTIGATION

AGREED BY WHOM <i>(Record the names of any persons/agencies involved in decision)</i>	
Names of persons consulted: _____ _____ _____ _____ _____	Designation: _____ _____ _____ _____

Signature of DAPO: \_\_\_\_\_

Signature of PSNI Officer: \_\_\_\_\_

Date: \_\_\_\_\_



RESTRICTED WHEN COMPLETE

PJ11

CC

(please use this number on all future correspondence)

### CONFIRMATION OF REFERRAL

Referral on Date: \_\_\_\_\_ Time: \_\_\_\_\_

To: \_\_\_\_\_ Designation: \_\_\_\_\_

From: \_\_\_\_\_ Designation: \_\_\_\_\_

Referrer's Telephone Number: \_\_\_\_\_

Referrer's Address: \_\_\_\_\_

Referrer's Email Address: \_\_\_\_\_

Child's Name: \_\_\_\_\_ DOB: \_\_\_\_\_

Home Address: \_\_\_\_\_

Present Location: \_\_\_\_\_

Person with parental responsibility: \_\_\_\_\_ DOB: \_\_\_\_\_

Address: \_\_\_\_\_

Telephone Number: \_\_\_\_\_

Alleged Perpetrator: \_\_\_\_\_ DOB: \_\_\_\_\_

Telephone Number: \_\_\_\_\_

Address: \_\_\_\_\_

Address where alleged incident(s) has taken place, if known/suspected:

\_\_\_\_\_

**RESTRICTED WHEN COMPLETE**

**Nature of Referral – Comment**

(include background of involvement with Social Services or Police)

[Empty text box for comment]



*Return and readmission of patients absent without leave*

29.—(1) Where a patient who is for the time being liable to be detained under this Part in a hospital—

(a)

the hospital without leave granted under Article 15; or

(b)

hospital on any occasion on which, or at the expiration of any period for which, leave of absence was that Article, or upon being recalled thereunder; or

(c)

but permission from any place where he is required to reside in accordance with conditions imposed of absence under that Article;

he may, subject to paragraphs (3) and (4), be taken into custody and returned to the hospital or place by any officer on the staff of the hospital, by any constable or approved social worker or by any person authorised in writing by the responsible[F1 authority].

(2) Where a patient who is for the time being subject to guardianship under this Part absents himself without the leave of his guardian from the place at which he is required by the guardian to reside, he may, subject to paragraph (3), be taken into custody and returned to that place by any constable or approved social worker or by any person authorised in writing by the guardian or by the responsible[F1 authority].

(3) A patient shall not be taken into custody under this Article after the expiration of the period of 28 days beginning with the first day of his absence without leave; and a patient who has not returned or been taken into custody under this Article within that period shall cease to be liable to be detained or subject to guardianship, as the case may be, at the expiration of that period.

(4) A patient shall not be taken into custody under this Article if the period for which he is liable to be detained is that specified in Article 7(2) or (3)[F2, 7A(2)] or Article 9(4), (7) or (8) and that period has expired.

(5) In this Order “absent without leave” means absent from any hospital or other place and liable to be taken into custody and returned under this Article.

*Warrant to search for and remove patients*

129.—(1) If it appears to a justice of the peace, on complaint on oath made by an officer **F1**... **[F2** of an authorised **[F3**HSC trust**]]** or a constable, that there is reasonable cause to suspect that a person believed to be suffering from mental disorder—

(a)

ill-treated, neglected or kept otherwise than under proper control; or

(b)

or himself, is living alone,

the justice may issue a warrant authorising any constable **F4**. . . , accompanied by a medical practitioner, to enter, if need be by force, any premises specified in the warrant in which that person is believed to be, and, if thought fit, to remove him to a place of safety with a view to the making of an application under Part II in respect of him, or of other arrangements for his care or treatment.

(2) If it appears to a justice of the peace, on complaint on oath made by an officer **F5**...**[F2** of an authorised **[F3**HSC trust**]]** or a constable—

(a)

reasonable cause to believe that a patient who, under this Order, is liable to be taken to any place, or to be taken to any place, or to be retaken, is to be found on any premises; and

(b)

if the premises has been refused or that a refusal of such admission is apprehended,

the justice may issue a warrant authorising any constable **F4**. . . accompanied by a medical practitioner, to enter the premises, if need be by force, and remove the patient.

