Local Government Association

directors of adass adult social services

Adult safeguarding and domestic abuse

A guide to support practitioners and managers

Second edition 2015

Contents

Introduction: quick reference guide 6

1. Making the connections between adult safeguarding and domestic abuse 9

Who this guide is for 9

What this guide sets out to achieve 9

2. What is domestic abuse? Who needs safeguarding? And how do they link together? 11

Definition of domestic abuse 11

Definition of safeguarding 11

Family and intergenerational abuse 12

Making the links between adult safeguarding and domestic abuse 12

Making the links with children's safeguarding 13

2.1 What research tells us 13

Gender and domestic abuse 13

Domestic abuse in LGBT relationships 14

Age, disability, mental health and domestic abuse 14

Case example one 15

3. Understanding the impact of domestic abuse 17

What is the impact of domestic abuse? 17

What might be the additional impacts on people with care and support needs? 17

Voices from research and practice: one 18

4. Barriers and challenges to ending abusive relationships 19

What are the barriers to seeking help? 19

What are the additional barriers to seeking help for people from a BME background? 20

What are the additional barriers for adults with care and support needs? 20

Independence and self-esteem 21

Parenting 21

Voices from research and practice: two 21

5. Working with people needing care and support who are experiencing domestic abuse 23

Legal obligations 23

Principles for work 23

Voices from research and practice: three 25

Practice: giving opportunities to develop trust, disclose abuse, and seek help 25

5.1 Specific types of abuse 26

Forced marriage 26

Case example two 27

Other domestic abuse within families 27

5.2 Working with specific groups 28

Older people 28

People with mental ill-health 29

People who misuse substances 29

People with learning disabilities 30

Carers who are at risk of harm and/ or harm 30

Case example three 31

6. Mental capacity, adult safeguarding and domestic abuse 34

Mental capacity to take decisions 34

An unwise decision or a decision taken under duress? 34

Case example four 36

People who lack capacity and Independent Mental Capacity Advocates (IMCAs) 36

7. Safe enquiries 38

Enquiring safely about violence or abuse 38

Best practice in undertaking safe enquiry 38

8. Assessing and managing the risks of domestic abuse in safeguarding circumstances 40

Involving the person at risk 40

Using risk assessment tools and exercising professional judgement 40

Multi-agency Risk Assessment Conferences (MARACs) or a multi-agency safeguarding meeting? 41

MARACs and safeguarding procedures 41

Case example five 42

Common barriers to effective risk assessment and management 42

9. Domestic abuse support services and legal action 45

Domestic abuse support services 45

Accommodation and support packages 46

Case example six 46

Voices from research and practice: four 47

Criminal law 48

Domestic Violence Protection Notices and Orders 48

Civil law 49

Case example seven 50

Obtaining good legal advice 51

10. Working with perpetrators of domestic abuse 52

Perpetrators of domestic abuse 52

10.1 Perpetrators with care and support needs 53

People with mental ill health 53

People who use substances 53

Case example eight 54

11. What councils and organisations can do to support good practice 55

12. References and useful resources 57

Acknowledgements

The guide was written by Sue Lewis and Cathie Williams and first published by the Local Government Association in April 2013.

This second edition which includes updates was commissioned from Research in Practice for Adults and written in October 2014 by Ruth Ingram and Lindsey Pike, with thanks to Nicki Norman from Women's Aid, Jo Silver from CAADA, and Maria Gray and Lee Barnard from the Metropolitan Police.

Key parts of it draw significantly on the multi-agency protocol produced by Manchester Safeguarding Adults Board and Manchester Safeguarding Children Board for local use – "Working Together To Safeguard Adults and Children from Domestic Abuse".

Thanks are also due to Wirral Adult Social Services Department and partners for their work in testing out and advising on the content of the guide during its development.

Finally, the many helpful comments and suggestions sent by councils and other partners during the consultation phase have been very useful and are much appreciated.

The work of Co-ordinated Action Against Domestic Abuse (CAADA) and Women's Aid have been drawn on extensively to inform best practice in relation to domestic abuse.

The references and resources, along with other useful information, can be found on the Safeguarding Adults Community of Practice Group on the LGA Knowledge Hub:

www.knowledgehub.local.gov.uk/group/adultsafeguardingcommunityofpractice

Introduction
Quick reference summary guide

A considerable proportion of safeguarding adults work relates to the abuse or neglect of people with care and support needs who are living in their own homes. Domestic abuse is perhaps most commonly thought of as violence between intimate partners, but it can take many other forms and be perpetrated by a range of people. Much safeguarding is therefore also domestic abuse. This guide sets out the overlaps between safeguarding and domestic abuse and the approaches and legal frameworks for domestic abuse that can be used in the safeguarding context.

This section provides an overview of the key messages contained through the document, which has been designed to refer to as needed.

1. Making the connections between adult safeguarding and domestic abuse

- follow your local policies, protocols and procedures for safeguarding adults and children, and for domestic abuse
- use this guide to improve understanding of the issues and develop good practice.

2. What is domestic abuse? Who needs safeguarding? How do they link together? And what does research tell us?

- understand the definitions of safeguarding and domestic abuse, and how they link up for the person you are supporting
- be alert to patterns of coercive or controlling behaviour, as well as incidents of abuse
- always act to safeguard children who are living with or witnessing domestic abuse
- take account of gender, sexuality and inter-generational issues.

3. Understanding the impact of domestic abuse

- consider the likely impact of abuse on all adults and children involved
- consider the additional likely impacts of abuse on people with additional care and support needs
- consider how these factors might affect the approach in working with the person at risk (and others in the household).

4. Barriers and challenges to ending abusive relationships

- there are many reasons why people may not leave abusive relationships
- additional and specific barriers may be present for ethnic minority people, older people, and people with disabilities
- confidentially asking routine questions about safety can aid disclosure
- accessible information and signposted services about abuse are crucial
- building trust with someone to help them disclose abuse may take some time.

5. Working with people needing care and support who are experiencing domestic abuse

- there are a range of issues to consider, including the needs of a range of groups, people's independence, self-esteem, previous experience of services, and parenting
- taking time to build trust and confidence with the person being abused is important, accepting that they may not be able to describe or disclose all aspects of their situation initially, and that the issues may take time to explore fully

- avoid making assumptions based on stereotypes, particularly around older age, mental health and substance misuse
- there is a risk of serious harm in forced marriage situations where one or both parties have care and support needs
- domestic abuse can involve the wider family and take different forms according to different family dynamics, especially when caring responsibilities are involved.

6. Mental capacity, adult safeguarding and domestic abuse

- the Mental Capacity Act has five key principles, designed to protect and support the person
- an apparently unwise decision may be the result of coercion or controlling behaviour by another person
- Independent Mental Capacity Advocates (IMCAs) can support the abused person
- IMCAs may not be specially trained in domestic abuse, but they can work alongside Independent Domestic Violence Advocates (IDVAs) or other workers from a specialist domestic abuse agency.

7. Safe enquiries

- follow the principles of safe enquiry and take protective measures to ensure that any discussions with potential victims of abuse are conducted in a safe environment
- understand that victims of abuse may be reluctant to disclose what is happening to them, but that the conversation may be helping them to understand their situation better and build up trust
- ask direct questions, in a safe environment
- keep good records of any discussions and interventions
- follow local policies, protocols and procedures at all times.

8. Assessing and managing the risks of domestic abuse in safeguarding circumstances

- understand how coercive and controlling behaviours may inhibit people disclosing or revealing the extent of domestic abuse
- understand local policies and procedures for safeguarding and risk assessments
- listen to and communicate respect towards the adult with care and support needs who is experiencing domestic abuse. Ensure they are at the centre of decision-making
- be aware of and vigilant against the potential of 'the rule of optimism', when professionals may place undue confidence in the capacity of families to care effectively and safely, affecting professional perceptions and recognition of risk of harm, abuse or neglect
- take any immediate protective measures that are needed
- understand how your local arrangements work in relation to safeguarding and Multi-Agency Risk Assessment Conferences
- use risk assessment forms as tools to aid professional judgement, not as ends in themselves
- using safe enquiry, work with the person at risk to ensure their experiences are central to your risk assessment
- collate information about static risk factors, as they are the most reliable indication of long-term risk
- use professional judgement in risk assessment as everybody's circumstances are different
- gain support from local specialist domestic abuse agencies; they are experts in risk assessment and management.

9. Domestic abuse support services and legal action

- ensure that you develop safeguarding and support arrangements that are personalised to the person you are working with
- there are many types of national and local support schemes for people experiencing domestic abuse, including places of immediate safety
- be aware of the types of legal actions and sanctions (criminal and civil) that can be used in safeguarding and domestic abuse.

- know where to go to get good legal advice, both for the person you are supporting, and to advise you of the options available
- ensure that information and advice is provided in an accessible way.

10. Working with perpetrators of domestic abuse

- carry out safe enquiry and risk assessment for every person at risk of abuse, whatever the circumstances of each individual
- be aware of the need for specialist intervention programmes for perpetrators, which challenge their behaviour and offer appropriate support
- do not refer perpetrators to interventions such as anger management, generic counselling or mediation between the perpetrator and victim
- if it is within your role to have direct contact with a perpetrator and to speak about domestic abuse, be clear with them about the unacceptability of abuse, their accountability for it, and the limits on confidentiality
- if someone is abusive or neglectful and they themselves have care and support needs, make sure they have access to information and advice, assessment and support
- ensure professionals working with the perpetrator and those working with the victim are part of a 'virtual team' and are actively sharing information relevant to delivering the safeguarding plan
- be aware of and vigilant against the potential of 'the rule of optimism', when professionals may place undue confidence in the capacity of families to care effectively and safely, affecting professional perceptions and recognition of risk of harm, abuse or neglect.

11. What councils and organisations can do to support good practice

This is primarily a practice guide. However, in order for good practice to develop and flourish, there are steps that organisations can take to provide the best environment to support good practice:

- ensure that staff understand that many circumstances are both safeguarding situations and domestic abuse, and that they have a range of social work and legal options with which to work with people
- ensure that organisational policies, protocols and procedures about safeguarding explain the links with domestic abuse and, similarly, policies, protocols and procedures about domestic abuse refer to safeguarding
- ensure that there are effective and clear links and arrangements between Safeguarding Adults Boards, Community Safety Partnerships and Children's Safeguarding Boards
- ensure that there are clear local arrangements between safeguarding services and MARACs
- develop protocols, policies and ways of working to enable safe enquiry within assessments of domestic abuse and safeguarding
- provide or commission services based on a local needs assessment to meet the needs of people needing safeguarding
- develop protocols to support staff at risk of domestic abuse, for example from harassment by abusers at work
- ensure all relevant sectors of the workforce have access to training and awareness raising
- including integrated training that covers both safeguarding and domestic abuse rather than treating them as separate issues
- contribute effectively to, and learn from, Safeguarding Adults Reviews, Serious Case Reviews and Domestic Homicide Reviews identifying what organisational changes can be made in order to reduce the risk of death and serious harm occurring in the future.

1. Making the connections between adult safeguarding and domestic abuse

Who this guide is for

Safeguarding adults is a developing field of practice nationally and for all councils and their partners, bringing with it many layers of complexity and challenge. The Local Government Association (LGA) and Association of Directors of Adult Social Services (ADASS) wish to support learning and development about what is best practice. Making the connections between adult safeguarding and domestic abuse is just one key area of development to address.

This guide is for practitioners and managers in councils and partner agencies engaged in working directly or indirectly with people who have care and support needs, whose circumstances make them vulnerable, and who may also be victims of domestic abuse.

Its purpose is to help staff to give better informed and more effective support to people who need an adult safeguarding service because of domestic abuse.

It addresses situations where an adult who has care and support needs is being harmed or abused by an intimate partner or close family member in a way which could also be defined as domestic abuse.

What this guide sets out to achieve

In summary, the guide aims to:

- improve **recognition and understanding** of the circumstances in which adult safeguarding and domestic abuse overlap and should be considered in tandem
- contribute to the **knowledge and confidence of professionals** so that the complexities of working with people who need care and support, and who are also experiencing/reporting domestic abuse are better understood, and better outcomes for people can be achieved as a result
- offer good, practical advice to staff and managers to ensure that older, disabled and mentally ill people in vulnerable circumstances have the **best support, advice and options for resolution and recovery** if they are harmed or abused by a partner or family member
- identify some of the **organisational developments** which can support best practice in this area.

The practice suggestions in this guide recognise that the priority for work in this area is the safeguarding of children and adults. **They do not replace existing safeguarding children or adults procedures, and must be read and used in the context of following your local procedures and protocols.**

The complexity of work in safeguarding adults relates to safeguarding people's right to life, and to a life free from inhuman or degrading treatment, together with safeguarding people's rights to privacy, a family life and to make their own decisions, free from coercion or undue influence.

This second edition includes information from the Care Act 2014 and developments in domestic abuse practice and law.

If you need guidance and support in implementing local procedures or in using this guide, you should speak to your manager in the first instance. Alternatively, you can seek advice from a safeguarding lead/designated person in your organisation.

1. Making the connections between adult safeguarding and domestic abuse

Quick reference:

- follow your local policies, protocols and procedures for safeguarding adults and children, and for domestic abuse
- use this guide to improve understanding of the issues and develop good practice.

2. What is domestic abuse? Who needs safeguarding? And how do they link together?

Definition of domestic abuse
The Home Office (March 2013) defines domestic abuse as:

'Any incident or pattern of incidents of controlling, coercive or threatening behaviour, violence or abuse between those aged 16 or over, who are or have been intimate partners or family members regardless of gender or sexuality. This can encompass but is not limited to the following types of abuse:

- psychological
- physical
- sexual
- financial
- emotional'.

'Controlling behaviour' is a range of acts designed to make a person subordinate and/or dependent by isolating them from sources of support, exploiting their resources and capacities for personal gain, depriving them of the means needed for independence, resistance and escape and regulating their everyday behaviour.

'Coercive behaviour' is an act or a pattern of acts of assault, threats, humiliation and intimidation or other abuse that is used to harm, punish, or frighten their victim.[1]

This definition includes so-called 'honour' based violence, female genital mutilation (FGM) and forced marriage. It is made clear that victims are not confined to one gender or ethnic group.

This definition recognises that past legal and cultural understanding of domestic abuse has been too narrowly focused on single physically violent incidents rather than complex and controlling **patterns of behaviour**.

It is recognised that the desire to exert power and control in family, domestic and intimate relationships underpins the majority of domestic abuse which takes place, and that abuse is usually inflicted to achieve this end.

Since this Home Office guidance was published there has also been increased national awareness of the impact of intentional grooming. This is an aspect of some relationships where there is domestic abuse, impacting on people's choices and their ability to leave relationships within which they are being abused.

The terms 'domestic violence' and 'domestic abuse' are often used interchangeably, but in this guide 'domestic abuse' is used as it is felt to be a more inclusive way to describe a range of behaviours, which include violence as well as all other forms of abuse.

There is no specific offence of 'domestic abuse' under **criminal law**, but many forms of domestic abuse are crimes (see **Section 9**)

Definition of safeguarding
The Statutory Guidance issued under the Care Act[2], published in October 2014, states that adult safeguarding 'means protecting an adult's right to live in safety, free from abuse and neglect' (Section 14.7). Safeguarding duties apply to an adult who:

- 'has needs for care and support (whether or the not the authority is meeting any of those needs)

1 Home Office (2013) Guidance: Domestic Violence And Abuse. Available from: https://www.gov.uk/domestic-violence-and-abuse (Accessed 22 October 2014)

2 Department of Health (2014) Care and Support Statutory Guidance: Issued under the Care Act 2014. London: TSO. Available online: https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/366104/43380_23902777_Care_Act_Book.pdf

- is experiencing, or is at risk of, abuse or neglect
- 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'. (Section 14.2)

The Care Act specifies that freedom from abuse and neglect is a key aspect of a person's well-being. The guidance outlines that abuse takes many forms, and local authorities should not be constrained in their view of what constitutes abuse or neglect. It describes the following types of abuse, which include exploitation as a common theme:

- physical abuse
- domestic violence
- sexual abuse
- psychological abuse
- financial or material abuse
- modern slavery
- discriminatory abuse
- organisational abuse
- neglect and acts of omission
- self-neglect.

