



**Leeds Safeguarding
Adults Partnership**

Practice Guidance: Coordination Of Safeguarding Investigations (with other investigations)

| | |
|----------------------------|--|
| Version: | Version 1 |
| Ratified by: | Leeds Safeguarding Adults Partnership Board |
| Date ratified: | December 2011 |
| Author/Originator of title | Safeguarding Policy, Protocols and Procedures Sub-group |
| Sub-group Chair: | Kieron Smith, Leeds Safeguarding Adults Partnership Support Unit |
| Date issued: | January 2012 |
| Review date: | December 2013 |
| Target audience: | Safeguarding coordinators / safeguarding professionals |

<This page is intentionally blank >

Contents

| | |
|---|----|
| 1. Introduction | 1 |
| 2. Guiding Principles | 1 |
| 3. Police/Criminal Investigations and Safeguarding Adults | 2 |
| 4. Incident or Serious Incident Investigation and Safeguarding Adults | 4 |
| 5. Complaints Investigation and Safeguarding Adults | 6 |
| 6. Disciplinary Investigation and Safeguarding Adults | 7 |
| 7. Sharing of Information | 10 |
| 8. Version Control Record | 10 |

Each contents heading is a hyperlink

1. Introduction

This guidance focuses on the coordination of safeguarding adult investigations with police, complaint, disciplinary and incident/serious incident investigations. However, the principles contained within have wider application where other investigative processes are involved.

The coordination of investigations requires a mutual understanding of each organisation's statutory responsibilities, effective communication and cooperation. The focus should be on working in partnership, making the best use of each organisations skills and expertise in order to achieve safe, effective and timely outcomes for 'adults at risk'.

In some circumstances coordination will not just be between organisations, but between departments within an organisation, where each is responsible for different investigative processes.

This practice guidance is intended to support decisions as to how investigations should be coordinated. Each set of circumstances will however be unique, requiring professional judgements and individually tailored solutions.

This practice guidance should be read alongside the Leeds Safeguarding Adult Partnership Multi Agency Policy and Procedures.

2. Guiding Principles

The Department of Health Guidance, 'No Secrets' published in 2000 establishes key guiding principles that are relevant to the coordination of investigations:

- i. A properly co-ordinated joint investigation will achieve more than a series of separate investigations. It will ensure that evidence is shared, repeat interviewing is avoided and will cause less distress for the person who may have suffered abuse...¹
- ii. 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

¹ No Secrets, 2000: 29

information flowing from that must be constantly evaluated and reviewed by each agency.¹

Each organisation must therefore look for opportunities to work in partnership in achieving their varied responsibilities. Organisations however must be individually responsible and accountable for their own actions and decisions.

3. Police/Criminal Investigations and Safeguarding Adults

The content of a safeguarding adult referral may include suspected or actual criminal offences that require investigation by the police. For these reasons, where a criminal offence is suspected, consideration should be given to the need to preserve evidence and involve the police at the earliest opportunity. In these circumstances a representative of the police should be included within the strategy meeting/discussion, so that the safeguarding and criminal investigation processes can be coordinated in an effective and timely manner.

Focus of Investigations

The issues being considered by criminal investigation and safeguarding adult procedures are different.

The focus of the police investigation is criminal justice. The purpose of the investigation is to establish whether a criminal offence has occurred, resulting potentially in criminal prosecution by the Crown Prosecution Service. The standard of evidence in a criminal investigation is 'beyond reasonable doubt'.

The focus of the safeguarding procedures is protection. The purpose of the safeguarding investigation is to establish whether abuse or neglect has occurred in order to inform the protection planning process. The decision as to the occurrence of abuse or neglect will need to be reached on the 'balance of probabilities'.

It is possible that an investigation could achieve the standard of evidence for the safeguarding investigation to substantiate an allegation but not for a criminal prosecution to be taken forward. For these reasons, although the safeguarding investigation may be informed by the police investigation, it will need to form its own view as to the occurrence of abuse or neglect.