(3) If it appears to a justice of the peace, on complaint on oath made by any person authorised by or under section 88 of the [1983 c. 20] Mental Health Act 1983 or **[F6** article 8 of the Mental Health (Care and Treatment) (Scotland) Act 2003 (Consequential Provisions) Order 2005**]** to take into custody in Northern Ireland any person who may be so taken—

(a)

reasonable cause to believe that a person who may be taken into custody by virtue of either of the aforesaid provisions is to be found on any premises; and

(b)

if the premises has been refused or that a refusal of such admission is apprehended,

the justice may issue a warrant authorising any constable **F4**. . . , accompanied by a medical practitioner, to enter the premises, if need be by force, and remove the person liable to be taken as aforesaid.

(4) If it appears to a justice of the peace, on complaint on oath made by a person who has made an application for assessment in relation to a patient—

(a)

if the application has been duly completed in accordance with Part II;

(b)

reasonable cause to believe that the patient is to be found on any premises;

*Mentally disordered persons found in public places*

**130.**—(1) If a constable finds in a place to which the public have access a person who appears to him to be suffering from mental disorder and to be in immediate need of care or control, the constable may, if he thinks it necessary to do so in the interests of that person or for the protection of other persons, remove that person to a place of safety within the meaning of Article 129.

(2) A person removed to a place of safety under this Article may be detained there for a period not exceeding 48 hours for the purpose of enabling him to be examined by a medical practitioner and to be interviewed by an approved social worker and of making any necessary arrangements for his care or treatment.

(3) Where a person is removed as aforesaid, it shall, where practicable, be the duty of the constable who has so removed him without delay to inform some responsible person residing with that person and the nearest relative of that person of that removal.

# Adult Safeguarding



# Adult Safeguarding

Aim:

To enable student officers to identify and protect the vulnerable in our society from harm and exploitation, to themselves and others.





# By the end of this lesson you will be able to .....

1. Identify the PSNI definitions of adult at risk of harm and adult in need of protection.
2. Explore what the term “Vulnerability “ means and consider the implications for safeguarding vulnerable adults.
3. Recognise how definitions of adults at risk of harm and adults in need of protection interacts with our understanding of vulnerability.
4. Have an awareness of the referral process to Central Referral Unit in relation to vulnerable adults.
5. Acknowledge how our communication methods can impact members of the public who may be vulnerable.



# Vulnerability

“A person is vulnerable if, as a result of their situation or circumstances, they are unable to take care of or protect themselves or others from harm or exploitation.”



# Adult Safeguarding

“Safeguarding adults from abuse is an important strand of the police service’s protective capabilities work and is a key part of the police in public protection. It is important that this is approached from a multi-agency perspective”



# Adult Safeguarding

Exercise – 5 minute presentation

Group 1 – Adult at risk of harm  
Group 2 - Adult in need of protection  
Group 3 – Vulnerability

- Definition
- Provide an example
- What actions would you take to safeguard.



As per the definition in the Adult Safeguarding policy July 2015 by the Department of Health, Social Services and Public Safety and the Department of Justice

# Adult at risk of harm

An **'adult at risk of harm'** is a person aged 18 or over, whose exposure to harm through abuse, exploitation or neglect may be increased by their:

**a) personal characteristics**

and / or

**b) life circumstances**

- may include, but are not limited to, age, disability, special educational needs, illness, mental or physical frailty or impairment of, or disturbance in, the functioning of the mind or brain.

- may include, but are not limited to, isolation, socio-economic factors and environmental living conditions.



# Adult in need of protection

As per the definition in the Adult Safeguarding policy July 2015 by the Department of Health, Social Services and Public Safety and the Department of Justice

An **'adult in need of protection'** is a person aged 18 or over, whose exposure to harm through abuse, exploitation or neglect may be increased by their:

a) personal characteristics  
and / or

b) life circumstances

**AND**

c) is unable to protect their own well-being, property, assets, rights or other interests;

**AND**

d) where the action or inaction of another person or persons is causing, or is likely to cause, him/her to be harmed.



# Referral Process to CRU

Referrals to CRU should be in relation to  
**‘Adults in Need of Protection’.**

Referrals should only be made in cases where  
an adult has become a victim  
**‘because of their vulnerability’**

**NOT**

Victims of crime who also happen to be  
vulnerable.



# Communicating with vulnerable adults





# Synopsis of Adult Safeguarding

Have we met our objectives?

1. Explain the PSNI definitions of adult at risk of harm and adult in need of protection.
2. Explore what the term “Vulnerability “ means and consider the implications for safeguarding vulnerable adults.
3. Recognise how definitions of adults at risk of harm and adults in need of protection interacts with our understanding of vulnerability.
4. Be aware of the referral process to Central Referral Unit in relation to vulnerable adults.
5. Recognise how our communication methods can impact members of the public who may be vulnerable.





