

**NORTHERN IRELAND ADULT SAFEGUARDING PARTNERSHIP**



# **Protocol for Joint Investigation of Adult Safeguarding Cases**

**August 2016**

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## SECTION 1

### 1.1 Introduction

Living a life that is free from harm and abuse is a fundamental right for every person.

There has been growing recognition that a wide range of adults may, for a variety of reasons, be at risk of harm from abuse, exploitation or neglect. This has been reflected in the continuing evolution of government thinking and policy in relation to adult safeguarding at national, regional and local levels.

In a Northern Ireland context, there has been a series of documents published in recent years that have had considerable influence in the delivery of safeguarding services.

They include The Protocol for the Joint Investigation of Alleged and Suspected Cases of Abuse of Vulnerable Adults (2003 and revised in 2009) and Achieving Best Evidence in Criminal Proceedings (Northern Ireland) (2003, revised in 2010 and again in 2012) which set out in detail how health and social care and criminal justice professionals should work together to more effectively support adult victims when harm/abuse constitutes a possible crime.

'Adult Safeguarding in Northern Ireland: Regional and Local Partnership Arrangements' (DHSSPS and DoJ) was published in 2010 and led to the establishment of the Northern Ireland Adult Safeguarding Partnership (NIASP) and the five Local Adult Safeguarding Partnerships (LASPs).

It is important to note that there have also been many developments over the last few years in terms of entitlements and support to victims of crime.

The Victim Charter (Justice Act (Northern Ireland) 2015) Order 2015 sets out requirements in relation to entitlements and supports to victims of crime and the standards of service that victims can expect to receive when they come in contact with the Criminal Justice System.

The Victim Charter - a Charter for Victims of Crime, published by the Department of Justice in September 2015, provides information on the range of entitlements aimed at supporting victims of crime and details the roles and responsibilities of relevant agencies in relation to delivering of these supports. Some of the entitlements are available to all victims of crime such as crime information leaflets and access to Victim Support Northern Ireland.

Other entitlements are targeted at the most vulnerable in our society and include, but are not limited to, Achieving Best Evidence in Criminal Proceedings, the use of Special Measures and, where appropriate, use of Registered Intermediaries.

These supports aim to assist the victim through the criminal justice process from the point of referral to PSNI, making a statement of complaint, giving evidence in Court and follow up in terms of outcome. There are other arrangements in place to support a vulnerable individual who is suspected of committing a crime.

In July 2015 the Adult Safeguarding Prevention and Protection in Partnership Policy (the Policy) was produced jointly by the Department of Health Social Services and Public Safety (DHSSPS) and Department of Justice.

The Policy sets out the future agenda for adult safeguarding in a Northern Ireland context. It extends safeguarding to encompass both prevention and protection and places a very strong emphasis on partnership working. The responsibilities of different organisations are clearly set out within the Policy which includes thresholds for referrals to adult protection services.

This Protocol for Joint Investigation of Adult Safeguarding Cases (the Joint Protocol) will provide clarity in respect of the roles and responsibilities of adult protection services where the nature of the harm to the adult in need of protection constitutes a potential criminal offence.

## 1.2 **Background**

This is the third edition of the Joint Protocol and replaces the Protocol for Joint Investigation of Alleged and Suspected Cases of Abuse of Vulnerable Adults 2009. It should be read in conjunction with the regional adult safeguarding policy Adult Safeguarding: Prevention and Protection in Partnership (DHSSPS & DOJ) 2015 and Adult Safeguarding Operational Procedures (NIASP) 2016.

Health and Social Care Trusts (HSC Trusts) and the Police Service of Northern Ireland (PSNI) are identified as the lead agencies with responsibility for adult protection. The Regulation and Quality Improvement Authority (RQIA) is recognised as a key partner when the concern relates to a regulated service.

The Joint Protocol aims to provide a framework within which HSC Trusts, PSNI and RQIA can work in partnership to ensure adults at risk and in need of protection have equal access to the justice system when harm/abuse constitutes a potential crime.

It reflects the experience and learning of practitioners from a range of agencies, including HSC Trusts, PSNI, RQIA and the Public Prosecution Service (PPS). It also incorporates recommendations contained in the Joint Review by RQIA and CJINI of the Protocol for Joint Investigation of Alleged and Suspected Cases of Abuse of Vulnerable Adults, 2009.

## 1.3 **Scope of the Protocol**

The Joint Protocol relates to adults who are at risk and in need of protection where the harm caused by abuse, exploitation or neglect constitutes a potential criminal offence.

It adopts the definitions of an adult at risk and in need of protection as detailed in Adult Safeguarding Prevention and Protection in Partnership 2015:

An **adult at risk of harm** is a person aged 18 or over, whose exposure to harm through abuse, exploitation or neglect may be increased by their:

- i) **personal characteristics** (may include but are not limited to age, disability, special educational needs, illness, mental or physical frailty or impairment of, or disturbance in, the functioning of the mind or brain);

**and/or**

- ii) **life circumstances** (may include, but are not limited to, isolation, socio-economic factors and environmental living conditions);

An **adult in need of protection** is an adult at risk of harm (above):

- i) who is **unable to protect** their own well-being, property, assets, rights or other interests;

**and**

- ii) where the **action or inaction of another person or persons** is causing, or is likely to cause, him/her to be harmed.

“Harm” is defined as the impact on the victim of abuse, exploitation or neglect (Appendix 1 Definitions of Abuse, Neglect, Exploitation and related definitions).

The decision as to whether the definition of an adult in need of protection is met will require the careful application of professional judgement on a case by case basis. This should take into account all the available evidence, concerns, the impact of harm, degree of risk and other matters relating to the individual and his or her circumstances. The seriousness and the degree of risk of harm are key to determining the most appropriate response and establishing whether the threshold for protective intervention has been met.

It is important to note that when harm caused by abuse, exploitation or neglect constitutes a potential crime, the PSNI have the lead role and responsibility to investigate. The adult in need of protection should be made aware of their fundamental right to make a report to the police.

The Joint Protocol recognises the dilemmas and complexities posed when an adult in need of protection withholds consent to a police referral and/or there is a lack of clarity regarding whether a concern constitutes a potential crime.

The Joint Protocol provides a framework to support the HSC Trust Designated Adult Protection Officers (DAPO) in making decisions. It is intended as a guide only and there is an expectation that the HSC Trust DAPO must ensure that a professional assessment/risk assessment is carried out for each individual. While each case is unique, this professional assessment process will begin from the perspective that any potential criminal offence should be reported to the PSNI.

The Joint Protocol sets out requirements to ensure that the welfare and protection needs of the adult in need of protection are met as fully as possible. Throughout the Joint Protocol processes, HSC Trusts and PSNI will work in partnership to take these needs into account.

Where the adult in need of protection is known to regulated services, RQIA and the Registered Provider/Manager will be expected to co-operate fully with all processes being put in place to support them.

## **1.4 Aim and Objectives**

### Aim

The aim of the Joint Protocol is to ensure that the adult in need of protection is supported in a manner which upholds his/her rights, in particular their right to equal access to the criminal justice system and to prevent further abuse through a collaborative multi-agency partnership.

### Objectives

- To provide a framework for effective communication and collaboration between HSC Trusts, PSNI, RQIA and PPS in relation to Joint Protocol referrals and investigations
- To support staff in the decision making process involved in the Joint Protocol
- To provide details of the Joint Protocol processes to be followed.

## 1.5 Underpinning Principles

Adult safeguarding is complex and challenging and therefore should at all times be guided by a number of underpinning principles. In this context the Joint Protocol adopts the same guiding principles as the Adult Safeguarding: Prevention and Protection in Partnership regional policy:

- **a rights-based approach** which promotes and respects an adult's rights to the protection of the law; to freedom from harm and coercion; to privacy; to confidentiality; to equality of treatment, free from discrimination; and to be safe and secure
- **an empowering approach** which empowers adults to keep themselves safe and free from harm in ways that manage exposure to risk and maximise opportunities to participate in wider society
- **a person-centred approach** which promotes and facilitates full participation by the adult in all decisions affecting his or her life and take full cognisance of the views, wishes and feelings of the individual and, where safe and appropriate, the views of others who have an interest in his or her well-being
- **a consent-driven approach** which makes a presumption of the adult's decision-making capacity and ability to make informed choices; to help inform choice through the provision of information, and advocacy where needed, and the identification of options and alternatives; to have particular regard to the needs of individuals who lack the capacity to consent; and intervening in the life of an adult against his or her wishes only in very particular circumstances, for very specific purposes and always in accordance with the law
- **a partnership approach** which acknowledges that safeguarding will be most effective when it has the full support of the wider public and of safeguarding partners across the statutory, voluntary, community and private sectors working together with and for adults at risk; and is delivered in a way where roles, responsibilities and lines of accountability are clearly defined and understood.

## **1.6 Roles and Responsibilities of Key Agencies**

### **Health and Social Care Trusts**

There are 5 Health and Social Care (HSC) Trusts - Belfast HSC Trust, South Eastern HSC Trust, Western HSC Trust, Southern HSC Trust and Northern HSC Trust. The HSC Trusts provide integrated health and social care services across Northern Ireland. HSC Trusts manage and administer hospitals, health centres, residential homes, day centres and other health and social care facilities and they provide a wide range of health and social care services to the community. HSC Trusts have a significant role in adult safeguarding, including both prevention and protection of adults at risk.

Within each HSC Trust there are key personnel with responsibility for delivering on the requirements set out in the Joint Protocol. These are Designated Adult Protection Officers (DAPOs); Investigating Officers (IOs) and Specialist ABE Interviewers.

### **HSC Regional Emergency Social Work Service**

The Regional Emergency Social Work Service (RESWS) provides an emergency social work service outside normal office hours including weekends and public holidays. These are 5pm to 9am Monday to Thursday and 5pm on Friday to 9am on Monday. There is 24 hour cover over public holidays. Contact details are contained in Appendix 2.

The RESWS responds to a wide range of people in crisis and deals with situations which cannot be left until the next working day. People in crisis can include older people, people with mental health issues, learning disabilities, physical disabilities and children and young people.

There are a number of situations in which the RESWS will become involved or work with other agencies to ensure the safety of an individual and others who may be at risk. Examples of emergency situations are where:

- There are immediate significant protection and welfare concerns in relation to an adult at risk and/or an adult in need of protection;
- There are immediate significant protection and welfare concerns in relation to children and young people;
- Urgent advice and/or support is required by families or carers;
- Older people are at risk;
- There is consideration that compulsory admission to hospital under the Mental Health Order (NI) 1986 is required.

Staff within RESWS will provide an adult safeguarding and adult protection service where required and staff will therefore fulfil the role of DAPOs. As DAPOs, RESWS will respond to all elements of the role in emergency situations which require an urgent response.

## **Police Service of Northern Ireland**

The Police Service of Northern Ireland (PSNI)'s purpose is 'keeping people safe'. This goal is achieved through policing in partnership with the community. This proactive, community-driven approach sees the police and local community working together to identify and solve problems.

The Central Referral Unit (CRU) is the regional PSNI centre for all referrals made by either HSC Trusts or PSNI where harm caused by abuse, exploitation or neglect to adult in need of protection constitutes a potential crime. The CRU will, in consultation with HSC Trust DAPO determine whether a criminal investigation is appropriate and, if required, CRU will make a decision regarding which branch of the police service is best placed to conduct the criminal investigation.

In many cases the PSNI Public Protection Branch (PPB) will be appointed to conduct the criminal investigation. CRU and PPB have officers experienced in adult protection work and officers trained as specialist interviewers under Achieving Best Evidence (ABE).

Depending on the nature of the crime CRU may refer the case to other PSNI branches, for example Response Teams, the Rape Crime Unit or CID. These branches will also include specially trained officers in adult protection work and ABE.

It is the responsibility of the PSNI to investigate alleged offences and to gather evidence about what has occurred. When the police have obtained evidence that an identifiable individual may have committed an offence, a file will be prepared and forwarded to the Public Prosecution Service (PPS).

PSNI contact details can be found in Appendix 3.

## **Public Prosecution Service**

The Public Prosecution Service takes prosecution decisions and conducts prosecutions on behalf of a number of Government bodies, including the PSNI. The PPS will determine whether criminal proceedings should be instituted or, where criminal proceedings have been instituted, whether they should be continued or discontinued, and also what charges should be preferred. The PPS provides the people of Northern Ireland with an independent, fair and effective prosecution service.

The PPS is wholly independent from both the police and government and its decisions are based on an impartial and professional assessment of the available evidence and the public interest. All actions are undertaken with complete impartiality, to the highest ethical and professional standards. All persons, including those accused of offences, will be treated fairly. All victims and witnesses will be treated with respect and sensitivity. All prosecution decisions are taken and every prosecution conducted in an

effective and efficient manner (Appendix 4 - Guidance in Relation to Test for Prosecution).

### **Regulation and Quality Improvement Authority (RQIA)**

RQIA is an independent regulator with responsibility for registering, inspecting and encouraging improvement in a range of health and social care services delivered by statutory and independent providers, in accordance with The Health and Personal Social Services (Quality, Improvement and Regulation) (Northern Ireland) Order 2003 and its supporting regulations. The services which it regulates include residential care homes; nursing homes; supported living facilities; supporting people services; children's homes; independent health care providers; nursing agencies; adult placement agencies; domiciliary care agencies; residential family centres; day care settings; and boarding schools. RQIA also have a specific role in relation to inspections in mental health and learning disability hospitals. Other inspections or reviews can be commissioned and conducted across a range of health and personal social services. Where the service inspected is not meeting the required quality standards or where compliance issues or concerns are identified, there are a range of robust sanctions and powers available to RQIA.

RQIA's remit therefore involves prevention, safeguarding and protection of adults at risk of harm and adults in need of protection. With regard to the Joint Protocol RQIA are a key partner in relation to investigations and protection planning in all regulated services.

Contact details can be found in Appendix 5.

## **1.7 Reporting and Referral Arrangements**

Harm to adults in need of protection can take place in any setting; in the person's own home, in the wider community, in a residential or nursing home, hospital or indeed anywhere. It can also be perpetrated by anyone - family, friends, paid staff including professional staff such as doctors, nurses, social workers, police, volunteers, clergy, etc.

Where the harm constitutes a potential criminal offence the adult in need of protection has a right to make a report to the police and should if necessary be supported to make this report.

The arrangements below set out the requirements for reporting a concern which may constitute a criminal offence to either the HSC Trust and/or the PSNI.

### **a) Referrals to HSC Trusts and/or PSNI by organisations that have direct contact with adults at risk:**

The regional policy places a responsibility on organisations that have direct contact with adults at risk to nominate an Adult Safeguarding Champion (ASC). One of the key responsibilities of the ASC is to advise and support staff when there are concerns that an adult at risk may have been subjected to serious harm through abuse, neglect or exploitation (Appendix 6 Definitions of Harm and Serious Harm).

The ASC should ensure that a referral to HSC Trust Adult Protection Gateway Service is made. The ASC should also consider whether there is a need to make an immediate report to the PSNI where there is an imminent risk to the adult.

The adult in need of protection's views and wishes are paramount and any decisions taken should involve consultation with them. Where it is feasible to do so, the consent of the individual should be sought before a referral/report is made to the HSC Trust or PSNI.

However, if there is an adult protection concern which constitutes a possible crime the ASC must consult with the HSC Trust Adult Protection Gateway Service and/or PSNI as appropriate.

### **b) Referrals/Reports to HSC Trusts by PSNI**

Where PSNI have a concern that the individual may be an adult in need of protection, and a crime is suspected, the individual should be advised of the support and protection role of the HSC Trust. In these situations the consent of the individual to contact the relevant HSC Trust should be sought (Appendix 7 Consent and Capacity).

Where an adult in need of protection withholds consent to a referral to the HSC Trust for support and/or protection, the police officer will need to make a professional assessment based on available information as to whether a report/referral to the HSC Trust is nonetheless appropriate.

The following factors should be considered:

- whether the individual has the capacity to make an informed decision in relation to a referral; and
- the level of risk of harm to the individual and /or others including children

Where a police officer decides that a referral to the HSC Trust against the expressed preference of the individual involved is appropriate the rationale for the decision must be clearly recorded.

Each HSC Trust has an Adult Protection Gateway Service which is the central point of contact for all new adult in need of protection referrals. (Appendix 2: HSC Trust Adult Safeguarding contact details).

If a police officer has any concerns that a child or children are in any danger or at risk of harm they should contact the local HSC Trust's Child Protection Gateway Team (Appendix 2 HSC Trust Child Protection contact details).

Where there is a concern regarding the safety of an adult in need of protection or a child outside of normal working hours (Monday-Friday 9am to 5pm) the HSC Regional Emergency Social Work Service (RESWS) will work with the PSNI to ensure the immediate protection of the Adult at Risk and/or a child/children.

It will be the responsibility of the RESWS to either update the relevant HSC DAPO if the person is already known to HSC, or to make a referral to the Adult Protection Gateway Service (Appendix 2 RESWS contact details).

Where PSNI identify an adult at risk and have a welfare or care concern that falls outside the Joint Protocol, consideration should be given to whether a referral to HSC Trusts might be appropriate. General referrals in relation to an adult at risk can be made to local Trust offices.

### **c) Referrals to PSNI by HSC Trusts**

In all cases of alleged or suspected harm caused by abuse, exploitation or neglect of an adult in need of protection which constitutes a potential crime, a report to PSNI should be made **except where there is clear and compelling evidence which supports a decision not to report** (see below).

In situations where there is a potential relevant offence under Section 5 of the Criminal Law Northern Ireland Act 1967, HSC Trusts **must** report the matter to the PSNI. (See Appendix 8 Section 5 Criminal Law (Northern Ireland) Act 1967)

The adult in need of protection should always be advised of their right to have the incident reported to the PSNI for investigation. However, if they withhold consent to the referral to the PSNI, then immediate consideration should be given to the balance between the individual's human rights and the obligation to address the risks to the individual and/or others, including children.

Issues in relation to the individual's capacity to consent should be considered (Appendix 7 Human Rights Consent and Capacity) alongside the HSC Trust's legal obligation to report the matter to the PSNI.

No action should be taken until the Joint Agency Consultation (see below) takes place.

Section 2 of this document provides detailed guidance for HSC Trust DAPOs in relation to referrals to PSNI.

In all emergency cases there should be no delay in contacting PSNI via telephone using the 999 telephone number.

The central point of contact for all other reports/referrals to the PSNI is the Central Referral Unit (CRU). Referrals to PSNI CRU will be made by forwarding an AJP1 form to the CRU. This must only be done via secure email using the Criminal Justice Secure Messaging (CJSM) system. All related correspondence must be sent via the same secure system (Appendix 3 PSNI Contact Details; Appendix 14 Adult Joint Protocol Forms).

#### **d) Referrals/Reports to HSC Trusts and/or PSNI by RQIA**

RQIA have a responsibility to identify issues that may have an impact on the wellbeing and welfare of adults at risk and to address safeguarding concerns in relation to regulated services. RQIA have a range of mechanisms in place to respond to and address such issues (Appendix 5 RQIA Contact Details and list of RQIA Regulations).

Where there is a concern regarding an individual or group of individuals, RQIA should consider whether this has been caused by abuse, exploitation or neglect. In these circumstances a report to the relevant HSC Trust should be made.

In situations where there is an alleged or suspected concern which constitutes a potential crime, consideration should be given as to whether a referral to the HSC Trust should be made alongside a report to the PSNI. RQIA will make an immediate report to the PSNI if there is an imminent risk to any service user.

## **1.8 Escalation Arrangements**

At any point of the Joint Protocol process where an adult in need of protection and/or their family have a concern regarding how the situation is being handled by any agency, that agency's arrangements for addressing such concerns should be implemented. This can include, for example, local resolution, escalation through the line management structure, or application of the relevant complaints procedure. If the concern remains unresolved, it can be referred to either the Ombudsman for HSC Trust issues or the Police Ombudsman for Northern Ireland.

