



Sussex Safeguarding Adults Escalation and Resolution Protocol

With thanks to East Sussex Safeguarding Adults Board, on whose work this Protocol is built.

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1. Introduction

This protocol provides an escalation and resolution process for disagreements between agencies or professionals in relation to adult safeguarding, including organisational safeguarding processes. This includes situations where mental capacity decision-making is identified as a specific issue or concern within adult safeguarding. This protocol may also offer general multi-agency guidance in relation to mental capacity decision-making where appropriate and useful.

Disagreements can arise in a number of areas regarding safeguarding, and related mental capacity concerns, but are most likely to be around:

- Adult safeguarding concerns or enquiries where the threshold for intervention is contested.
- Communication offered within safeguarding decision making and actions.
- Situations where there are concerns about an organisation's involvement in adult safeguarding arrangements.
- Differing views between professionals around levels of risk
- Differing views on organisational roles and responsibilities.
- Whether to continue with, or to conclude, a section 42 enquiry.
- Professionals disagreeing as to whether an adult has capacity to make a specific decision at that time as well as the wider implications and impact of the decision.
- Professionals having different views about what is in the best interests of an adult who lacks capacity.
- Professionals objecting to a decision, or an action, another professional is making on an adult's behalf.

The process outlined in this protocol provides for the escalation and resolution of such disagreements where an agency or professional has a concern with regard to a decision made by other professionals or another agency in relation to adult safeguarding and mental capacity within adult safeguarding.

It is key that all professionals should feel able to respectfully challenge decision making and to see this as their right and responsibility in promoting best practice. This protocol provides professionals with the means to raise concerns that they may have about decisions made by other professionals or agencies by:

- Avoiding professional disputes that puts adults with care and support needs at risk or distract the focus from the adult.
- Resolving the difficulties within and between agencies quickly and openly.
- Identifying problem areas in working together where they may be a lack of clarity and to promote the resolution through amendment to protocols and procedures.

- Offering a way for resolution at practitioner level between agencies, if necessary, with the involvement of their line managers.
- Offering a way to focus disagreements on whether a desired outcome has been achieved for an adult with care and support needs and keeping Making Safeguarding Personal central to the outcome.

Working together effectively depends on open and honest relationships and a clear understanding of roles and responsibilities between agencies. Problem resolution is an integral part of professional co-operation and joint working to safeguard adults when disagreements arise.

Escalation should be undertaken, and resolution should be sought, within the shortest timescale possible to ensure the adult at the centre is protected and in following the principle of 'no delay'. Disagreements should be resolved at the earliest possible stage; however, if an adult is thought to be at risk of immediate harm, then discretion should be used as to which stage of the protocol is initiated.

2. Scope

This Protocol is not a replacement for individual organisational complaint processes. These are separate to the scope of the Escalation and Resolution Protocol.

Matters relating to individual practitioner performance, assessment, eligibility with regard to care and support needs, as well as funding arrangements also sit outside the scope of this process. If it is felt necessary to make a formal complaint each agency should follow the relevant recognised organisational complaint procedure.

This Protocol does not replace or override statutory guidance in relation to the Care Act or Mental Capacity Act and is designed to be used alongside these.

3. Principles

- Timely resolution or escalation at the earliest opportunity, and throughout every subsequent stage, with no delay is the expected approach to any disputed safeguarding concern or related mental capacity disagreement.
- Any immediate risks should be addressed regardless of any ongoing disputes.
- It is every professional's responsibility to problem solve.
- Ensuring that the person, and/or their advocate/representative, is at the centre of the process, their voice is heard and wherever possible their views and wishes inform the actions taken.

4. Context

4.1. Safeguarding enquiries

The duty to undertake an enquiry under section 42 of the Care Act 2014 begins at the point that the professional in the local authority confirms receipt of a safeguarding concern and that they have reasonable cause to suspect that the three stage tests have been met.

These three stage tests are:

- That an adult has care and support needs;
- That they are experiencing, or at risk of, abuse and neglect, and;
- That as a result of their needs they are unable to protect themselves.

An enquiry is undertaken in order to help the local authority decide if any action needs to be taken to support and protect the person in question and the scope of an enquiry may range from an informal conversation to more formal multi-agency discussions. An enquiry may also be undertaken by local authorities using their discretionary powers in situations where the statutory duty is not met (for example where an adult has died).

In adult safeguarding the threshold for undertaking an enquiry is set out in the Sussex Safeguarding Adults Policy and Procedures and in the majority of cases this provides sufficient guidance.

However, there are situations where disputes regarding thresholds or responses may emerge between agencies. It may be for example that the local authority's Adult Social Care (ASC) department or a partner agency wishes to challenge either a decision or action that may include:

- A poorly framed safeguarding concern.
- A failure to raise a safeguarding concern in a timely way.
- A failure to share relevant information needed by ASC to make an adequate judgement as to how the safeguarding concern should be dealt with.
- A failure to discharge professional responsibility in relation to adult safeguarding, including providing reports where required in the context of a safeguarding enquiry.
- A failure by any partner to engage in a multi-agency safeguarding plan.
- A failure to progress safeguarding enquiries in a timely manner and provide feedback as necessary.
- A failure to progress safeguarding enquiries, including when caused to by the local authority, when the person is deceased but there is risk/impact to others.