Priority of Police Investigations

Any strategy meeting/discussion must recognise the priority afforded to police/criminal investigations. Criminal investigations by the police take priority over all other investigations:

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 Services... Accordingly, when complaints about alleged abuse suggest that a criminal offence may have been committed it is imperative that reference should be to the police as a

matter of urgency. *Criminal investigation by the police takes priority over all other lines of enquiry*"²

This means that where a police investigation is being undertaken, a safeguarding investigation should not commence without the knowledge and agreement of the police. The Senior Investigating Police Officer will liaise with the safeguarding coordinator and other agencies involved in order to ensure that the criminal investigation takes priority and is not prejudiced by any enquiries carried out by other organisations.

NB: Although the commencement of a safeguarding investigation may need to be delayed pending police enquiries, protection planning arrangements for the adult at risk should not be delayed. Wherever practicable the police will need to be consulted in relation to protection arrangements that may impact upon their investigation, such those that may forewarn the person alleged to have caused harm of concerns being raised about them.

Principles of coordination

Where a police investigation is being conducted consideration needs to be given as to when a safeguarding investigation can be commenced, so as to ensure both the criminal and safeguarding procedures are completed in a timely manner. Opportunities for partnership working should be considered within the strategy meeting/discussion with a view to reducing the need for repeat interviewing and in order to support timely protection planning.

Police officers are responsible for conducting the investigation into criminal elements of abuse or neglect. It may however be appropriate for a safeguarding investigating officer to accompany a police officer during some stages of the criminal investigation for example, evidential interviews with the adult at risk or witnesses. Alternatively the sharing of information may preclude the need for activities to be repeated by the safeguarding investigation.

The need for the police to act promptly to secure evidence may sometimes mean that police interviews or other actions cannot be delayed until the safeguarding investigating officer is able to accompany them. However, where this is possible and beneficial, the following factors/considerations apply:

- The police will always be the lead organisation. Interviews will need to adhere to the requirements for criminal interviews such as Police and Criminal Evidence Act 1984, Achieving Best Evidence Guidance, March 2011.
- The police are responsible for asking interview questions.
- Issues pertinent to the safeguarding investigation should be shared with the police prior to the interview. Where relevant and appropriate these issues could be integrated into the interview.
- The person being interviewed should be enabled to consent or dissent to the safeguarding investigating officer being present.

² No Secrets, 2000:10; *emphasis added*

- When the police are interviewing a person alleged to have caused harm, a safeguarding investigating officer should not be present. This is due to the requirements of the criminal investigation process.
- The presence of a safeguarding investigating officer is not a substitute for other forms of support required by the adult at risk during a criminal investigation.

Care should be taken to ensure that a criminal investigation/prosecution process is not undermined by how information shared by the police is recorded or distributed within safeguarding investigation reports or minutes of meetings. The police should be consulted, and their permission obtained, in relation to how information shared by them is subsequently used within safeguarding adult procedures.

4. Incident or Serious Incident Investigation and Safeguarding Adults

Incident and serious incident investigations are organisational learning processes that review how and why incidents have occurred. Incident and serious incident investigations take a systemic approach, that seek to improve the way services are being provided and to minimise the risk that incidents of concern will reoccur.

All organisations should have management/governance systems in place that specifically consider whether internally reported incidents/concerns involve issues of abuse or neglect, and make referrals into the safeguarding adult process accordingly. Any internal investigation should be coordinated with the safeguarding adult arrangements and not begin independently of them³.

Incident investigations may be conducted by any organisation. There is an expectation that all services will consider the need to review its practice and systems in response to an incident, in order to minimise the risk of harm or abuse reoccurring.

Serious Incident investigations relate to NHS or NHS Commissioned Services. The criteria of a serious incident includes... 'an incident that has occurred that involves an allegation of abuse'⁴. Such incidents must be referred into the multi agency safeguarding process as well reported to the National Patient Safety Agency as a reportable incident.

The strategy meeting/discussion should include appropriate representatives of the service provider who can advise on whether an incident or serious incident investigation is required and contribute to decision making as to how these investigation processes can be coordinated.