It also states that abuse and neglect can be caused deliberately or unintentionally. Domestic violence is a category of abuse which was added to existing list of categories following consultation on the draft Care Act guidance. Financial abuse has also been highlighted further in the Care Act guidance following consultation as the signs can present differently from other more physical signs of abuse. This needs to be considered in the context of domestic abuse within this guide.

The guidance outlines that the aims of adult safeguarding are to:

- 'stop abuse or neglect wherever possible
- prevent harm and reduce the risk of abuse or neglect to adults with care and support needs
- safeguard adults in a way that supports them in making choices and having control about how they want to live
- promote an approach that concentrates on improving life for the adults concerned
- raise public awareness so that communities as a whole, alongside professionals, play their part in preventing, identifying and responding to abuse and neglect
- provide information and support in accessible ways to help people understand the different types of abuse, how to stay safe and what to do to raise a concern about the safety or well-being of an adult
- address what has caused the abuse or neglect.' (Section 14.11)

Family and inter-generational abuse

Domestic abuse approaches historically have had an emphasis on partner violence, with strong linkages to the advances won by women's organisations supporting female victims of abuse. Subsequently, partner abuse in lesbian, gay, bisexual or transgendered (LGBT) relationships has become more understood. More focus now needs to be given to family and intergenerational abuse, and the way in which it may be different from partner violence, for example if the perpetrator is the victim's (adult) sibling, child, or grandchild. Abuse of an adult or a child may also be used by a perpetrator to exercise control over their victim.

Careful consideration is needed to determine what is best practice in such circumstances. This includes taking account of different factors which might be present in intergenerational abuse, across domestic abuse and safeguarding for children and adults.

Making the links between adult safeguarding and domestic abuse

From the above it is clear that a significant proportion of people who need safeguarding support do so because they are experiencing domestic abuse. Despite the clear overlap between work to support people experiencing domestic abuse and safeguarding adults work, the two have developed as separate professional fields. Clear strategic and practice links need to be made between the approaches.

Making the links with children's safeguarding

There is a strong, evidence-based link between domestic abuse and child abuse. Exposure to domestic abuse is **always** abusive to children, although the impact on them may vary.

Research suggests that 62 per cent of children exposed to domestic abuse are also directly harmed due to physical or emotional abuse or neglect. Almost all of those who are physically abused are abused by the perpetrator of the domestic abuse.[3] There is also increasing recognition of the damaging psychological impact that witnessing domestic abuse has on children.

Section 120 of the Adoption and Children Act 2002 clarifies the definition of significant harm (outlined in the Children Act 1989) as 'any impairment of the child's health or development as a result of witnessing the ill-treatment of another person, such as domestic violence'.[4]

This means that where adult safeguarding and domestic abuse are being addressed and children are involved or present, professionals have a duty to refer to children's services, using local protocols and procedures. This is the case even if the adult victim chooses not to, or is not able to, accept help for him or herself.

Where there are opportunities for joint assessment and joint working across adult and children's services and domestic abuse services these should always be considered. Young People's Violence Advisors (YPVAs) offer practical help to young people aged between 13 and 17 who are experiencing relationship abuse and are available in some areas. There may also be school-based specialist support for younger children.

> "Support eventually came from a new social worker who had been called out to a dispute between a neighbour and family member. On visiting the social worker took the time to ask my mother about an obvious injury on her face, and as a follow-on he also spoke with me about my situation at home. It felt like a weight had been lifted off my shoulders."
> (Young person)[5]

This document does not explore the issue of Child Sexual Exploitation, although there may be a link between this and domestic abuse in later life. Please see the References section for signposting to documents that explore this issue from Research in Practice (Godar, 2013 and Hanson and Holmes, 2014).

2.1 What research tells us

Gender and domestic abuse

The British Crime Survey (2012-13) states that:

'There were 1.2 million female and 700,000 male victims of domestic abuse in England and Wales' and that this 'suggests that 30 per cent of women and 16.3 per cent of men in England and Wales will experience domestic violence in their lifetime'. Furthermore, 93 per cent of defendants were men, and 84 per cent of victims were women.[6]

The vast majority of reported domestic abuse is perpetrated by men on women. Most of the research, information and services are focused on the needs of women abused by men, and that affects the content of the literature, which has informed this guide.Men can also experience domestic abuse by women; however, the numbers are unclear. Some of the men who report domestic abuse do so as part of their attempt to undermine, or retaliate against, the reports made by the woman they have abused.[7]

3 CAADA (2014). In Plain Sight: Effective Help for Children Exposed to Domestic Abuse. Bristol: CAADA.

4 The full text of the Act is available at http://www.legislation.gov.uk/ukpga/2002/38/contents (accessed 22 October 2014).

5 The Woman's Centre, 2013

6 Access the latest Crime Survey for England and Wales at http://www.crimesurvey.co.uk (accessed 22 October 2014)

7 Macpherson, S. (2002). Domestic Violence: Findings From The 2000 Scottish Crime Survey. Edinburgh: The Stationery Office.

Research also shows that domestic abuse poses a more serious risk to women than to men with an average of 100 women being killed in England and Wales each year (equating to two per week) in circumstances of domestic abuse. According to an analysis of British Crime Survey data, '89 per cent of victims who have experienced four or more incidents of domestic violence are women' and 'of those women who have been subject to domestic force, 48 per cent have also been subject to frightening threats and 41 per cent to emotional or financial abuse. For men who have been subject to domestic force, 9 per cent had also experienced frightening threats and 28 per cent emotional or financial abuse'.[8]

The Health and Social Care Information Centre's Annual Report on the Safeguarding Adults return for 2013-14 reports that 60% of safeguarding referrals were for women.

Domestic abuse in LGBT relationships

There is a growing recognition that domestic abuse may occur at a similar rate within LGBT relationships as it does within heterosexual relationships. Women may experience abuse from women, and men from men. People experiencing domestic abuse in a same-sex relationship may have previous experience of, or fear homophobia from, agencies.

For more information, see www.brokenrainbow.org.uk.

Age, disability, mental health and domestic abuse

Professionals face their own and social resistance to recognising that older and disabled people can be victims and perpetrators of abuse. However, research has found that domestic abuse is experienced by women regardless of age, disability, ethnic background or mental health.

Research into disabled women's experiences has found that the effect of being both disabled and a woman places disabled women at significant and higher risk than women in the general population. More than 50 per cent of disabled women in the UK may have experienced domestic abuse in their lives, and may be assaulted or raped at a rate that is at least twice that of non-disabled women[9]. Another study looked at the prevalence and impact of domestic violence against men and women with severe mental illness. The authors found that compared to the general population, this group experienced a substantially increased risk of domestic and sexual violence, as well as higher prevalence of family violence and adverse health impacts following victimisation. This implies that professionals need be especially adept at addressing domestic and sexual violence experienced by this group.[10]

A UK study of abuse and neglect of older people in 2007[11] found that the majority of perpetrators of interpersonal abuse in domestic circumstances were men, most of whom were themselves older people. The eldest women were found to be at greatest risk of neglect whilst men over 65 were more likely to experience financial abuse. Most perpetrators of financial abuse were younger people of both genders. The Metropolitan Police (September 2014) report that they are recording more incidents of domestic abuse homicide where the perpetrators are children or grandchildren on parents or grandparents.

Whilst significant gender differences clearly exist, and there is strong research evidence and data about the abuse of women in partner relationships with men, it is not yet clear whether men with health and social care needs are more likely to be abused than men in the general population. Practitioners therefore need to be vigilant in all their work with potential male victims of domestic abuse.

8 Walby, S. and Allen, J. (2004). Domestic Violence, Sexual Assault and Stalking: Findings From The British Crime Survey. London: The Home Office

9 Magowan, P. (2004). 'The impact of disability on women's experiences of domestic abuse: An empirical study into disabled women's experiences of, and responses to domestic abuse', ESRC/PhD research. Nottingham: University of Nottingham.

10 Khalifeh, H et al (2014) Domestic and sexual violence against patients with severe mental illness. Psychological Medicine, 1-12

11 O'Keeffe, M. et al. (2007). UK study of abuse and neglect of older people: prevalence survey report. London: National Centre for Social Research.

Case example one

C, a woman in her late forties, had been diagnosed with a non-malignant brain tumour. Surgery had been successful in reducing the tumour's size, but C had a stroke during the operation, leaving her with a profound hemi paresis (weakness) on her left side and marked facial droop. Unaffected in terms of her cognition, comprehension and other senses, C worked hard to attain a degree of personal independence through therapies. She required minimal help with washing and dressing and was independent with her toileting needs. C lived with her long-term partner, the father to her two teenage girls (16 and 19). The partner declined Social Services help with C's personal care needs, and hired a live-in carer on a private basis. The carer was 19 years old when she arrived and the partner and the carer soon began a sexual relationship. After a time they would have sex in front of C if the children were out. The carer eventually became pregnant by C's partner and the baby was born into the household with C expected to accept the boy as part of the extended family.

C's partner would also demand oral sex from C whenever his girlfriend /carer was out of the room. C later said she did this as she felt she had nowhere else to go as her basic physical needs were still being taken care of and she still had contact with her daughters. C attended a day centre and this was her only respite from the situation.

A new social worker reviewed C's needs and developed a trusting relationship with her over time. A year after meeting the new social worker C opened up about her experiences and the social worker involved Women's Aid, who went with the social worker to meet C at the day centre to discuss C's thoughts about leaving her home for a safer environment. Until that point C had always been seen to use a wheelchair to get around within her hom and the day centre, but during that meeting she stood and 'furniture-walked' around the room. C later explained that by retaining the use of her wheelchair she felt safer at home in that she was less attractive to her partner, thus reducing his sexual demands on her, and more likely to be able to stay at the day centre, her only relief from her situation.[1]

1 Adapted from a case study in Disability Wales (2011). Domestic Abuse of Disabled Women in Wales. Caerphilly: Disability Wales

2. What is domestic abuse? Who needs safeguarding? How do they link together? And what does research tell us?

Quick reference:

- understand the definitions of safeguarding and domestic abuse and how they overlap, and make the links for the person you are supporting
- be alert to patterns of coercive or controlling behaviour, as well as incidents of abuse
- always act to safeguard children who are living with or witnessing domestic abuse
- take account of gender, sexuality. and inter-generational issues.

3. Understanding the impact of domestic abuse

What is the impact of domestic abuse?
The impact of domestic abuse can be devastating. It can lead to or exacerbate:

- repeated short-term impacts on health including bruises, burns, cuts, broken bones, sexually transmitted diseases, and lost teeth and hair
- miscarriage, stillbirth and other complications of pregnancy
- long-term and chronic health problems including asthma, epilepsy, digestive problems, migraine, hypertension, and skin disorders
- physical and sensory impairments, such as walking difficulties or deafness
- emotional harm including loss of confidence and low self-esteem
- long-term social difficulties
- poor mental health such as anxiety, depression and post-traumatic stress disorder
- substance misuse, often as an attempt to cope with circumstances
- physical and/or emotional harm to a child or dependent adult in the household
- preventing an adult from being able to care for others and themselves
- preventing children and dependent adults from achieving their full potential
- isolation from family, friends and community
- negative effect on work and possible loss of independent income.

For some, primarily women and their children, domestic abuse will result in **serious injury or death**.

What might be the additional impacts of domestic abuse on people with care and support needs?

- increased physical and/or mental disability
- reluctance to use essential routine medical services or to attend services outside the home where personal care is provided
- increased powerlessness, dependency and isolation
- feeling that their impairments are to blame
- increased shame about their impairments (for example in relation to needs for personal care.

Research has mainly been carried out with women, and this has shown that:

- being disabled strongly affects the nature, extent and impact of abuse. Research has shown that people's impairments are frequently used in the abuse. Humiliation and belittling were an integral part of this and were particularly prevalent
- many abusers deliberately emphasise and reinforce dependency as a way of asserting and maintaining control
- sexual abuse appears to be proportionately more common for disabled than for non-disabled women, perhaps reflecting particular vulnerabilities
- the impact of domestic abuse is often especially acute where the abusive partner is also the carer, the carer has considerable power and control and the victim relies on them
- perpetrators often use forms of abuse that exploit, or contribute to, the abused person's impairment.

Voices from research and practice: one

"One way it made it worse was like it was hard for me to talk to other people and hard to be understood, and like I would just feel so pathetic, like I was going to be pitied and I was pathetic anyway because of not hearing and speaking like other people. And in getting away… well, I didn't feel I could for a while, because I was so used to him and us going out together and it could be hard to call for help, I'd feel stupid and my voice would come out funny if I called out and people might laugh and not realise so I would keep quiet…"[13]

"There was nowhere to go. Well I thought there was nowhere to go especially with my ex-husband. There wasn't many refuges (that took disabled people) but there's thousands of places for pets. If you weigh up the difference. I mean there's a huge difference. So it just goes to show what a human being's… what they value more."

"Because you can't run away from it, it's not like I could have gone to a safe house or anything like that... [They] don't have hoists. They wouldn't understand the PA system. You know the whole system just wouldn't work. And as well it was a woman abusing me. Which people don't really see as abuse… people still laugh if I say 'Oh yeah she was really abusive'." "For example they [social services] could only think to send me to a completely inappropriate disabled care home, it was outrageous, I couldn't even consider going there. They also know nothing about domestic violence, not really, not for disabled women anyway, maybe for others they do know, but not for disabled..."[14]

13 Hague, G., Thiara, R., Magowan, P. and Mullendar, A. (2008). Making The Links: Disabled Women And Domestic Violence. Bristol: Women's Aid.

14 Hague, G., Thiara, R., Magowan, P. and Mullendar, A. (2008). Making The Links: Disabled Women And Domestic Violence. Bristol: Women's Aid.

3. Understanding the impact of domestic abuse

Quick reference:

- consider the likely impact of abuse on all adults and children involved
- consider the additional likely impacts of abuse on people with additional care and support needs
- consider how these factors might affect the approach in working with the person at risk (and others in the household).

4. Barriers and challenges to ending abusive relationships

What are the barriers to seeking help?
To work effectively with victims of domestic abuse, it is important to understand the reasons why people remain in abusive relationships, and why they may not seek or respond to offers of help.

Some barriers to seeking help arise from the emotional and psychological impact of domestic abuse. Others may be practical or social/cultural. Many are similar to the barriers that prevent people from seeking help over other safeguarding issues. They may include:

- fear of the abuser and/or what they will do (these may be realistic fears based on past experience and threats that have been made)
- lack of experience or knowledge of other victims who have dealt with abuse successfully
- lack of experience of positive action from statutory agencies, including the courts
- lack of knowledge/access to support services
- lack of resources, financial or otherwise
- previous experiences and/or a fear of being judged or not being believed
- love, loyalty or emotional attachment towards the abuser and the hope that their partner/family member/abuser will change
- feelings of shame or failure
- pressure from family/children/community/friends
- religious or cultural expectations
- previous experience and/or fear that the issues and concerns of people from their community (e.g. LGBT, BME, Traveller) will be poorly understood or ignored
- fear of agency pressure to pursue a criminal case
- the long-term effects of abuse such as prolonged trauma, disability resulting from abuse, self-neglect, mental health problems
- numbness or depression arising from their circumstances
- low self-esteem/self-worth
- drug and/or alcohol addiction (and fear that this will be used against them)
- anticipated impact on children and dependent adults
- fear of single parent stigma
- fear of losing contact with children, dependent adults and other relatives and friends.