In the majority of situations it is hoped that positive outcomes will be achieved for the adult in need of protection through effective joint working.

Where there is a difference of opinion between agencies regarding how a case is being managed, every effort should be made to resolve this locally.

In the event that a situation cannot be resolved at this level the following process should be followed:

### **Within HSC Trusts:**

The process of escalating a concern regarding how a case is being managed will involve raising the matter with the following Trust officers in sequence as required:

- DAPO
- DAPO's professional supervisor
- Adult Safeguarding Lead in the relevant Programme of Care
- Trust Adult Safeguarding Specialist Manager (TASS)
- Co-director/ Assistant Director / LASP Chair
- Executive Director of Social Work.

### **Within the PSNI:**

The process for escalating a concern regarding any aspect of the management of a case is as follows and should again be followed in sequence as required.

At point of referral to CRU:

- CRU Sergeant
- CRU Inspector
- CRU Chief Inspector.

Following allocation of a case:

- Sergeant in relevant PSNI branch, i.e. Public Protection branch, CID
- Inspector in relevant PSNI branch or nominated Adult Safeguarding PSNI Lead within Branch
- relevant Chief Inspector

- Chief Inspector with regional responsibility for Adult Safeguarding.

**Within the RQIA:**

- Inspector aligned to the Regulated Service Provider
- Senior Inspector
- Head of Inspection

There is an expectation that escalation within each organisation will result in senior managers linking with their equivalents, i.e. Trust Adult Safeguarding Leads in each programme would link with the relevant PSNI Inspector.

If a Joint Protocol process has been initiated or a joint agency investigation is taking place, any relevant information arising from a Review should be shared with the other agency/agencies involved.

The framework for requesting a review as detailed above does not exclude normal line management reporting responsibilities.

## SECTION 2 Joint Agency Working

### 2.1 Thresholds for referral to PSNI

The Joint Protocol outlines the thresholds within which a report **must** be made to PSNI and also provides a framework for consideration of a decision not to report to PSNI. The thresholds are intended as a guide for the HSC Trust DAPO and are not intended to be used as exclusion criteria. In some situations a Joint Agency Consultation will be the most appropriate way forward in determining whether a criminal offence may have been committed and/or whether a criminal investigation is required.

All harm is unacceptable and will require and receive a safeguarding response. The nature of that response will be determined by a range of factors. A critical first consideration is whether or not the harm constitutes a criminal offence.

A crime is a breach of the criminal law which is contained in statute or of common law. Not all harm constitutes a crime and only when a criminal offence is suspected is the Joint Protocol applicable.

Where harm constitutes a potential criminal offence the Joint Protocol seeks to ensure that the adult in need of protection has equal access to the criminal justice system. When a report of a potential criminal offence is made PSNI and HSC Trust Adult Protection Gateway Services will work together to:

- a) support the individual through the criminal justice process; and
- b) collaborate to ensure their welfare and protection needs are identified are addressed.

The Joint Protocol recognises that conflict that can arise when an adult in need of protection, who has capacity to give informed consent, withholds that consent to a police referral.

The HSC Trust DAPO has a significant role and responsibility in balancing the individual's human rights, which include the right to choice, with the obligation to address the risks to the adult in need of protection and/or others including children.

**The Protocol is predicated on the principle of reporting alleged or suspected criminal acts to PSNI. Any decision by a DAPO not to report an incident which may constitute a possible crime is a serious and significant decision which must always be supported by clear rationale.**

## **2.2 Roles and Responsibilities of the HSC Trust DAPO**

The role of the HSC Trust DAPO is to screen the referral and any other available information to ensure that all relevant HSC adult protection processes are implemented as applicable (Section 3 HSC Adult Protection Processes).

The safety of the person who is being abused is paramount. Appropriate action **must** be taken to safeguard the adult in need of protection. This should involve consultation with, and consent of, the individual concerned.

Where there is a concern regarding imminent danger to an adult in need of protection the HSC Trust DAPO must consider whether an immediate report to PSNI should be made.

When a potential crime has been committed, the HSC Trust DAPO will decide if there is a duty to report a relevant offence as outlined in the Criminal Law Act 1967 Section 5 (Appendix 7

Where any crime is suspected the issue of possible PSNI involvement should be discussed with the adult in need of protection. Their consent for contact with the PSNI should be sought and details of the nature and content of that contact should be provided.

The adult in need of protection should be provided with as much information as possible to assist them in making an informed decision about how they wish the situation to be handled, including information on their right to make a report to the PSNI. Details of all support available through the course of any investigation should also be provided.

Where there is a query regarding the capacity of the adult to make an informed decision regarding whether to report to the PSNI, the HSC Trust DAPO should ensure that every effort is made to maximise their capacity to make this decision.

In all situations where the individual and/or their family take the view that a report to the PSNI should be made, the HSC Trust should facilitate and assist them with this report.

The HSC Trust DAPO is responsible for ensuring that the adult in need of protection's views and all other relevant information inform professional judgements as to any further action to be taken. They must give full consideration to issues of consent and capacity in every case and in every circumstance (Appendix 8 Human Rights, Consent and Capacity).

In situations where the individual lacks capacity to make an informed decision regarding a report, the HSC Trust DAPO should ensure that, where appropriate, the individual's family are consulted.

Where the individual lacks capacity to make an informed judgement and he/she has no family, the HSC Trust DAPO should ensure that 'best interest' principles are applied. This can also apply in circumstances where the family of the adult in need of protection do not agree with a referral to the PSNI. In some situations use of an independent advocate may also need to be considered and/or legal advice sought.

Actions to protect the individual or other adults in need of protection or children should not be delayed pending any assessment of capacity.

Decisions taken to report to PSNI without the consent of the adult in need of protection are serious and significant decisions. The HSC Trust DAPO will need to consider whether undue influence or coercion have been factors influencing the individual's decision.

In making these decisions the HSC Trust DAPO must balance the individual's human rights under Article 8 (Right to Private and Family Life) within the context of possible risk to the individual or others at risk or children. A decision not to make a complaint to the PSNI may be outweighed by the need to ensure that other adults are given the full protection available to them under Article 3 (Prohibition of Torture, Inhuman or Degrading Treatment) **OR** where the HSC legal obligation is to report a relevant offence.

In these circumstances any decision to report a concern to the PSNI against the expressed wishes of the adult in need of protection should be based on careful consideration of the exercise of both these Articles which indicates that there are reasonable grounds for such a report to be made. The referral to the PSNI should record the basis for this determination. (Appendix 7 Human Rights, Consent and Capacity; Appendix 8 Definition of Relevant Offence)

### **2.3 Joint Protocol Pathways**

The HSC Trust DAPO, in applying the Joint Protocol, has three possible pathways to consider. They should use the following options to achieve the best possible outcome for the adult in need of protection.

- A.** There is a potential crime which must be reported to PSNI
- B.** There is a need for a Joint Agency Consultation with PSNI CRU to determine the most appropriate course of action

C. The criteria for reporting to PSNI under the Joint Protocol are met

**A. There is a potential crime which must be reported to PSNI**

In the following situations there **must** be a report of the incident to the PSNI:

- An adult in need of protection is in **imminent danger** and there is a need for an immediate report to PSNI

**OR**

- There has been an incident which may constitute a **relevant offence** under Section 5 of the Criminal Law Act (NI) 1967 (Appendix 8)

**OR**

- Referral information clearly states the adult in need of protection wishes or has consented to PSNI involvement

**OR**

- The referral information clearly states that the adult in need of protection lacks capacity to give informed consent to PSNI involvement and family members and/or professionals involved take the view that PSNI involvement is required.

When considering the urgency of the response required the following should be used as appropriate:

- 999 call – if an imminent danger has been identified
- CRU (Central Referral Unit) via email on CJSM system (Mon-Fri 8am-9pm; Sat & Sun 9am-5pm)
- Outside the CRU hours call 101 if required (non-emergency)

**Incidents which may constitute a relevant reportable offence and which must be referred to the PSNI**

In some situations it will be evident from the outset that a relevant offence has occurred. In other situations, assessment, professional judgement and joint agency consultation will be required to properly determine this. For example a situation where both adults at risk lack capacity and are found in bed together does not necessarily mean that a sexual offence has been committed. A professional assessment should take place to decide the most appropriate response.

- **Physical assault**

Any form of assault is unacceptable. There are a range of potential offences which include common assault, assault occasioning actual bodily harm, grievous bodily harm, and grievous bodily harm with intent, attempted murder, manslaughter and murder. However in terms of relevant offences, common assault is not a relevant

offence under section 5 of the Criminal Law (Northern Ireland) Act 1967 (as it attracts a sentence of less than 5 years).

- **Sexual offences**

Most sexual offences will be relevant offences under section 5 of Criminal Law Act (Northern Ireland) 1967. The DAPO as part of the professional assessment should ascertain whether any non-consensual sexual activity has occurred and taking into consideration the views of the alleged victim and/or their next of kin determine whether harm has taken place.

- **Domestic abuse incidents**

The definition of domestic violence and abuse incorporates issues such as forced marriage, female genital mutilation and honour based violence, as well as abuse of adult in need of protection within the family or by an intimate partner.

However not all acts which may amount to domestic abuse constitute criminal offences. For example psychological abuse, name calling or controlling behaviour are not criminal offences per se but may still require an alternative safeguarding response.

Whether a criminal offence has been committed will depend on the circumstances of each individual case. In all domestic violence cases the CAADA/DASH/RIC form **must** be completed to determine whether a referral to MARAC is required and/or serious harm has been caused which requires a report to the PSNI.

- **Financial abuse incidents**

Where there are reasonable grounds to suspect that a crime has been committed or there is an allegation of fraud, theft and/or misuse of finances.

- **All cases of Human Trafficking and Modern Slavery**

Most cases of human trafficking and modern slavery will be complex in nature and may involve serious organised crime where the risk to victims and /or others can be significant. Therefore consultation with the victim and PSNI should take place and the wider public interests must be taken into consideration. The HSC Trust DAPO should seek further advice from the HSC Trust Lead officer for cases of human trafficking and modern slavery.

- **All cases where the person alleged to have caused the harm is a paid employee or a volunteer in a position of trust and there is a reasonable suspicion that a crime has been committed.** Where poor practice may constitute ill-treatment or wilful neglect, consideration may need to be given to Article 121 of the Mental Health (Northern Ireland) Order 1986. (Appendix 9)

Not all incidents of poor practice constitute serious harm and/or an offence but may still require an alternative safeguarding response.

- **Institutional abuse** can take many forms, ranging from issues associated with poor practice to situations where serious harm may have been caused and/or a criminal offence may have been committed.
- **Historical abuse** can relate both to childhood abuse or past abuse in adulthood. The main forms of historical abuse to date have been sexual, physical, financial and institutional abuse. In cases of alleged historical childhood abuse, the lead agency will be the PSNI.

However if the adult is considered to be an adult at risk, HSC Trusts should consider whether the individual would benefit from the support offered through the Joint Protocol process. In these cases it is essential that there is robust joint agency consultation between PSNI CRU and the Adult Protection Gateway Service. Child Protection Gateway Services should be involved as appropriate.

In cases of historical child abuse, a PJI1 form (Appendix 14) should be completed and forwarded to the PSNI using the secure email CJSM system. Where the professional assessment indicates that the adult in need of protection will require the support mechanisms offered via the Protocol process, this should be recorded on the PJI1 form clearly stating that the Pre-Interview Assessment and Achieving Best Evidence processes should be followed.

Where there are reasonable grounds to suspect that a relevant offence has been committed, the HSC Trust has a legal obligation to report the matter to the PSNI. However this does not negate the HSC Trust responsibility to ensure that all human rights obligations are fully considered.

In order to meet these obligations there is a clear and explicit requirement for the DAPO to ensure that the HSC Investigating Officer (IO), where it is safe to do so, engages with the adult in need of protection to discuss the incident and their view on any action to be taken.

Where the individual does not want to make a report to the PSNI and the professional view is that a relevant crime may have been committed, there must be evidence of the rationale for any decisions to report the matter to the PSNI. This rationale should be recorded on the Regional ASP and Joint Protocol AJP forms (Appendix 14 AJP Forms).

## **B. There is a need for a Joint Agency Consultation with PSNI CRU to determine the most appropriate course of action**

Where there are reasonable grounds to suspect that an adult in need of protection may be a victim of a potential criminal offence and there is uncertainty regarding the

most appropriate course of action, a Joint Agency Consultation should be considered. The views and wishes of the individual should be sought and a full explanation of the process provided.

Where the individual withholds consent to a Joint Agency Consultation, the HSC Trust DAPO may need to consider seeking legal advice on the appropriate way to proceed.

The purpose of a Joint Agency Consultation is for the HSC Trusts and PSNI to work together to reach an informed decision regarding the best possible outcome for the adult in need of protection. It ensures and facilitates an early exchange of relevant information.

This consultation should involve the relevant HSC Trust DAPO and the PSNI CRU officer and should determine whether a PSNI investigation is required and if so whether this should be a joint agency investigation.

Referrals for a Joint Agency Consultation should be made using the AJP1 form (Appendix 14). This form must be forwarded via the CJSM secure email system. On completion and forwarding of the AJP1, the referrer should make contact with the PSNI CRU and the process of Joint Agency Consultation will begin.

Not all consultations will automatically result in a police investigation. However they will be treated as a potential crime and as such will be issued a crime reference number.

Careful consideration will need to be given to all available information including active consideration of the views and wishes of the adult in need of protection and/or their family and relevant others as appropriate.

PSNI, as the lead agency in relation to criminal matters, will have a pivotal role in determining whether a criminal investigation needs to take place. Nevertheless, it is anticipated that there will be joint agency discussion and decision making.

PSNI CRU, like the HSC Trust DAPO, will need to consider issues of consent, capacity and human rights when deciding what action needs to be taken. Where a criminal investigation is to proceed against the expressed wishes of an adult in need of protection, there should be clear evidence and record of the balancing of rights and a rationale to support any decision taken.

The detail of any decision and rationale should be recorded by PSNI CRU on the AJP1 form (Section 3 and Appendix 14), along with details of agreed actions to be taken. The Joint Agency Consultation must agree a decision as to the way forward. This should not preclude an interim protection plan being implemented if required. The AJP1 outcome will be forwarded to the DAPO by PSNI.

## Outcome of an Initial Joint Agency Consultation

There are a number of possible outcomes from a Joint Agency Consultation:

1. There is insufficient information available to make a decision.

In such cases the PSNI/CRU must provide detailed instructions regarding any additional preliminary information to be gathered by the HSC Trust. It will be for the PSNI to ensure that an effective balance is drawn between seeking sufficient information from the HSC Trust to make an informed judgement and not jeopardising a possible PSNI investigation.

2. Single agency HSC Trust adult protection investigation

Where a single agency HSC Trust investigation is considered to be the appropriate response, HSC Trust staff should refer to the Adult Safeguarding Operational Procedures (2016) for detailed guidance on conducting a single agency HSC Trust adult protection investigation. The decision to conduct a single agency investigation should be kept under review as new information may indicate a need to reconsider the decision in relation to the Joint Protocol.

3. Single agency PSNI investigation

Where a single agency PSNI investigation is considered to be the appropriate response, PSNI officers should refer to Police Service Procedures.

During a single agency PSNI investigation, where appropriate the HSC Trust will respond to any adult safeguarding or protection issues identified. Strategy discussions/meetings provide a forum in which any potential conflict between safeguarding adults in need of protection and criminal investigations can be discussed and resolutions agreed.

The PSNI should continue to liaise with the relevant HSC Trust DAPO in relation to any adult safeguarding or protection issues. The HSC Trust will co-operate with any PSNI request to provide a Specialist Interviewer.

4. Joint Agency collaborative working

In some cases both the PSNI and the HSC Trust will have a role. In these circumstances close liaison and communication between the two agencies and an agreed action/strategic plan will be required. This plan should, at a minimum, include:

- Clarification of the roles and responsibilities of the two agencies including details of nominated officers
- Details of the communication strategy between the two agencies

- The communication strategies with victims, carers and families and when applicable with RQIA and service providers. This should include agreed time scales and details of the named staff responsible for this
- Details of the agreed actions and sequencing of actions with associated timescales
- Arrangements for ongoing adjustments and review of the action plan

Outcomes should be formally agreed and joint agency decisions taken regarding closure.

PSNI must inform the HSCTrust DAPO of the outcome of any single agency investigation. This will allow the HSCTrust to consider if there are any additional actions and/or protective measures required.

5. Joint Agency investigation involving the PSNI and HSC Trust.  
In some cases where the PSNI are taking the lead investigative role but the HSC Trust continue to be involved with the adult(s) in need of protection; joint agency collaborative working will be required.

In joint agency investigative interviews involving the HSCTrust and PSNI, the requirements in relation to collaborative working will apply (See Section 2.3).

6. No further action under the Joint Protocol.  
PSNI, HSC Trusts and/or RQIA will need to consider possible alternative responses or support mechanisms, e.g. enforcement action by RQIA.

### **C. Criteria for NOT reporting to the PSNI using the Protocol for Joint Investigation of Adult Safeguarding Cases**

There is always a need for a balanced and proportionate response to concerns. In some instances it will be clear from the outset that the harm or likelihood of harm caused by abuse, exploitation or neglect does not meet the threshold of criminality and that a single agency response under adult protection procedures is more appropriate.

In other situations referral information can be limited and where there is insufficient information to determine what is the appropriate course of action careful consideration must be given to how to proceed. (See section 3.2)

Where the threshold for a potential criminal offence is met the HSC Trust position is that reports to PSNI should be made.

In circumstances where the adult in need of protection has the capacity to make an informed decision and withholds consent to a report being made to the police, attention must be paid to the individual's right to respect, dignity and choice.

A first consideration for the DAPO will be whether there is a legal obligation to report to the police under Section 5 of the Criminal Law Act (NI) 1967 (Appendix 8).

Where there is no legal obligation to report the matter, the DAPO will need to balance the HSC Trust's broad position of reporting to the PSNI with the individual's human rights and, if applicable, the rights of others. The nature of the incident, its impact on the individual and/or others and likelihood of reoccurrence are among a number of factors which must be taken into consideration. Full consideration of all legal obligations will be required when determining the actions to be taken. The DAPO should ensure that a comprehensive risk assessment is conducted to support decision making.

**A decision not to report an incident to the PSNI is a serious and significant decision and therefore only HSC Trust DAPOs who have conducted or co-ordinated an initial professional assessment will have the authority to make these decisions.**

In making the decision **NOT** to report to the PSNI, the HSC Trust DAPO must as a minimum demonstrate consideration of the following:

- The adult in Need of protection has capacity to make an informed decision and does not want to make a complaint to PSNI. Full consideration will need to be given to all elements of consent, capacity and human rights, including issues of undue influence and possible coercion (Appendix 7 Consent/Capacity/Human Rights).

**AND**

- The Trust is not required by law to make a referral to PSNI (if the potential offence committed is not a relevant offence under Section 5 of the Criminal Law Act (NI) 1967 (Appendix 8 Section 5 Criminal Law (Northern Ireland) Act 1967)

**AND**

- It is a minor incident. A comprehensive assessment of all the factors **MUST** be completed to evidence a thorough risk assessment of these cases. This will include consideration of whether repeat incidents have occurred and/or whether other adults at risk or children have been or are likely to be at risk of harm (Appendix 6 Factors to be considered in the assessment of the seriousness of Harm and Risk of Harm)

## AND

- The situation is being managed through an adult safeguarding process and/or there are other protective measures in place

The HSC Trust DAPO must ensure that **all** the above criteria are met and take into consideration any other relevant information. The rationale for a decision not to report an incident to PSNI must be clearly evidenced and recorded on the Regional Adult Joint Protocol forms (Appendix 14).