# PRACTICAL PEELER

## COMMON LAW POLICE DISCLOSURE

Common Law Police Disclosure (CLPD) ensures that where there is a public protection risk, the police will pass information to the employer or regulatory body to allow them to act swiftly to mitigate any danger.

CLPD focuses on providing timely and relevant information which might indicate a public protection risk. The Chief Officer Delegate is requested to consider disclosing relevant information to a third party when, in the course of an investigation or other policing activity, a serious and urgent risk is identified which there is a pressing social need to address rather than on conviction, which may be some time after. The new scheme provides robust safeguarding arrangements while ensuring only relevant information is passed on to employers or regulatory bodies.

The scheme strikes the right balance between the interests of the individual and the importance of public protection.



### What does pressing social need mean?

A pressing social need is when an immediate risk of harm is identified usually to children or vulnerable adults but can include other members of the public, by the actions of the individual being investigated.

### What occupations and roles should I consider?

Consideration **should not** be limited to those in regulated professions (e.g. Doctors, Nurses, Teachers, Child Minders, Carers, Security Officers, and Social Workers etc.).

If a pressing social need can be demonstrated, this will be considered for disclosure by the Chief Officer Delegate, who is authorised to approve disclosure on behalf of the Chief Constable.

**Voluntary roles** are also relevant and officers are required to be vigilant during their investigations seeking information of voluntary roles such as Scout leader, Church volunteer, swimming instructor, football referee, St John Ambulance, etc. While these cannot be recorded as an occupation on the custody record they should be recorded as antecedent history and a Form CLPD disclosure form should be completed.



- A Carer alleged to have used excess force or assaulted a member of the public;
- A teacher who is alleged to have created/distributed indecent images of children where their role may give them the opportunity for further offending or for evidence to be tampered with or destroyed;
- A taxi driver suspected of indecently assaulting a child passenger who is given bail conditions not to have unsupervised contact with a person under 18.

### Retired, Self Employed, Unemployed?

Some suspects may give their occupation as retired, self-employed or unemployed however their vocation may be a teacher or doctor who can continue to practice even without an employer or post retirement. Officers are required to capture and record their relevant occupation/role rather than their current status.

All service personnel roles and matters relating to MP's (Westminster only) are relevant for disclosure and a Form CLPD is required to be submitted on every occupation.

It is vital that CLPD decisions are processed by the police without unnecessary delay in order that the recipient can respond effectively to the urgent risk identified. This may be while the subject is still in custody and by the latest within 24 hours of the charge/bail decision being made, especially where relevant bail conditions are given. **Out of hours authorisation can be sought from the relevant Duty Officer but only if it cannot wait until normal office hours.** On rare occasions of extreme emergency, it may be necessary for a police officer, or a member of police staff, to disclose information on their own initiative and without referring the matter to the Chief Officer Delegate in the first instance. In such cases the disclosure and the justification for it should be completed on a Form CLPD and reported to the Chief Officer Delegate as soon as practicable.

Form CLPD should contain sufficient information for the Chief Officer Delegate to evaluate the immediate risk identified through the suspect's employment/voluntary role and should include the outcome such as charged or bailed with bail dates and any bail conditions especially those indicating that the suspect is not to have unsupervised contact with children or other groups.

OFFICIAL - SECURITY PROBLEMS  
REQUEST FOR COMMON LAW POLICE DISCLOSURE

Police Service of Northern Ireland CLPD Single Point of Contact	CLPD Respective Chairpersons (List) In Charge (List) Telephone: 031 224 2000 Contact Email: <a href="mailto:CLPD@psni.gov.uk">CLPD@psni.gov.uk</a> Internal Code: 25130
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GUIDANCE:  
Information contained in this document should give a clear record of all relevant information which could influence whether a disclosure is made to a employer. Answering questions such as:

- Is there an imminent public protection risk?
- Has a formal complaint been made by the victim?
- Is the suspect aware of the investigation?
- Is the employer aware of the investigation?
- Is the suspect continuing to work with children or vulnerable persons?
- The CLPD should state the reasons regarding the necessity of the disclosure and the potential public protection risk.
- The CLPD should state enquiries with Prescribed Disclosure Unit. Consider to ascertain if the subject has ever applied for an enhanced disclosure certificate which may reveal their engagement with other vulnerable persons which has not been revealed by the suspect's Social Media, Contact Centre (teacher, youth football coach), Contact CLPD (Employment) and record details in 'Occupation' section.