Practice reflection: Think of a current or past case of domestic abuse you know well. Using the bullet points above as a checklist, identify the barriers that applied to the person before they disclosed abuse. How did the barriers affect your work with them?

Organisational and institutional barriers that prevent best practice to support people experiencing domestic abuse may be entrenched and difficult to change. Despite Crown Prosecution Service policy and guidance, the 2014 inquiry by the All-Party Parliamentary Group on Domestic and Sexual Violence found there are still many barriers to the effective use of the criminal justice system as a remedy for domestic abuse.

Their recommendations included:

- discriminatory attitudes of criminal justice professionals need to be addressed, particularly with regard to the stereotype of the 'perfect victim and witnesses', to ensure that all women are able to access justice equally
- victims should be regularly updated about their case and have a named person they can contact with questions or queries
- safety facilities available in most criminal courts, such as separate entrances and video linking facilities, should be extended to all criminal courts and introduced in family and civil courts
- funding for Specialist Domestic Violence Courts should be sustained to ensure that their numbers do not decrease and they are available throughout England and Wales.

Practice reflection: Are there any barriers in your organisation? How might you constructively challenge them?

What are the additional barriers to seeking help for people from a BME background?

There is under-reporting of domestic abuse by people from Black and minority ethnic (BME) communities in the general population. Some of the additional barriers to reporting may be:

- language barriers
- family honour, shame and stigma
- fear of rejection by their community
- fear of broken confidentiality within their community
- immigration status and no recourse to public funding
- racism (perceived or actual)
- cultural or community expectations;
- misunderstanding of forced marriage and female genital mutilation
- fear of so-called 'honour' based violence (including murder), or punishment for speaking out
- lack of appropriate services.

What are the additional barriers for adults with care and support needs?

Although disabled women are twice as likely to experience domestic abuse as women without disabilities and are more likely to be at high risk of serious harm, statistics collated by Co-ordinated Action Against Domestic Abuse (CAADA) about people identified as being at high risk from domestic abuse show relatively low numbers of people with health and social care needs. This may be because for this group, domestic abuse is even more under-reported or recognised than in the general population.

The consequences of not accessing support can be fatal. Standing Together reports that of 32 Domestic Homicide Reviews that took place between 2012 and 2014, eight related to disabled and older people.[12] Of these cases, three were mothers killed by adult sons, four were older women killed by their older husband/male partner; and in one case an older man was killed by his younger male partner.

Research into disabled women's experiences has shown that the barriers to accessing services can include:

- lack of accessible information about abuse and legal rights
- lack of accessible domestic abuse services
- lack of accessible information about services to meet their care and support needs and about options such as direct payments
- fear that interpreters (for example, British Sign Language) may not keep confidentiality
- assumptions that physical and sensory impairments prevent people making their own decisions
- being used to 'dependency' and a lack of respect and dignity, thus assuming abuse is normal and minimising its impact
- fear of having to live in a care home
- reliance on the abuser for care and support

12 Personal correspondence between Nicole Jacobs (Standing Together) and Lindsey Pike (RiPfA), 21.10.14

- the expectation that disabled people should be grateful for support and not complain
- the victim may be the carer of the abuser, and feel a sense of obligation to carry on and put up with the abuse
- older and disabled adults may be more physically vulnerable, more socially isolated and less able to escape, and the abuser may be constantly present. The abuser may be the only person with whom the older person has any contact
- shame and stigma: for example, older adults who have lived with a lifetime of abuse may experience shame for having put up with it for so long
- not being asked; although women with disabilities may have been in close contact with professionals, professionals rarely ask about abuse, and women were reluctant to disclose if not asked
- being more easily identified visually, and traceable through attendance for specialised care/services or benefits, making it harder to remain protected from continued abuse after leaving an abusive relationship.[13]

Independence and self-esteem

Loss of independence and low self-esteem affects most people who suffer domestic abuse. Internalising the messages given by abusers is a common psychological response, for example "it's my fault that he gets angry" and "I need to wait to see what he wants before I decide what I want". Accounts of people with care and support needs suggest that people dependent on their abuser for care may be more likely to blame themselves or their care needs for the abuse. People with lifelong disabilities may be used to having to tolerate widespread disrespectful attitudes and behaviours towards them and may find it harder to name what is happening to them as abuse.

Some people fear loss of pride or hard-won independence, or that they will be unable to manage their condition. Those reliant on care packages or personal assistants (PAs) may feel that their options are severely limited, fearing that it will be impossible to take services with them if they end a relationship.

Parenting

Parents with their own care and support needs may be particularly fearful of losing their children as a result of reporting domestic abuse. Their partner may have told them they will lose the children if they leave.

They may rely on a partner or other family member to support them with childcare, or they may feel that their capacity as a parent will be judged negatively due to their disability, addiction or mental health problem, for example.

Identifying and working effectively with domestic abuse within adult safeguarding work can, therefore, also become critical to the protection of children. Where children are linked to an abusive adult relationship, local children's safeguarding policies and procedures must be followed without delay. Workers must not collude with the abused persons fears that s/he will lose contact with the children if the domestic abuse is reported.

Voices from research and practice: two

"I was married at sixteen but I met him at fifteen. And from the beginning really – but you don't see it when you're in it. From the beginning, the violence and the power – you're just ruled by fear. Or I was, just by fear. And what he would do to you if you ever left. And I always believed that… But all the way through you ask for help but you don't actually stand there and say will you help me, my husband beats me up... there wasn't the help in them days, you just got on with it. And for 39 years I got on with it."[1]

"Because of her impairment, 'B' had regular interaction with health services, many of whom knew about the ongoing

13 Hague, G., Thiara, R., Magowan, P. and Mullendar, A. (2008). Making The Links: Disabled Women And Domestic Violence. Bristol: Women's Aid.

1 Scott, M. et al (2004). Older Women and Domestic Violence in Scotland. Edinburgh: Centre for Research on Families and Health

abuse. Several visitors asked if they could report her husband to police after seeing evidence of broken glass in her flat. (They did not offer to help her contact Women's Aid or to help her to find safety.)[2]

"People pity him because he is taking care of you and so noble. So people are reluctant to criticise this saint or to think he could be doing these terrible things. And possibly as well as that there's a sort of I think an idea … people don't really 'see' disabled women. And people don't easily see a disabled woman as a wife, partner, and mother. So I think for some people, it's hard to think well this might be a woman who's being sexually or physically abused by her partner… because disabled women don't have sex, do they?"[3]

"Your pride's at stake… look here's somebody who wants to be with me and then over a period of time it deteriorates and you don't want to say to people 'I'm scared' you know. I don't know what to do about it? I think definitely for disabled women that there is this issue of like 'Oh you're so lucky that you've got somebody' that you think I'm not going to get somebody again. I'd rather put up with this… because there are some nice times and you know he is sorry. So this is better than being on my own."[4]

2 Hague, G., Thiara, R., Magowan, P. and Mullendar, A. (2008). Making The Links: Disabled Women And Domestic Violence. Bristol: Women's Aid.

3 Hague, G., Thiara, R., Magowan, P. and Mullendar, A. (2008). Making The Links: Disabled Women And Domestic Violence. Bristol: Women's Aid.

4 Hague, G., Thiara, R., Magowan, P. and Mullendar, A. (2008). Making The Links: Disabled Women And Domestic Violence. Bristol: Women's Aid.

4. Barriers and challenges to ending abusive relationships

Quick reference:

- there are many reasons why people may not leave abusive relationships
- additional and specific barriers may be present for ethnic minority people, older people, and people with disabilities
- confidentially asking routine questions about safety can aid disclosure
- accessible information and signposted services about abuse are crucial
- building trust with someone to help them disclose abuse may take some time.

5. Working with people needing care and support who are experiencing domestic abuse

Research shows us that practitioners should keep a range of issues relevant to people with **care and support needs** at the front of their mind when identifying potential abuse, enabling and encouraging disclosure, making assessments, and when planning interventions.

Legal obligations
Under the **Care Act (2014)** a local authority has duties to:

- make, or cause to be made, enquiries if it believes an adult is experiencing or at risk of abuse or neglect
- determine what action should be taken by the authority or others. Most local authorities have safeguarding adults procedures to support such enquiries and coordinate action with partner organisations
- arrange for independent advocacy to be available to adults who have difficulty in taking part in the process, and where there is no other appropriate adult to assist
- cooperate with other agencies
- establish a Safeguarding Adults Board to co-ordinate efforts by partner agencies to protect adults with care and support needs
- prevent care and support needs arising from abuse
- provide information about services available in the area that can prevent abuse and support people to safeguard themselves.

Under the **Housing Act 1996 and the Homelessness Act 2002** a local authority has a duty to provide housing advice to anyone who is homeless or threatened with homelessness. Homeless people include those who are living in a refuge or have a home but are likely to experience violence or threats of violence if they return.

If the local authority has reason to believe that a person is homeless, or threatened with homelessness, and in priority need (for example, they are vulnerable to domestic abuse and/or are vulnerable as a result of mental illness or disability) and it must provide them with immediate temporary accommodation. Some local authorities fund specific emergency housing, like refuges, for women fleeing domestic abuse. Other services include 'sanctuary schemes' that prevent homelessness by making people's existing homes more secure from the perpetrator.

The public sector equalities duty under the Equalities Act (2010) requires local authorities and other public bodies to eliminate unlawful discrimination, harassment and victimisation on the grounds of 'protected characteristics'. These include gender, disability, and age.

Local authorities also have statutory duties to:

- provide for the well-being of its citizens (Local Government Act 2000)
- do all it reasonably can to prevent crime and disorder in its area (Crime and Disorder Act 1998)
- protect children and young people (Children Act 1989, United Nations Convention on the Rights of the Child 1991).

Principles for work
Both the local domestic abuse **and** safeguarding adults protocols will apply to situations where a person who has care and support needs that prevent them from safeguarding themselves is experiencing domestic abuse.

Safeguarding work in such a situation should include best practice in relation to domestic abuse and a proportionate response. It should

ensure that the person experiencing abuse has support to access a choice of specialist domestic abuse services. There are some specific legal measures that can be taken to protect people experiencing domestic abuse (see **Section 9**). These should be considered as part of multi-agency efforts to decrease risk of abuse and help safeguard adults who have care and support needs from domestic abuse

Best practice is for the person at risk to be at the centre of safeguarding procedures. Using a "Making Safeguarding Personal" approach,[14] using safe enquiry (see **Section 7**), and supporting and empowering people to address the risk they face can help to achieve this.

The key principles that underpin all safeguarding work, as outlined in the Care Act Guidance, are:

- empowerment
- prevention
- proportionality
- protection
- partnership
- accountability.

In adult safeguarding, as in all kinds of social work and social care support, the principle of empowerment means that people are supported and encouraged to make their own decisions. This 'person-centred approach' always asks what the person who has been harmed wants to happen, and works towards the outcomes that they define. Involving the person at all stages of any safeguarding process is essential.[15]

This guide adopts the principles of involvement and empowerment, held to be central both to supporting adults with health and care needs at risk of abuse and those experiencing domestic abuse. It also supports the social model of disability, which recognises that people are disabled more by the poor design of the physical environment, inaccessible services and other people's attitudes than they are by their impairment. It is often the circumstances in which a person finds herself or himself, or the way society is organised, which determines how hard it is for a person to live independently. This means that many of the barriers that prevent people from safeguarding themselves may be due to social factors such as the provision of safe housing that is accessible to disabled people and not to the nature of the person's impairments per se.

The guiding best practice principles of safeguarding are consistent with the nine principles of the Charter developed by the All-Party Parliamentary Group on Domestic and Sexual Violence for best practice in addressing domestic abuse. This states that survivors should be:

- respected
- believed
- protected
- supported
- updated
- heard
- safeguarded
- informed
- empowered.[16]

These principles must be exercised in the context of the coercive nature of domestic abuse. Being at high risk of harm often limits an individual's capacity to safeguard themselves. This is due to the psychological process (sometimes called 'Stockholm Syndrome') that focuses an individual on acting, within the context of the immediate threats that they face, to limit abuse and its impact. This can lead people to identify with the perpetrator and can prevent people acknowledging the level of risk they face. It commonly prevents people taking steps to leave or to end a relationship.

14 See Lawson, J., Lewis, S. and Williams, C. (2014). Making Safeguarding Personal: Guide 2014. London: Local Government Association.

15 See Lawson, J., Lewis, S. and Williams, C. (2014). Making Safeguarding Personal: Guide 2014. London: Local Government Association.

16 The Charter can be found online at http://www.womensaid.org.uk/page.asp?section=00010001001000290001&sectionTitle=Survivors+Charter (accessed 22 October 2014)

When a person who appears to have mental capacity also appears to be choosing to stay in a high-risk abusive relationship then careful consideration must be given to whether they are making that choice free from the undue influence of the person who is causing them harm or others. It may be that the relationship is more important to them than the harm that is being done, perhaps more so if the harm is not life threatening (for example in relation to financial abuse that doesn't impact on the ability of the person to keep themselves warm and fed).

Finding a common language and working definitions that can be shared across different contexts will strengthen effective joint working.[17] Terms like 'victim', 'perpetrator' and 'survivor' may not always be appropriate in adult safeguarding work but are appropriate when used in the context of domestic abuse. 'Financial abuse' or 'sexual abuse' are terms commonly used in safeguarding but many people prefer the more straightforward descriptions of theft, fraud, sexual assault or rape if these crimes have been alleged or committed. Joint training programmes can cover recognition and assessment of risk of abuse within families towards children, adults with care and support needs and adults experiencing domestic abuse.

Practice: giving opportunities to develop trust, disclose abuse, and seek help

Whilst some people will have good and trusting relationships with professionals who can support them to report and deal with domestic abuse, others will not trust agencies to respond effectively or will fear further loss of independence. People with these concerns may need more time to build trust and confidence, and require a positive indication that they will be supported before they disclose to professionals.

Disabled adults who live in a household where domestic abuse is taking place may be directly harmed. They may also experience distress and mental health issues as a result of witnessing abuse of their carer or other family members, and feel powerless to prevent it. It is important to recognise that such exposure to abuse can present serious short- and long-term harm.

Women who have experienced abuse from PAs reported the pervasive and continual nature of the abuse. Some described collusion between the PA and professionals resulting in their experience of abuse not being taken seriously.

17 ADASS (2011), Safeguarding Adults Advice Note. London: ADASS. p3

Voices from research and practice: three

"What he liked to do was to hold the chair down just as I was trying to move in it somewhere, or, this is a great one, move it away just at the very moment I was shifting myself into it…"

"Because I can't feed myself he would go out in the evenings deliberately and I wouldn't have eaten anything for a twenty-four hour period or more. So that wouldn't have happened to anybody that could feed themselves."

"… In the evenings I'd be exhausted. And being deaf is hard work you know, you have to concentrate so much harder and it's tiring. And he'd be furious and slap me and kick me awake. And he used to like: 'Don't you fall asleep on me, I want a wife, a real wife not an old woman'. And you know it was sex all the time, twice a day and he would shout at me and then hold me down and I hated it, I hated it."

"...He took everything. He took my complete independence where I had to ask him a fortnight before I needed sanitary towels to make sure that I'd get them. Like one time I ended up with too many because… because I was so underweight, my periods were irregular anyway. I only weighed four stone nine or ten years while I was with him."[19]

19 Hague, G., Thiara, R., Magowan, P. and Mullendar, A. (2008). Making The Links: Disabled Women And Domestic Violence. Bristol: Women's Aid.