Safeguarding Adults Reviews (SAR's) undertaken across Sussex, and more widely, have highlighted the importance of multi-agency challenges in helping to ensure the robustness of best practice in adult safeguarding.

4.2. Mental Capacity

Mental capacity is inextricably linked to adult safeguarding and this protocol is designed to support practitioners in situations where concerns around mental capacity in the context of adult safeguarding are identified.

Capacity should always be assumed; however, a mental capacity assessment should be undertaken if there is a reasonable belief, based on the two-stage test, that a person may lack the capacity to make a specific decision at that time.

The decision maker will need to clearly demonstrate in their record keeping how the two-stage test of capacity has been met, based on all available evidence, and that they have taken into account conflicting views.

There may be situations where disputes arise between partner agencies where:

- There is felt to be evidence that the two-stage test has been met but a capacity assessment has not been undertaken.
- The two-stage test has not been adequately evidenced in an assessment that has been undertaken.
- If there has been a mental capacity assessment by more than one professional and their outcomes are different whose assessment takes precedence.
- A professional feels an adult has not been adequately supported to make the decision.
- An Independent Mental Capacity Advocate (IMCA) has not been appointed when an adult has no one else to support them.
- The overall mental capacity assessment is perceived to be of poor quality.
- There is a disagreement between professionals about what is in an adult's best interests.

5. The escalation and resolution process

The following process should only be followed by SAB partner agencies in response to issues arising around adult safeguarding practice, which may include mental capacity concerns relevant to the safeguarding process.

5.1. Stage one

Any professional who considers that a decision in relation to a safeguarding concern or safeguarding enquiry, and/or an associated mental capacity assessment or best interests decision is not safe or is inappropriate, should initially consult a supervisor or

manager in their own organisation. This should be undertaken in as timely a manner as possible, as part of the principle of 'no delay' and within a maximum time period of 7-10 working days.

When consulting with the internal supervisor or manager, the practitioner should be encouraged to:

- clarify their thinking in order to identify the problem,
- be specific as to what the disagreement is about,
- be clear about the potential risk and impact to wellbeing
- be clear about what they aim to achieve,
- be supported to discuss the issues with the other professional involved.

Initial attempts should be made to resolve the problem at practitioner level between agencies; this would normally be between the individuals who disagree. It should be recognised that differences in status and/or experience may affect the confidence of some workers to pursue this unsupported; however, all members of staff have a duty to raise concerns about the safety and wellbeing of clients and act promptly.

In summary

Stage one: Professional to professional.

If issue resolved, no further action or mediation required.

5.2. Stage two

If the problem is unresolved at stage one, the worker should ask the supervisor or line manager within their own agency to raise the issue with the equivalent supervisor or line manager in the other agency. This should be undertaken as quickly as possible, within a maximum period of 7-10 working days of being escalated from stage one. The two supervisors or line managers should also seek to resolve the issue as quickly as possible in an open and transparent manner that keeps the person at the centre of this process.

In summary

Stage two: Supervisor/line manager to supervisor/line manager.

The supervisor/Line manager of individual liaises directly with the appropriate equivalent in the other agency. The two managers will seek to resolve the dispute at this stage.

5.3. Stage three

If the problem is unresolved at stage two, the supervisor or manager reports to their named/designated organisational safeguarding lead or representative. The two organisational safeguarding leads or representatives must attempt to resolve the professional differences through consideration and application of relevant legislation and pan-Sussex policy and procedures, such as the Sussex Safeguarding Procedures. This should be undertaken in a timely manner and within a maximum time period of 7-10 working days of being escalated from stage two. The Principal Social Worker may be consulted at this stage to advise and aid resolution and as elsewhere this stage should be undertaken in as timely a manner as possible.

In summary

Stage three: Safeguarding lead/representative to safeguarding lead/representative.

With reference to relevant legislation, policies, procedures and other guidance and support.

5.4. Stage four

In the unlikely event the problem remains unresolved after stage three the safeguarding leads or representatives report to their Heads of Service (as well as informing the nominated SAB member if this role is separate) to discuss and seek resolution. The Principal Social Worker may also be consulted at this stage. This should be undertaken in a timely manner and within a maximum time period of 7-10 working days of being escalated from stage three. The SAB Manager should be contacted if it is identified that there are learning opportunities and/or gaps within existing policies and procedures that could be considered in preventing a similar situation occurring in the future. The SAB Manager will inform the Independent Chair in these circumstances and will also make them aware when resolution is reached.

In summary

Stage four: Head of service to head of service.

With a focus on partnership working, learning and resolution with the involvement of the SAB as required. If the issue remains unresolved it will be escalated to the Chief Officer of the local authority for a final decision.

5.5. Stage five – the final stage

If the dispute continues, the final decision on conflict resolution rests with the Chief Officer for the local authority as the lead agency for adult safeguarding.

At all stages, actions or decisions must be recorded and shared with the relevant personnel.

6. What to do if the process highlights wider learning points or gaps in policies and procedures

Any professional disagreements that reach stage four and in which learning points or gaps in policies and procedures are identified will be taken forward by the SAB Manager via the relevant sub-group.