Where the individual lacks capacity to give informed consent and their next of kin take the view that a report should not be made to the PSNI, this should be adhered to, provided all other above criteria are met and this decision is consistent with best interest principles.

**Under NO circumstances should any adult in need of protection's request for a report to be made to PSNI be refused. The entitlement of all individuals to equal access to the justice system is absolute and begins with a report to PSNI.**

### **2.4 Factors to be considered when the person alleged to have caused harm is themselves an Adult at Risk**

The HSC Trust will have responsibility in situations where the person alleged to have caused the harm is also an adult at risk. The HSC Trust should take into consideration the human rights and need for protection for this individual. The HSC Trust responsibility in relation to protection remains a constant, irrespective of which pathway the investigation takes i.e. adult safeguarding, adult Protection, PSNI only or joint investigation.

The HSC Trust DAPO should consider the likelihood that the person causing the harm may present an ongoing risk to the victim and/or others including children

In situations where the victim or the victim's family decide not to make a complaint to the PSNI the HSC Trust DAPO should consider:

- The criteria for not reporting to PSNI
- The need for a Joint Agency Consultation

Obligations to report serious harm which may constitute a relevant offence to the PSNI continue to apply.

In all situations where a report is being made to the PSNI, the fact that the person causing harm is also an adult at risk should be clearly highlighted. The PSNI should also be advised if there is a concern that the adult at risk and/or the individual who is

alleged to have caused harm, may not have the capacity to engage in a PSNI interview and to give legal instruction.

There should be no assumptions made about an individual's capacity, even in situations where there is an existing diagnosis affecting cognitive functioning such as dementia or learning disability. Each case should be assessed on an individual basis to determine the person's level of cognitive functioning, whether the harm caused was intentional or unintentional and whether the person can be reasonably held accountable for their actions (Appendix 7 Human Rights, Consent and Capacity).

Capacity assessments should be carried out by an appropriately trained professional. In cases where the person alleged to have caused harm is themselves an adult in need of protection and is already known to specialist services the professional involved may be able to provide an informed opinion in relation to the individual's capacity.

Capacity assessments/reassessment should consider as a minimum:-

- The extent to which the person causing harm is able to understand his/her actions and whether there is an awareness of or intent to cause harm; and
- Whether the behaviours of the person causing harm may be associated with learning disability, mental ill-health or dementia.

In situations where the adult at risk has allegedly caused harm and is deemed to lack capacity to understand his/her actions, the harm was unintentional and does not constitute serious harm or a relevant offence, then consideration should be given to whether a single agency HSC Trust investigation may be a more appropriate response than a PSNI investigation.

In all cases where serious harm has occurred or where the potential offence reaches the threshold of a serious relevant crime, a Joint Agency Consultation with PSNI CRU must take place.

The Public Prosecution Service (PPS) will provide early direction to PSNI in relation to whether a fast track disposal can be considered (Appendix 4 PPS Test for Prosecution). In all cases where PSNI are involved a case file should be prepared by the PSNI.

In certain types of offences the PSNI can consider Discretionary Disposal. In these instances the decision regarding Discretionary Disposal is for the adult in need of protection and/or their family the detail regarding resolution is reliant on the person alleged to have caused the harm acknowledging wrong-doing and complying with the protection plan and any sanctions agreed.

In cases which require the PSNI to submit a case file to the PPS, the PSNI should liaise at an early stage with the PPS to ascertain whether a full investigation file is required to be submitted for consideration or whether a streamline file would suffice.

In any event the file submitted should provide a comprehensive record of all the relevant information and actions taken. The case file should also clearly identify if the person alleged to have caused the harm is an adult at risk and has been assessed as lacking capacity to understand the consequences of his/her actions.

In some situations the adult at risk who is allegedly causing harm will already be known to the HSC Trust and may be resident in a care setting (Residential/Nursing Home, specialist hospital or specialist facility) or in receipt of community services. In light of any identified concerns a full reassessment of this adult at risk's needs should always be conducted.

Where the victim and person alleged to have caused the harm are both considered to be adults at risk and are in the same environment, effective risk management is critical. The likelihood that the person causing the harm will present an ongoing risk to the victim and/or others including children must be considered by the HSC Trust DAPO under both the Adult Protection Operational Procedures and the Joint Protocol.

In situations where the PSNI are the first responders and have concerns that the person allegedly causing harm is an adult at risk, it is their responsibility to make a professional judgement as to whether a referral should be made to the appropriate HSC Trust.

At a minimum this judgement should consider the needs, capacity and consent of the individual and whether there are wider protection issues in relation to other Adults at Risk or children.

## SECTION 3

### 3.1 HSC Trust Adult Protection Processes

The following grid outlines the HSC Trust Adult Protection Processes to be followed in cases where there is a concern that harm caused to an adult in need of protection which may constitute a potential criminal offence.

| Stages in Joint Protocol Process  | Decision   | Action   | Decision Process   | Forms   |
|---|--|--|--|---|
| <b>Stage 1</b><br>DAPO screens referral to determine if Adult Protection criteria is met                  | a) Criteria not met  | Refer to appropriate service/agency  | Complete appropriate referral  | Record decision on Regional Adult Protection forms  |
|   | b) Criteria met  | Proceed to <b>Stage 2</b>  |  | Record decision on Regional Adult Protection forms  |
| <b>Stage 2</b><br>DAPO assesses referral information to determine if a potential crime has been committed | a) Where the referral information clearly states that the adult in need of protection and/or their next of kin wants to make a complaint to the PSNI (section 2.2) | DAPO will ensure that the individual is supported in making a report to the PSNI | DAPO ensures that an immediate report is made to PSNI:<br>- 999 if there is imminent danger to a person.<br>- In all other cases report to CRU (Mon-Fri 8am-9pm; Sat & Sun 9am-5pm)<br>- 101 at all other times<br><br>PSNI and the DAPO will consult with the person and decide what level of response is required      | Record decision on Regional Adult Protection forms<br><br>DAPO completes AJP1 section 1 & 2 and forwards to CRU without undue delay |
|   | b) Insufficient information to make decision   | DAPO considers follow up actions required (section 3.2)                          | The DAPO will consider the additional information and decide whether a potential crime has or has not been committed and follow either (b), (c) or (d)   | Record on Regional Adult Protection forms   |
|   | c) Potential crime <b>NOT</b> identified   | Proceed to Regional Adult Protection Procedures                                  | DAPO initiates single agency Adult Protection investigation  | Record on Regional Adult Protection forms   |
|   | d) Potential crime identified  | Trust DAPO applies threshold criteria (see section 2)                            | The DAPO should also consider potential additional factors e.g.<br>- the person alleged to have caused harm is themselves an adult at risk. DAPO also needs to consider the needs of this person (see section 2.4)<br>- the case may constitute organised or multiple abuse (see section 6)<br>Proceed to <b>Stage 3</b> | Record decision on Regional Adult Protection forms  |

| Stages in Joint Protocol Process  | Decision   | Action   | Decision Process  | Forms   |
|---|--|--|---|---|
| <p><b>Stage 3</b><br/>Trust DAPO applies threshold criteria to the specifics of referral and considers which of the three options should be implemented (section 2)</p> | <p><u>Option 1</u><br/><br/>Potential Crime which must be reported to the PSNI (see section 2)</p> | <p>DAPO ensures that the adult in need of protection is informed of requirement to make report to the PSNI</p>   | <p>DAPO ensures that in completion of the AJP1 all the individuals and/or others human rights are considered. The rationale for decisions should be recorded (section 2 &amp; Appendix 8)</p>   | <p>DAPO completes AJP1 form sections 1 &amp; 2 and forwards to CRU without undue delay via CJSM system<br/>DAPO contacts CRU to discuss referral and agree action plan.<br/>CRU officer completes AJP1 section 3 and forwards to DAPO on same day</p> |
|   |  | <p>Where criteria for relevant offence / reportable crime are met, DAPO proceeds to report to PSNI. (see section 2)</p>  | <p>DAPO should consider whether there is a need for an immediate report to PSNI via 999 (if there is imminent danger to a person).<br/>In all other cases report to CRU (Mon-Fri 8am-9pm; Sat &amp; Sun 9am-5pm) and 101 at all other times<br/>(see Stage 4)</p>   | <p>Recorded on Regional Adult Protection and AJP forms</p>  |
|   | <p><u>Option 2</u><br/>Joint Agency Consultation</p>   | <p>Where the HSC Trust DAPO requires clarification on whether there is a need for a Police investigation, the joint agency consultation process should be initiated. HSC Trust DAPO must provide information on views and wishes of the individual and/or family if applicable. This should be central to the decision making for both agencies. The PSNI expertise in criminal offences will inform this decision (see section 2)</p> | <p>The joint agency consultation should agree a decision as to which option is most appropriate and any actions which are required. There are a range of options which can be considered (see section 2).<br/><br/>The decisions regarding which option is agreed should be clearly recorded. If the decision is for joint agency collaborative working, proceed to <b>Stage 4</b>.<br/><br/>Single Agency Trust investigations follow the Regional Adult Safeguarding Operational Procedures – Adults in Need of Protection.</p> | <p>CRU completes AJP1 section 3 and forwards to HSC Trust DAPO on same day</p>  |
|   | <p><u>Option 3</u><br/><b>NOT</b> reporting case to PSNI</p>                                       | <p>HSC Trust DAPO applies criteria for <b>NOT</b> reporting potential crime to PSNI (see section 2)</p>  | <p>Where the criteria for <b>NOT</b> reporting is met HSC Trust DAPO follows Regional Single Agency adult protection procedures. Decision not to report must be kept under ongoing review</p>   | <p>The rationale for a decision <b>NOT</b> to report an incident to PSNI must be clearly evidenced and recorded on the Regional Adult Protection Procedures forms by the HSC Trust DAPO.</p>  |

| Stages in Joint Protocol Process                           | Decision   | Action   | Decision Process  | Forms   |
|--|--|--|---|---|
| <b>Stage 4</b>   |  |  |   |   |
| <b>Stage 4</b><br><br>Joint Agency Collaborative Working   | Joint Agency strategy discussion / meeting following CRU allocation of case to appropriate PSNI Sergeant | HSC Trust DAPO co-ordinates Joint Agency Strategy discussion / meeting<br><br>Contact made between PSNI Sergeant and agrees Interim Protection Plan<br><br>All immediate protection measures required should be taken in liaison with the PSNI<br><br>HSC Trust DAPO ensures that adult in need of protection is informed of the report to the PSNI and their views are considered and recorded on Regional Adult Protection forms and the AJP forms | HSC Trust DAPO agrees interim protection measures as part of strategy discussion / meeting with PSNI Investigating Officer<br><br>Joint agency agreement in relation to: <ul style="list-style-type: none"> <li>- lead agency in investigation</li> <li>- Clarify roles and responsibilities</li> <li>- Identify key PSNI and Trust Investigating Officers</li> <li>- Agreed investigation plan</li> <li>- Agreed communication strategy</li> </ul> | HSC Trust DAPO records decision in both the Regional Adult Protection forms and the AJP2 form |
| <b>PIA and ABE</b>   |  |  |   |   |
| Joint Agency Investigation Process<br>PIA and ABE Planning | Joint Agency investigation planning  | HSC Trust DAPO and PSNI agree to proceed to PIA<br><br>Specialist Interviewers identified<br><br>Where appropriate, ABE arranged<br><br>PSNI consider referral for Registered Intermediary   | Joint Agency consideration of need for PIA and ABE interview (Section 5)  | AJP3 completed if PIA agreed<br><br>AJP4 and AJP4(a) if ABE interview required                |

| <b>Closure</b>  |                                   |   |  |                            |
|---|-----------------------------------|---|--|----------------------------|
| <b>Stage 5</b><br><br>Exit Joint Protocol Investigation | No further action under Protocol  | Agreed by all agencies involved in investigation                                    |  | Decisions recorded on AJP5 |
|   | PSNI single Agency Investigation  | PSNI responsibility   |  | Decisions recorded on AJP5 |
|   | PSNI progresses file to PPS       | PSNI responsibility   |  | Decisions recorded on AJP5 |
|   | Trust Single Agency Investigation | Trust continues single agency protection planning / agreed actions as appropriate   |  | Decisions recorded on AJP5 |
|   | RQIA single agency                | RQIA continues to consider regulatory issues and enforcement options as appropriate |  | Decisions recorded on AJP5 |

### **3.2 Initial Decision Making by HSC DAPO where there is insufficient information**

Where the HSC Trust DAPO is unable to make an informed decision as to whether a report to the PSNI is appropriate, the following range of options can be considered as part of the preliminary information gathering under the adult protection process:

- Further clarification to be sought from referrer and/or relevant others as part of a preliminary screening process;
- Allocation of the case to an HSC Trust IO for an initial assessment and/or implementation of an Interim Protection Plan

#### **Rationale for Initial Decision Making**

The HSC Trust DAPO may decide that an initial Trust single agency assessment or intervention is required. There should be a clear rationale to support this decision which may include:

- There is insufficient information regarding whether serious harm has been caused

***or***

- There is no indication from the information currently available that a relevant crime and/or a reportable offence has been committed

***or***

- There are safety concerns regarding the adult in need of protection and the HSC Trust considers that it is best placed to take immediate action to assess and/or manage this risk. The safety of any adult at risk/in need of protection or children will always be paramount in any investigation process. (The DAPO must also consider whether there are any safety issues for staff)

***or***

- There is insufficient information to determine if the adult in need of protection has the ability to give informed consent and there are no immediate protective actions required or actions under relevant offences.

***or***

- There are queries regarding the reliability of the information and further checks need to be carried out.

The list above is not exhaustive. Decisions need to be taken on a case by case basis and the application of professional judgement will be critical.

However there should be no delay in establishing whether there is a protection issue to be addressed.

The HSC Trust DAPO is required to consider whether an early referral to the PSNI is appropriate. The HSC Trust DAPO needs to be mindful not to jeopardise a potential PSNI investigation and all actions taken must be considered in this context. If there is the potential to secure forensic evidence and/or possible investigative opportunities, there should be no delay in making a report to the PSNI.

If the HSC Trust DAPO takes the decision that there a need for an initial HSC Trust single agency risk assessment, the HSC Trust DAPO will appoint an IO and give explicit instructions in relation to what actions are to be taken. The HSC Trust DAPO will determine what level of information and assessment is required in order to make an informed decision regarding the nature and level of intervention.

The agreed actions should be recorded on the Regional Adult Safeguarding forms (Appendix 14).

#### Initial Assessment by HSC Investigating Officer

IOs conducting interviews with the adult in need of protection should be mindful not to jeopardise any potential police investigations and be aware that information obtained may be used as part of any subsequent police investigation.

An initial assessment should, as a minimum, include:

- meeting with the adult in need of protection to establish the facts of the allegation to determine whether there are reasonable grounds to suspect that a crime may have occurred;
- advising the adult in need of protection of the options available to them in terms of making an informed decision regarding their wishes;
- where the concerns constitute a possible crime, advising the adult in need of protection of their right to a referral to the PSNI and providing them with an outline of the Protocol process;
- ascertaining what course of action the adult wishes to take;
- where a **relevant offence** or other reportable offences has taken place the adult in need of protection should be advised of the HSC Trust's legal obligation to report the matter to the PSNI. At this stage particular focus should

be given to the individual's human rights and if contravention of these rights is deemed necessary the rationale for this decision should be explained to the individual and recorded using the Regional Adult Safeguarding forms.

Every effort should be made to maximise the adult's capacity to make informed decisions. However if there are issues in relation to the adult's capacity then best interests principles should be applied and, where appropriate, their carer/family should be consulted.

The rights of the adult in need of protection are of paramount importance. However when the investigation and/or protection plan have the potential to infringe on the human rights of others, focused consideration needs to be given to this issue.

### **Critical Factors to be considered by the HSC Trust DAPO in the assessment process**

When there is sufficient information to make a professional judgement regarding whether the harm constitutes a potential crime, it is the role and responsibility of the HSC Trust DAPO to fully apply the guidance provided in Section 2.

In addition the following factors should be considered:

- where the person alleged to have caused harm is themselves an Adult at risk, consideration should be given to how best to proceed. This will include a requirement to review at the needs of the person who is alleged to have caused harm (see Section 2.4)
- where the information provided indicates that there are reasonable grounds to suspect that more than one person has been harmed or there are potentially more than one person alleged to have caused the harm, consideration should be given to whether the criteria for Organised or Multiple Abuse has been met.

While a number of cases may meet the criteria of organised or multiple abuse, it will be for the professionals involved to determine on a case by case basis whether the additional structures and supports available in these types of cases are required. Any decision not to avail of this should be agreed with senior managers and should be kept under review (Section 6 Large Scale or Complex Investigations).

- where the person under investigation is a member of staff or a paid carer there are potentially a number of investigative processes which will be required. These include a PSNI investigation, an investigation by the employing organisation, an adult safeguarding investigation and a referral to professional or regulatory body.

The interface between these investigative processes and the timescales for investigation should take into consideration the rights of the adult in need of protection and **also** the rights of the person under investigation. Any decision to delay an adult safeguarding or an agency investigation pending the outcome of a PSNI investigation should be kept under active review.

### **3.3 Application of Joint Protocol Threshold by HSC Trust DAPO**

The HSC Trust DAPO, having made a decision based on the available information and/or the initial assessment outcome of the specific case, will determine which of the following thresholds for intervention is deemed to be the most appropriate (see Section 2)

- a) Relevant crime and/or reportable crime referred to PSNI for joint agency investigation
- b) Joint Agency Consultation with PSNI to determine most appropriate option
- c) Criteria for not reporting to PSNI are met, in which case regional Adult Safeguarding Procedures should be followed

(Appendix 10 Joint Protocol flow charts)

### **3.4 Joint Agency Working**

In most situations it is expected that a level of joint agency collaborative working required. The nature of this will depend on the individual case and can include the HSC Trust, PSNI, RQIA and any other relevant organisations. The HSC Trust DAPO will have the lead role in co-ordinating any joint agency meetings required.

#### **Joint Agency Collaborative Working**

In cases where the PSNI are taking the lead investigative role but the HSC Trust continue to be involved with the adult(s) in need of protection, joint agency collaborative working will apply. This requires close liaison and communication between the key agencies. It is essential that all key agencies engage in strategy discussions or meetings to facilitate close communication and coordination and effective action plan.

Where the concern relates to an individual or group of individuals known to regulated services, RQIA will be a key partner in terms of joint agency working. Clarification of roles and responsibilities specific to the case and the development of an agreed action plan will be required.

## Joint Agency Investigations

It is critical that in joint agency investigations the two key agencies (PSNI and HSC Trust DAPO) work together to ensure that the adult in need of protection is supported in a manner which enables them to have equal access to the justice system. This begins with a process of joint agency strategy planning.

## Joint Agency Strategy Planning

The purpose of strategy planning is to:

- share and assess available information
- agree roles and responsibilities in conducting the investigation
- agree /review the interim protection plan
- gather additional information
- formulate a multi-agency plan for the assessment of risk
- address any protection issues
- address any investigation requirements
- consider referral to other agencies or services as required
- decide whether the ABE process may be applicable
- agree a communication strategy

A number of factors will determine which method is used for strategy planning, such as the urgency of the situation, the nature of the allegation, the type of investigation required and so on.

While initial strategy discussions can take place by telephone, a comprehensive planning session can only be achieved when all key personnel are present and can contribute to the risk management process. It is recommended that in most situations where joint agency working is required, a strategy planning meeting should take place.

It is essential that the PSNI and HSC Trust are present at any strategy planning meeting. Decisions regarding the need for PSNI investigation will be reviewed in light of the information provided during the course of the meeting.

Where an allegation relates to a regulated service RQIA should be invited to attend the strategy planning meeting.

### Joint Agency closure of case

It is acknowledged that the closure process can be lengthy, particularly in circumstances where a file has been sent to the PPS for a decision on whether a case will be taken forward to prosecution. Therefore it is essential that the agencies involved agree a strategy of closure including communication arrangements with adults in need of protection and relevant others when appropriate. Agreed actions should be recorded by all agencies involved and communicated by the identified lead agency, with clear arrangements in place for any ongoing work.

