**Telford & Wrekin Safeguarding Adults Board**

**Section 42 referral process when commissioning an organisation outside the Local Authority to undertake the Section 42 Enquiry**

**1. Background to Safeguarding Adults Enquiries**

1.1 The Care Act 2014 requires that Local authorities must make enquiries, *or*

*cause others to do so*, if they reasonably suspect an adult:

* has needs for care and support (whether or not the local authority is

meeting any of those needs) and;

* is experiencing, or at risk of, abuse or neglect;

and

* as a result of those care and support needs is unable to protect

themselves from either the risk of, or the experience of abuse or

neglect.

These are known as statutory Safeguarding Adult, or “Section 42” Enquiries.

1.2 Where a crime is suspected and referred to the police, then the police must

lead the criminal investigations, with the local authority’s support where

appropriate. The local authority has an ongoing duty to promote the wellbeing

of the adult in these circumstances.

1.3 An enquiry is the action taken or instigated by the local authority in response

to a concern that abuse or neglect may be taking place. Its purpose is to

decide whether or not the local authority or another organisation, or person,

should do something to help and protect the adult.

1.5 The objectives of a Section 42 Enquiry are to:

* Establish facts;
* Assess the needs of the adult for protection, support, redress and

how they might be met;

* Protect from the abuse and neglect, in accordance with the wishes of

the adult;

* Make decisions as to what follow-up action should be taken with regard to the person or organisation responsible for the abuse or neglect; and
* Enable the adult to achieve resolution and recovery.

**2. S42 Enquiries undertaken by Other Agencies**

2.1 Although the local authority is the lead agency for making enquiries, it may

require others to undertake them where this is in the best interests of the adult. The specific circumstances will often determine who the right person is

to undertake an enquiry. In many cases a professional who already knows

the adult will be the best person.

2.2 Where it causes another organisation to undertake an enquiry, or a part of it,

the local authority retains the responsibility for ensuring that the enquiry is

referred to the right place and is acted upon.

3.3 If the local authority decides that another organisation should make the

enquiry, then it must make clear the enquiry’s terms of reference. These

should include

* The scope of an enquiry;
* Who is responsible for commissioning the enquiry and receiving the report of its outcome; and
* The timescale for reporting the enquiry outcome.

3.4 The organisation commissioned to undertake the enquiry should confirm to

the enquiry’s commissioner the details of the person who will be responsible

for undertaking the enquiry and ensure that it is undertaken within the

required timescale.

3.5 Once enquiries are completed, the outcome should be notified to the local

authority which should then determine with the adult what, if any, further

action is necessary and acceptable.

3.6 The local authority, in its lead and coordinating role, should assure itself that

the enquiry satisfies its duty under section 42 of the Care Act 2014 to decide

what action (if any) is necessary to help and protect the adult and by whom

and to ensure that such action is taken when necessary. In this role the local

authority must challenge the body making the enquiry if it considers that the

process and/or outcome is unsatisfactory.

**3. Process for commissioning a Section 42 Enquiry from an organisation outside the Local Authority**

4.1 **Duty of the Local Authority causing an enquiry to be carried out**

Where the **Managing Officer** responsible for a Section 42 Enquiry within the

Local Authority identifies that another agency is best placed to undertake that

enquiry, or an element of it, they must:

4.1.1 Inform the organisation of this responsibility (initially verbally, and then

formally using the template (Appendix A) at the end of this guidance clearly setting out the enquiry’s terms of reference).

4.1.2 Explain to the organisation why they are best placed to undertake the enquiry.

4.1.3 Be satisfied that the organisation being caused to undertake the enquiry is competent to do so and that there is no conflict of interest in this organisation (or the person they appoint as Enquiry Officer) fulfilling this role.

4.1.4 Agree a reasonable timescale for receiving a report of its outcome. Enquiries must be completed in a timely manner. Enquiries will vary greatly in length and complexity, so prescribing a single target for all reports is not possible. However only in exceptional circumstances should an enquiry report be received more than 28 days after they it was commissioned.

4.1.5 Ensure the organisation knows how the Managing Officer can be contacted.

4.1.6 Ensure the organisation knows of the appointment and contact details of any Independent Advocate or other person acting on the adult’s behalf where they have substantial difficulty in taking part in the enquiry.

4.1.7 Make any amendments to the terms of reference necessary as the enquiry progresses or the adult’s desired outcomes change or develop.

4.1 8 Ensure the enquiry report has addressed the terms of reference and require rectification to be made where it does not.