Independent and voluntary sector organisations with expertise in domestic abuse may be better placed to gain the confidence of and offer support to those who mistrust statutory agencies.

Research shows that women experiencing domestic abuse will not usually voluntarily disclose to a professional unless they are directly asked. However, whilst victims may be reluctant to disclose, many report that they hope that someone will ask them. Being asked makes an important difference. Repeated enquiry over time also increases the likelihood of disclosure.

It is **crucial** that such enquiries are made when the person is **safe to disclose** and in a situation which will not increase risk to them. See **Section 7** for information about safe enquiry.

Building up trust in your/your organisation's approach to domestic abuse will help people feel able to disclose. For example:

- demonstrate you understand domestic abuse, for example by giving examples of individuals who have survived domestic abuse
- be non-judgemental about the victim and the perpetrator
- be clear that the abuse should stop
- never blame a victim for the abuse
- display posters about domestic abuse, with sources of help and support.

Information and leaflets about domestic abuse can be routinely offered to all service users/patients. Those who are experiencing abuse may then go on to use it. They will also know that you and/or your organisation take domestic abuse seriously, giving them confidence to disclose at a later date. Those who are not experiencing abuse themselves may become better informed and may pass the information on to others or become advocates for their friends and family.

Practice reflection: Take steps to include questions such as "do you feel safe?" or "is there anyone you are afraid of?" in online referral forms and in face-to-face assessments. Always ensure that you are able to talk to the person confidentially before you ask the question.

5.1 Specific types of abuse

Forced marriage

Forced marriage is a crime. It is a form of domestic abuse and where it affects people with disabilities it is an abuse of an adult with care and support needs.

There is a clear distinction between forced marriage and arranged marriage. In arranged marriages, the family of both spouses take a leading role in arranging the marriage but the decision to accept the arrangement or not remains with the prospective spouses. In forced marriage, one or both spouses do not, or through lack of mental capacity cannot, consent to the marriage. This is the case if a person's disability prevents them from giving informed consent to a marriage. In 2013, 97 of the 1013 (9.6 per cent) of cases known to the Forced Marriage Unit concerned a disabled person.

It is important to recognise that forced marriage situations can involve the person being at risk from a number of people in the family and/or community through so-called 'honour-based violence'. Serious injury or death may be threatened or perpetrated against someone who does not cooperate with the marriage or their family.

Disclosures of potential forced marriage must be taken seriously. Advice on safety planning and practice guidance can be gained from the Home Office's Forced Marriage Unit (www.gov.uk/stop-forced-marriage), and ADASS have produced a briefing on this issue.[18] The Home Office also publishes Forced Marriage and Learning Disabilities: Multi-agency Practice Guidelines.

18 ADASS (2012) Forced Marriage and Adults with Learning Disabilities: Information from the Forced Marriage Unit for Staff. Available online: http://www.adass.org.uk/AdassMedia/stories/Policy Networks/Safeguarding_Adults/ForcedMarriageMar12.pdf

Case example two

A is a young man with a range of complex medical and social needs. He requires 24-hour support to meet his needs. A is 19 and due to leave the special school he has been attending very soon. His parents tell his social worker that they do not want him to go to the local day centre as they are worried he will be left on his own.

They tell her that A has been promised to a young woman from their country of origin, and that they are all going over for a wedding ceremony after which the young woman would return to live with them and help care for A. The social worker told them they must not do this but did not explore their motivations or alternative options. A's parents became angry with the social worker saying she knew nothing about their culture and could not tell them what to do. The social worker felt anxious as she did not want to offend the family, and so she left.

She discussed the situation with her manager at her next supervision session two weeks later. It was decided she and her manager would return to the family home together; however, on doing so they were informed by neighbours that A and his parents had 'gone away'.[20]

20 Clawson, R. and Vallance, P. (2010) Forced Marriage and Learning Disabilities: Multi-agency Practice Guidelines. London: Forced Marriage Unit.

Other domestic abuse within families

Abuse within families reflects a diverse range of relationships and power dynamics, which may affect the causes and impact of abuse. These can challenge professionals to work across multi-disciplinary boundaries in order to protect all those at risk. Adults with the capacity to do so are expected to report situations where a child or a vulnerable adult is experiencing serious abuse or harm, and not to do so is a crime.

Physical and sexual abuse towards parents and other relatives (for example, grandparents, aunts, uncles) can be carried out by adults and by young people and children, some of which can cause serious harm or death. The UK prevalence study of elder abuse identified younger adults (rather than the person's partner) as the main perpetrators of financial abuse.

In some situations, abuse and neglect may be unintentional or as a result of 'carer stress'. However, the assumption should be that any form of abuse can cause serious harm. A person-centred approach to the person experiencing abuse will enable professionals to identify when abuse is unintentional and therefore when it may be stopped through, for example, work with the perpetrator (see **Section 10**).

Domestic abuse includes sexual assault. If someone has been raped or sexually assaulted forensic evidence is key to potential conviction. If the situation is already known to the police then it is likely the victim will have attended the local Sexual Assault Referral Centre (SARC) and/or have been contacted by an Independent Sexual Violence Advocate (ISVA). If the victim is unsure about contacting the police they can self-refer to the SARC. Evidence will be collected and stored, but will only be used to take a case forward with the victim's informed consent.

Studies have shown that professionals can find it hard to focus on the level and source of primary risk, for example, pursuing issues of drug and alcohol misuse or 'poor parenting'; and 'forgetting' the context of domestic abuse. Not paying sufficient attention to the level of risk from domestic abuse can mean opportunities to prevent serious harm or death are missed.

5.2 Working with specific groups

Older people

A review of the impact of domestic abuse for older women highlights that the issue is both significant and under-recognised, and argues that there has been a failure of health and social care professional to recognise domestic abuse as occurring in this age group.[19] This may be due to the assumptions that pervade 'elder abuse', which can fail to acknowledge the underlying complexities of power relations within abusive relationships in later life. The experience of domestic abuse for older women is suggested to be different from that of younger women. Older women who have experienced domestic abuse over a prolonged period of time may experience a range of emotions such as frustration, anger, helplessness, hopelessness and low self-esteem. Barriers to reporting specifically for older women may include dependency (including financial dependency) on perpetrators, combined with traditional attitudes towards marriage and gender roles, in addition to barriers affecting all people experiencing abuse such as a fear of reprisals. Earlier abuse may be associated with later health problems, and there is a need to recognise the distinction between abuse that commences in later life, and that which forms part of a previous or ongoing abusive relationship.

Older women with no formal education, no experience of work outside the home or independent economic resources (such as a pension or being named as a home owner) are more financially reliant on abusive partners than many younger women. Older women may have suffered abuse for many years in a long-standing relationship, may fear not seeing anybody else, may feel unable to make decisions for themselves, or they may feel shame or embarrassment from years of accepting abuse – which may or may not include violence – without apparent complaint. They may feel responsible for the behaviour of their children, if it is sons or daughters who are abusing them.

Some older people can and do make active choices to end situations of domestic abuse. However, it can be extremely difficult for some older people to access and accept help. Older people may be less aware than younger people of the services and options available to them, particularly if they are isolated due to abuse. They may believe that domestic abuse or safeguarding services are only for younger people, or people with children. They may have experienced domestic abuse support services that are not "older woman" friendly, for example due to lack of facilities for people with disabilities, or the absence of the specialised support that older women may need.[20]

The 'self-help' model familiar to younger people, and the possibility of calling a stranger to discuss personal or family problems may also be unfamiliar to them. They may need more time, more reassurance and more confidence in what might happen and the services available, before they disclose abuse and accept help to move forward. In other situations older women report 'leaping' at the opportunity to be safe once they discover they are believed and that help is available.

Assumptions about age can mean that when older people are seen to be injured, unhappy, depressed or have other difficulties, these are presumed to be the result of health or social care needs. This can mean that signs of domestic abuse are missed. Professionals should take great care to assess older people, along with other groups, in a person-centred way, asking open questions and enabling the person to identify their needs. It is important to avoid judgements based on stereotypical expectations of the needs of older people and the services they require.

19 McGarry J, Simpson C, Hinchliff-Smith K (2011) The impact of domestic abuse for older woman: a review of the literature. Health and Social Care in the Community, 19, 1

20 McGarry J, Simpson C, Hinchliff-Smith K (2011) The impact of domestic abuse for older woman: a review of the literature. Health and Social Care in the Community, 19, 1

People with mental ill-health

Domestic abuse can have an enormously detrimental effect on mental health. Furthermore, research shows that people with mental ill health are more likely to experience domestic abuse:

- seventy per cent of female psychiatric inpatients and 80 per cent of those in secure settings have histories of physical or sexual abuse
- abused women are at least three times more likely to experience depression or anxiety disorders than other women
- a third of all female suicide attempts and half of those by ethnic minority women can be attributed to past or current experiences of domestic abuse
- women who use mental health services are much more likely to have experienced domestic abuse than women in the general population.

Perpetrators may use mental ill-health against their victim, for example:

- saying the victim 'couldn't cope without them'
- saying the victim is 'mad' and is 'making it up'
- not allowing the victim to go anywhere alone because they are the 'carer'
- speaking for the person: 'You know you get confused/you're not very confident/you don't understand the issues'
- telling them they're a bad mother and cannot look after the children properly
- forcing a woman to have an abortion because 'she couldn't cope'
- threatening to take the children away (or saying they will 'tell social services' who will then take the children away)
- telling the children 'Mummy can't look after you'
- deliberately misleading or confusing the person
- withholding medication.

These behaviours will almost certainly add to emotional distress and exacerbate any existing mental health issues.[21]

People who misuse substances

Victims of domestic abuse may use alcohol or drugs in order to cope with, or 'block out', what is happening to them. Some victims of domestic abuse are forced into drug or alcohol misuse by their abuser in order to intensify control. They may be drawn into sex working or other high-risk activity to pay for access to drugs or alcohol.

There is also potential for a perpetrator to exercise control over a victim who is dependent upon substances, including prescription medication, by controlling access to drugs or alcohol or to treatment. Perpetrators may also steal prescription medication for personal use or to sell to others.

Research shows that victims of domestic abuse who misuse substances felt they were consistently judged and stigmatised by agencies, and that false assumptions were frequently made. Professionals need to emphasise that their role is to support the person and to encourage disclosure if they are struggling as a result of drug or alcohol misuse.

Good practice where either a perpetrator or victim is misusing substances includes the following:

- recognising the relationship between domestic abuse and substance misuse, implementing safe enquiry (see Section 7.0) into both of these areas as part of a holistic assessment of need
- respecting that a victim may wish to address the effects of domestic abuse before tackling their substance misuse, needing harm minimisation support as a result
- acknowledging that substance misuse by the victim may make it difficult for them to accurately assess risk posed to them (it may 'dull' their perception)

21 See The Survivor's Handbook from Women's Aid, online at http://www.womensaid.org.uk/domestic-violence-survivors-handbook.asp?section=00010001000800 01&sectionTitle=The+Survivor%27s+Handbook (accessed 22 October 2014)

- awareness that, if the perpetrator goes through a detoxification programme, the risk to the victim can increase.[22]

People with learning disabilities

It is well-documented in the literature that people with learning disabilities are more likely to experience abuse than people in the general population. Rich (2014)[23] summarises previous research which found that girls with developmental disabilities are between four and eight times more likely than non-disabled peers to experience sexual abuse, mostly by people who provide their care. Women with emotional disabilities are also more likely to experience physical, sexual or emotional abuse. Rich lists factors that increase vulnerability as:

- inability to understand that acts are abusive
- exposure to multiple carers
- difficulty in reporting crime
- habitual submission to authority.

If such abuse is being carried out between intimate partners or family members, then it is domestic abuse.

In other research carried out by the Looking into Abuse research team in Wales,[24] the message that people with learning disabilities wanted to get across most was about being believed and listened to, and for action to be taken as a result of disclosure. See **Section 7** for a summary of the principles of safe enquiry. Domestic violence was recognised by participants with learning disabilities as a type of abuse, and one that some had experienced. Although they weren't directly asked, people gave examples of abuse happening within families, including sexual abuse. The authors point out that domestic abuse of people with learning disabilities is under-researched, and likely to be underreported, but the research that has been done suggests that women victims can blame themselves. This implies that women with learning disabilities who experience domestic abuse experience it in a similar way to other women, meaning support services should be accessible to them. However, there is some evidence that support services are not currently providing appropriate support to women with learning disabilities.

Carers who harm and/or are at risk of harm

The Care Act defines a carer as someone who 'provides or intends to provide care for another adult' (but not as a volunteer or contacted worker).[25] The local authority has a duty to assess a carers needs for support to maintain their well-being – **including protection from abuse**.

There are three main considerations in relation to safeguarding, domestic abuse and carers. Carers may cause harm, through abuse or neglect of the person they care for, they may be caused harm by the person they care for, or they may be important observers and reporters of harm by others.

Some people with care and support needs are intentionally abusive to their carers. However, others may not have capacity to choose not to be abusive; their disability may cause abusive behaviour, as in some cases involving people with dementia.

Support to address domestic abuse should be offered if abuse is causing a carer's physical or mental health to deteriorate, or preventing them from caring for another adult. The carer may feel unable to leave or seek help for themselves due to fear of leaving the person they care for with the perpetrator, or fear of being unable to care for them on their own.

22 See the Stella Project at www.avaproject.org.uk

23 Rich K (2014) 'My body came between us': Accounts of partner-abused women with physical disabilities. Affila: Journal of Women and Social Work, 1-16.

24 Looking into abuse research team (2013) Looking into Abuse: Research by People with Learning Disabilities. University of Glamorgan, Rhondda Cynon Taff People First and New Pathways. Available online: http://udid.research.southwales.ac.uk/media/files/documents/2013-03-05/Final_report.pdf

25 The full text of the Act is online at http://www.legislation.gov.uk/ukpga/2014/23/contents/enacted (accessed 22 October 2014)

Case example three

Mr and Mrs A (both over 80) had been married for 56 years. Mrs A died of a bleed to the brain following an incident at her home involving Mr A. It was found that she had made eight 999 calls over the preceding seven months. Despite Mrs A's repeated 999 calls, the emergency teams that arrived at the house had no knowledge of previous call-outs.

A serious case review found that because the couple were elderly and frail, police were inclined to treat the domestic abuse allegations as a social care issue rather than possible crimes. They were also influenced by Mrs A, who appears to have played down the abuse, and described Mr A as having deteriorating mental health or Alzheimer's disease as an explanation for his behaviour. The officers accepted this without considering the need for a mental health assessment prior to making decisions about whether Mr A should have been formally dealt with through the criminal justice system.

Mr A was arrested on one occasion in relation to the alleged domestic abuse incidents, approximately five months prior to Mrs A's death. He admitted assaulting his wife on two occasions, and was cautioned and returned home.

As Mrs A's reports of violence intensified in the months leading up to her death, she told people (other than social services) on a number of occasions that she needed help in caring for her husband, but when she was offered social care support she rejected it. As a result of this pattern of asking for help but not accepting it, professionals were concerned but felt powerless.

Shortly before Mrs A's death, Mr A alleged that his wife had also been abusing him, and reported punches behind his ears and injuries from her nails. This was believed and taken seriously, but no-one interviewed Mrs A about these injuries.