## SECTION 4

### **PSNI CRU Procedures when HSC Trust DAPOs make a referral and/or seek a joint agency consultation**

The HSC Trust DAPO should initially provide information on the AJP1 form via CJSM. Contact can then be made to discuss the details of the case.

The PSNI CRU Constable should establish from the information and discussion whether this relates to a report of a crime to be actioned or if this is a joint agency consultation to determine whether a criminal investigation is appropriate. Record checks should be carried out to inform the decision making process. Particular attention needs to be paid to the views and wishes of the adult in need of protection where they have the capacity to make informed decisions.

Officers need to consider issues of consent, capacity and human rights. A decision to proceed with an investigation against the expressed wishes of an adult in Need of protection is a breach of human rights and therefore any decision to do so must be supported by a clear rationale.

PSNI CRU will have the lead role in determining the most appropriate course of action, however joint agency discussion and decision making should take place where possible. In complex referrals where a joint agency strategy meeting is required, PSNI CRU will not be in a position to attend. Therefore referral information will be passed to the relevant Public Protection Branch and an officer from there will attend.

Section 3 of the AJP1 form should be completed by PSNI CRU, detailing the rationale for any decisions taken and agreed actions. The completed form should be shared between the HSC Trust and PSNI. Where a decision cannot be reached regarding this matter it should be raised immediately with the PSNI CRU Sergeant before any action is taken. If the case is to be allocated for investigation by PSNI, CRU will do this in line with the PSNI Crime Allocation Policy.

Collaborative working should be a feature throughout the Joint Protocol process, both at the point of referral and on allocation. This should ensure an agreed structure in terms of the investigation and protection planning (see Section 3.3 & 3.4).

See Appendix 11 PSNI and CRU Process Flow Chart.

### **Internal Reporting to PSNI CRU of Adult in Need of Protection referrals**

Where PSNI become aware of an Adult in Need of Protection case which meets the threshold for the Protocol they should report this to PSNI CRU without undue delay.

PSNI CRU will then complete the AJP1 form and share with the relevant HSC Trust, emailing via CJSM.

PSNI CRU will then contact the HSC Trust by telephone to discuss the referral and the normal process of liaison will take place with the appropriate HSC Trust DAPO to discuss and agree actions. Section 3 of the AJP1 will be completed and shared between PSNI and Trust to evidence this process.

### **Adult in Need of Protection Referred by the Public**

Where a member of the public rings the PSNI, existing call handling procedures will apply. Full details should be obtained and the occurrence tasked to the PSNI CRU whiteboard. If a call of this nature is received outside PSNI CRU operating hours, consideration should be given to the urgency and seriousness of the incident. In some situations there may be a need to maximise early investigative opportunities. If an immediate police response is required an appropriate call-sign/resource should be tasked as per existing practice. In all other circumstances the matter should be tasked to the PSNI CRU whiteboard as outlined above.

### **On Allocation**

Where matters have been agreed as a joint investigation or police only Investigation, the PSNI will allocate the case to the relevant Public Protection Unit, local policing team or Reactive & Organised Crime Unit for further investigation (Appendix 11 flow chart re PSNI and CRU Processes).

Where a strategy meeting is required the relevant PSNI Investigating Officer will be expected to attend this meeting and any other related meetings required to ensure that a co-ordinated joint agency approach which supports the adult in need of protection is taken. In joint agency investigations close communication and co-ordination in relation to the investigation will be required. It is however important to note that in a single agency police investigation there will also be a need for ongoing communication to ensure that protection needs and/or any other actions can be progressed.

In complex cases PSNI may be asked to attend to provide advice and may be required to be members of the Strategic Management Group (see Section 6, Investigation of Organised or Multiple Abuse Cases).

For full details of procedures to be followed by PSNI, Officers should refer to Service Procedure 'Adults at Risk of Harm and Safeguarding Procedures' produced by Crime Operations, Public Protection Branch.

## SECTION 5

### **Special Measures Investigative Interviews**

The Criminal Evidence (NI) Order 1999 makes special provision for the gathering of evidence from adults in need of protection or intimidated witnesses.

Detailed guidance on interviewing adults as either adults in need of protection and/or intimidated witnesses, including victims, and the use of special measures in order to enable them to give their best evidence in criminal proceedings, is contained in “Achieving Best Evidence in Criminal Proceedings: Guidance on interviewing victims and witnesses, the use of special measures and the provision of pre-trial therapy (2012)”.

### **Pre-Interview Assessment**

In all situations where a decision has been taken to conduct a joint agency investigation PSNI and HSC Trust Specialist Interviewers should meet with the adult in need of protection and complete the AJP 3 form.

Only those staff that have completed specialist training will be eligible to conduct a pre-interview assessment (PIA).

The purpose of the PIA is to:

- establish with the individual whether they are willing to make a statement of complaint;
- discuss with the individual the options regarding how this statement may be made: video or ABE statement;
- discuss in full the investigative process and the possible use of Special Measures, including the use of a Registered Intermediary (RI) (Appendix 13). This discussion should highlight to the individual that the decision regarding whether the case goes forward to Court is a decision for the PPS. The decision regarding whether the video and/or statement or other form of Special Measures are used in Court is a decision for the trial Judge;
- discuss and agree the practical arrangements regarding conducting the ABE interview and complete the AJP4 and AJP4(a) forms (Appendix 14).

### **Achieving Best Evidence Interviews**

Only those staff that have completed further specialist training will be eligible to undertake the role of Interviewer and Second Interviewer in special measures investigative interviews.

The purpose of an investigative interview is to ascertain the witness's account of the alleged event(s) and any other information that would assist the investigation. A well conducted interview will only occur if appropriate planning has taken place. Interviews should be planned and carried out in accordance with Achieving Best Evidence Part 3A – Planning and Preparing for Interviews. The planning of the interview should be recorded using the AJP 4 form.

**NB: Interviewers must be given sufficient time prior to a special measures investigative interview to carry out this planning process.**

Information obtained in the planning process should be used to:

- set the aim and objectives for the interview
- determine the techniques used within the phased interview
- agree the means by which the interview is to be recorded
- who should conduct the interview and if anyone else should be present (including support for the witness such as an Interpreter or RI)
- if anybody should monitor the interview
- who will operate the equipment
- the location of the interview
- the timing of the interview
- the duration of the interview (including pace, breaks and the possibility of more than one session)
- what is likely to happen after the interview

Consideration should also be given to who is best qualified to lead the interview. The lead Interviewer should be a person who has or is likely to establish rapport with the adult in need of protection, who understands how to communicate effectively with witnesses who might become distressed and who has a proper grasp of the rules of evidence and criminal offences. The lead Interviewer must have a good knowledge of information important to the investigation, including the points needed to prove particular offences.

The presence of a Second Interviewer is desirable because they can help to ensure that the interview is conducted in a professional manner, can assist in identifying any gaps that emerge in the witness's account and can ensure that the witness's needs are kept paramount.

Statements of Evidence (PSNI Form 38/36) recorded in special measures investigative interviews will be retained by the PSNI for evidential purposes. A copy may be provided to the HSC Trust, provided that the adult in need of protection or their representative agrees.

Where an interview has been video-recorded, the original will be labelled and secured for court purposes by the PSNI. The working copy will be available for viewing by HSC Trusts by prior arrangement only. A log will be completed on each occasion that the tape is viewed by anyone which details the reason for viewing. This will be retained with the working copy of the tape.

Arrangements for viewing the tape by persons other than the HSC Trusts, or at any subsequent court hearing, will be the responsibility of the PSNI. PSNI General Order C(c) 70/96 must be complied with.

The police officer in charge of the case will be responsible as the prime keeper of all exhibits, including any drawings, letters, notes etc. made in the course of the special measures investigative interview. The disclosure of third party material which may be relevant to an investigation must only be made in compliance with the Criminal Procedures Investigation Act 1996.

## SECTION 6

### Investigation of Large Scale and Complex Abuse Cases

Complex (organised or multiple) abuse may be defined as abuse involving one or more abusers and a number of related or non-related adults at risk. The alleged abusers concerned may be acting in concert to abuse adults at risk, may be acting in isolation, or may be using an institutional framework or position of authority to access adults at risk.

Such abuse occurs both as part of a network across a family or community and within institutions such as residential or nursing homes, supported living facilities, day support settings and in other provisions such as voluntary groups. There may also be cases of adults at risk being abused through the use of the internet. Such abuse is profoundly traumatic for the adults at risk who become involved. Its investigation is time-consuming and demanding work which requires specialist skills from PSNI and HSC Trust staff.

Each investigation of organised or multiple abuse will be different, according to the characteristics of each situation and the scale and complexity of the investigation. However, every investigation will require careful and thorough planning, effective inter-agency working and attention to the needs of the adult(s) in need of protection and the adult(s) at risk involved.

Some investigations become extremely complex because of the number of people or places involved and the timescale over which the abuse is alleged to have occurred.

### Process for Investigation of Large Scale and Complex Abuse Cases

On receipt of information which may indicate organised or multiple abuse, the HSC Trust DAPO should immediately consider whether a report to the PSNI is appropriate. A Joint Agency Strategy Meeting with representatives from the key agencies should then take place as a matter of urgency to discuss and agree roles, responsibilities and an interim action plan.

Where the strategy meeting confirms that the investigation relates to organised or multiple abuse, a multi-agency Strategic Management Group will be appointed to oversee the process.

### Strategic Management Group

The Strategic Management Group (SMG) will manage and support the investigation and provide the necessary response to the needs of both the adult(s) in need of

protection and the adults at risk. The SMG is comprised of the following core representatives:

- PSNI;
- HSC Trust DAPO;
- a senior manager from the relevant HSC Trust adult Programme of Care; and
- RQIA (where the allegation relates to a regulated service).

The SMG will be convened and chaired by the appropriate agency. SMG representatives may co-opt representation from relevant other disciplines or agencies, dependant on the type of alleged abuse under investigation.

Appropriate legal advice will be necessary and should be sought through PSNI and HSC Trust legal advisers.

### Functions of the SMG

The SMG will:

- establish the principles and practice of the investigation and ensure regular review of progress against that plan;
- prioritise and allocate expedient resources to establish an Investigative Team within their respective agencies;
- ensure co-ordination between the key agencies and the Investigative Team within the HSC Trusts and PSNI. This includes resolving any interagency operational interface challenges between various established processes;
- ensure decisions of the strategy planning group are actioned in a timely manner.
- act in a consultative capacity to those professionals who are involved in the investigation;
- draw up a media strategy to respond to public interest issues and agree who will take responsibility for responding to media enquiries;
- have oversight of the agreed communication strategy/liaison with adults in need of protection/families and carers involved in the investigation;
- at the conclusion of the investigation, discuss salient features of the investigation with a view to making recommendations for improvements either in policy or in practice.
- The closing process must be signed off by the SMG in the case of a serious/complex Adult Protection situation.

Following agreement between the PSNI and HSC Trust that referral meets the criterion for organised or multiple abuse, the SMG will meet within 2 working days. Thereafter the SMG will meet as required to discuss and review the progress of the

investigation. The frequency will be determined by the complexity of the case. Managerial representation of the Investigative team will be present at each meeting of the SMG.

The aim of these meetings is to:

- Review all aspects of the strategy for investigation
- Provide advice on the appropriate strategic direction
- Ensure the continuing active co-operation of all relevant agencies
- Agree a response to victims, families and carers if appropriate
- Agree a joint media response
- Produce an accurate record of all meetings held.

At the conclusion of the investigation, the Joint Investigative Team should meet with the SMG to discuss salient features of the investigation with a view to making recommendations for improvements either in policy or in practice.

## SECTION 7

### **Information Management / Information Sharing / Records Management**

Adult Safeguarding: Prevention and Protection in Partnership Policy provides detailed information regarding requirements in relation to information management and information sharing. All organisations must comply with these requirements including PSNI, HSC Trusts and RQIA. It will be for each organisation to ensure they are meeting the requirements as detailed in this Policy. The Protocol must be considered within this context with agencies understanding their obligations within this.

In terms of record management it is important for all professionals involved in this process to keep factual, contemporaneous records and understand that these records are critical to the investigation. As records of investigations are likely to be subject to some level of review, judicial or otherwise and are also discoverable, accurate and timely record keeping is essential.

Manual/electronic record keeping should include a detailed rationale for decision making at all stages of the adult safeguarding process. This is particularly important when there are potential contraventions of an individual's Human Rights. Use of CJSM is considered an absolute requirement in this context.

## SECTION 8

### REFERENCES

- Safeguarding Vulnerable Adults: Regional Adult Protection Policy and Procedural Guidance  
Regional Adult Protection Forum (2006)
- The Protocol for the Joint Investigation of Alleged and Suspected Cases of Abuse of Vulnerable Adults (2003 and revised in 2009)  
Regional Adult Protection Forum (2006)
- Achieving Best Evidence in Criminal Proceedings (Northern Ireland)  
Department of Justice (2003, revised in 2010 and again in 2012)
- Safeguarding Vulnerable Adults: A Shared Responsibility  
Volunteer Now (2010),
- Adult Safeguarding in Northern Ireland: Regional and Local Partnership Arrangements  
Department of Health Social Services and Public Safety (DHSSPS) and the Northern Ireland Office (now Department of Justice) 2010
- The Victim Charter (Justice Act (Northern Ireland) 2015) Order 2015;
- The Victim Charter – a Charter for Victims of Crime, published by DOJ in September 2015
- MARAC – Operating Protocol for Northern Ireland Multi-agency Risk Assessment Conferences (August 2014);
- Guidance to Agencies on Public Protection Arrangements (PPANI) Article 50, Criminal Justice (Northern Ireland) Order 2008;
- Working Arrangements for the Welfare and Protection of Adult Victims of Human Trafficking (October 2012);
- The Health and Personal Social Services (Quality, Improvement and Regulation) (Northern Ireland) Order 2003.

## SECTION 9

### GLOSSARY OF TERMS

**Abuse** is ‘a single or repeated act, or lack of appropriate action, occurring within any relationship where there is an expectation of trust, which causes harm or distress to another individual or violates their human or civil rights’ Abuse is the misuse of power and control that one person has over another. It can involve direct and indirect contact and can include online abuse.

**ABE (Achieving Best Evidence) Interviewer** – The Specialist Achieving Best Evidence Interviewer must be a professionally qualified Social Worker. The Specialist Interviewer will be responsible for planning and conducting interviews with service users who may have been the victim of a crime. These interviews will be undertaken jointly with the PSNI and in accordance with the guidance laid out in “Protocol for Joint Investigation of Adult Safeguarding cases” and “Achieving Best Evidence in Criminal Proceedings.”

**Adult Protection Gateway Service** – is the central referral point within the HSC Trust for all concerns about an adult who is, or may be, at risk.

**Adult Safeguarding** - encompasses both activity which **prevents** harm from occurring in the first place and activity which **protects** adults at risk where harm has occurred or is likely to occur without intervention.

**Adult at risk of harm** – A person aged 18 or over, whose exposure to harm through abuse, exploitation or neglect may be increased by their:

iii) **personal characteristics** (*may include but are not limited to age, disability, special educational needs, illness, mental or physical frailty or impairment of, or disturbance in, the functioning of the mind or brain*);

**and/or**

iv) **life circumstances** (*may include, but are not limited to, isolation, socio-economic factors and environmental living conditions*);

**Adult in need of protection** - An adult at risk of harm (above):

iii) who is **unable to protect** their own well-being, property, assets, rights or other interests;

**and**

iv) where the **action or inaction of another person or persons** is causing, or is likely to cause, him/her to be harmed.

**ASC (Adult Safeguarding Champion)** - The ASC should be within a senior position within the organisation and should be suitably skilled and experienced to

carry out the role. The ASC provides strategic and operational leadership and oversight in relation to adult safeguarding for an organisation or group and is responsible for implementing its adult safeguarding policy statement. The ASC is also the main point of contact with HSC Trusts and the PSNI for all adult safeguarding matters.

**Case Conference** - The purpose of the case conference is to evaluate the available evidence and to determine an outcome based on balance of probability

**CRU (Central referral Unit)** – The central point of referral to PSNI in relation to adult protection is based in Belfast.

**CJINI** (Criminal Justice Inspection Northern Ireland) - an independent legal inspectorate with responsibility for inspecting all aspects of the criminal justice system in Northern Ireland apart from the judiciary. It also inspects a number of other agencies and organisations that link into the criminal justice system

**Domestic Abuse** - Domestic violence and abuse is threatening behaviour, violence or abuse (psychological, physical, verbal, sexual, financial or emotional) inflicted on one person by another where they are or have been intimate partners or family members, irrespective of gender or sexual orientation. Domestic violence and abuse is essentially a pattern of behaviour which is characterised by the exercise of control and the misuse of power by one person over another. It is usually frequent and persistent. It can include violence by a son, daughter, mother, father, husband, wife, life partner or any other person who has a close relationship with the victim. It occurs right across society, regardless of age, gender, race, ethnic or religious group, sexual orientation, wealth, disability or geography.

**Designated Adult Protection Officer (DAPO)** – the person responsible for the management of each referral received by a HSC Trust. DAPOs will be in place both within the Adult Protection Gateway Service, and within core service teams. The DPAO will provide formal / informal support and debriefing to the Investigating Officer / ABE interviewer; analyse the adult safeguarding data within their service area and contribute to the governance arrangements as appropriate; and ensure that the connections are made with related interagency mechanisms.

DBS (Disclosure and Barring Service - helps employers make safer recruitment decisions and prevent unsuitable people from working with vulnerable groups, including children. It replaces the Criminal Records Bureau (CRB) and Independent Safeguarding Authority (ISA).

**Exploitation** - the deliberate maltreatment, manipulation or abuse of power and control over another person; to take advantage of another person or situation usually, but not always, for personal gain from using them as a commodity. It may manifest itself in many forms including slavery, servitude, forced or compulsory labour, domestic violence and abuse, sexual violence and abuse, or human

trafficking.

**FGC (Family Group Conferencing)** - A family group conference is a process led by family members to plan and make decisions for a person who is at risk. People are normally involved in their own family group conference, although often with support from an advocate. It is a voluntary process and families cannot be forced to have a family group conference.

**Hate Crime** - Hate crime is any incident which constitutes a criminal offence perceived by the victim or any other person as being motivated by prejudice, discrimination or hate towards a person's actual or perceived race, religious belief, sexual orientation, disability, political opinion or gender identity.

**Harm** - the impact on the victim of abuse, exploitation or neglect. It is the result of any action whether by commission or omission, deliberate, or as the result of a lack of knowledge or awareness which may result in the impairment of physical, intellectual, emotional, or mental health or well-being.

**Investigating Officer (IO)** - is a HSC Trust professionally qualified practitioner. Their role is to establish matters of fact, how best to protect the adult in need of protection and/or others, to explore alternatives available and to provide advice and support. The Investigating Officer alongside relevant professionals will be responsible for direct contact with the adult in need of protection, their carers and relevant others.

**The Protocol – (Protocol for Joint Investigation of Adult Safeguarding Cases)** - - The Protocol sets out a framework for joint working in a complex area of practice and emphasises the need to involve all other relevant agencies in information sharing, early assessment and the planning process. The overall aim of the Protocol is to prevent abuse by promoting a multi-agency approach to the protection of vulnerable adults, and to ensure that they receive equitable access to justice in a way that promotes their rights and well-being.

**LASP (Local Adult Safeguarding Partnerships)** - The five local multi-agency, multi-disciplinary partnerships located within their respective HSC Trusts.

**MARAC (Multi Agency risk Assessment Conference )** - It is a forum for local agencies to meet with the aim of sharing information about the highest risk cases of domestic violence and abuse and to agree a safety plan around victims.