4.1.9 Resolve any disagreement regarding the commissioning of the enquiry at the lowest level possible within the organisation, only escalating within the organisation and local authority where issues remain unresolved and

proportionate to the disagreement. (N.B. where the organisation is the best placed to undertake the enquiry and its terms of reference are within the scope of its jurisdiction, the organisation has a legal duty under the Care Act 2014 to cooperate).

4.2 **Duty of the organisation identified to undertake an enquiry**

The organisation that is caused to undertake a Section 42 Enquiry must:

4.2.1 Appoint an **Enquiry Officer** to undertake the enquiry and provide the enquiry report, ensure they are competent to do so, that they receive the support necessary to satisfactorily complete it, and that there is no conflict of interest in their undertaking this role.

4.2.2 Satisfy themselves that the enquiry terms of reference are clearly understood and within the remit of the organisation to undertake.

4.2.3 Make the Managing Officer aware of any circumstances where the

organisation is not the appropriate body to undertake the enquiry.

4.2.4 Resolve any disagreement regarding the commissioning of the enquiry at the lowest level possible within the organisation, only escalating within the organisation and local authority where issues remain unresolved and

proportionate to the disagreement. (N.B. where the organisation is the best placed to undertake the enquiry and its terms of reference are within the scope of its jurisdiction, the organisation has a legal duty under the Care Act 2014 to cooperate).

4.2.5 Agree a reasonable timescale for receiving a report of its outcome. Enquiries must be completed in a timely manner. Enquiries will vary greatly in length and complexity, so prescribing a single target for all reports is not possible. However only in exceptional circumstances should an enquiry report be received more than 28 days after they it was commissioned.

4.2.6 Conduct the enquiry in line with the principles of Making Safeguarding

Personal, i.e. ensure:

* The enquiry reflects the outcomes that the adult wishes to achieve;
* The adult (or their representative or Independent Advocate) is included as far as possible throughout the process;
* That if in the progress of the enquiry the adult alters their view of their
* desired outcomes, this is reflected in the enquiry and that the Enquiry’s Commissioner is informed of this; and
* The adult (or their representative or Independent Advocate) are informed of the outcome of the enquiry.

4.2.7 Keep in contact with the Managing Officer and inform them of any changes or developments during the enquiry.

4.2.8 Ensure the enquiry report has addressed the terms of reference and is delivered to the Managing Officer within the agreed timescale.

**Appendix A - S42 Enquiry Referral Form**

 

**TELFORD & WREKIN SAFEGUARDING ADULTS S42 Enquiry**

**This section is to be complete by the Local Authority Safeguarding Team**

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| **Date & Time of Referral:**  **Name of Referring Social Worker/professional:**  **Organisation/relationship to the person:**  **Contact details including secure email address:** |

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| --- | --- | --- | --- |
| **Person Details** | | | |
| **Name:** |  | **DOB:** |  |
| **Address:** |  | **NHS No :** |  |
| **Telephone No:** |  | **LAS No:** |  |
| **Email:** |  | | |

|  |  |  |
| --- | --- | --- |
| **GP Name & Address:** |  | |
| **Telephone No:** |  | |
| **NOK / Representative / Advocate & their views Address & Telephone No:** |  | |
| **Does the person lack capacity?** | |  |
| **Is a Mental capacity assessment completed /available?** | |

|  |  |  |
| --- | --- | --- |
| **Reason for Referral** | | |
| **Section 42 Enquiry:** |  | |
| **Quality Concern:** |  | |
| **Advice:** |  | |
| **Information only:** |  | |
| **Has the adult been informed of the concern?**  **If No, why not?** | |  |
| **What are their views?** | | |
| **What are their desired outcomes, were they achieved?** | | |

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| --- |
| **Background** including *care and support needs are/what support they receive, previous concerns, relevant history* |

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| **Detail of concern / incident and Actions already taken , if any:** *Be aware dates, of Duty of candour, being open, evidence, actions taken, How was the enquiry progressed – what was found, who was spoken to, what documents were considered?* |

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| **Is there a Safeguarding plan in place?** *If yes, complete / attach details* |

**This section is to be completed by the person requested to complete the S42 Safeguarding Enquiry.**

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| **Assessment:** *Initial findings / any actions taken*  **Recommendations / Request**: *What needs to happen?* |

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| **Outcome** |
| **Outcome:** *i.e. Be aware dates, of Duty of candour, being open, evidence, actions taken,**How was the enquiry progressed – what was found, who was spoken to, what documents were considered?* |
| **Was the concern substantiated?** |
| **Has the person been informed of the outcome?** |

Please send the completed form to [family.connect@telford.gcsx.gov.uk](mailto:family.connect@telford.gcsx.gov.uk) or allocated investigating worker as identified above.