The serious case review concluded that there was a failure to treat Mr A as a suspect as officers believed he had dementia; and the ''mindset' with which this case was considered was that of abuse by Mr A to Mrs A and not a more complex situation with risks to both. The reasons behind this, according to the review, included:

- poor understanding of the Mental Capacity Act and the need for mental health assessments before making decisions on intent
- a poor appreciation of the risks of domestic abuse in old age
- an unwillingness to bring a frail man into custody, without considering alternative approaches to this a tendency to engage the two individuals separately in processes about their individual needs, rather than in a coherent approach.

This meant that the complexities of the risks they posed to each other in the context of their relationship were not visible or fully explored.[1]

1 Adapted from a Serious Case Review provided by Southend-on-Sea Borough Council

Carers can also perpetrate domestic abuse towards people they care for. Sometimes domestic abuse referrals are judged to be a result of carer stress – in these situations adult social care has a duty to assess the needs of the adult and the carer. The situation may benefit from the provision of extra support by social services and may not require domestic abuse action.

An ADASS report (2011)[26] draws a distinction between **intentional harm and unintentional harm.** It says that some actions by carers or their impacts may be unintentional and arise from lack of coping skills or unmet needs. Others may be intentional. The report proposes that the issue is always one of impact on the individual affected by the carer's actions or lack of action. The outcomes of intervention should be person centred and not process driven. Careful assessment of the impact of abuse, and the risks of further abuse; risk enablement; consistency and competence in safeguarding functions; and in working with carers, are all considered essential skills to assess whether harm is intentional or unintentional. Where abuse is intentional, the crime of wilful neglect covers the deliberate neglect by a carer of a mentally incapacitated adult. The Domestic Violence Crime and Victims Act (2004) includes the crime of causing or allowing the death of a child or vulnerable adult, and this may be relevant to carers who do not ensure that a person in their household gets help to prevent serious harm. Perpetrators of domestic abuse towards people with care and support needs may have the same motivations for control as in other domestic abuse situations. Effective interventions with them to stop their abusive behaviour will therefore be the same as those described above.

ADASS suggests that the risk of harmful behaviour, whether intended or not, tends to be greater where the carer's well-being is at risk because they:

- have unmet or unrecognised needs of their own
- are themselves vulnerable
- have little insight or understanding of the person's care and support needs
- have unwillingly had to change lifestyle
- are not receiving practical and/or emotional support from other family members
- are feeling emotionally and socially isolated, undervalued or stigmatised
- have other responsibilities such as family or work
- have no personal or private space outside the caring environment
- have frequently requested help but problems have not been solved
- are being abused by the person they are caring for
- feel unappreciated by the person they are caring for or that they are being exploited by relatives or services.[27]

Potential indicators of situations where abuse of carers is more likely include situations where relationships are unsatisfactory, communication is difficult, and the person being cared for:

- has health and care needs that exceed the carer's ability to meet them (especially where of some duration)
- does not consider the needs of the carer or family members
- treats the carer with a lack of respect or courtesy
- rejects help and support from outside (including breaks)
- refuses to be left alone by day or by night
- has control over financial resources, property and living arrangements

26 ADASS (2011) Safeguarding Adults Advice Note. London: ADASS

27 ADASS (2011) Safeguarding Adults Advice Note. London: ADASS

- engages in abusive, aggressive or frightening behaviours
- has a history of substance misuse, unusual or offensive behaviours
- does not understand their actions and their impact on the carer
- is angry about their situation and seeks to punish others for it
- has sought help or support but did not meet thresholds for this
- the caring situation is compounded by the impact of the nature and extent of emotional and/or social isolation of the carer or supported person.[28]

In general, families and carers make an invaluable contribution to society and the support of carers is integral to the Care Act (2014). However, practitioners should be aware of and vigilant against the potential of 'the rule of optimism', when professionals may place undue confidence in the capacity of families to care effectively and safely, affecting professional perceptions and recognition of risk of harm, abuse or neglect.

This may arise from:

- generalised assumptions about 'carers'
- uncritical efforts to see the best
- concerns about consequences of intervention
- minimising concerns
- not seeing emerging patterns
- not ensuring a consistent focus on the person at risk.

If the 'rule of optimism' prevails, situations where there is harmful intent on the part of the carer or where unintentional harm is having a serious impact on the person's well-being may not be recognised. Agencies that could protect the victim may then not be involved and serious harm can result. Such cases are the exception, but they exist, and have been identified through Serious Case Reviews such as that detailed in case example three. If deliberate or reckless acts of harm, or acts of omission leading to neglect, are suspected, safeguarding procedures and police referral must always follow.

5. Working with people with care and support needs who are experiencing domestic abuse

Quick reference:

- there are a range of issues to consider, including the needs of a range of groups, people's independence, self-esteem, previous experience of services, and parenting
- taking time to build trust and confidence with the person being abused is important, accepting that they may not be able to describe or disclose all aspects of their situation initially, and that the issues may take time to explore fully
- avoid making assumptions based on stereotypes, particularly around older age, mental health and substance misuse
- there is a risk of serious harm in forced marriage situations where one or both parties have care and support needs
- domestic abuse can involve the wider family and take different forms according to different family dynamics, especially when caring responsibilities are involved.

28 ADASS (2011) Safeguarding Adults Advice Note. London: ADASS

6. Mental capacity, adult safeguarding and domestic abuse

Mental capacity to take decisions
Some victims of domestic abuse may lack capacity to take certain decisions for themselves. They will need additional help to support and empower them within a legal framework: the **Mental Capacity Act 2005**. A lack of mental capacity could be due to:

- a stroke or brain injury
- a mental health problem
- dementia
- a learning disability
- confusion, drowsiness or unconsciousness because of an illness or the treatment for it
- substance misuse.

The Mental Capacity Act contains a range of safeguards and legal approaches, which could be used to support people experiencing domestic abuse. The five key principles of the Act must be applied:

- start from the assumption that a person is able to make their own decisions, and has the capacity to make the specific decision in question
- ensure you make every effort to enable the person to make the decision themselves
- making a decision that you consider to be unwise or eccentric does not necessarily mean the person lacks capacity to make the decision in question
- anything done for or on behalf of a person who lacks capacity must be done in their best interests
- if acting on behalf of a person who lacks capacity, weigh up the intervention to ensure that you act in a way which interferes as little as possible with the person's rights and freedoms.

Decisions taken with and on behalf of adults who need safeguarding because of domestic abuse may be serious and have far-reaching consequences, including leaving a family home or being restricted from contact with the perpetrator and other family members. People must be involved to the maximum degree possible in making plans about their own well-being, including their protection from abuse or neglect. The Care Act (2014) says that an independent advocate **must** be engaged if a person's needs mean they may have difficulty taking part in such decisions.

An unwise decision or a decision taken under duress?
Assessing capacity can be particularly challenging in domestic abuse situations, where the person is cared for by, or lives with, a family member or intimate partner and is seen to be making decisions which put or keep themselves in danger.

Skilled assessment and intervention is required to judge whether such decisions should be described as 'unwise decisions' which the person has capacity to make, or decisions that are not made freely, due to coercion and control. For example, a decision to continue to live with an abusive partner might be a free and informed decision based on a full appreciation of the risks and the alternative courses of action, including support available. However, a victim may also be caught in the 'Stockholm Syndrome', a psychological defence mechanism that creates attachment to a perpetrator as a cognitive strategy for staying safe.

A decision not to leave may also be based on a realistic fear of the behaviour the perpetrator has threatened if the victim were to disclose abuse or try to leave the relationship. Research

shows that women are at most risk of serious harm from the perpetrator when they are leaving the abusive relationship.

Recent case law has clarified that there is scope for local authorities (using the principle of inherent jurisdiction) to commence proceedings in the High Court to safeguard people who do not lack capacity, but whose ability to make decisions has been compromised because of constraints in their circumstances, coercion or undue influence.[29]

A principle of the Mental Capacity Act is that a person only has full capacity **if they have access to all the relevant information** about the decision they are making – in this case the decision/s about what, if anything, to do about the risk of abuse they are facing. All victims should be given information about their options whether or not they appear to want them at this time. The person at risk must be given time to understand accessible information about the options open to them. This should include specialist domestic abuse services such as Sanctuary schemes and places of safety, as well as legal options such as restraining orders, and information about actions that the police can take such as Domestic Violence Protection Orders (see **Section 9**).

People may return to an abusive situation even after they have chosen to leave. The barriers that prevent people leaving abusive situations may also factor in deciding to return, and staying or returning to abusive situations should be understood in that context. In such a situation, a safeguarding plan should include safety planning with them to minimise risks and ensure they have clear options for leaving again if they decide to. A new risk assessment should be carried out and a referral made to MARAC if the risk is high.

Creating a relationship within which a victim feels safe to discuss the detail of the coercion they face can take time. Advocates are an additional resource that can be used to support people faced with such decisions, and the specialist advocates, IDVAs (see **Section 9**), are available to support people at high risk from domestic abuse. The Care Act (2014) mandates the use of advocates for anyone who has difficulty making decisions about how their health and care needs should be met.

If professionals judge wrongly that the person is making a 'free', unwise but capacitated, decision to stay in an abusive situation when this is not the case the victim may feel blamed for the abuse.

Practice reflection:

If someone appears not to want to take steps to end abuse, give careful consideration to all the factors that may be influencing their decision. Has the person had the opportunity to explore all the options that are open to them, with the support of an advocate?

If, after considering the options carefully, you believe they are not free to make decisions then it is time to make a defensible decision about the next steps. See **Section 7** for more details of making safe enquiries and Section 8.0 for information on assessing and managing risks.

29 See DL vs A Local Authority and Others (2012), online at www.bailii.org/ew/cases/EWCA/Civ/2012/253.html (accessed 22 October 2014)

Case example four

Mr and Mrs K, a couple both aged 90+, are being bullied by their son, M who has a gambling addiction. In the latest incident, M became aggressive with Mrs K when she confronted him about his addiction. Mrs K left the house but was grabbed by M and carried back into the house and thrown onto the floor, causing bruising to her jaw and thigh. Mr and Mrs K have a paid carer who has reported a number of incidents including this one. It is part of a series of escalating incidents going back over five years, with referrals coming from a variety of sources, including health professionals, police, carers and also self-referrals. Referrals have included physical assault, verbal and emotional abuse.

On several occasions, Mrs K has been afraid to remain in her home and has stayed away for short periods, either at a guest house or in short term care. Mrs K has provided information to suggest that M is controlling. He monitors her mail and phone calls, checks her bank statements without permission and checks her purse when she returns from shopping. Mr and Mrs K give M money regularly and have purchased a car for him very recently. M holds Mr K's visa card. Mr and Mrs K have been advised to ask M to leave and to stop giving him money, but they have not taken this advice.

Due to Mrs K's age and frailty, professionals are concerned that another physical attack could prove fatal. A referral to MARAC has now been made; a safeguarding conference is being arranged for the following week; and a specialist assessment of Mr and Mrs K focussing on their reasons for making apparently repeated 'unwise decisions', is being undertaken.

Practice reflection: What factors might have influenced Mr and Mrs K's decision not to ask M to leave? What positive actions could professionals have taken to address these barriers at an earlier stage?

People who lack capacity and Independent Mental Capacity Advocates (IMCAs)

When a person is assessed as lacking capacity to make decisions about keeping themselves safe from domestic abuse then any decision made by professionals on behalf of that person must be made in their best interests.

An independent mental capacity advocate (IMCA) should be considered in all circumstances where a person does not have mental capacity to make decisions about their protection, especially where this could involve a permanent change of accommodation. IMCAs are a statutory safeguard for people who lack capacity to make important decisions, and who do not have friends and family to represent them. In safeguarding adults cases, access to IMCAs is not restricted. People who lack capacity and who do have family and friends are still entitled to have an IMCA to support them in adult protection procedures, if the decision-maker is satisfied that having an IMCA will benefit the person.

IMCAs can represent the person in discussions about important decisions that may arise during safeguarding and domestic abuse interventions, such as where they should live, who they should live with, and what treatment they should receive. It is important that IMCAs themselves should be able to feel safe, confident and well-supported when dealing with the complexities of domestic abuse, so that they can give the best support to their client in a challenging situation. As not all IMCAs have had training around domestic abuse, the use of an IMCA does not preclude joint working with another specialist advocate such as an Independent Domestic Violence Adviser (IDVA).

Consideration should also be given to whether the proposed changes mean that the person is likely to be deprived of their liberty and

an application for a Deprivation of Liberty Safeguard (DoLs) made if that is the case.

For more guidance about mental capacity see www.scie.org.uk/publications/mca/index.asp for SCIE practice guides and links to other sources of information.

The Mental Capacity Act 2005 Code of Practice together with comprehensive advice on the Act can be found at: www.justice.gov.uk/protecting-the-vulnerable/mental-capacity-act

6. Mental capacity, adult safeguarding and domestic abuse

Quick reference:

- the Mental Capacity Act has five key principles, designed to protect and support the person
- an apparently unwise decision may be the result of coercion or controlling behaviour by another person
- Independent Mental Capacity Advocates (IMCAs) can support the abused person
- IMCAs may not be specially trained in domestic abuse, but they can work alongside Independent Domestic Violence Advocates (IDVAs) or other workers from a specialist domestic abuse agency.

7. Safe enquiries

When working with victims of domestic violence and abuse, the first key principle to follow is to enquire safely about violence or abuse.

Safe enquiry means ensuring the potential perpetrator is not and will not easily become aware of the enquiry. It is a cornerstone of best practice in domestic abuse. Safe enquiry has been developed following circumstances in which women and their children have been placed at risk of serious harm (and homicide) due to perpetrators becoming aware that professionals knew about their behaviour.

Research has shown that incidence of violence and levels of harm increase when a perpetrator's control is being challenged. It is very important that the perpetrator does not learn about any disclosure or plans being made by the person at risk by accident or without the knowledge of the person at risk, unless there are very exceptional circumstances.

In order to do this you should ensure privacy for the person concerned and establish the level of risk posed to the individual, child or family from the information you have, using locally agreed processes (See **Section 8**).

The principle of **safe enquiry** is core to all work with victims of domestic violence. Research shows that female victims of domestic violence will not usually voluntarily disclose domestic violence to a professional unless they are directly asked.

However, whilst victims may be reluctant to disclose what is happening to them, often they are also hoping that someone will ask them if they are suffering even where it does not result in disclosure of abuse. Repeated enquiry on a number of occasions also increases the likelihood of disclosure.

Safe enquiry is also recognised to be an important intervention even when it does not result in disclosure. If the woman is experiencing domestic abuse but chooses not to disclose they should be routinely offered domestic violence service information to take away with them if they wish, and should not be required to make a disclosure before being given information.

The person will know that you and your organisation take domestic violence seriously, and if they take information away with them it can allow them to become better informed themselves, and better advocates for their friends and family.

Best practice in undertaking safe enquiry
To ensure safety and confidentiality:

- always ensure you are alone with the person before enquiring into possible abuse - never ask in front of a partner, friend or child
- make sure that you can't be interrupted, and that you – and the person – have sufficient time
- only use professional interpreters
- do not pursue an enquiry if the person lacks capacity to consent to the interview unless you have already arranged an advocate
- document the person's response (but not in client/patient held records or organisational systems to which the perpetrator may have access).

To give opportunities to disclose abuse:
Explain your reasons for enquiring into domestic violence or abuse, for example:

- as we know domestic abuse is common and affects many people; we ask everyone about

it when we observe possible indicators of abuse

- domestic abuse isn't just about physical violence. It can be financial, sexual or emotional, and includes forced marriage.

Explain the limits of your confidentiality, for example:

- the only time I would tell anyone anything you told me would be if a child was in danger, if another adult was in serious danger or if a crime may have been committed. Even then, I would discuss it with you first if I could and I would do everything I could to support you.