**Modern Slavery** - Human trafficking involves the acquisition and movement of people by improper means, such as force, threat or deception, for the purposes of exploiting them. It can take many forms, such as domestic servitude, forced criminality, forced labour, sexual exploitation and organ harvesting. Victims of human trafficking can come from all walks of life; they can be male or female, children or adults, and they may come from migrant or indigenous communities.

**NIASP (Northern Ireland Adult Safeguarding Partnership)** – The regional multi-agency, multi-disciplinary partnership that brings together representatives from organisations and communities of interest who have a significant contribution to make to adult safeguarding.

**NISCC (Northern Ireland Social Care Council)** – is the independent regulatory body for the NISC workforce, established to increase public protection by improving and regulating standards of training and practice for social care workers.

**NMC (Nursing and Midwifery Council)** – is the independent regulator for nurses and midwives in England, Wales, Scotland and Northern Ireland. NMC sets standards of education, training, conduct and performance so that nurses and midwives can deliver high quality healthcare throughout their careers.

**Protection Plan** - A plan agreed with the adult at risk (or the person representing them or their best interests) detailing the actions to be taken, with timescales and responsibilities, to support and protect the person from harm.

**Registered Intermediary** - RIs have a range of responsibilities intended to help adult witnesses who are in need of protection, defendants and criminal justice practitioners at every stage of the criminal process, from investigation to trial.

**RQIA (Regulation and Quality Improvement Authority)** - Northern Ireland's independent health and social care regulator, responsible for monitoring and inspecting the availability and quality of health and social care services in Northern Ireland, and encouraging improvements in the quality of those services.

**SAI (Serious Adverse Incident)** - An adverse incident is an event which causes, or has the potential to cause, unexpected or unwanted effects that will involve the safety of patients, staff, users and other people.

**Serious Harm** – is a professional decision considering the impact, extent, degree, duration and frequency of harm; the perception of the person and their preferred outcome.

**Single Agency Investigation** – A single agency adult protection investigation is a **professional assessment** which analyses the risk of harm and serious harm, the impact of that harm on the adult in need and determines if this may have led to abuse. Such assessment requires experienced professional judgement to ensure outcomes are proportionate, necessary and lawful.

**Special Measures** - The measures specified in the Criminal Evidence (NI) Order 1999, as amended, which may be ordered in respect of some or all categories of eligible witnesses by means of a special measures direction. The special measures are the use of screens; the giving of evidence by live link; the giving of evidence in private; the removal of wigs and gowns; the showing of video recorded evidence in chief, and aids to communication.

**SMG (Strategic Management Group)** – has responsibility to oversee the process of investigation. Core representatives of SMG are PSNI; HSC Trust nominated Adult protection Gateway DAPO; a senior manager from the relevant adult programme of care; and RQIA (where the allegation relates to a regulated service).

**Strategy Meeting** - In complex situations the strategy discussion is normally a meeting of key people to decide the process to be followed after considering the initial available facts.

## APPENDICES

### *Appendix 1*

#### **Definitions of Abuse, Neglect, Exploitation and Related Definitions**

**Abuse** is 'a single or repeated act, or lack of appropriate action, occurring within any relationship where there is an expectation of trust, which causes harm or distress to another individual or violates their human or civil rights'.

Abuse is the misuse of power and control that one person has over another. Abuse may be perpetrated by a wide range of people who are usually physically and/ or emotionally close to the individual and on whom the individual may depend and trust. This may include but is not limited to, a partner, relative or other family member, a person entrusted to act on behalf of the adult in some aspect of their affairs, a service or care provider, a neighbour, a health or social care worker or professional, an employer, a volunteer, another service user. It may also be perpetrated by those who have no previous connection to the victim. All forms of abuse may constitute a crime.

The main forms of abuse are:

#### **Physical abuse**

Physical abuse is the use of physical force or mistreatment of one person by another which may or may not result in actual physical injury. This may include hitting, pushing, rough handling, exposure to heat or cold, force feeding, improper administration of medication, denial of treatment, misuse or illegal use of restraint and deprivation of liberty.

#### **Sexual violence and abuse**

Sexual abuse is any behaviour perceived to be of a sexual nature which is unwanted or takes place without consent or understanding<sup>6</sup>. Sexual violence and abuse can take many forms and may include non-contact sexual activities, such as indecent exposure, stalking, grooming, being made to look at or be involved in the production of sexually abusive material, or being made to watch sexual activities. It may involve physical contact, including but not limited to non-consensual penetrative sexual activities or non-penetrative sexual activities, such as intentional touching (known as groping). Sexual violence can be found across all sections of society, irrelevant of gender, age, ability, religion, race, ethnicity, personal circumstances, financial background or sexual orientation.

### **Psychological / emotional abuse**

Psychological / emotional abuse is behaviour that is psychologically harmful or inflicts mental distress by threat, humiliation or other verbal/non-verbal conduct. This may include threats, humiliation or ridicule, provoking fear of violence, shouting, yelling and swearing, blaming, controlling, intimidation and coercion.

### **Financial abuse**

Financial abuse is actual or attempted theft, fraud or burglary. It is the misappropriation or misuse of money, property, benefits, material goods or other asset transactions which the person did not or could not consent to, or which were invalidated by intimidation, coercion or deception. This may include exploitation, embezzlement, withholding pension or benefits or pressure exerted around wills, property or inheritance.

### **Institutional abuse**

Institutional abuse is the mistreatment or neglect of an adult by a regime or individuals in settings which adults who may be at risk reside in or use. This can occur in any organisation, within and outside the HSC sector. Institutional abuse may occur when the routines, systems and regimes result in poor standards of care, poor practice and behaviours, inflexible regimes and rigid routines which violate the dignity and human rights of the adults and place them at risk of harm. Institutional abuse may occur within a culture that denies, restricts or curtails privacy, dignity, choice and independence. It involves the collective failure of a service provider or an organisation to provide safe and appropriate services, and includes a failure to ensure that the necessary preventative and/or protective measures are in place.

**Neglect** occurs when a person deliberately withholds, or fails to provide, appropriate and adequate care and support which is required by another adult. It may be through a lack of knowledge or awareness, or through a failure to take reasonable action given the information and facts available to them at the time. It may include physical neglect to the extent that health or well-being is impaired, administering too much or too little medication, failure to provide access to appropriate health or social care, withholding the necessities of life, such as adequate nutrition, heating or clothing, or failure to intervene in situations that are dangerous to the person concerned or to others particularly when the person lacks the capacity to assess risk. This policy does not include self-harm or self-neglect within the definition of an 'adult in need of protection'. Each case will require a professional Health and Social Care (HSC) assessment to determine the appropriate response and consider if any underlying factors require a protection

response. For example self-harm may be the manifestation of harm which has been perpetrated by a third party and which the adult feels unable to disclose.

**Exploitation** is the deliberate maltreatment, manipulation or abuse of power and control over another person; to take advantage of another person or situation usually, but not always, for personal gain from using them as a commodity. It may manifest itself in many forms including slavery, servitude, forced or compulsory labour, domestic violence and abuse, sexual violence and abuse, or human trafficking. This list of types of harmful conduct is neither exhaustive, nor listed here in any order of priority. There are other indicators which should not be ignored. It is also possible that if a person is being harmed in one way, he/ she may very well be experiencing harm in other ways.

### **Domestic violence and abuse**

Domestic violence and abuse is threatening behaviour, violence or abuse (psychological, physical, verbal, sexual, financial or emotional) inflicted on one person by another where they are or have been intimate partners or family members, irrespective of gender or sexual orientation. Domestic violence and abuse is essentially a pattern of behaviour which is characterised by the exercise of control and the misuse of power by one person over another. It is usually frequent and persistent. It can include violence by a son, daughter, mother, father, husband, wife, life partner or any other person who has a close relationship with the victim. It occurs right across society, regardless of age, gender, race, ethnic or religious group, sexual orientation, wealth, disability or geography.

### **Human trafficking**

Human trafficking involves the acquisition and movement of people by improper means, such as force, threat or deception, for the purposes of exploiting them. It can take many forms, such as domestic servitude, forced criminality, forced labour, sexual exploitation and organ harvesting. Victims of human trafficking can come from all walks of life; they can be male or female, children or adults, and they may come from migrant or indigenous communities.

### **Hate crime**

Hate crime is any incident which constitutes a criminal offence perceived by the victim or any other person as being motivated by prejudice, discrimination or hate towards a person's actual or perceived race, religious belief, sexual orientation, disability, political opinion or gender identity. Victims of domestic violence and abuse, sexual violence and abuse, human trafficking and hate crime are regarded as adults in need of protection. There are specific strategies and mechanisms in

place designed to meet the particular care and protection needs of these adults and to promote access to justice through the criminal justice system. It is essential that there is an interface between these existing justice-led mechanisms and the HSC Trust adult protection arrangements described in this policy.

**HSC Trust contact details**

| <b>HSC Trust</b> | <b>Adult Safeguarding Number</b> |
|------------------|----------------------------------|
| Belfast          | 028 9504 1744                    |
| Northern         | 028 2563 5512                    |
| Western          | 028 7161 1366                    |
| South Eastern    | 028 9250 1227                    |
| Southern         | 028 3741 2015/2354               |

**Regional Emergency Social Work Service (RESWS)**

Tel: 028 9504 9999 (Mon-Fri 5pm-9am; Saturday & Sunday)

**HSC Trust Child Protection Contact Details**

| <b>HSC Trust</b> | <b>Child Protection Gateway Number</b> |
|------------------|--|
| Belfast          | 028 9050 7000                          |
| Northern         | 0300 1234 333                          |
| Western          | 028 7131 4090                          |
| South Eastern    | 0300 1000 300                          |
| Southern         | 0800 7837 745                          |

PSNI Contact Details

|  |   |
|--|---|
| Immediate report to if there is imminent danger to a person. | PSNI via 999  |
| PSNI Central Referral Unit (CRU)<br><br>CRU Hours            | Contact Number 02890259299<br><br>Mon-Fri 8am-9pm; Sat & Sun<br>9am-5pm |
| At all other times   | 101   |

Completed AJP1 form should be emailed via CJSM secure email system to:

**CRU@psni.**

**pnn.police.uk.cjasm.net**

In historical child abuse cases, completed PJ11 form should be emailed via CJSM secure email to:

**CRU@psni.pnn.police.uk.cjasm.net**

### **Public Prosecution Service (PPS) – The Test for Prosecution**

The Code for Prosecutors provides guidance on how the Public Prosecution Service makes decisions about whether or not to prosecute. It is a public document and is available upon request or can be found on the PPS website at [www.ppsni.gov.uk](http://www.ppsni.gov.uk).

Prosecutions are initiated or continued by the Public Prosecution Service only where it is satisfied that the Test for Prosecution is met. This is a two stage test as follows;

- i. The Evidential Test - the evidence which can be adduced in court is sufficient to provide a reasonable prospect of conviction; and
- ii The Public Interest Test - prosecution is required in the public interest.

The Public Prosecutor will analyse and evaluate all of the material submitted in a thorough and critical manner. The Evidential Test must be passed before the Public Interest Test can be considered. Each of these Tests must be separately considered and passed before a decision to prosecute can be taken.

#### **The Evidential Test**

Public Prosecutors determine whether there is sufficient evidence to provide a reasonable prospect of conviction against each defendant on each charge.

A reasonable prospect of conviction exists if, in relation to an identifiable individual, there is credible evidence which can be adduced before a court upon which evidence an impartial jury or judge properly directed in accordance with the law, may reasonably be expected to find proved beyond reasonable doubt the commission of a criminal offence by the person who is prosecuted. It is necessary that each element of this definition is fully examined when considering the Evidential Test for each particular case.

The police will gather all available evidence and report the case to the PPS. The Public Prosecutor will consider the evidence carefully and make a decision as quickly as possible. If necessary the Public Prosecutor may have to seek further information from police to enable a decision to be made. The PPS will also try to ensure that cases progress through the court without unnecessary delay.

#### **The Public Interest Test**

If a case passes the Evidential Test, the Public Prosecutor must decide if a prosecution is required in the public interest.

Prosecutors must exercise their discretion as to whether a prosecution is required in the public interest. The granting of such discretion to the prosecutor is consistent with the prosecution process in similar legal jurisdictions. In taking decisions as to prosecution the prosecutor is taking decisions for the benefit to society as a whole.

Broadly, the presumption is that the public interest requires prosecution where there has been a contravention of the criminal law. This presumption provides the starting point for consideration in each individual case. A prosecution will usually take place unless there are public interest factors tending against prosecution which clearly outweigh those tending in favour. However, there are circumstances in which, although the evidence is sufficient to provide a reasonable prospect of conviction, a court based outcome is not required in the public interest. For example, Public Prosecutors should positively consider the appropriateness of prosecuting by way of a diversionary disposal, particularly where the defendant is a young person or a vulnerable adult.

In deciding whether a prosecution is required in the public interest, prosecutors should take into account the views expressed by the victim and the impact of the offence on a victim and, in appropriate cases, their family, where such views are available. However PPS does not represent victims or their families in the same way as solicitors act for their clients. It is the duty of Public Prosecutors to form an overall view of the public interest.

**RQIA Contact details**

The Regulation and Quality Improvement Authority  
9th Floor Riverside Tower  
5 Lanyon Place  
BELFAST BT1 3BT  
info@rqia.org.uk  
028 9051 7500 - telephone  
028 9051 7501 – fax

The Regulation and Quality Improvement Authority  
Hilltop  
Tyrone and Fermanagh Hospital  
Omagh  
Co Tyrone BT79 0NS  
028 8224 5828 - telephone  
028 8225 2544 - fax

**List of Regulations Relating To Regulated Services**

Potential Articles relating to RQIA Enforcement Procedures for Regulated Services:

- Improvement Notice - *Article 39 of the 2003 Order*
- Failure to Comply Notice – *Article 15 of the 2003 Order*
- Notice of Proposal to Cancel, Refuse, Vary, and Remove or Impose Conditions in Relation to Registration – *Article 18 of the 2003 Order*
- Issuing of a Notice of Decision – under *Articles 18 & 20 of the 2003 Order*
- Urgent Procedure for Cancellation of Registration or to Vary, Remove or Impose a Condition of Registration – *Article 21 of the 2003 Order*
- Appeals to the Care Tribunal – *outlined under Article 22 of the 2003 Order*

The Residential Care Homes Regulations (Northern Ireland) 2005  
The Children's Homes Regulations (Northern Ireland) 2005  
The Nursing Homes Regulations (Northern Ireland) 2005  
The Nursing Agencies Regulations (Northern Ireland) 2005  
The Independent Health Care Regulations (Northern Ireland) 2005  
The Day Care Setting Regulations (Northern Ireland) 2007  
The Residential Family Centres Regulations (Northern Ireland) 2007  
The Domiciliary Care Agencies Regulations (Northern Ireland) 2007  
The Adult Placement Agencies Regulations (Northern Ireland) 2007  
The Voluntary Adoption Agencies Regulations (Northern Ireland) 2010

**Definitions of Harm and Serious Harm and factors to be considered in the assessment of the seriousness of harm and risk of harm**

**What is meant by harm?**

Adult Safeguarding – Prevention and Protection in Partnership 2015 notes that harm resulting from abuse, exploitation or neglect can be experienced by adults in a range of circumstances, regardless of age, class or ethnicity. Harm is the impact on the victim of abuse, exploitation or neglect. It is the result of any action whether by commission or omission, deliberate or as the result of a lack of knowledge or awareness, which may result in the impairment of physical, intellectual, emotional, or mental health and well-being. This includes:

- (i) **Conduct which causes physical harm**, i.e. physical mistreatment of one person by another which may or may not result in physical injury. This may include, among other things, hitting; slapping; pushing or pulling; kicking; rough handling; shaking; exposure to heat and cold; not giving adequate food or drink; force-feeding; unreasonable confinement (e.g. locked in, tied to a bed or chair); the improper administration of drugs or treatments or the denial of prescribed medication; misuse of medication; misuse or illegal use of restraint, or physical interventions and/or deprivation of liberty; misuse of manual handling techniques; or inappropriate sanctions (e.g. controlling access to personal resources or withholding basic necessities of life such as food and drink).
  
- (ii) **Conduct which causes sexual harm**, i.e. the involvement of a person in sexual activities or relationships that either he or she does not want and has not consented to or cannot consent to. This may include, among other things, use of offensive, suggestive or sexual language; indecent exposure; inappropriate touching; not allowing expression of sexuality; withholding appropriate educational information; sexual harassment; sexual assault; rape; 'grooming'; 'stalking'; or human trafficking.
  
- (iii) **Conduct which causes psychological harm**, i.e. behaviour that is psychologically harmful or inflicting mental distress by threat, humiliation or other verbal/non-verbal conduct. This may include, among other things, threats of harm or abandonment; withholding of security, affection, care or support; deprivation of contact; provoking fear of violence; threat of institutional care; humiliation or ridicule; denial of the opportunity for privacy; shouting, yelling and swearing; blaming; controlling; intimidation; coercion; harassment; isolation or withdrawal from services supportive networks or cyber bullying/threats

(iv) **Conduct which causes financial, property or material harm**, i.e. misappropriation or misuse of money, material goods or other assets; transactions to which the person did not consent to, could not consent to, or which were invalidated by intimidation or deception. This may include, among other things, theft; fraud; exploitation; embezzlement; withholding pension; not spending allowances on the individual; denying the person access to his or her money; misuse of benefits; mismanagement of bank accounts; pressure in connection with wills, property, inheritance or financial transactions; unreasonable restriction of a person's right to control his or her life in financial/material terms.

(v) **Neglect** is the deliberate withholding, or failure through a lack of knowledge or awareness, to provide appropriate and adequate care and support, which is necessary for the adult to carry out daily living activities. It may include, among other things, the physical neglect of someone to such an extent that health, development and/or well-being is impaired; administering too much or too little medication; failure to provide access to appropriate health, social care or educational services; withholding the provision of the necessities of life such as adequate nutrition, heating or clothing; failure to intervene in situations that are assessed as being dangerous to the person concerned or to others, particularly when the person lacks the capacity to assess risk.

(vi) **Institutional harm**, which can occur in care settings and services as a result of poor standards, practices and behaviours, inflexible regimes and rigid routines, that place adults at risk and which violate their human rights. It involves the collective failure of an organisation to provide safe and appropriate services, and includes a failure to ensure that the necessary preventive and/or protective measures are in place; failure to maintain good standards of care in accordance with individual needs; failure to properly train, manage and supervise staff; poor record keeping; an inability or unwillingness to implement best practice guidelines; poor liaison with other providers of care; a culture that denies, restricts or curtails the dignity, privacy, choice, independence or fulfilment of adults at risk.

Generally, harm falls into one or more of the six categories listed above. However, it is important to recognise its manifestation in other ways, including

(i) **Domestic violence and abuse** is essentially a pattern of behaviour which is characterised by the exercise of control and the misuse of power by one person over another within an intimate relationship or a family. It is usually frequent and persistent. It can include violence by a son, daughter or any other person who has a close or blood relationship with the victim. It can occur right across society and is not bound by age, gender, race, ethnic or religious group, sexual orientation, wealth, disability or geography. **Forced marriage** of an adult, who may be unwilling or lack the capacity to agree to getting married is an abuse of human rights and is a form of domestic abuse, and should be treated as such. A clear distinction must be made between a forced marriage and an arranged marriage.

In arranged marriages, the families of both spouses take a leading role in arranging the marriage but the choice whether or not to accept the arrangements remains with the adult or young person. In forced marriage one or both spouses do not consent to the marriage and some element of duress is involved. Duress may include conduct which causes physical and or emotional harm. **Honour-based violence or honour crime** are also forms of domestic abuse and encompass a variety of crimes of violence (mainly but not exclusively against women), including assault, imprisonment and murder, where the person is being punished by their family or their community for actually, or allegedly, undermining what the family or community believes to be the correct code of behaviour.

