

When a safeguarding concern does not lead to a Section 42 enquiry

The criteria in Section 42 of the Care Act 2014, for a safeguarding adults enquiry might not be met, for example in circumstances where:

- The adult is at risk of abuse or neglect but does not have care and support needs.
- The adult has care and support needs, may have experienced abuse or neglect in the past, but is no longer experiencing or is at risk of abuse or neglect.
- The adult has care and support needs, is at risk of abuse or neglect, but can protect themselves from abuse or neglect should they choose to. **Example:** a person with a physical disability is a victim of identity theft. There is no evidence that they were targeted because of their disability, or that their disability prevents them from protecting themselves.

The decision on whether Section 42 Care Act 2014 criteria are met is a local authority decision only. It is not for partner agencies or organisations to second guess this.

Where criteria for a safeguarding adults enquiry are not met, consider what other action, or provision of advice and information might be needed to respond to the concern.

For example, an adult can be supported to live safely through assessment and support planning:

- People's right to live free from crime can be supported through Police interventions and to recover from the experience of crime through victim support services.
- People's health and wellbeing, and experience of safe services, can be promoted through patient safety approaches in the NHS and good-quality responses under clinical governance processes.

Where the criteria for a statutory enquiry are not met, other actions could include:

- Referral for a care and support needs assessment under Section 9/Section 10 of the Care Act 2014
- Decision by the local authority to undertake a discretionary safeguarding enquiry.
- Application for a Deprivation of Liberty Safeguards authorisation
- Referral for Mental Health Act assessment
- Referral to other high-risk management processes, such as MARAC, MAPPA or MARM
- Referral/ signposting to other agencies or support services, e.g. Police, victim support, domestic abuse support services, counselling services, or a GP
- Written information and advice on how to keep safe, or how to raise a concern in the future.
- Information about how to make a formal complaint, e.g. about substandard care or treatment.
- Information sharing with regulatory agencies and commissioners to address service quality concerns.
- Service Provider to undertake internal responses, e.g. internal investigation, training, disciplinary process, audit and quality assurance activity.
- Concern is passed into other incident management processes, e.g. NHS Serious Incident process.
- Referral to the appropriate Lead regarding concerns about people in a position of trust who may pose a risk of harm to adults. For details, review the [4LSAB Multi-Agency Framework for Managing Allegations Against People in a Position of Trust](#).