Ask direct questions about their circumstances, for example:

- has anyone close to you made you feel frightened?
- does anyone close to you bully you, control you or force you into things?
- has anyone close to you ever hurt you physically, such as hit you, pushed you, slapped you, choked you, or threatened you in any way?

Ask additional direct questions to adults with care and support needs, for example:

- has anyone prevented you from getting, food, clothes, medication, glasses, hearing aids or medical care?
- has anyone prevented you from being with the people you want to be with?
- has anyone tried to force you to sign papers against your will?
- have you been upset because someone talked to you in a way that made you feel ashamed or threatened?
- has anyone taken money belonging to you?

When abuse is disclosed or identified:

- follow local procedures for assessment, referral and safety planning.

7. Making safe enquiries

Quick reference:

- follow the principles of safe enquiry and take protective measures to ensure that any discussions with potential victims of abuse are conducted in a safe environment
- understand that victims of abuse may be reluctant to disclose what is happening to them, but that the conversation may be helping them to understand their situation better and build up trust
- ask direct questions, in a safe environment
- keep good records of any discussions and interventions.
- follow local policies, protocols and procedures at all times.

8. Assessing and managing the risks of domestic abuse in safeguarding circumstances

An assessment of risk should take place in all situations where an adult with care and support needs is experiencing domestic abuse. This assessment should be personalised and along the same principles of Making Safeguarding Personal.

Comprehensive, accurate and well-informed risk assessments are fundamental to good practice and good outcomes for people who need both adult safeguarding and domestic abuse services.

A thorough risk assessment enables the person concerned and practitioners to be confident about the interventions they are making and decisions to share information with other professionals as part of a multi-agency strategy. A risk assessment carried out with the person at risk is a useful tool for supporting them to recognise and weigh up the risk they are facing.

In making professional judgements, practitioners should be mindful that there may be more than one person at risk. This may include children who may need to be referred to children's safeguarding services.

Involving the person at risk

Involving the person concerned, and/or a trusted advocate or IMCA (if the person lacks capacity) in the risk assessment is best and most effective practice. An assessment carried out in this way is more likely to:

- produce an accurate, comprehensive and better-evidenced risk assessment
- give the person themselves, or someone on their behalf, an opportunity and support to identify, describe and understand the risks for themselves, keeping their wishes central to the safeguarding process.

Under the Domestic Violence Disclosure Scheme ('Clare's Law'), a person who is experiencing domestic abuse has a 'right to ask' - this enables them to ask the police about a partner's previous history of domestic abuse or violent acts. Police can proactively disclose information about a previous perpetrator of domestic abuse to a current partner in prescribed circumstances. Greater Manchester Police have produced a leaflet outlining how the scheme works, which can be downloaded here: http://www.endthefear.co.uk/wp-content/uploads/2011/09/DVDS-leaflet.pdf?563068

Using risk assessment tools and exercising professional judgement

Risk indicator tools are associated with many safeguarding adults procedures and can assess the level of risk in domestic abuse situations. Tools can aid judgement and decision-making about the level of risk to individuals and families, how risk might be reduced or managed, how identified needs should be met, and who should be involved. When properly used, the tools should lead to robust risk management that protects and promotes the safety and well-being of the people affected by the abuse.

Risk assessment should draw on multiple forms of information and evidence about the perpetrators background, any prior incidents of domestic abuse, and take into account the evidence of the person experiencing the abuse, their level of fear, and any coercive control and psychological abuse.

It is important to remember that risk can be fluid and circumstance can change suddenly. Ensure that the safety plan includes a way for the person at risk to let professionals know if they think the risk level has increased.

Most areas now use the Domestic Abuse, Stalking and Honour Based Violence Risk Identification Checklist (DASH-RIC) for **domestic abuse assessment** or a similar system embedded in local procedures and protocols. As well as being used as a tool to identify and discuss risk, this tool is also used for professionals from any agency to refer high-risk cases to the local Multi Agency Risk Assessment Conference (MARAC).

The DASH-RIC is an evidence-based list of 24 questions about what factors are present in a domestic abuse situation, and usually carried out with the victim. An answer of yes to 14 or more of the questions indicates a serious risk of injury or harm. However, a score that is lower than that may reflect a situation where a victim is too scared to disclose some aspects of the abuse. **The exercise of professional judgement is essential** when considering the points score from the DASH-RIC (or similar systems), especially where it has resulted in a lower score than expected. Some practitioners have found this to be the case where the person experiencing domestic abuse is also an adult with care and support needs. The DASH-RIC risk assessment is predisposed to assess risks for women with children and is known to have limitations for identification of the risk factors experienced by disabled and older people and therefore your professional judgement will be key.

Any risk assessment is likely to benefit from information from other agencies or from other supportive members of a person's network. Where the adult has capacity to consent, ask them if you can collect information from other agencies and use a consent form to record their decision. If the adult has been assessed as lacking capacity to make this decision then you should involve an advocate. Where the person is at evidenced high risk and a potential crime has, or may have been or may be perpetrated, you should advise the person concerned that you will be sharing information.

Multi-agency Risk Assessment Conferences (MARACs) or a multi-agency safeguarding meeting?

MARACs are regular meetings which take place in each local area, usually chaired by the police, where statutory and voluntary sector partners work together. MARAC considers cases identified as 'high risk' by use of the DASH-RIC, and develops a coordinated safety plan to protect each victim. This can include recording the actions agreed for any children, adults, and for perpetrators.

Membership of the MARAC is fixed and all members attend for all case discussions. Several (15-20) cases may be considered at each MARAC. Case referral information is shared with all attendees prior to the meeting and each agency brings any information they have about the person at risk, any children at risk, the alleged perpetrator and other relevant information about the household. Agencies such as Fire and Rescue who collate information on a household basis are also able to contribute any relevant information.

The referral to MARAC is usually carried out with the consent of the victim. However, if that is not forthcoming or impossible to obtain, then the MARAC will still consider cases of high risk without consent, with the justification of preventing serious harm.

MARACs and safeguarding procedures

As safeguarding activity has the potential to duplicate that of the MARAC, it is important that local protocols indicate how and when MARAC will fit into safeguarding procedures and vice-versa.

Whilst they are considerable overlaps there are also differences between the approaches to MARAC and to safeguarding:

- MARAC meetings can discuss 15-20 cases in a day-long meeting. Each situation is discussed for a short period of time and it is assumed that agencies will carry out any actions they agree. The IDVA often co-ordinates multi-agency working
- The MARAC addresses high risk domestic abuse cases only and is not usually an effective mechanism for immediate

response to a crisis, though some areas have a mechanism for calling an emergency meeting to discuss a particular case

- the person concerned is not present at the MARAC meeting and MARACs do not monitor the detailed implementation of the safeguarding plan. The person at risk from domestic abuse (or their representative if they do not have mental capacity to take part in the meeting) should always invited to safeguarding adults meetings
- safeguarding adults applies to a range of people and is developing as a personalised response to safeguarding concerns where the person concerned is fully involved. Safeguarding staff can refer to the MARAC if the risk of domestic abuse is found to be high
- referrals can be made to the safeguarding adults services from the MARAC meeting if someone has care and support needs.

You should have local arrangements with the police and other partners in terms of safeguarding and MARACs. In some instances, meeting with the person and the police and other key professionals under the umbrella of a safeguarding meeting may be the quickest and most personalised form of multi-agency risk assessment conference. Unless you have alternative arrangements locally, a MARAC referral should be made for any adult at serious risk of injury or death from domestic abuse alongside safeguarding.

Common barriers to effective risk assessment and management

Some professionals may lack the depth of understanding about the nature of domestic abuse, why it occurs and why victims remain in abusive relationships. Domestic Homicide reviews illustrate that this is often the biggest barrier to effective risk assessment and management. This needs to be tackled as a priority for any service, through effective staff supervision and training.

Not involving the person concerned in all stages of risk assessment and management. Research demonstrates that risk assessment and management is consistently more effective when undertaken collaboratively with the person experiencing the abuse. The principles of person-centred working and empowerment are central to accurate identification of the nature of the abuse and the risks they face. The victim will have detailed knowledge of the abusive behaviour and risk factors

Case example five

J, aged 45, a physically disabled victim of sustained domestic abuse, was found dead in her home. She had shared her home with her partner S who was subsequently convicted of her manslaughter. J had been in contact with Social Services and other agencies for some time before her death. Earlier in the year she died, J had received a fixed penalty notice for false alarm to the Fire and Rescue Service. Her partner had a history of some 14 convictions, including one of common assault 15 years previously, another more recently, four offences against property and other offences of theft.

A post-mortem examination revealed that J had 84 different areas of injury to her body, including two open wounds, three fractures to her lower jaw and ribs, as well as bleeding to her brain and inside her mouth. J died when the jaw fractures became infected and sepsis spread to her neck, chest and lung. Doctors said she would have been unable to swallow or speak and would have struggled to breathe, such was the extent of her injuries.

In interview, S claimed she had fallen face first after missing a step while the stair lift was broken, at least five days before. He accepted she was unable to speak or take painkillers and was only drinking water, but insisted she had shook her head when he suggested going to hospital. S pleaded guilty to manslaughter by gross negligence.

Unintended collusion with the perpetrator. This can take many forms but common examples include:

- the victim is not seen as credible and their account of their circumstances is seen as inaccurate or embellished. This may be because of the extreme ('unbelievable') nature of the abuse, or because of the appearance / behaviour of the victim, or because the victim does not give a logical and ordered account of what has happened
- professionals / agencies view the victim as being responsible for the abuse. This can happen where the victim presents as angry with professionals rather than as a passive 'victim', misuses substances, or has mental health problems. Conversely, the perpetrator presents as rational and appears to cooperate with professionals, or uses their professional status, vulnerability, or 'charm' to avoid detection
- agencies place all the responsibility for protecting others in the household, for example children and dependent adults, on the victim and not on the perpetrator. A parent/carer's ability to protect children, or adults with care and support needs, is seriously impaired by the effects of abuse. Supporting a parent/carer to increase their ability to protect others must involve measures to stop the abuser as well as support to the parent/carer to decrease the risk to themselves
- the perpetrator makes counter allegations of abuse. Professionals should work to ensure that everyone is safe. Safe Enquiry should be used with every potential victim, and risk assessments made without breach of confidentiality to the other adult, involving other professionals such as domestic abuse specialist agencies and the police if appropriate.

Not asking children or adults with care and support needs about how the abuse is affecting them. Serious Case Reviews into death or serious injury indicate that professionals have sometimes failed to establish the perspective of the children or of adults with care and support needs. This limits information for the risk assessment. It also hinders recognition of the impact of the abuse.

Not using or inappropriate use of assessment, referral and risk assessment forms. It is important for prosecution of the perpetrator that accurate records are kept in the locally agreed format at all stages of the case. Used as tools, these forms can inform the overall assessment of the level of risk and ensure that the case is managed effectively. As the record of a focused conversation about risk, DASH-RIC forms can also enable the victim to see the factors placing them at high risk.

Not undertaking in-depth assessments that take full account of static risk factors (where this is part of your professional role). Research highlights the importance of anchoring estimates of long-term likelihood of abuse reoccurring in a detailed consideration of static risk factors including previous incidents, past behaviour, background and personal circumstances. Dynamic factors should be used to make moderate adjustments to risk assessments and aid intervention and/or treatment planning: for example, current attitudes and statements of the perpetrator, current drug or alcohol use, stress level, and so on.

Not increasing support and protection at times of increased risk. Domestic Homicide reviews, supported by research, indicate that separation (of the victim and perpetrator) is a key time of high risk to victims and children. Challenging perpetrators on their behaviour or implementing zero tolerance policies can increase risk to the victim. Perpetrators should not be challenged except on the basis of a defensible decision making process in consultation with specialist professionals.

Not ensuring safe contact arrangements are in place for children (whether mandated by court or informal).

Not recognising, or responding to, additional key risks posed to BME domestic abuse victims. Safeguards include always using professional interpreters, and seeking help from specialist services, and supporting those with insecure immigration status through their entitlement to healthcare, protection from

the police, and recourse to apply for a court order to protect them against their abuser. If working with asylum seekers, see the SCIE guide 'Good practice in social care for refugees and asylum seekers' http://www.scie.org.uk/publications/guides/guide37

Practice reflection: Support accurate risk assessment by offering constructive challenge to other professionals, and being open to constructive challenge yourself. Using the list above, think about, and talk through with colleagues how you would give or receive constructive challenge in assessing risks.

Where your assessment indicates risk of serious harm to the victim, a child or another adult:

- **deal with any immediate need** for medical or police involvement or specialist domestic violence services
- **take action** to alert the appropriate professionals and involve an advocate if the person needs support to make their views and decisions known
- **continue to support and safeguard** the adult or child in your role
- **continue to review needs and risks**, remembering that situations can escalate quickly.

8. Assessing and managing the risks of domestic abuse in safeguarding circumstances

Quick reference:

- understand how coercive and controlling behaviours may inhibit people disclosing or revealing the extent of domestic abuse
- understand local policies and procedures for safeguarding and risk assessments
- listen to and communicate respect towards the adult with care and support needs who is experiencing domestic abuse. Ensure they are at the centre of decision-making
- be aware of and vigilant against the potential of 'the rule of optimism', when professionals may place undue confidence in the capacity of families to care effectively and safely, affecting professional perceptions and recognition of risk of harm, abuse or neglect
- take any immediate protective measures that are needed
- understand how your local arrangements work in relation to safeguarding and Multi-Agency Risk Assessment Conferences.
- use risk assessment forms as tools to aid professional judgement, not as ends in themselves
- using safe enquiry, work with the person at risk to ensure their experiences are central to your risk assessment
- collate information about static risk factors, as they are the most reliable indication of long-term risk
- use professional judgement in risk assessment as everybody's circumstances are different
- gain support from local specialist domestic abuse agencies; they are experts in risk assessment and management.

9. Domestic abuse support services and legal action

People at risk will have limited confidence in a service where they can disclose risk but which does not help them to make decisions about their future safety and well-being in a measured and proportionate way. If the person is going to stay at or return home, safeguarding or **safety planning** will support them to plan how they are going to keep as safe as possible. Making Safeguarding Personal is an approach than involves engaging people (or their representatives or advocates) to identify what outcomes they want, to consider the options open to them and the risks and benefits of those options. Planning also includes supporting the person (who may be clear that they do not want to end a relationship) to consider how they would reduce risks to prevent serious harm.

When an adult in need of safeguarding support is experiencing domestic abuse there are specialist support and protection services that are available that could form part of a safeguarding plan. These could be specialist domestic abuse support services or legal action which offers protection or redress. Any victim of domestic abuse may be signposted to specialist support services regardless of their assessed level of risk but adults needing care and support may need assistance to do so and/or an intermediary to help them navigate available services. This should be part of follow-up from the risk assessment process.

Services that meet care and support needs may also play an important role in protecting someone from domestic abuse; for example, telecare monitoring systems and regular visits by care workers. If services are being used as part of a safety plan this must be specified. Those co-ordinating and delivering the services **must** be made aware of the risk of abuse and be clear on what to do if the risk increases.

When discussing options and giving information to people, social workers and other practitioners will need to exercise professional judgment in the language they use, how they introduce options, and how to involve the person/victim in getting good legal advice. The aim of this should be to meet the needs of the individual for information and support, at a pace and level of detail which suits them, and in ways that are understandable and accessible.