(ii) **Hate crime** is any incident which constitutes a criminal offence, perceived by the victim or any other person as being motivated by prejudice or hate towards a person's actual or perceived race; faith or religion; sexual orientation; disability; political opinion or gender identity. The legislative provisions underpinning hate crime offences and penalties in Northern Ireland are set out in the Public Order (Northern Ireland) Order 1987 and the Criminal Justice (No2) (Northern Ireland) Order 2004.

(iii) **Human trafficking** involves the recruitment, transportation, transfer, harbouring or receipt of persons, by means of threat or use of force or other forms of coercion, abduction, fraud, of deception, of the abuse of power or of a position of vulnerability, or of the giving or receiving of payments or benefits to achieve the consent of a person, or have control over another person for the purpose of exploitation. There are many forms of exploitation, including prostitution or other types of sexual exploitation, forced labour, slavery, domestic servitude or the removal of organs. Human trafficking should be differentiated from 'people smuggling' which is normally defined as the facilitation of entry to the UK either secretly or by deception (whether for profit or otherwise). The immigrants concerned are normally complicit in the offence so that they can remain in the UK illegally. There is normally little coercion/violence involved or required from those assisting in the smuggling.

(iv) **Harm through discrimination** may manifest itself as any of the other categories of harm previously set out. What is distinctive, however, is that it is motivated by oppressive and discriminatory attitudes towards a person's disability; mental disorder; physical and/or mental infirmity; race; gender; age; religious belief; political opinion; cultural background; appearance; marital status; sexual orientation; whether or not he/she is a carer; or any other aspect of a person's individuality.

(v) **Harm by a professional/staff member** is the misuse of power and abuse of trust by professionals/staff members; the failure to adhere to best practice guidelines and professional codes of conduct/practice; the failure of professionals/staff members to act on suspected abuse/crimes, poor care practice

or neglect in services, resource shortfalls or service pressures that lead to service failure and culpability as a result of poor management systems.

The examples listed in each of the categories above are not exhaustive nor should they be taken as definitive proof that harm has taken place. There may be other indicators which should not be ignored. Also, some indicators may point to more than one form of harm; often if a person is being harmed in one way, he or she is being harmed in other ways. Any suggestion that all is not well should be seen as an indicator of possible harm of one form or another. It is important that any safeguarding concern is acted upon to ensure that the appropriate preventive or protective response is made.

All harm caused to adults in need of protection adult should be responded to in the context of safeguarding. It is recognised that the level of response needs to be sensitive and proportionate to the specific harm caused.

### **Factors to be considered in the assessment of the seriousness of harm and risk of potential harm**

Consideration of the seriousness of harm and risk are central to determining which response is the most appropriate and key to establishing whether the threshold for a protective investigation/intervention has been met.

The criteria of what constitutes serious harm is imprecise and demands a careful application of professional judgment along with consideration of the available evidence, concerns raised, degree of risk and other matters relating to the individual and his or her context. Sometimes, a single traumatic event may constitute serious harm, e.g. a violent assault, sexual assault, suffocation or poisoning. More often, it is a series of events, both acute and long-standing, which interrupt, change or damage the individual's physical and/or psychological well-being. Also, it is important to note that harm does not need to be deliberate, that is, intent does not always have to be present to elevate harm to a level of seriousness, which might trigger a protective investigation/intervention. Any assessment of seriousness and risk should include

- (a) the impact on the adult at risk, e.g. what is the degree of distress experienced; how resilient is the individual and his/her support networks;
- (b) the reactions, perceptions, wishes and feelings of the adult at risk, e.g. how has the person responded; is he/she: shocked/resigned/cowed; aware of the harm caused;
- (c) the frailty or vulnerability of the adult at risk, e.g. any special needs, such as a medical condition, communication impairment or disability that may affect care and support within the family;
- (d) the ability of the adult at risk to consent, e.g. does he or she understand the nature of the concerns raised and the choices he or she faces;
- (e) the illegality of the act or acts, e.g. has a criminal offence taken place;

- (f) the nature, degree and extent of the harm, e.g. has it caused injury to the person's physical, sexual, psychological or financial wellbeing or property;
- (g) the pattern of the harm causing behaviour, e.g. its intensity and frequency; one-off event or part of a long-standing pattern; have there been previous concerns (consider this in the widest sense, i.e. not just previous safeguarding referrals, but also whether the adult at risk has been a victim of anti-social behaviour, etc.);
- (h) the level of threat to the individual's right to independence, e.g. the extent of support the person usually needs, and whether, and how much of, that support is normally provided by the alleged perpetrator;
- (i) the intent of the person alleged to have caused the harm and extent of premeditation, and the presence or degree of threat, coercion, sadism, and bizarre or unusual elements, e.g. was this a deliberate act or a lack of awareness; was it a serious unprofessional response to difficulties in care giving; what is the attitude of the person alleged to have caused the harm now regarding the incident;
- (j) the relationship between the person alleged to have caused the harm and the adult at risk, e.g. a balanced consideration of any positive benefits which the person may get from the relationship with the person alleged to have caused the harm/abusive situation;
- (k) the context in which the alleged harm takes place, e.g. in a relationship; at home or in a care setting; in the context of a duty of care or trust that has been breached;
- (l) the risk of repetition or escalation of harm involving increasingly serious acts relating to this individual or other adults at risk, to children under the age of 18 who may be at risk, or to the wider public, e.g. is there a risk that serious harm could result if no action is taken; is immediate protective action required; and
- (m) the factors which mitigate the risk (protective factors), e.g. support services in place; awareness of what constitutes harm; awareness of how to raise concerns/seek help.

Consideration should also have to be given to the vulnerability of the person alleged to have caused the harm, e.g. are they an adult in need of protection or a child under the age of 18? If so, what actions are needed to support and safeguard them? Making a judgement here may mean having regard to some or all of the factors listed to inform the appropriate course of action.

The list of factors set out above is not exhaustive, and does not imply a hierarchy of importance; their analysis may point to a particular kind of response. In this context, it will also be necessary to:

- evaluate the reliability of the evidence upon which an assessment is made;
- consider any disparity between the strength of conviction of the person reporting the safeguarding concern (e.g. what was the basis of his/her concern or purpose in raising it), and the outcome of the assessment; and
- determine the need for further information gathering.

The safeguarding response made, however, should not undermine the risks identified and the outcomes sought.

**Where an adult in need of protection has the ability to consent, appears to be able to make informed choices and is not being unduly intimidated, the available options should be explored with him/her and his/her wishes respected, unless these conflict with a statutory duty to intervene, or unless another person(s) is considered to be at risk.**

## **Human Rights, Consent and Capacity, The European Convention for the Protection of Human Rights and Fundamental Freedoms (Human Rights Act 1998)**

### **Human Rights - Consent & Capacity**

The Human Rights Act 1998 has been fully effective from 2nd October 2000. It incorporates the European Convention for the Protection of Human Rights and Fundamental Freedoms into United Kingdom Domestic Law. This makes it unlawful for public authorities to act in a manner which is incompatible with the rights and freedoms guaranteed by the Convention sets out the main Convention Rights enshrined in the 1998 Act.

Decisions taken not to comply with the wishes of the adults in need of protection adult/adult at risk may constitute a breach of Human Rights legislation. Where consideration is being given not to comply with the wishes of the adults in need of protection adult/adult at risk, the decision taken must be lawful, proportionate and in keeping with what is in the public interest.

Public authorities can interfere with an individual's rights providing it is lawful, proportionate and necessary in a democratic society.

**Lawful** means 'prescribed by law' and the legal basis for any restriction on rights and freedoms must be established and identified Reporting a relevant offence as defined in the Criminal Law Northern Ireland Order 1967, is not only lawful but a legal requirement on public authorities.

**Proportionate** means that the proposed action is viewed by any reasonable person as fair, necessary and the least restrictive in order to benefit the individual.

**Necessary in a Democratic Society** means

- (1) Does it fulfil a pressing social need?
- (2) Does it pursue a legitimate aim? And
- (3) is the proposed action in the public interest taking into consideration whether other Adults at risk or children may be at risk of harm?

### **The Decision Making Process**

In applying the key principles of lawfulness, proportionality and whether it is necessary in a democratic society, a public authority representative must ask the following questions:

- Is there a legal basis for my actions?

- Is it proportionate and necessary in a democratic society?
- Is the procedure involved in the decision-making process fair and does it contain safeguards against abuse?
- Was there an alternative and less restrictive course of action available? (The intervention should be strictly limited to what is required to achieve the objective).
- Is the restriction required for legitimate purposes?
- If I fail to interfere with this individual's rights could there be a more serious outcome in not affording the individual adequate protection in fulfilment of their human rights

Decisions to interfere with an individual's rights may be subject to scrutiny by the Courts. However, if public authorities can show that they applied the relevant Human Rights principles when making their decision, they are less likely to be over-ruled. It is very important to keep notes and decisions should be recorded in full.

### **Consent**

The wishes of the adult in need of protection are of paramount importance in all cases of alleged or suspected abuse. Where a crime is suspected the issue of possible PSNI involvement should be discussed with the adult in need of protection.

The consent of the adult in need of protection for contact with the PSNI should be sought as a first step and details of whether this relates to a referral to PSNI or a Joint Agency consultation should be provided.

The adult in need of protection should be provided with as much information as possible to assist them in making an informed decision regarding how they wish the situation to be handled. They should be fully advised by the Trust Investigating Officer of the Joint Protocol process and of their right to have a referral made to the PSNI. Details of all supports available to assist in the JP process should also be provided, i.e. ABE 2012 document.

The adult in need of protection should be advised that agreeing to a joint agency consultation does not in its self-constitute their agreement to a full PSNI investigation. The benefits of a joint agency consultation in terms of information gathering (cross referral to ensure a comprehensive assessment of all available information) should be explained to the adult in need of protection. Their entitlement to full consultation and involvement at each stage in the joint protocol process should also be explained. All staff involved must ensure that this person centred approach is strictly adhered to. The Joint Protocol should make a

significant contribution to ensuring that the individual's human rights are upheld, protected and delivered on.

In the majority of cases where the adult in need of protection is deemed to have capacity, the PSNI will only proceed to a full investigation with the consent of the adult in need of protection. In practice this will mean that the adult in need of protection should be willing to make a complaint to the PSNI. However there are some exceptions to this.

### **Dispensing with Consent**

In exceptional circumstances the DAPO may need to consider overriding the wishes of an adult in need of protection if they do not consent to a joint agency consultation with the PSNI. These include situations where:

1. there is reasonable evidence or information to indicate that a possible relevant offence has been committed and the Trust have a legal obligation to report to the PSNI
2. there is a significant query regarding the individual capacity to make an informed decision and therefore their ability to give or withhold consent is in question. Actions taken must be proportionate to the level of concern and the views of substitute decision makers.
3. information available clearly demonstrates that the individual is subject to undue influence or coercion (must be substantial)
4. there is a significant risk to other adults at risk and/or children
5. the likelihood of further harm is high and there is a substantial opportunity to prevent further crime.

The PSNI also have the authority to investigate alleged or suspected criminal abuse where this is agreed to be in the best interests of the adult in need of protection and or others.

The above list indicates possible situations where the DAPO may need to consider overriding the wishes of an adult in need of protection adult. The list is not exhaustive. Cases will need to be assessed on a case by case basis and requirements in relation to making decisions which are lawful, proportionate and necessary in the public interests are applicable.

### **Acting without Consent in Emergency Situation**

In situations where the adult in need of protection is in imminent danger it may not be possible to discuss with them their wishes and obtaining a valid consent may not be achievable. Trust staff, under these circumstances, should take whatever action they feel is appropriate to protect the adult in need of protection, including seeking medical and/or PSNI intervention.

Where there is no information and/or clarity regarding the wishes of the adult in need of protection and it is safe to do so, consideration should be given to deferring a decision re a joint agency consultation until such time as the adult in need of protection's views and permission can be sought. The DAPO will need to consider this on a case by case basis, mindful that a number of factors will need to be taken into account. Where a decision is taken to consult with the PSNI and the adult in need of protection has not consented to this, a detailed rationale for this decision should be recorded.

### **Capacity**

There should be no assumptions made regarding an individual's capacity or incapacity and in the first instance unless there is contrary information, every individual should be viewed as having the capacity to make decisions about their own situation. However, if an issue is raised in relation to any individual's cognitive ability to make an informed decision about their safety, a capacity assessment should be sought.

Capacity assessments should be carried out by an appropriately trained professional. In cases where the adults in need of protection is already known to specialist services the professional involved may be able to provide an informed opinion in relation to the individual's capacity.

Capacity assessments/reassessment should determine:

- a. the extent to which the adults in need of protection adult/adult at risk is able to make informed decisions about their safety and protection
- b. whether the adults in need of protection adult/adult at risk is able to make a complaint to the PSNI and/or give legal instruction
- c. whether the adults in need of protection adult/adult at risk has the capacity to be interviewed by the PSNI
- d. the needs of the adults in need of protection adult/adult at risk.

It is important to note that any and all information provided by an adult in need of protection adult is relevant and should be considered in a safeguarding context

# THE EUROPEAN CONVENTION FOR THE PROTECTION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS

## The Human Rights Act 1998

### Main Convention Rights

- Article 2 -** Right to life
- Article 3 -** Prohibition of torture
- Article 4 -** Prohibition of slavery and forced labour
- Article 5 -** Right to liberty and security of person
- Article 6 -** Right to a fair trial
- Article 7 -** No punishment without law
- Article 8 -** Right to respect for private and family life
- Article 9 -** Freedom of thought, conscience and religion
- Article 10-** Freedom of expression
- Article 11-** Freedom of assembly and association
- Article 12-** Right to marry
- Article 14-** Prohibition of abuse of rights
- Article 16-** Restrictions on political activity of aliens
- Article 17-** Prohibition of abuse of rights
- Article 18-** Limitation of use of restriction of rights
  
- Article 1, 1<sup>st</sup> protocol** Protection of property
- Article 2, 1<sup>st</sup> protocol** Right to education
- Article 3, 1<sup>st</sup> protocol** Right to free elections
- Article 1, 6<sup>th</sup> protocol** Abolition of the death penalty

### **Section 5 Criminal Law (Northern Ireland) Act 1967**

A crime is a breach of the criminal law which is contained in statute or common law. Not all harm, abuse or exploitation of an adult in need of protection constitutes a possible crime.

However where an adult in need of protection and/or a relative or other professional (if the individual lacks capacity) makes a decision to access the Criminal Justice system, HSC Trusts in keeping with the principles of the Joint Protocol will support and assist in this process.

In cases of ill-treatment or wilful neglect by a staff member Article 121 of the Mental Health Order may need to be considered to determine if a possible offence has been committed.

#### **The Criminal Law Act (NI) 1967**

Section 5 of the Criminal Law Act (NI) 1967 states that where a person has committed a relevant offence, it shall be the duty of every other person, who knows or believes:-

- (a) that the offence or some other **relevant offence** has been committed; and
- (b) that he has information which is likely to secure, or to be of material assistance in securing, the apprehension, prosecution or conviction of any person for that offence,

to give that information, within a reasonable time, to a constable and if, without reasonable excuse, he fails to do so he shall be guilty of an offence and shall be liable on conviction on indictment to imprisonment according to the gravity of the offence about which he does not give that information, as follows:-

- (i) if that offence is one for which the court is required by law to sentence an offender to death or to imprisonment for life or to detention during the pleasure of the Governor of Northern Ireland, he shall be liable to imprisonment for not more than ten years [or a fine or both];
- (ii) if it is one for which a person (of full age and capacity and not previously convicted) may be sentenced to imprisonment for a term of fourteen years, he shall be liable to imprisonment for not more than seven years [or a fine or both];
- (iii) if it is not one included above but is one for which a person (of full age and capacity and not previously convicted) may be sentenced to imprisonment for a term of ten years, he shall be liable to imprisonment for not more than five years [or a fine or both];

(iv) in any other case, he shall be liable to imprisonment for not more than three years [or a fine or both].

(2) It shall not be an offence under this section for the person suffering loss or injury by reason of the commission of the offence (in this section referred to as “the injured person”) or some other person acting on his behalf not to disclose information upon that loss or injury being made good to the injured person or upon the injured person being reasonably recompensed therefore so long as no further or other consideration is received for or on account of such non-disclosure.

**Relevant offence** is defined in Section 4(1A) of the Act:

4(1A) In this section and section 5, “*relevant offence*” means—

- (a) an offence for which the sentence is fixed by law,
- (b) an offence for which a person of 21 years or over (not previously convicted) may be sentenced to imprisonment for a term of five years (or might be so sentenced but for the restrictions imposed by Article 46(4) of the Magistrates’ Courts (Northern Ireland) Order 1981),

but in section 5(1) “relevant offence” does not include an offence under Article 20 of the Sexual Offences (Northern Ireland) Order 2008 (Article 20 of the Sexual Offences (NI) Order 2008 relates to certain sexual offences committed by persons under 18 years of age)

Basically this includes any offence for which a person may be sentenced to 5 years or more in prison.

Examples of some offences which attract a sentence of 5 years or more imprisonment would include;

#### **Offences against the person**

- Murder
- Attempted murder
- Grievous bodily harm with intent
- Grievous bodily harm
- Assault occasioning actual bodily harm
- Threats to kill

#### **Sexual offences**

- Rape
- Attempted rape
- Assault by penetration
- Sexual assault
- Causing or inciting a person to engage in sexual activity without consent

- Sexual activity with a person with a mental disorder impeding choice
- Engaging in sexual activity in the presence of a person with a mental disorder impeding choice
- Causing a person with a mental disorder to engage or agree to engage in sexual activity by inducement, threats or deception

### **Dishonesty offences**

- Theft
- Attempted theft
- Burglary with intent to steal
- Burglary with intent to cause criminal damage
- Fraud
- Conspiracy to defraud

In relation to dishonesty offences section 5(2) would be relevant i.e. -

“It shall not be an offence under this section for the person suffering loss or injury by reason of the commission of the offence (in this section referred to as “the injured person”) or some other person acting on his behalf not to disclose information upon that loss or injury being made good to the injured person or upon the injured person being reasonably recompensed therefore so long as no further or other consideration is received for or on account of such non-disclosure”.

**Article 121 of the Mental Health NI Order (1986)**

***Ill-treatment of patients***

**121.** (1) Any person who, being an officer on the staff of or otherwise employed in a hospital, private hospital or nursing home or being a member of the [F1 Board or a director of the [F2HSC trust] managing] a hospital, or a person carrying on a private hospital or nursing home—

(a) ill-treats or wilfully neglects a patient for the time being receiving treatment for mental disorder as an in-patient in that hospital or nursing home; or

(b) ill-treats or wilfully neglects, on the premises of which the hospital or nursing home forms part, a patient for the time being receiving such treatment there as an out-patient, shall be guilty of an offence.

(2) Any individual who ill-treats or wilfully neglects a patient who is for the time being subject to his guardianship under this Order or otherwise in his custody or care (whether by virtue of any legal or moral obligation or otherwise) shall be guilty of an offence.