Focus of Investigations

The focus of incident/serious incident investigations are to establish the learning from an incident, enabling changes in process or practice to be made that minimise the risk of it reoccurring. The focus of the safeguarding procedures is protection. The purpose of the safeguarding investigation is to establish whether abuse or neglect has occurred in order to inform the protection planning process.

³ Sector specific guidance has been produced for the NHS and NHS Commissioned services: Governance and Adult Safeguarding: An Integrated Process 2010

⁴ National Framework for Reporting and Learning from Serious Incidents Requiring Investigation (NPSA 2010)

As the focus of the investigations are different, the findings of one investigation does not in itself determine the conclusions of the other. The safeguarding and incident/serious incident processes must both assess the information obtained during investigation and satisfy themselves that its decisions are appropriate.

Coordination Issues

In deciding how investigations can be best coordinated in an effective and timely manner. The safeguarding coordinator needs to exercise professional judgement, taking into account the unique circumstances and the following considerations and coordination options:

Considerations:

- Incidents of abuse or neglect will need to be addressed within the safeguarding adult procedures and recorded on the appropriate safeguarding investigation template.
- It is important that the strategy meeting/discussion clearly defines the scope of the safeguarding investigation to be undertaken. This will assist in understanding whether and to what extent there is overlap with any incident or serious incident investigation proposed.
- The safety of the adult at risk should be the focus of decisions as to how investigations are coordinated.
- Where possible, sharing of information may prevent the need for repeat investigation into the same issues or concerns. Refer to Information sharing guidance as required.

Coordination Options Include:

Where Safeguarding and Incident/Serious Incident Investigations are both required:

- The safeguarding coordinator will need to consider whether there is a need to request a service provider delay an incident or serious incident investigation until completion of the safeguarding investigation. This may be required where there is otherwise a risk to the perceived impartiality of the safeguarding investigation or the process of gathering information if the incident/serious incident investigation was not delayed.
- The best use of skills, expertise and resources may sometimes be for the service provider to undertake an incident/serious incident investigation and for their findings to contribute to the safeguarding investigation report (e.g. information learnt may be used in the safeguarding investigation report and or the incident/serious incident report attached).

In these circumstances, the safeguarding investigating officer must review these findings, assure themselves that the service providers investigation has been robust, form their own view as to the occurrence of abuse or neglect and the protection planning needs of the adult at risk. Further investigative activities may be required by the safeguarding investigating officer to ensure the scope and objectives of the safeguarding investigation have been met.

- A safeguarding investigation and incident/serious incident investigation may in some circumstances be conducted simultaneously. If this involved joint interviews the incident/serious incident policy of the service provider and the requirements of the safeguarding procedures would both need to be adhered to.
- Where a Type 1: Service Provider Investigation is required, the safeguarding investigation and incident/serious incident investigation can be conducted together as one interview process providing it adheres to the requirements of the safeguarding adult procedures and the service providers incident/serious incident policy. The Type 1 Investigation template must be completed regardless of any wider report.

5. Complaints Investigation and Safeguarding Adults

Complaints in relation to health or social care services may be made directly to the responsible organisation or to their commissioning body. Complaints received will usually relate to the quality of service provision. On some occasions however, part or all of the content may actually concern issues of abuse or neglect and indicate the need for a safeguarding adult referral to be considered.

Conversely, part or all of the content within a safeguarding adult referral may contain issues more appropriately addressed through a complaints process and it will be necessary to advise the person as to how to take their concerns forward.

Where a safeguarding referral is received following a complaint or where the range of concerns are such that they require both a complaint and a safeguarding investigation, the safeguarding coordinator should consider including within the strategy discussion/meeting, as appropriate:

- A complaints officer from the respective agency and or
- A senior manager of the service provider who can represent the complaints process

The strategy meeting/discussion should consider how these processes can be coordinated in an effective and timely manner.