INVESTIGATING OFFICER DETAILS

Full Name and Rank:	Department:
Trn:	Location:
Date:	

Details of Incident (including date, time, place, nature of offence, whether other persons involved, arrested or suspected)

Form CLPD 04/17  
OFFICIAL - SECURITY PROBLEMS

Any admissions or mitigation provided at this stage will also assist the Chief Officer Delegate in evaluating the disclosure.

Please click [here](#) for more information



Keeping People Safe



OFFICIAL-SENSITIVE [PSNI ONLY]

## REQUEST FOR COMMON LAW POLICE DISCLOSURE

CLPD Part A

### INVESTIGATING OFFICER -

PLEASE ENSURE YOU COMPLETE ALL FIELDS IN PART A BELOW. YOUR INFORMATION WILL SUPPORT THE RATIONALE FOR ANY DISCLOSURE MADE BY THE CLPD TEAM.

Details of Investigating Officer (Name, Rank and Number):	
Telephone Number:	
Department and Location:	
Date:	

### Subject Details

Forename(s)/Surname:					
Please tick appropriate box	Male	<input type="checkbox"/>	Female <input type="checkbox"/>	Date of Birth	
Current Address:					
NICHE Nominal Reference:					

### Incident Details

NICHE Occurrence:	
Offence:	
Offence Date:	
Bail Conditions:	

### Employment Details

Main Occupation:	
Name and Address of Employers:	
Other occupation/voluntary work. (Please provide Name and Address details where possible)	

**Further Information**

<b>Please give place, date and time of arrest:</b>	
<b>Was the offence committed whilst the subject was at work?</b>	Yes
<b>Has there been a formal complaint made by the alleged aggrieved party?</b>	
<b>Are the subject's employers aware of the arrest/offence?</b>	Yes
<b>Is there an imminent public protection risk?</b>	Yes
<b>Was the offence committed against a child or vulnerable adult?</b>	Yes
<b>Is the subject continuing to work with children or vulnerable groups?</b>	
<b>Did the subject make any admissions and if so to what offending?</b>	
<b>Has the subject been informed that details of the Police information held may be disclosed to their employer? What was their response/representations?</b>	

**Please summarise below the circumstances of the alleged offending:**  
 (Include your views on the veracity of the complaint)

<b>Approved by: Supervisor Name and Rank</b>					
<b>Department:</b>					
<b>Tel:</b>		<b>Location:</b>		<b>Date:</b>	

**ONCE COMPLETED THE SUPERVISOR SHOULD EMAIL THE FORM TO zCLPD  
WITH THE SUBJECTS NAME IN THE EMAIL SUBJECT HEADING  
 DO NOT EMAIL INDIVIDUAL EMAIL ADDRESSES**

CLPD Part B (for CLPD Team ONLY)

EO1/EO2 Recommending for Disclosure

Yes

No

Use this box to record your rationale for disclosure of information. Your rationale should cover all of the considerations that are applicable to this particular application. Please consider whether disclosure would prejudice a police operation or potentially cause a crime to be committed.

Extracts of additional information from OEL

Vera Check

Access NI Check

Previous Convictions

EO1/EO2 to include role/occupation if recommending disclosure and to whom.

**Chief Officer/Chief Officer Delegate Decision**

I have reviewed the information and conclude that:

- Disclosure is required
- Disclosure is **NOT** required

**Chief Officer/Chief Officer Delegate Declaration for disclosure of information**

I undertaking my statutory obligation as Chief Officer under Part V of the Police Act, I have reviewed this document and am satisfied that the decision rationale is accurate, cogent and sufficiently comprehensive. I reasonably believe the information to be relevant for the purpose described and in my opinion to be disclosed.

**I have made the following considerations:**

- ❖ I believe the information to be of sufficient quality and accuracy.
- ❖ I have considered offering representations and, where representations have been made, I have taken them into account.
- ❖ I believe the information to be relevant in considering the risk that this individual may post to children or the vulnerable or both, having regard to this application.
- ❖ I believe the disclosure is reasonable and proportionate.
- ❖ I believe the disclosure to be accurate and fair.
- ❖ The Human Rights of all relevant parties have been duly considered and a record of these considerations has been made.

**Use this box to record your rationale for disclosure of information. Your rationale should cover all of the considerations described above that are applicable to this particular application.**

Print Name: \_\_\_\_\_ Signature: \_\_\_\_\_

Post: \_\_\_\_\_

Date: \_\_\_\_\_

**Chief Officer Delegate Review:**

Print Name: \_\_\_\_\_ Signature: \_\_\_\_\_

Post: \_\_\_\_\_

Date: \_\_\_\_\_