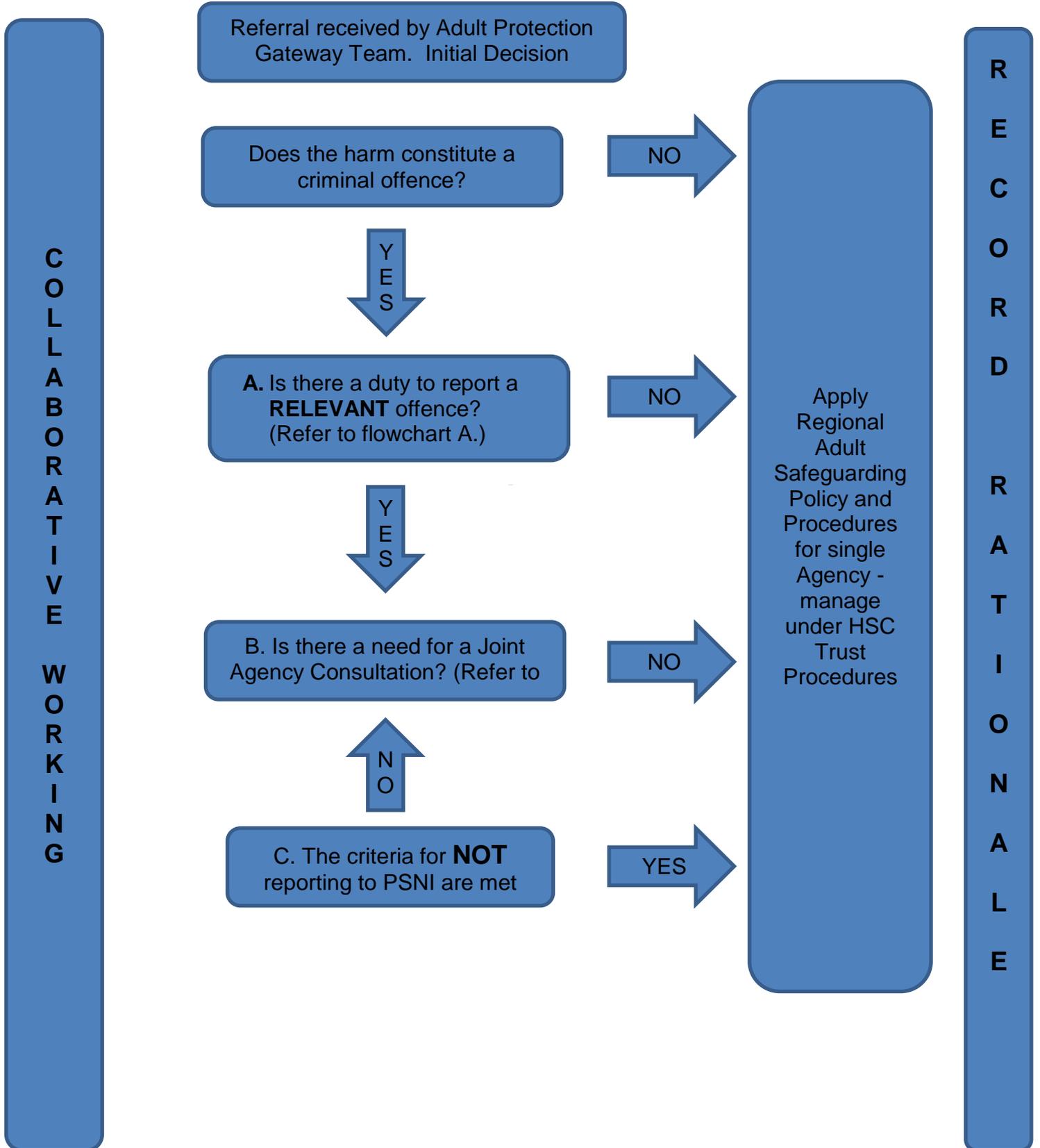
(3) Any person guilty of an offence under this Article shall be liable—

(a) on summary conviction, to imprisonment for a term not exceeding six months or to a fine not exceeding the statutory maximum, or to both;

(b) on conviction on indictment, to imprisonment for a term not exceeding two years, or to a fine of any amount, or to both.

**Appendix 10**

**HSC Trust Flowchart for decision making and referral to PSNI CRU**



**A. Relevant crime and/or reportable crime referred to PSNI CRU for consideration of Joint Agency investigation**

An adult in need of protection is in **imminent danger** and there is a need for an immediate report to PSNI CRU

**OR**

Where there has been an incident which may constitute a **relevant offence** under Section 5 of the Criminal Law Act (NI) 1967 (*Appendix 7*)

**OR**

Referral information clearly states the adult in need of protection **wishes** or has consented to PSNI involvement (*Appendix 8 Human Rights*)

**OR**

If the referral information clearly states that the adult in need of protection lacks capacity to give informed consent to PSNI involvement and **the next of kin and/or professionals involved take the view that PSNI involvement is required.**

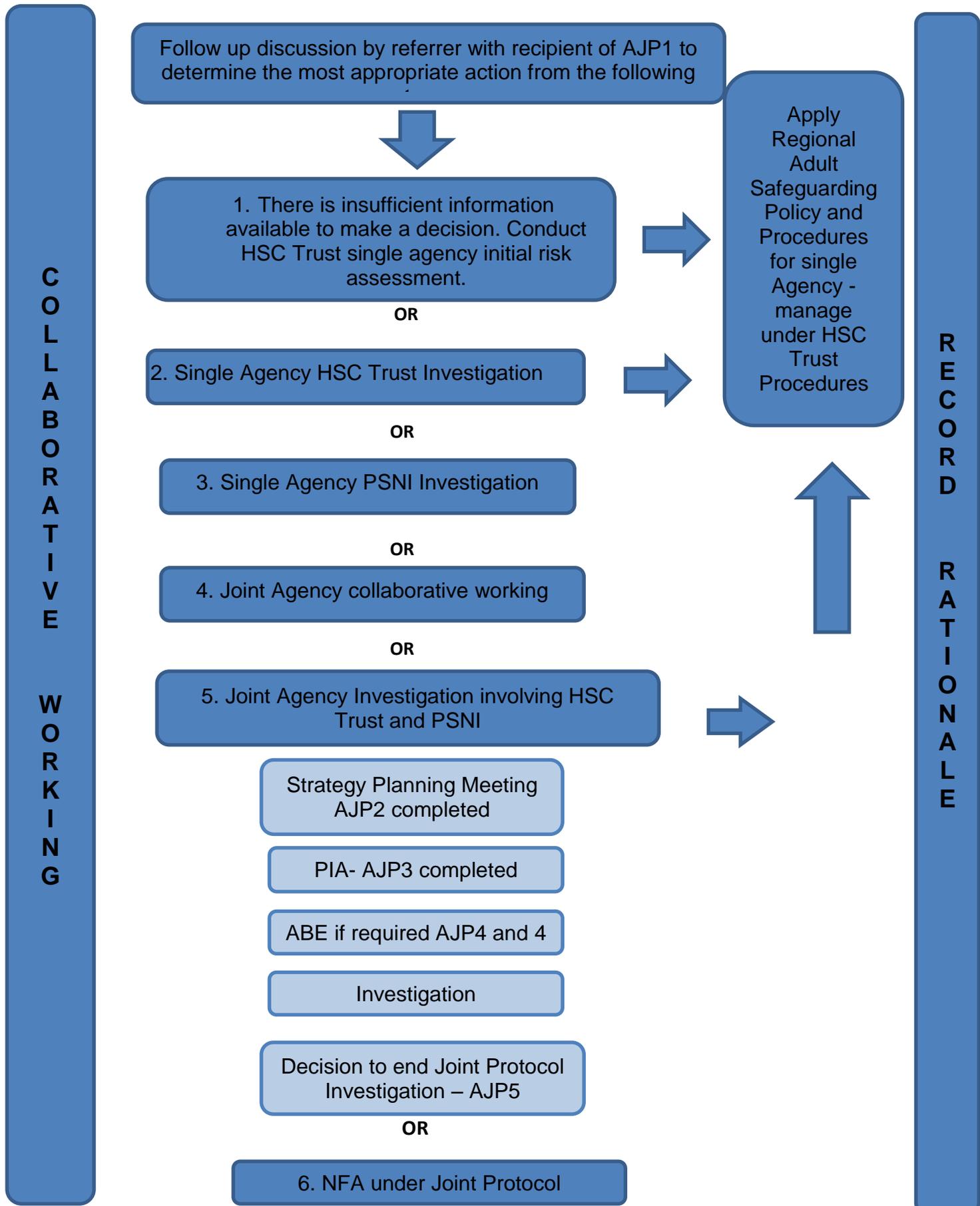
Relevant offences include

- Sexual offences
- Domestic abuse incidents which constitute a criminal offence
- Financial abuse incidents
- Human Trafficking
- All cases where alleged offender is a paid employee / volunteer or in a position of trust
- Institutional abuse
- Historical abuse

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## B. Joint Agency Consultation with PSNI CRU and HSC Trust

- AJP1 completed and forwarded to CRU via CJSM



## C. Criteria for **NOT** reporting to PSNI

DAPO must as a minimum demonstrate consideration of the following:

The adult in need of protection has capacity to make an informed decision and does not want to make a complaint to PSNI. Full consideration will need to be given to all elements of consent, capacity and human rights. including issues of undue influence and possible

**AND**

The Trust is not required by law to make a referral to PSNI (if the incident does not meet the threshold of **relevant offence** under section 5 of the Criminal Law Act (NI) 1967 (*Appendix 7* Definition of Relevant Offence)

**AND**

It is a minor incident. A comprehensive assessment of all the factors **MUST** be completed to evidence a through risk assessment of these cases. This will include consideration of whether repeat incidents have occurred and/or whether other adults at risk or children have been or are likely to be at risk of harm (*Appendix 10 Factors to be considered in the assessment of the seriousness of Harm and Risk of Harm*)

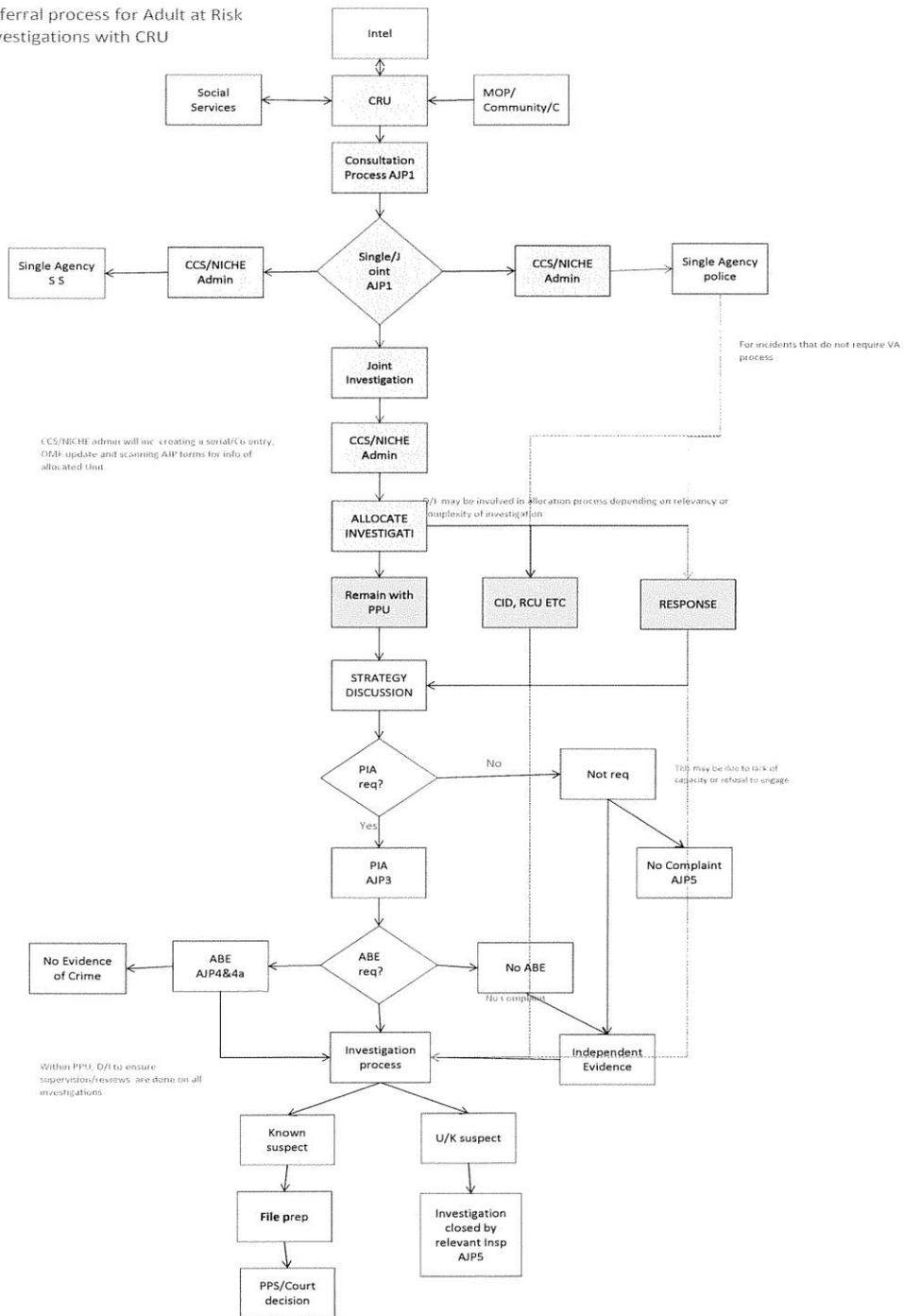
**AND**

The situation is being managed through an Adult Safeguarding process and/or there are other protective measures in place

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Referral Process for Adult at Risk Investigations with CRU

Referral process for Adult at Risk investigations with CRU



**Regulation and Quality Improvement Authority**

**Adult Safeguarding Processes**

Where there is a breach of regulations RQIA have the statutory authority to issue requirements in relation to a Quality Improvement Plan, Enforcement Orders or to de-register facilities depending on nature and seriousness of the concern.

In all regulated facilities where an alleged or suspected criminal offence has occurred, RQIA should ensure that this is reported to the relevant HSC Trust Gateway Team/ DAPO and PSNI/nominated officer within Public Protection Unit. Where an incident relates to a regulated service RQIA will attend adult protection strategy meetings and case discussions to contribute to joint agency information sharing and joint agency action planning.

HSC Trusts should also ensure that RQIA are notified of these incidents (**Appendix 6 RQIA contact details**). Where an incident occurs outside normal working hours, it is the responsibility of the Registered Manager or Senior Manager on duty to contact the Regional Out of Hours Service and if applicable the PSNI. If reports are made directly to PSNI from regulated facilities, the PSNI should contact the Regional HSC Regional Emergency Social Work Service.

**Registered Intermediaries**

The Criminal Evidence (NI) Order 1999 provides for a number of special measures, such as video recorded evidence-in-chief and giving evidence by live link, to assist vulnerable and intimidated witnesses (both for the prosecution and the defence) give their best possible evidence in criminal proceedings.

Article 17 of the 1999 Order provides for the examination of a witness through an intermediary.

Article 21BA of the 1999 Order, as inserted by section 12 of the Justice Act (NI) 2011, provides for the examination of a vulnerable defendant when they are giving oral evidence.

The creation of the Registered Intermediary (RI) role represents a statutory recognition that adults in need of protection witnesses and defendants with communication needs may require help and facilitation with giving evidence. RIs have a range of responsibilities intended to help adults in need of protection witnesses, defendants and criminal justice practitioners at every stage of the criminal process, from investigation to trial.

It is the responsibility of the DOJ- PPU, PSNI, and PPS, to request an assessment from a Registered Intermediary.

RI's come from a number of professional backgrounds. It is a highly specialised role and requires expertise in dealing with the communication needs of individuals with the following types of conditions

- Aphasia/Dysphasia
- Autistic Spectrum Disorder
- Brain and/or Head Injury
- Deafness/hearing Impairment
- Dementia
- Dysarthria/Dyspraxia
- Fluency Difficulties
- Language Delay/Disorder
- Learning disability
- Mental health Issues
- Neurological and other Progressive Disorders
- Phonological Delay/Disorder
- Physical Disability
- Selective/Elective Mutism
- Voice Disorders (including laryngectomy)

The above list is intended to be illustrative rather than exhaustive and whether someone should be provided with RI assistance will need to be determined on a case-by-case basis, based on the particular needs of the individual witness or defendant. It is also important to note that not all witnesses or defendants with the conditions listed above will necessarily require assistance, if their disability does not affect their ability to communicate effectively.

For police interviews, the RIs duty is to assess and facilitate effective communication and understanding between the police and the witness or defendant. In terms of the court stage, the RIs duty is to the court. RIs are there to ensure the court has access to the best possible evidence and that this can be properly examined so that justice can be done.

#### How the RI role is exercised

An RI will carry out an assessment of a witness or defendant's communication abilities and needs. In this assessment the RI will

- Evaluate the abilities and needs of the witness/defendant, including whether they have the ability to communicate their evidence during a police interview and at court;
- Ascertain if the witness/defendant needs an RI;
- Consider if the witness/defendant would be able to give evidence at all, even with the assistance of an RI;
- Indicate whether, in the absence of an intermediary, the quality of a witness's evidence would be diminished or a defendant would not receive a fair trial; and
- Make recommendations as to special measures to enable the best communication with and evidence from, the witness.

An RI also directly assists in the communication process – helping a witness or defendant understand the questions during an investigative interview or testimony at the trial and helping them communicate their answers. Effective means of communication may include speech, symbols, communication aids, drawing and writing.

## **AJP Forms**

- AJP1** Referral Information
- AJP2** Record of Joint Agency Strategy Decision Making and Investigation Planning
- AJP2 (a)** Amendments to Strategy For Investigation
- AJP3** Pre- Interview Assessment (PIA)
- AJP4** Planning the Joint Investigation Interview (ABE)
- AJP4 (a)** Joint Protocol ABE Interview
- AJP5** Decision to End Joint Protocol Investigation

In addition PJI1 form to be used in relation to adults at risk when disclosures of historical abuse have been made. There is a requirement to clearly state whether this needs to be addressed under Adult Safeguarding Joint Protocol procedures

- PJI1** Referrals to PSNI of Historical Child Abuse

# AJP1

## JOINT PROTOCOL – ADULT PROTECTION

### Referral Information

PSNI Reference Number: \_\_\_\_\_

Date of Referral: \_\_\_\_\_

Referred To: \_\_\_\_\_

Designation: \_\_\_\_\_

Referred By: \_\_\_\_\_

Designation: \_\_\_\_\_

Referrer's Address: \_\_\_\_\_

Referrer's Telephone Number: \_\_\_\_\_

Referrer's Email: \_\_\_\_\_

### **SECTION ONE** (Please ensure Sections 1 & 2 are fully completed by referrer)

| DETAILS OF ALLEGED VICTIM  |                                   |   |
|--|-----------------------------------|---|
| Name:  | Date of birth or approximate age: | Gender: Male <input type="checkbox"/> Female <input type="checkbox"/> |
| Address and Postcode:  | Contact No:                       | Programme of care if known:   |
|  |                                   | Information system no:  |
| Present Location: (if different from above)                                |                                   |   |
| Incident Location:   |                                   |   |
| Nature of vulnerability: (please tick all relevant boxes)                  |                                   |   |
| <input type="checkbox"/> Frail Older Person                                |                                   |   |
| <input type="checkbox"/> People experiencing dementia or memory impairment |                                   |   |
| <input type="checkbox"/> Learning Disability                               |                                   |   |
| <input type="checkbox"/> Physical/Sensory Disability                       |                                   |   |
| <input type="checkbox"/> Mental Health Difficulties                        |                                   |   |
| <input type="checkbox"/> Other (give details) _____                        |                                   |   |

| Relevant Contacts   |      |                    |
|---------------------|------|--------------------|
|                     | Name | Address & Tel. No. |
| Key Worker          |      |                    |
| Care Manager        |      |                    |
| G.P                 |      |                    |
| Other Professionals |      |                    |
| Next of Kin         |      |                    |
| Significant other   |      |                    |

| Who Was The First Person To Note Concern: |       |
|---|-------|
| Name & Tel No:                            | Date: |

| Does This Referral Originate From:            |   |   |   |
|---|---|---|---|
| <input type="checkbox"/> Acute Hospital Name: | <input type="checkbox"/> Adult Mental Health Unit Name: | <input type="checkbox"/> Learning Disability Unit Name: | <input type="checkbox"/> Regulated Facilities Name: |
| <input type="checkbox"/> Community            | <input type="checkbox"/> MARAC                          | <input type="checkbox"/> Other (give details)           |   |