Domestic abuse support services

A range of services have been developed over the past forty years by specialist domestic abuse agencies. These include practical services, emotional support, and statutory advocacy. Support and safety planning can also include health and social care services as part of a 'package' to maintain safety and support emotional recovery

Independent Domestic Violence Advisers (IDVAs)
IDVAs mostly support individuals who are the subject of a MARAC referral: those who are at high risk of serious harm or murder. IDVAs are independent, trained advisers who give specialist emotional and practical support, including support to attend court. The service is based on a national model, but delivered locally. They are essential for a person-centred approach. Their role is to advocate for the victim during MARAC meetings and in relation to the criminal justice system. They often play a key role in mobilising the resources of local agencies to keep victims safe.

On referral to MARAC information about a victim will also be passed to an IDVA so they can offer support with immediate needs and protection. The success of safety plans agreed at MARAC are often closely linked with IDVA involvement.

IDVAs are a valuable source of information and advice for professionals in other agencies, and a good working relationship with IDVAs locally will benefit work with people who have care and support needs at risk of domestic abuse.

Accommodation and support packages

Accommodation and physical accessibility can be significant barriers for those seeking help. According to research many women believe they could not be accommodated according to their needs if they end a violent relationship. However, some areas do have facilities for disabled women, and professionals should make themselves aware of what is available.

Disabled women were also reluctant to leave their own housing if it had been adapted for them. They may also fear that institutional care could be forced upon them if they leave an adapted home and abusive carer.

All possible accommodation options should be explored. This might include staying in the current home with support to make this safe (Sanctuary schemes). If moving elsewhere is the best option, then all appropriate support options should be explored. These can include providing a support plan in a refuge or other specialist domestic abuse housing scheme, or rehousing / supported living / care home options, with floating support from a domestic abuse service.

The Care Act has clarified the responsibility of local authorities in cases where a person moves into another local authority. If an adult has an existing support plan this should be continued by the new local authority until they have carried out an assessment. Where the second local authority has been notified that an adult with support and care needs intends to move to their area they must provide information and start an assessment of needs. The local authority where the person currently lives is responsible for co-ordinating the transfer and keeping the adult informed.

Case example six

T is a 40 year-old woman who had always lived with her 65 year-old mother and other family members. T went to her local housing office, saying she was afraid to go home as her mother would hit her. The housing service contacted social services, who found from their records and in talking with T, that T has mild cerebral palsy and a mild learning disability and did not receive any services from them.

The duty social worker saw T immediately, and spent time trying to find out exactly what T wanted to say and do about her situation, and what the problems were. The social worker established that T was clear in her refusal to return home to her mother, and about the fact that physical violence had taken place. The police were contacted and became involved in investigating concerns, and an Independent Domestic Violence Adviser (IDVA) was also introduced to T.

Finding emergency accommodation which would both meet T's needs and accept someone with her disabilities, was difficult, and eventually a care home was identified which, whilst being not ideal, was acceptable to T in the short-term, whilst a better long-term solution was found. By the end of the day, T felt she was in a place of safety and she had access to specialist advice and support from both safeguarding and domestic abuse services.

Voices from research and practice: four

"My children were all very supportive. … they all said don't put up with it, but I just didn't know what to do, where to go, you know, you don't know how you can cope on your own. .... for years you were told, any idea you had was stupid.... And you know, all of a sudden you realise you're not stupid! When I finally felt I had to leave, I came down to my daughter's, who lived in X. But I found my nerves were so raw that, although I loved my grandchildren to bits, I could not live with them all the time. So I came here."[31]

31 Barron, J. (2007) Older Women and Domestic Violence. Bristol: Women's Aid

Sanctuary schemes

These are multi-agency initiatives available in some areas which enable people at risk of violence to remain safely in their own homes by either improving the security of the whole home or providing a 'sanctuary' in one or more rooms within the home. This type of intervention may also be referred to as 'target hardening'. Panic alarms connected to the police station may sometimes be installed in the home and/or carried by the person at risk.

Sanctuary schemes often offer emotional and practical support as well as providing information about options and services available. They may be an especially good option where a person's home has been adapted to meet their care and support needs.

Refuges and safe houses

A refuge is a safe house for people who are experiencing domestic abuse. Reflecting the different levels of domestic abuse, most refuges are for women and children in the UK, but there is some refuge provision for men. Details can be found at www.womensaid.org.uk and www.mensadviceline.org.uk.

Refuge addresses (and sometimes telephone numbers) are confidential and it is important that professionals maintain that confidentiality. Most refuges prefer to accommodate victims a 'safe' distance away from any areas where the abuser has connections.

Some women's refuges have space for many women and children, and some are small houses. Some refuges are specifically for women from particular ethnic or cultural backgrounds (for example, Black, Asian or South American women). Many refuges have disabled access and staff and volunteers who can assist women and children who have additional needs. Think carefully about how best to protect confidentiality and safety whilst arranging to meet the person's care and support needs in the safe house.

Beverley Lewis House (BLH) is a unique and specialist housing project which provides a safe environment for women with learning disabilities, who might also have additional or complex needs, and who have experienced domestic (or other) abuse. The project offers support to recuperate, to work through distress, and to develop strategies for personal safety. www.east-thames.co.uk/domestic-violence

Dispersed housing and support

Some safe accommodation is provided on a dispersed basis within 'ordinary' housing areas by refuges, and some is provided by non-specialist social housing organisations. The aim of all safe housing is for victims to establish a home for the long-term. Most refuges and sanctuary schemes offer an outreach service that provides ongoing support and advice.

Sources of information and support

Practitioners need to develop knowledge about the resources that are available for people locally. All councils and their partners should have a comprehensive and regularly updated directory of local and national resources available to their population.

Useful telephone numbers include:
National Domestic Violence Helpline (0808 2000 247, run in partnership by Women's Aid and Refuge) for advice or to make a referral to a local service.

Action on Elder Abuse's confidential Freephone helpline (0800 4 70 80 90) provides information, advice and support to victims and others who are concerned about or have witnessed abuse

Useful websites include:
www.womensaid.org.uk
www.mensadviceline.org.uk
www.brokenrainbow.org.uk
www.endthefear.co.uk
www.elderabuse.org.uk

Many specialist domestic abuse agencies provide additional sources of information and support. These vary at local level and may include housing, legal and financial advice, and emotional support through helplines, drop in centres, support groups, and counselling.

Criminal law
Social workers and other practitioners need:

- to be aware of the range of legal actions and sanctions available
- to provide accessible information about the options an adult with care and support needs may have
- involve the person/victim in getting good legal advice
- to know where to get expert advice, from specialist police or legal services.

The Police investigate crime and have access to protective measures such as Domestic Violence Protection Orders (see below). They may also be able access victim support.

For more detailed information about legal action for domestic abuse go to:

www.womensaid.org.uk and look at the sections on criminal law and civil law

www.ncdv.org.uk for legal advice and support.

There is no specific offence of 'domestic abuse' under criminal law, but many forms of domestic abuse are crimes:

- assault
- false imprisonment
- criminal damage
- theft
- fraud
- harassment
- murder and attempted murder
- rape
- forced marriage
- causing or allowing a child or vulnerable adult to die or to suffer serious physical harm
- ill treatment and/or wilful neglect of a mentally incapacitated adult.

If convicted of a relevant crime the sentence given to the perpetrator will depend on the seriousness of the offence and whether the abuser has had any previous convictions. It can range from a conditional discharge to a prison sentence. Criminal law can offer some protection to people at risk, particularly if the abuser is given a custodial sentence, but the process is primarily aimed at dealing with the offender.

Domestic Violence Protection Notices and Orders
If the police have a reasonable belief that domestic abuse has occurred they are able to serve the perpetrator with a Domestic Violence Protection Notice (DVPN) as the first step to acquiring a Domestic Violence Protection Order (DVPO). These orders are being implemented across the country from 2014.

If a DVPO is made, it will last for a minimum of 14 days and a maximum of 28 days. The DPVO may:

- stop the perpetrator from entering, and being within a certain distance, of the home of the person at risk
- stop the perpetrator from making the person at risk leave or be excluded from their home
- require the perpetrator to leave the home of the person at risk (even if it is their home too).

A Magistrates Court will hear an application for a DVPO within 48 hours (excluding Sundays and Bank Holidays) of the person being served with a DVPN by the police. If the perpetrator does not attend the Magistrates Court, then a DVPO can be made in their absence.

The law allows the Magistrates to make a DVPO against the abuser even if the victim does not agree to it. In addition, the Magistrates will take into account the welfare of anyone under 18 who the police consider will be affected by the DVPO.

A police officer can arrest a person who has breached a DVPN or a DVPO without a warrant. A person who breaches a DVPN must be remanded in custody. The penalty for a breach of a DVPO is £50 for every day that the person is in default of the order, up to a maximum of £5,000, or two months imprisonment.

Use of DVPOs may enable social and health care staff to offer the person who has been abused time to reflect and make decisions about their future, or give them the opportunity to access health and care support. Using them in safeguarding circumstances will require consideration of how the care and support needs of the person who has been abused or neglected (and possibly those of the person who has caused the harm) will be met.

The police are a key 24-hour agency for people experiencing domestic abuse, and the first port of call in emergency or to report a crime such as assault, sexual abuse, or harassment. The police should be contacted if an abuser has breached a court order such as a restraining order, an injunction or a Domestic Violence Protection Order DVPO (see below). The attending police officer can use his/her powers to intervene, arrest, caution, or charge an abuser.

Restraining orders can be made by a court in relation to a criminal case alleging domestic abuse, whether or not the case is upheld. A restraining order is made when there is a need for the order to protect a named person or persons from harassment or conduct that will put them in fear of violence. A restraining order imposes prohibitions and may cover a range of behaviour. It can, for example, exclude a person from a specific geographical area, from contacting specific people or behaving in a particular way. A restraining order is preventative, not punitive. However, it is a crime to breach a restraining order, and a person doing so can be arrested and charged.

Forced marriage protection orders (FMPOs) can be made to a designated Forced Marriage Court by the person at risk or by a third party, such as a relative. A Local Authority can make an application on behalf of an adult with care and support needs. The orders can, for example, prohibit a forced marriage, demand to reveal the whereabouts of a person, and to ensure the security of passports and travel documents. Breach of an FMPO is a criminal offence.

Undertakings can be given by a person brought to court on an application for an injunction. This is a promise given to the court. If a person is accused of violence, threats, or harassment then they can promise the court not to behave in this way in the future. The person who gives the undertaking does not have to admit that they have done any of the acts they are accused of. Once an undertaking has been given it has the same effect as a restraining order. This means if it is broken, then it is contempt of court, and an application can be made for committal to prison.

Civil Law

A person at risk of domestic abuse can make an application for an injunction in the Family Proceedings Court (part of the Magistrates Court), the County Court, or the High Court, with or without representation from a solicitor. An injunction is a 'stay away' order, which prevents the abuser from certain behaviour (e.g. contacting the victim) or compels them to action (e.g. to leave the home).

A power of arrest can be attached to an injunction and will give the police power to arrest the abuser if he or she breaks the order. To obtain a power of arrest you need to show that violence has been used or threatened against the victim, and that this is likely to happen again. An injunction can be applied for and made without the alleged perpetrator

being present if the court is convinced that there is an urgent need for protection.

Non-molestation orders are a type of injunction prohibiting the abuser from harassing, intimidating or pestering the victim or any children who live with the victim. The abuser does not have to have been physically abusive in order to obtain this type of order. If an order is breached, a criminal offence will have been committed.

Occupation orders, another injunction, establish who has a right to stay in the home. An occupation order can order an abuser to move out of the home, or to keep a certain distance from the home.

Other injunctions include **Common Law Injunctions** (sometimes called **Assault & Trespass Injunctions**) which stop somebody who does not live in the property, such as a relative or acquaintance, entering the property, and from harassing or assaulting them. **Anti-Harassment Injunctions** can be used if the person is being continually harassed, threatened, pestered or stalked by a stranger, acquaintance, or after a relationship has ended.

Practice reflection: Professionals standards of case recording by social care professionals may be very useful as part of legal case building. Using your organisational systems and procedures to record accurate information will safeguard both the people you are safeguarding and yourself. You should record in a way that distinguishes fact from opinion, is transparent and respects the views of those with whom you are working. Your records should be evidence-based, accessible, analytical, and understandable to others. Is there any way your recording could be improved?

Information on case recording can be found at in the SCIE resource for recording and sharing information www.scie.org.uk/publications/nqswtool/information/

Obtaining good legal advice

It is possible for victims to make an application

Case example seven

An 84-year-old man lives with his son and has always done so. He is gradually becoming more physically frail and has been diagnosed with Alzheimer's. His son has mental health problems (he is bipolar) and uses drugs and alcohol excessively. Over the past few years, incidents of threatened, or actual, violence have escalated. These are associated either with demands for money by the son or with drunken rages.

The father has been physically injured at times from punches, kicks and head butting. He became known to adult social services some years ago when he was finding shopping difficult. A home care service was withdrawn from him when the council raised its eligibility threshold for assisting people; instead, a neighbour now helps out with the shopping. However, social services have remained in touch (with telephone calls every three months) because of the physical risk to the father.

The father has become so frightened at times that he has rung social services and his local councillor on a number of occasions – and, once or twice, the police. However, even when he has been assaulted, and after the initial fright has died down, he has steadfastly refused to make any official complaint against his son. As a consequence, the son has never been charged with any offence.

A social worker talks to the father about the risks of living with his son and the options about how he wants to manage this. They discuss options of providing support for his son for his mental health and drug use and finding him somewhere else to live. However, the father says his son has refused to consider living elsewhere. The social worker discusses his rights to have his son evicted and that he could be supported with this. However, the father has stated emphatically that he does not wish this; he feels guilty about certain things that

happened in his son's childhood and partly responsible for his son's current problems.

The local authority also suggests to the father that if he will not talk to the police, he could seek an injunction in the form of a civil, non-molestation order against his son. This would prohibit the latter from assaulting or threatening his father, with the threat of arrest if he breaches the order. The father is against this.

The local authority considers going to the High Court to ask them to grant an injunction having the same effect as a non-molestation order. It is in two minds, however, to do this would involve overriding the father's clearly stated wishes. This situation continues for some years until social services, and the man's GP, believe that the father may be losing mental capacity to make decisions about his living arrangements and about attendant risks. He continues, however, to express exactly the same wishes about his son that he always has.[1]

1 Mandelstam, M. (2011). Safeguarding Adults at Risk of Harm: A Legal Guide for Practitioners. London: SCIE

for an injunction themselves, however, many prefer to do this through a solicitor who has experience of dealing with domestic abuse cases. A specialist domestic abuse agency can offer advice. The Law Society or the local Citizens Advice Bureau has a list of family solicitors in each area.

Victims on low incomes may be eligible for public funding (Community Legal Services funding, or legal aid) to pay for legal costs. Those applying for legal aid need to provide specific evidence of domestic abuse. The income of the perpetrator is not taken into account if the victim is taking legal action against them.

9. Domestic abuse support services and legal action

Quick reference:

- ensure that you develop safeguarding and support arrangements that are personalised to the person you are working with
- there are many types of national and local support schemes for people experiencing domestic abuse, including places of immediate safety
- be aware of the types of legal actions and sanctions (criminal and civil) that can be used in safeguarding and domestic abuse
- know where to go to get good legal advice, both for the person you are supporting, and to advise you of the options available
- ensure that information and advice is provided in an accessible way.

10. Working with perpetrators of domestic abuse

Perpetrators of domestic abuse
Research has demonstrated that the majority of perpetrators of domestic abuse are men and that men are more likely to inflict serious injury, including homicide. However, some women can and do perpetrate domestic abuse.

Little is researched about disabled men's experience of domestic abuse by men or women, or about disabled women's experience of abuse from other women (for example, from female partners or carers).