Focus of Investigations

The focus of a complaint investigation will be on the standards of service being provided by the organisation and appropriate remedies where required. The focus of the safeguarding procedures is protection. The purpose of the safeguarding investigation is to establish whether abuse or neglect has occurred in order to inform the protection planning process.

Coordination Issues

In deciding how investigations can be best coordinated the safeguarding coordinator will need to exercise professional judgement, taking into account the unique circumstances and the following considerations and coordination options:

Considerations:

- Incidents of abuse or neglect will need to be addressed within the safeguarding adult procedures and recorded on the appropriate safeguarding investigation template.
- Wider concerns raised may require investigation within a separate complaints investigation process.
- The safety of the adult at risk should be the focus of decisions as to how investigations are coordinated.
- Where possible, sharing of information may prevent the need for repeat investigation into the same issues or concerns. Refer to Information sharing guidance as required.
- Where there are issues are being addressed through both a complaints investigation and safeguarding investigation it should be made clear to the complainant/adult at risk, as to which issues are being addressed through which process.

Coordination Options Include:

Where Safeguarding and Complaint Investigations are both required:

- Consideration should be given as to whether concerns requiring a complaint investigation and those requiring a safeguarding investigation can be undertaken simultaneously, in order that the person's various concerns are responded to in a timely manner.
- In the event that undertaking a complaints and safeguarding investigation process simultaneously may undermine or interfere with the process of investigating/gathering evidence for the safeguarding adult investigation, the safeguarding investigation will need to be undertaken first.
- Even though the safeguarding and complaints investigations will be addressing different issues, there may be occasions where a joint interview of the complainant/adult at risk is appropriate. This may be beneficial where the issues being investigated are related and it is distressing for the complainant/adult at risk to repeat their experiences for the purposes of separate investigation processes.
- Where a Type 1: Service Provider Investigation and an internal complaints process is required, the safeguarding investigation and complaints investigation can be conducted together as one interview process providing it adheres to the requirements of the safeguarding adult procedures and the service providers complaints policy. The Type 1 Investigation template must be completed regardless of any wider report.

6. Disciplinary Investigation and Safeguarding Adults

Alleged misconduct by a staff member may need to be investigated and addressed within both disciplinary procedures and safeguarding adult procedures. Each is important and necessary to ensure safe outcomes for an adult at risk and need to be

coordinated effectively. Disciplinary processes will need to comply with the service provider's disciplinary policy and relevant employment legislation.

In the case of potential gross misconduct the service provider will need to give consideration as to the need for suspension or alternative actions in order to address a risk that the investigation may otherwise be compromised and or to minimise any ongoing risk to the adult at risk or other service users.

Where a safeguarding allegation or concern involves allegations of misconduct by a member of staff that may result in disciplinary investigation, the safeguarding coordinator should consider involving the following people in the strategy meeting/discussion:

- The service provider's human resources (HR) Manager/Advisor and or
- A senior manager of the service provider who can represent the disciplinary process

The strategy meeting/discussion should consider how these investigation processes can be coordinated.

Focus of Investigations

The focus of the disciplinary investigation will be the adherence of a staff member to their responsibilities as an employee. The focus of the safeguarding procedures is protection. The purpose of the safeguarding investigation is to establish whether abuse or neglect has occurred in order to inform the protection planning process.

Coordination Issues

In deciding how investigations can be best coordinated in an effective and timely manner, the safeguarding coordinator will need to exercise professional judgement, taking into account the unique circumstances and the following considerations and coordination options:

Considerations:

- Incidents of abuse or neglect will need to be addressed within the safeguarding adult procedures and recorded on the appropriate safeguarding investigation template.
- An employer is separately responsible for the administration of disciplinary procedures, and decision making within.
- The safety of the adult at risk should be the focus of decisions as to how investigations are coordinated.
- Interviews being undertaken as part of a disciplinary investigation will need to adhere to the service provider's disciplinary procedures.
- Where possible, sharing of information may prevent the need for repeat investigation into the same issues or concerns. Refer to Information sharing guidance as required.