## **SECTION 2**

| <b>DETAILS OF REFERRAL</b>  |
|---|
| <b>Incident Report</b> – <i>(Please give exact details of what has been reported and if appropriate, note injuries on the attached body chart ONLY if witnessed or observed)</i>  |
| Date / Time Of Incident:  |
| Location:   |
| Details:  |
| <p><b>Have There Been Previous Concerns Or Evidence Of Abuse To Your Knowledge?</b></p> <p><input type="checkbox"/> Yes   <input type="checkbox"/> No   <input type="checkbox"/> Not Known</p> <p>If yes, what was the nature of the concern and the outcome:</p> |

| <b>The Service User's Usual Living Arrangements:</b>  |  |
|---|--|
| Does service user live alone? <i>(if No give details)</i>   | <input type="checkbox"/> Yes <input type="checkbox"/> No |
| Does the service user live with the person whom has allegedly caused the abuse?                           | <input type="checkbox"/> Yes <input type="checkbox"/> No |
| Are there any support services in place? <i>(if yes give details)</i>                                     | <input type="checkbox"/> Yes <input type="checkbox"/> No |
| Are there any current court orders in place? <i>(if yes give details)</i>                                 | <input type="checkbox"/> Yes <input type="checkbox"/> No |
| Are there any concerns regarding risk to a child/children? <i>(if yes give details)</i>                   | <input type="checkbox"/> Yes <input type="checkbox"/> No |
| Are there any concerns regarding risk to other adults in need of protection? <i>(if yes give details)</i> | <input type="checkbox"/> Yes <input type="checkbox"/> No |
| <b>Service User's Knowledge Of Referral</b>   |  |

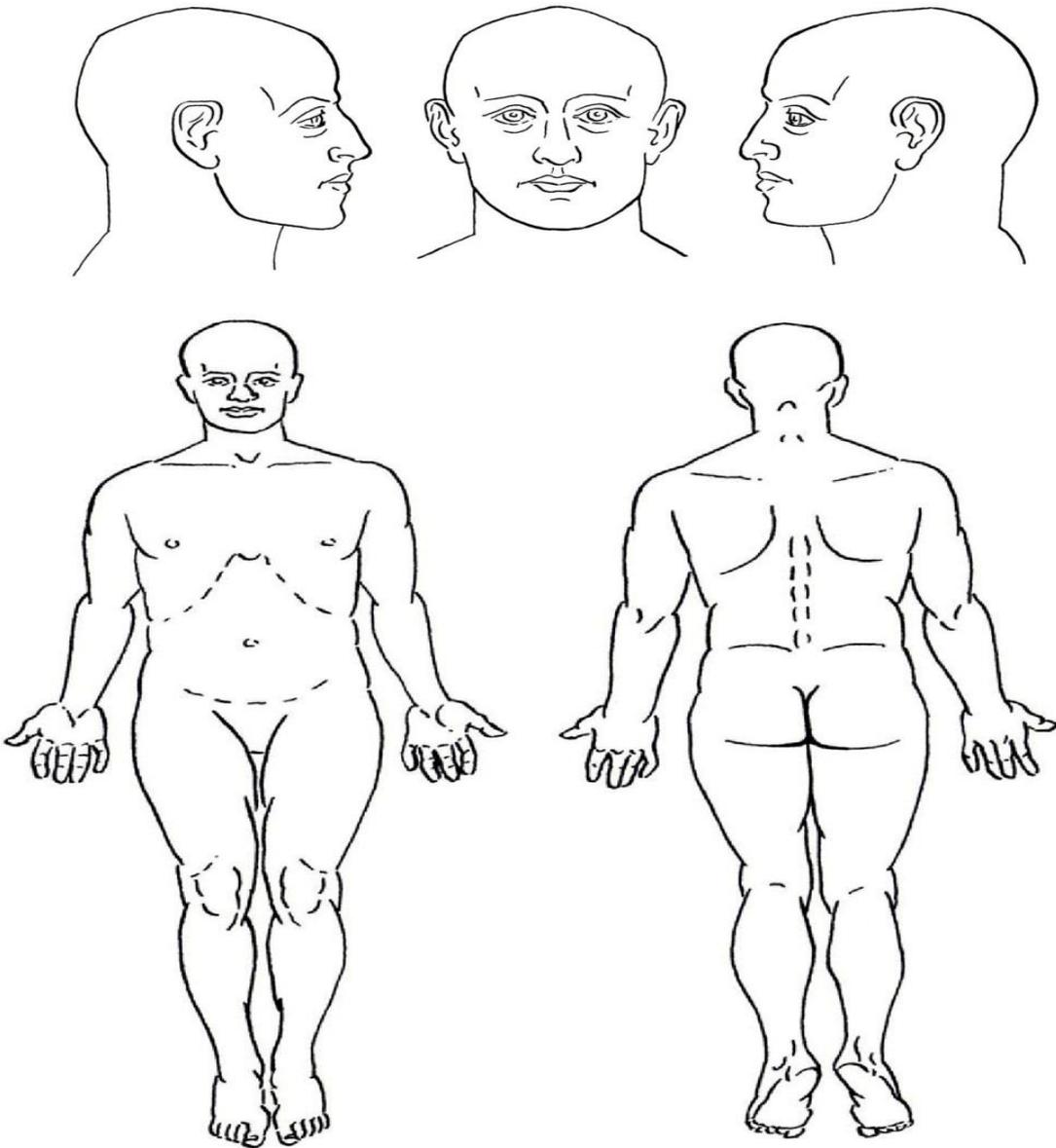
|   |   |
|---|---|
| Does person know that a referral may be made?   | <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Not Known |
| Has the relevant explanation/information been provided in an appropriate manner?<br>(for example Easy Read Leaflets)  | <input type="checkbox"/> Yes <input type="checkbox"/> No                                    |
| In your view has the person capacity to make an informed decision about the referral/report?  | <input type="checkbox"/> Yes <input type="checkbox"/> No                                    |
| Has the person consented to a referral?<br>If no give details _____   | <input type="checkbox"/> Yes <input type="checkbox"/> No                                    |
| _____   | <input type="checkbox"/> Yes <input type="checkbox"/> No                                    |
| If the person lacks capacity what are the views of the next of kin about the referral?<br>If yes: Name: _____<br>Address: _____<br>Contact No: _____<br>Date: _____ | <input type="checkbox"/> Yes <input type="checkbox"/> No                                    |
| Is there a need to consider any immediate Human Rights issues?<br><b>(If yes identify which human rights have been considered and rationale for the decision)</b>   |   |

| DETAILS OF PERSON/S ALLEGED TO HAVE CAUSED HARM (If known)                                       |   |   |
|--|---|---|
| Name provided by:  | Date:   |   |
| Name:  | Date of birth:  | <input type="checkbox"/> M <input type="checkbox"/> F |
| Address:   |   |   |
| Does the person alleged to have caused harm know that an allegation has been made against them?  | <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Not Known |   |
| Has the person alleged to have caused harm any known vulnerabilities?<br>If yes please specify:  | <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Not Known |   |
| Is the person alleged to have caused harm known to service user?<br>If yes please specify below: | <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Not Known |   |
| <input type="checkbox"/> Family member   | <input type="checkbox"/> Another service user   | <input type="checkbox"/> Paid carer                   |
| <input type="checkbox"/> Trust employee  | <input type="checkbox"/> Other  |   |

## BODY CHART

PLEASE USE THE BELOW IMAGE TO MARK ANY:

- SCRATCH
- SKIN ABRASION
- CUT
- BRUISE
- BURN
- BITE
- FRACTURE





## AJP2 Record of Joint Agency Strategy Decision Making and Investigation Planning

| DETAILS OF ALLEGED VICTIM                          |   |   |
|--|---|---|
| Name:  | Date of Birth: <i>(if not known, please give approximate age)</i> | Gender: Male <input type="checkbox"/> Female <input type="checkbox"/> |
| Address and Postcode:                              | Contact No:   | Service Group:  |
| Present Location: <i>(if different from above)</i> |   | PSNI Reference Number: <i>(if known)</i>                              |

| STRATEGY DISCUSSION          |   |
|------------------------------|---|
| Date & time of consultation: | <input type="checkbox"/> Telephone <input type="checkbox"/> Meeting |
| Names of persons involved:   | Designation:  |
| 1. _____                     | _____   |
| 2. _____                     | _____   |
| 3. _____                     | _____   |
| 4. _____                     | _____   |
| 5. _____                     | _____   |

| DETAILS OF DISCUSSION |
|-----------------------|
|                       |

**AGREED ACTIONS**

**Forensic Considerations**  
*Need for medical, secure possible forensic evidence*

**Communication Strategy**  
*Record agreed level of information sharing and with whom*

|   |                |
|---|----------------|
| Name of:  | Contact number |
| PSNI Investigating Unit _____                           | _____          |
| Name of PSNI Investigating Officer _____                | _____          |
| Name of PSNI Line Manager _____                         | _____          |
| Name of Trust Investigating Officer _____               | _____          |
| Name of Trust Designated Adult Protection Officer _____ | _____          |
| Name of RQIA Inspector(if appropriate) _____            | _____          |

Please provide details below:

**Media Considerations**  
*Record agreed level of information sharing and with whom*

**Interviews**  
*(Provide name, address, contact number and nature of vulnerability ( if applicable) of person(s) to be interviewed)*

| <u>Victim(s):</u>          |  | <u>Type of interview and by whom</u><br><i>(If known)</i>  |
|----------------------------|--|--|
| 1. _____<br>_____<br>_____ | <input type="checkbox"/> None <input type="checkbox"/> Frail Older Person<br><input type="checkbox"/> Physical/Sensory<br><input type="checkbox"/> Learning Disability<br><input type="checkbox"/> Mental Health<br><input type="checkbox"/> Dementia or memory impairment<br><input type="checkbox"/> Other <i>(give details)</i> | <input type="checkbox"/> PSNI <input type="checkbox"/> PIA/ABE <input type="checkbox"/> Trust<br>PSNI _____<br>Trust _____ |
| 2. _____<br>_____<br>_____ | <input type="checkbox"/> None <input type="checkbox"/> Frail Older Person<br><input type="checkbox"/> Physical/Sensory<br><input type="checkbox"/> Learning Disability<br><input type="checkbox"/> Mental Health<br><input type="checkbox"/> Dementia or memory impairment<br><input type="checkbox"/> Other <i>(give details)</i> | <input type="checkbox"/> PSNI <input type="checkbox"/> PIA/ABE <input type="checkbox"/> Trust<br>PSNI _____<br>Trust _____ |

|   |   |   |
|---|---|---|
| <p><b>Witnesses:</b></p> <p>1. _____<br/>         _____<br/>         _____</p> <p>2. _____<br/>         _____<br/>         _____</p>  | <p><input type="checkbox"/> None   <input type="checkbox"/> Frail Older Person<br/> <input type="checkbox"/> Physical/Sensory<br/> <input type="checkbox"/> Learning Disability<br/> <input type="checkbox"/> Mental Health<br/> <input type="checkbox"/> Dementia or memory impairment<br/> <input type="checkbox"/> Other (<i>give details</i>)</p> <p><input type="checkbox"/> None   <input type="checkbox"/> Frail Older Person<br/> <input type="checkbox"/> Physical/Sensory<br/> <input type="checkbox"/> Learning Disability<br/> <input type="checkbox"/> Mental Health<br/> <input type="checkbox"/> Dementia or memory impairment<br/> <input type="checkbox"/> Other (<i>give details</i>)</p> | <p><b>Who will conduct interview:</b></p> <p><input type="checkbox"/> PSNI      <input type="checkbox"/> Trust</p> <p>PSNI _____<br/>         Trust _____</p> <p><input type="checkbox"/> PSNI      <input type="checkbox"/> Trust</p> <p>PSNI _____<br/>         Trust _____</p> |
| <p><b>Person/s alleged to have caused harm :</b><br/> <i>(as provided by Trust or other agencies)</i></p> <p>1. _____<br/>         _____<br/>         _____</p> <p>2. _____<br/>         _____<br/>         _____</p> | <p><input type="checkbox"/> None   <input type="checkbox"/> Frail Older Person<br/> <input type="checkbox"/> Physical/Sensory<br/> <input type="checkbox"/> Learning Disability<br/> <input type="checkbox"/> Mental Health<br/> <input type="checkbox"/> Dementia or memory impairment<br/> <input type="checkbox"/> Other (<i>give details</i>)</p> <p><input type="checkbox"/> None   <input type="checkbox"/> Frail Older Person<br/> <input type="checkbox"/> Physical/Sensory<br/> <input type="checkbox"/> Learning Disability<br/> <input type="checkbox"/> Mental Health<br/> <input type="checkbox"/> Dementia or memory impairment<br/> <input type="checkbox"/> Other (<i>give details</i>)</p> | <p><b>Who will conduct interview:</b></p>   |
| <p><b>Joint Agency Interim Protection Plan</b></p>  |   |   |
|   |   |   |
| <p><b>Adult Safeguarding Investigation Strategy and Protection Plan</b></p>   |   |   |
|   |   |   |

**Signature of DAPO** \_\_\_\_\_

**Signature PSNI Officer:** \_\_\_\_\_

**Date:** \_\_\_\_\_

**AMENDMENTS TO STRATEGY FOR INVESTIGATION**

Completed form to be emailed via CJSM secure email system

| DETAILS OF VICTIM                                  |                                   |   |
|--|-----------------------------------|---|
| Name:  | Date Of Birth or Approximate Age: | Gender: Male <input type="checkbox"/> Female <input type="checkbox"/> |
| Address and Postcode:                              | Contact No:                       | Service Group:  |
| Present Location: <i>(if different from above)</i> |                                   | PSNI Reference Number: <i>(if known)</i>                              |

| INFORMATION UPDATE |
|--------------------|
|                    |

| AGREED AMENDMENTS TO INVESTIGATION PLAN |
|---|
|   |

| AGREED AMENDMENTS TO PROTECTION PLAN |
|--------------------------------------|
|                                      |

**Agreed by:**

**Police Officer:** \_\_\_\_\_

**DAPO:** \_\_\_\_\_

**Date:** \_\_\_\_\_

**PRE- INTERVIEW ASSESSMENT (PIA)**

To be completed and shared by PSNI

| <b>DETAILS OF VICTIM</b>                           |                                   |   |
|--|-----------------------------------|---|
| Name:  | Date Of Birth or Approximate Age: | Gender: Male <input type="checkbox"/> Female <input type="checkbox"/> |
| Address and Postcode:                              | Contact No:                       | Service Group:  |
| Present Location: <i>(if different from above)</i> |                                   | PSNI Reference Number: <i>(if known)</i>                              |

| <b>PIA PLANNING</b>  |                               |
|--|-------------------------------|
| Date & Time Of Interview:  | Venue                         |
| Names Of Interviewers:<br>_____<br>_____                                   | Designation<br>_____<br>_____ |
| Names of any other persons who will be present:<br>_____<br>_____          | Role:<br>_____<br>_____       |
| <b>NOTE ANY SPECIAL REQUIREMENTS</b> <i>(please give relevant details)</i> |                               |
|  |                               |

| <b>DETAILS OF PIA</b>   |  |
|---|--|
| <b>Has the purpose of the interview been explained to the adult?</b><br>Comment:                    | <input type="checkbox"/> Yes <input type="checkbox"/> No |
| <b>Have any capacity issues been identified?</b><br>Comment:  | <input type="checkbox"/> Yes <input type="checkbox"/> No |
| <b>Have the types of formats for the interview been explained to the adult?</b><br>Comment:         | <input type="checkbox"/> Yes <input type="checkbox"/> No |
| <b>Has the adult stated a preference for which format is most suitable for him/her?</b><br>Comment: | <input type="checkbox"/> Yes <input type="checkbox"/> No |
| <b>Has the adult any specific needs in relation to the interview?</b><br>Comment:                   | <input type="checkbox"/> Yes <input type="checkbox"/> No |

|  |  |
|--|--|
| <b>Is the adult willing to engage in an interview?</b><br>Comment:           | <input type="checkbox"/> Yes <input type="checkbox"/> No |
| <b>Has a need for a Registered Intermediary been identified?</b><br>Comment: | <input type="checkbox"/> Yes <input type="checkbox"/> No |

| <b>OUTCOME OF PIA</b>  |                                  |
|--|----------------------------------|
| <input type="checkbox"/> <b>Registered Intermediary required</b><br><input type="checkbox"/> <b>Video interview</b><br><br><input type="checkbox"/> <b>Written interview</b><br><input type="checkbox"/> <b>Victim declines criminal investigation</b> | Venue: _____<br><br>Venue: _____ |

**AJP4      PLANNING THE JOINT INVESTIGATION INTERVIEW (ABE)**

| <b>DETAILS OF VICTIM</b>                           |                                   |   |
|--|-----------------------------------|---|
| Name:  | Date Of Birth or Approximate Age: | Gender: Male <input type="checkbox"/> Female <input type="checkbox"/> |
| Address and Postcode:                              | Contact No:                       | Service Group:  |
| Present Location: <i>(if different from above)</i> |                                   | PSNI Reference Number: <i>(if known)</i>                              |

| <b>ABE INTERVIEW PLANNING</b>                                     |                                      |
|---|--------------------------------------|
| Date & Time Of Interview:   | Venue                                |
| Names Of Interviewers:<br>_____<br>_____                          | Designation<br>_____<br>_____        |
| Names of any other persons who will be present:<br>_____<br>_____ | Role/Relationship:<br>_____<br>_____ |

| <b>DETAILS OF PIA PLANNING</b> <i>(please give relevant details)</i>                |  |
|---|--|
| Do any special considerations apply?<br><i>(If yes give details)</i>                | <input type="checkbox"/> Yes <input type="checkbox"/> No |
| Will a Registered Intermediary/ Interpreter attend?<br><i>(If yes give details)</i> | <input type="checkbox"/> Yes <input type="checkbox"/> No |
| Name: _____   |  |
| Grade/Qualification: _____  |  |

**DETAIL SPECIFIC ARRANGEMENTS PLANNED FOR INTERVIEW**

*(Who? What? When? Where? How?)*

Empty box for detailing specific arrangements planned for the interview.

**SIGNATURES OF JOINT INVESTIGATIVE INTERVIEWERS:**

**Police Officer:** \_\_\_\_\_

**Social Worker:** \_\_\_\_\_

**Date:** \_\_\_\_\_

**AJP4a**

**JOINT PROTOCOL ABE INTERVIEW**

To be completed by PSNI

**Name of Adult:** \_\_\_\_\_

**Date of Interview:** \_\_\_\_\_

**Page No:** \_\_\_\_\_

|  |  |  |
|--|--|--|
|  |  |  |
|--|--|--|



CC

(please use this number on all future correspondence)

### CONFIRMATION OF REFERRAL

Referral on Date: \_\_\_\_\_ Time: \_\_\_\_\_

To: \_\_\_\_\_ Designation: \_\_\_\_\_

From: \_\_\_\_\_ Designation: \_\_\_\_\_

Referrer's Telephone Number: \_\_\_\_\_

Referrer's Address: \_\_\_\_\_

Referrer's Email Address: \_\_\_\_\_

Child's Name: \_\_\_\_\_ DOB: \_\_\_\_\_

Home Address: \_\_\_\_\_

Present Location: \_\_\_\_\_

Person with parental responsibility: \_\_\_\_\_ DOB: \_\_\_\_\_

Address: \_\_\_\_\_

Telephone Number: \_\_\_\_\_

Alleged Perpetrator: \_\_\_\_\_ DOB: \_\_\_\_\_

Telephone Number: \_\_\_\_\_

Address: \_\_\_\_\_

Address where alleged incident(s) has taken place, if known/suspected:

\_\_\_\_\_

**RESTRICTED WHEN COMPLETE**

**Nature of Referral – Comment**

(include background of involvement with Social Services or Police)

[Empty text box for comment]