The most successful interventions in stopping domestic abuse work from the assumption that abusive men intentionally use their behaviour to control or intimidate partners and family members. Research has also demonstrated that arrest can work in reducing repeat offending for some men. Injunctions or restraining orders can prevent some perpetrators from continuing harassment or abuse.

Risk can be decreased by professionally-run specialist group programmes that support perpetrators to understand, and choose to change, their behaviour. Probation intervention programmes are available to men who have been sentenced in a criminal court. Voluntary programmes may also be available to men who do not have a court sentence but who wish to address their behaviour. Such interventions include assessment and group work on factors directly linked to domestic abuse. They require the perpetrator to engage in the program and be honest about the abuse they perpetrate. The respected accreditation standard for perpetrator programmes highlights that proactive partner contact must take place while the perpetrator is undertaking a programme in order to appropriately manage changing risk.[30]

Domestic Homicide Reviews and Serious Case Reviews about children killed by men perpetrating domestic abuse to their mothers often demonstrate the vital importance of accurate risk assessment. Objective criteria must be used and it must always be checked that decreases in violence reported by the man is borne out in reality by his partner, and that he has not replaced physical aggression with more subtle means of coercion and control.

Specialist training should be undertaken before assessing perpetrators of domestic abuse or providing interventions to address abusive behaviour. Practitioners without that skill base should focus their interventions on the safety of adult victims and children, and signpost perpetrators to specialist services or colleagues.

It is important to note that perpetrators of domestic abuse should not be offered or referred to anger management or generic counselling to address their behaviour. Careful consideration is needed where use of family conferencing and mediation is being considered in response to domestic abuse, depending on what the abuse is and who the other family members are. In cases of intimate family violence, these interventions can increase the risks to the victims of domestic abuse.

Further information about research and working with perpetrators:
www.respect.uk.net
www.avaproject.org.uk

30 http://respect.uk.net/wp-content/themes/respect/assets/files/accrediation-standard.pdf

10.1 Perpetrators with care and support needs

It is important to recognise that some adults with care and support needs can themselves be domestically abusive and that this can be hidden, or go unrecognised, by family members or professionals. The abuse may have been present for many years and an abuser's disability, mental health, drug or alcohol misuse and/or care and support needs may have been used as an excuse for their behaviour, even in situations where they have capacity to choose to control their actions.

It is still crucial that the safety of the victim and any other family members is prioritised at all times. Whether the abuse is deliberately perpetrated or not, carers and family members should not have to tolerate the impact of violence on their own well-being. Professionals should make it clear to the person who has been harmed (as in all cases of abuse) that the abuse is not their fault and that they have a right to be protected and consider their options. The principles of safe enquiry and victim centred risk assessment are the same whatever the cause or motivation for the abuse.

Any situation with an adult who has care and support needs must be managed in line with local multi-agency safeguarding and MARAC procedures. It is crucial to identify and manage the risks posed to the victim and to any others exposed to the abuse and to ensure that any interventions to prevent further harm have the intended outcome.

Professionals should respond to any disclosure by a person about their own abusive behaviour with clear statements that the behaviour is not acceptable and needs to change. This information should either trigger or add to the risk assessment and safety planning.

Where the person causing harm has care and support needs it is best practice for these to be assessed and provided for **separately** to services for the adult who has care and support needs – for example the person's carer or partner. However, professionals working with an abusive person must share information relevant to the safety of others with those co-ordinating the safety plan for the victim/s.

As with other perpetrators, only specialists in the field of domestic abuse perpetrator work should attempt any behavioural work.

People with mental ill health

Most people with mental ill health do not behave abusively. If someone is random or unpredictable in whom they are abusive to, for example, members of the public and people at work or in the community, then their poor mental health may be causing their behaviour. However, if the abuse is directed towards one person, in a careful and planned way, that leaves the victim feeling controlled and powerless then it can be reasonably conclude that the person is making a choice to behave in that way.[31]

People who misuse substances

It is important to recognise that alcohol and/or drug use do not cause domestic abuse. The vast majority of people who misuse substances are not perpetrators of domestic abuse. However, for those that are, the incidence or severity of abuse, particularly physical abuse, may increase with substance misuse. However, in other instances drugs and alcohol use may debilitate the abuser, decreasing the risk of abuse.

Perpetrators who misuse substances may evade taking any responsibility for their behaviour and it is crucial that professionals do not collude by accepting their substance misuse as a valid excuse. Interventions often work best when substance misuse and abusive behaviour are both addressed. However, in some cases risk of violence and coercion may escalate when a perpetrator goes through a detoxification programme.

31 See Manchester Working Together.

Case example eight

G and H are brothers in their twenties who live together. G had a spinal injury as a result of a road traffic accident some years ago, and uses a wheelchair. G is the tenant of the flat they occupy, while H acts as his brother's carer. There are also professional carers. H is an alcoholic, and G also abuses alcohol at times. When they have both been drinking the relationship becomes violent. H beats G, and G retaliates with violence too, but clearly G is at greater risk.

G has made a number of referrals to the police, which are later retracted. After the last known incident the professional carers believe that G sustained severe bruising to his upper arms and neck. This resulted in a professional meeting and a referral to MARAC was made. Professional judgement took into account the particular circumstances of the situation, the known history, and a reasonable belief that not all incidents had been reported. The outcome was that a safeguarding conference is to be held involving G and H, to encourage them both to accept responsibility for G's safety.

10. Working with perpetrators of domestic abuse

Quick reference:

- carry out safe enquiry and risk assessment for every person at risk of abuse, whatever the circumstances of each individual
- be aware of the need for specialist intervention programmes for perpetrators, which challenge their behaviour and offer appropriate support
- do not refer perpetrators to interventions such as anger management, generic counselling or mediation between the perpetrator and victim
- if it is within your role to have direct contact with a perpetrator and to speak about domestic abuse, be clear with them about the unacceptability of abuse, their accountability for it, and the limits on confidentiality
- if someone is abusive or neglectful and they themselves have care and support needs, make sure they have access to information and advice, assessment and support
- ensure professionals working with the perpetrator and those working with the victim are part of a 'virtual team' and are actively sharing information relevant to delivering the safeguarding plan
- be aware of and vigilant against the potential of 'the rule of optimism', when professionals may place undue confidence in the capacity of families to care effectively and safely, affecting professional perceptions and recognition of risk of harm, abuse or neglect.

11. What councils and organisations can do to support good practice

This is primarily a practice guide. However, in order for good practice to develop and flourish, there are steps that organisations can take to provide the best environment to support good practice.

- ensure that staff understand that many circumstances are both safeguarding situations and domestic abuse, and that they have a range of social work and legal options with which to work with people
- ensure that organisational policies, protocols and procedures about safeguarding explain the links with domestic abuse and, similarly, policies, protocols and procedures about domestic abuse refer to safeguarding. One example is from Cheshire and Wirral Partnership, NHS Foundation Trust: www.cwp.nhs.uk/policies/1227-cp10-safeguarding-adults-policy-including-domestic-abuse
- ensure that there are effective and clear links and arrangements between safeguarding services and MARACs
- develop protocols, policies and ways of working to enable safe enquiry within assessments of domestic abuse and safeguarding
- provide or commission services based on a local needs assessment to meet the needs of people needing safeguarding
- develop protocols to support staff at risk of domestic abuse, for example from harassment by abusers at work
- ensure all relevant sectors of the workforce have access to training and awareness raising
- including integrated training that covers both safeguarding and domestic abuse rather than treating them as separate issues
- contribute effectively to, and learn from, Safeguarding Adults Reviews, Serious Case Reviews and Domestic Homicide Reviews identifying what organisational changes can be made in order to reduce the risk of death and serious harm occurring in the future.

NICE have provided specific guidance for health and social care organisations to support best practice around domestic abuse. The "Domestic violence and abuse: how health services, social care and the organisations they work with can respond effectively" guidelines cover seventeen areas of activity and can be found at www.nice.org.uk/guidance/ph50

Supporting adults who have care and support needs who are experiencing domestic abuse involves all health and social care providers, housing and criminal justice agencies, as well as specialist domestic abuse and advocacy services. Partnership working is key to success. In most areas multi-agency working to address domestic abuse is incorporated in the work of three separate partnerships: the Community Safety Partnership, the local Safeguarding Children's Board (LSCB) and the Safeguarding Adults Board (SAB). Local areas should agree how the inter-relationship between the three will work.

There is a need to ensure all three partnerships have consistent approaches and are able to carry out joint initiatives. There are some good examples of domestic abuse strategies that include safeguarding adults at risk, for example Bournemouth http://tinyurl.com/me7v448 and Leeds http://tinyurl.com/kahvd9m

Such strategies should:

- be based on a victim/person centred approach
- be developed with the involvement of local people who have experience of domestic abuse and the services available, including adults who have care and support needs
- have strong and effective links with specialist domestic abuse services and disabled/older peoples organisations
- develop joint funding and commissioning arrangements, based on a comprehensive mapping of local services and evidence of local need to identify gaps
- support the development of domestic abuse services that are accessible to people with care and support needs
- develop multi-agency initiatives aimed at prevention, early identification, advice and support for victims, and dealing with perpetrators, including awareness raising and provision of information
- develop clear pathways by which adults at risk experiencing domestic abuse can access support to prevent abuse
- develop robust information sharing protocols in line with the Care Act
- ensure organisations have access to training and information including up-to-date practice developments and legal advice.

12. References and useful resources

ADASS (Association of Directors of Adult Social Services) publications:
Safeguarding Adults Advice Note, April 2011
http://www.adass.org.uk/adassmedia/stories/Safeguarding%20Adults/SafeguardingAdviceNote0411b.pdf
Carers and Safeguarding Adults – Working Together to Improve Outcomes, June 2011
http://static.carers.org/files/carers-and-safeguarding-document-june-2011-5730.pdf

Against Violence and Abuse (AVA)
Provides a range of services to organisations and agencies working in the voluntary and statutory sector as well as to individual practitioners, including consultancy, training, good practice guidance and support. www.avaproject.org.uk

All-Party Parliamentary Group on Domestic and Sexual Violence (2014)
Women's Access to Justice. From reporting to sentencing
www.womensaid.org.uk/core/core_picker/download.asp?id=4389

Broken Rainbow
National LGBT Domestic Violence Helpline providing confidential support to all members of the lesbian, gay, bisexual and trans (LGBT) communities, their family and friends, and agencies supporting them. www.brokenrainbow.org.uk

Blacklock, N (2007) **The Respect Accreditation Standard**
http://respect.uk.net/wp-content/themes/respect/assets/files/accrediation-standard.pdf

CAADA February 2014 In Plain Sight: Effective Help for Children Exposed to Domestic Abuse
CAADA's 2nd National Policy Report
http://www.caada.org.uk/documents/In_plain_sight_effective_help_for_children_exposed_to_domestic_abuse.pdf

DL v A Local Authority and Others (2012)
Use of inherent jurisdiction by the High Court to protect adults with capacity.
www.bailii.org/ew/cases/EWCA/Civ/2012/253.html

Domestic Abuse of Disabled Women in Wales, DADW research report, produced by Disability Wales, University of Glamorgan and Welsh Women's Aid, December 2011.
www.disabilitywales.org/activities/2085

Domestic Violence, Crime and Victims (Amendment) Act 2012,
Ministry of Justice Circular No. 2012/03

"Domestic violence and abuse: how health services, social care and the organisations theywork with can respond effectively" – NICE Guidelines February 2014 www.nice.org.uk/guidance/ph50

End the Fear – Greater Manchester Against Domestic Abuse – example of local resources website to help and support the public and professionals www.endthefear.co.uk

Forced Marriage Unit, Home Office
The Right to Choose : Home Office Multi-agency guidance for dealing with forced marriage
Forced Marriage and Learning Disabilities: Multi-agency Practice Guidelines
www.gov.uk/government/uploads/system/uploads/attachment_data/file/35533/fm-disability-guidelines.pdf

Godar, R (2013) **Children and young people missing from care and vulnerable to sexual exploitation**. Dartington: Research in Practice

Hanson E and Holmes, D (2014) **That difficult age: Developing a more effective response to risks in adolescence**. Dartington: Research in Practice

House of Commons Home Affairs Section 3 September 2014
Domestic Violence Standard Note: SN/HA/6337 Author: Oonagh Gay

Leeds Scrutiny Board (Safer and Stronger Communities) 'Scrutiny Report Tackling Domestic Violence and Abuse' June 2014

Making the Links: Disabled Women and Domestic Violence Hague, G., Thiara, R., Magowan, P., Mullendar, A. (2008) published by Women's Aid www.womensaid.org.uk

"Making Safeguarding Personal – Guide 2014" Local Government Association (2014)

Magown, P (2004) **The impact of disability on women's experiences of abuse: an empirical study into disabled women's experiences of, and responses to, domestic abuse**.
PhD research, University of Nottingham.

Men's Advice Line – Advice and support for men experiencing domestic abuse
www.mensadviceline.org.uk/mens_advice.php.html

Manchester Multi-agency Procedures: Working together to Safeguard Adults and Children from Domestic Abuse, 2013
Manchester Safeguarding Adults Board / Manchester Safeguarding Children Board

Multi Agency Working and Information Sharing Project Final report. Home Office July 2014
www.gov.uk/government/uploads/system/uploads/attachment_data/file/338875/MASH.pdf

Mental Capacity Act guides and resources from SCIE
www.scie.org.uk/publications/mca/index.asp

National Centre for Domestic Violence, offers legal information and advice
www.ncdv.org.uk

Older women and domestic violence in Scotland "...and for 39 years I got on with it"
NHS Health Scotland www.healthscotland.com

Reducing the Risk – Domestic Abuse in Oxfordshire – example of local resources website to help and support the public and professionals www.reducingtherisk.org.uk

Respect: men and women working together to end domestic violence
Help and advice for: male and female perpetrators of domestic violence; young people who use violence and abuse at home and in relationships; men who are victims of domestic violence
www.respect.uk.net

Sanctuary schemes: for guidance see
www.gov.uk/government/publications/sanctuary-schemes-for-households-at-risk-of-domestic-violence-guide-for-agencies

Safeguarding adults at risk of harm: A legal guide for practitioners
SCIE report no. 50, December 2011, Michael Mandelstam
www.scie.org.uk/publications/reports/report50.pdf

Safeguarding adults
Roles and responsibilities in health and care services
http://admin.cqc.org.uk/sites/default/files/20140416_safeguarding_adults_-_roles_and_responsibilities_-_revised_draf....pdf

"Standing together against domestic violence – a guide to effective domestic violence partnerships" http://www.standingtogether.org.uk/fileadmin/user_upload/standingUpload/Publications/HOP_-_guidance-_final_July_2011.pdf

Women's Aid
National charity working to end domestic violence against women and children; supports a network of over 500 domestic and sexual violence services across the UK.
www.womensaid.org.uk

Women's Aid 'Survivors handbook' giving detailed advice on safety planning, housing and legal options www.womensaid.org.uk/domestic-violence-survivors-handbook.asp?section=00010001001000800001&sectionTitle=The+Survivor%27s+Handbook

Walby, C and Allen (2004), **Domestic Violence, Sexual Assault and Stalking: Findings from the British Crime Survey** Home Office Research Study 276.

All references and resources together with a wealth of other information can be found by logging on to the Knowledge Hub and joining the Adult Safeguarding Community of Practice at:
www.knowledgehub.local.gov.uk/group/adultsafeguardingcommunityofpractice

Local Government Association
Local Government House
Smith Square
London SW1P 3HZ

Telephone 020 7664 3000
Fax 020 7664 3030
Email info@local.gov.uk
www.local.gov.uk

© Local Government Association, February 2015

For a copy in Braille, larger print or audio,
please contact us on 020 7664 3000.
We consider requests on an individual basis.

L14-574