Coordination Options Include:

Where Safeguarding and Disciplinary Investigation processes are both required:

- The safeguarding coordinator will need to consider whether there is a need to request a service provider delay any internal disciplinary investigation until completion of the safeguarding investigation. This may be required where there is otherwise a risk to the perceived impartiality of the safeguarding investigation or the process of gathering information if the internal disciplinary investigation was not delayed.
- The best use of skills, expertise and resources may sometimes be for the service provider to undertake a disciplinary investigation and for their findings to contribute to the safeguarding investigation report (e.g. information learnt may be used in the safeguarding investigation report and or the disciplinary report attached).

In these circumstances, the safeguarding investigator must review these findings, assure themselves that the service providers investigation has been robust, form their own view as to the occurrence of abuse or neglect and the protection planning needs of the adult at risk. Further investigative activities may be required by the safeguarding investigating officer to ensure the scope and objectives of the safeguarding investigation have been met.

- A safeguarding investigation and disciplinary investigation may in some circumstances be conducted simultaneously. If this involved joint interviews the requirements of the safeguarding procedures and disciplinary procedures of the service provider would both need to be adhered to.
- Where a Type 1: Service Provider Investigation is required and an internal disciplinary investigation, the safeguarding investigation and disciplinary investigation can be conducted together as one interview process providing it adheres to the requirements of the safeguarding adult procedures and the service providers disciplinary procedures. The Type 1 Investigation template must be completed regardless of any wider report.

Disciplinary Hearing Process

The timing of a disciplinary hearing is a decision for the relevant employer and will depend on the specific circumstances of the situation. Consideration should be given as to whether the decisions or findings within the safeguarding adult process may potentially effect decision making within the disciplinary process. Such decisions will need to be reached on a case by case basis.

Disciplinary hearings will be focused on the conduct of the individual as an employee. Decisions reached should however also give due consideration to the organisation's responsibility to safeguard adults at risk.

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 [adults at risk]*⁵

⁵ No Secrets 2000: 32 (*emphasis added*)

For these reasons, it is necessary for the disciplinary hearing process to:

- Develop an understanding of the safeguarding issues that have emerged during the investigation
- Reassure itself that it is acting proportionately to the risk of abuse occurring or reoccurring
- Understand the potential impact of disciplinary decisions on the adult at risk and other service users
- Assure itself that staff are safe to work with adults at risk and where needed detail the measures required to provide this reassurance
- Consider the need to seek advice from their organisational safeguarding adult lead in relation to the impact of their decisions on an adult at risk
- Understand and act upon responsibilities to refer individuals to professional regulatory bodies and make referrals to the Independent Safeguarding Authority Vetting and Barring Scheme, where appropriate.

7. Sharing of Information

A safeguarding investigation may be informed by other investigative processes.

The information received from other investigation processes must however be evaluated by the safeguarding investigating officer, who will need to assure themselves that the service providers investigation has been robust, form their own view as to the occurrence of abuse or neglect and the protection planning needs of the adult at risk. Further investigative activities may be required by the safeguarding investigating officer to ensure the scope and objectives of the safeguarding investigation have been met.

Sharing of information will provide for effective and efficient inter-agency working. However, the sharing of information must be in accordance with the Leeds Safeguarding Adult Partnership Information Sharing Agreement located at www.leedssafeguardingadults.org.uk and advice sought from organisational information sharing leads as required. The Safeguarding Coordinator will need to be clear, in any request for information, as to how that information will be subsequently used and shared.

Additional guidance on information sharing can be located at:

- Leeds Interagency Protocol for Sharing Information date www.leeds.gov.uk
- HM Government (2008) - Information sharing – guidance for practitioners and managers www.education.gov.uk
- Information Commissioner’s Office - www.ico.gov.uk

8. Version Control Record

| Version | Version or document being superseded | Changes from previous version (record origins of document if new) |
|---------|---|---|
| 1 | No previously established Practice Guidance | Board Business Plan 2011. Item 2.2 Required: Guidance on Coordination of Safeguarding investigations when other investigations are ongoing (incident investigation, disciplinary, criminal) |