

**Office of the Public Guardian and Local Authorities:
A protocol for working together to safeguard
vulnerable adults**

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1. Introduction and purpose

- 1.1 Government guidance documents issued in 2000 (“No secrets”, Department of Health, and “In Safe Hands”, Welsh Assembly Government) identified the problem in society of vulnerable adults being abused in a range of ways, including financially. The guidance requires Local Authorities (usually Social Services departments) to coordinate multi-agency arrangements to prevent abuse where possible and to identify and deal with abuse where it is occurring.
- 1.2 The Court of Protection (the Court) and the Office of the Public Guardian (OPG) have powers, duties and responsibilities towards vulnerable adults who lack mental capacity. The Public Guardian, supported by the OPG, supports and promotes decision making for those who lack capacity or want to plan for their future, within the framework of the Mental Capacity Act 2005. The Court of Protection is a superior Court of record that makes decisions in relation to the property and affairs and healthcare and personal welfare of adults (and children in a few cases) who lack capacity.
- 1.3 The purpose of this protocol is to outline the respective roles of the Court, OPG and Local Authorities. There is a common interest between the OPG and Local Authorities and this protocol specifies how they will work together constructively to protect vulnerable adults who lack capacity from financial and other forms of abuse. In 2008, the Department of Health is consulting on the No Secrets Guidance in England. This protocol will be updated in light of the outcome of this review.
- 1.4 This protocol complements the *OPG Safeguarding Vulnerable Adults Policy* and the *Safeguarding Vulnerable Adults Guidance and Procedures*, which set out the OPG’s approach to safeguarding. These documents can be accessed on the OPG’s website.

2. Definitions

- 2.1 A vulnerable adult is described in “No Secrets” and “In Safe Hands” as a person *‘who is or may be in need of community care services by reason of mental or other disability, age or illness and who is or may be unable to take care of him or her self, or unable to protect him or her self against significant harm or exploitation’*¹ Primary responsibility for safeguarding all vulnerable adults falling within this definition remains with the Local Authority Social Services authority. In this context the term “vulnerable adult” includes some people who may have capacity as well as those who do not.

¹ No Secrets – Guidance on developing and implementing multi agency policies and procedures to protect vulnerable adults from abuse’ *Department of Health/Home Office 2000.*

2.2 The OPG uses a more narrowly defined interpretation of vulnerable adult related to the Public Guardian's statutory duties.

2.3 The OPG's *Safeguarding Vulnerable Adults Policy* covers any person:

- who has a Deputy appointed by the Court , *or*
- is the Donor of a registered Enduring Power of Attorney (EPA) or Lasting Power of Attorney (LPA) *or*
- is someone for whom the Court authorised a person to carry out a transaction on their behalf under s16(2) of the Mental Capacity Act 2005 (single orders).

This includes young people aged 16 or over who are defined as adults under the Mental Capacity Act 2005.

2.4 Local Authority Social Services departments use different names for the department dealing with adult protection/safeguarding adults, and will be referred to within this protocol as Adult Care Social Services departments.

2.5 References to OPG "staff" throughout this protocol should be taken to include permanent, temporary and agency staff, Court of Protection Visitors and contractors.

2.6 Vulnerable adults are referred to as "clients".

3. Remit

3.1 This protocol focuses on safeguarding vulnerable adults. Allegations of abuse of vulnerable children (and young people aged up to 21 in specific circumstances) will usually be dealt with by Local Authority Childrens Services rather than Adult Care Social Services. Where the OPG is alerted to allegations of abuse about a child or young person, a referral will be made to the relevant Local Authority Children's Services department. Where it is considered that a criminal offence may have been committed the OPG will also refer to the Police.

3.2 Local Authorities can use this protocol to refer concerns to the OPG relating to anyone who falls within the OPG definition of vulnerable adult in paragraph 2.3 above.

3.2 The OPG will refer all concerns and allegations relating to people not covered by its *Safeguarding Vulnerable Adults Policy* to the relevant local Adult Care Social Services/Childrens Services. Where it is considered that a crime may have been committed, there will also be a referral to the Police.

4. The Role of Local Authorities

4.1 Local Authorities play a co-ordinating role in developing policies and procedures that protect vulnerable adults from abuse. They are responsible for setting up inter-agency arrangements that prevent abuse where possible, and for having robust procedures in place to deal with incidents of abuse.

4.2 Agencies involved in local multi-agency arrangements and dealing with suspicions, allegations or findings of abuse include:

- Commissioners of health and social care services
- Providers of health and social care services
- Providers of sheltered or supported housing
- Registered Social Landlords/Housing Trusts/Local Authority Supporting People teams
- Regulators of services e.g. Commission for Social Care Inspection (CSCI), Care and Social Services Inspectorate Wales (CSSIW), Healthcare Commission/Inspectorate, Strategic Health Authority. N.B. from April 2009 the Care Quality Commission take over from CSCI and the Healthcare Commission as the regulator of health and social care in England.
- NHS Care Trusts, Primary Care Trusts, Hospital Trusts
- Police/Crown Prosecution Service/Coroners and other law enforcement agencies, e.g. trading standards
- Probation Services/Multi-Agency Public Protection Arrangements (MAPPA)
- Financial institutions
- Voluntary and private sector agencies
- Victim Support Services
- Emergency services – Fire/Ambulance
- Community safety
- Other Local Authority departments e.g. housing and education
- Probation services
- Department for Work and Pensions (DWP)
- Carers support groups
- User groups and user-led services
- Advocacy providers/Independent Mental Capacity Advocates (IMCAs)
- Advisory services/welfare rights services
- Community safety partnerships
- Services meeting the needs of specific groups experiencing violence
- Agencies offering legal advice and representation

4.3 Many Local Authorities have adult protection committees that determine policy, co-ordinate activity between agencies, facilitate training, and monitor and review arrangements.

5. Local Authority procedures for responding to concerns

- 5.1 The Government guidance identifies that there should be 'key stages' in the procedures introduced by each Local Authority for the investigation of possible abuse. There is some variation between Local Authorities in the way the stages are set out and in terminology, but typically they follow an eight-stage process set out in the Association of Directors of Adult Social Services (ADASS) guidance *Safeguarding Adults (2005)*.

Stage	Function	Recommended time frame
1. Alert	Reporting and recording any allegations, suspicions or concerns of abuse or neglect, and dealing with immediate protection.	Immediately, on the same day
2. Referral	Referral made in a multi agency context to Local Authority Adult Care Social Services team, Police or CSCI/CSSIW	Within the same working day
3. Decision to investigate	Whether it is appropriate to invoke adult safeguarding procedures. If not, identifying alternative responses.	By the end of the next working day.
4. Safeguarding assessment strategy	Formulating a multi-agency plan for assessing the risk and addressing any immediate protection needs.	Within 5 working days
5. Safeguarding assessment and investigation	Co-ordinating the collection of the information about abuse/neglect that has occurred or might occur. This may include an investigation, e.g. a criminal or disciplinary investigation.	As decided through the strategy, but within 4 weeks of the referral.
6. Safeguarding plan	Analysis of the concern, the investigation and the context undertaken at multi-agency Safeguarding Case conference. Safeguarding plan developed at case conference and core group identified to monitor and review.	As soon as possible, but within 4 weeks of the referral.
7. Review	Review of the plan.	First review within 3 months, then 6-monthly.
8. Recording and monitoring	Record and monitor the Safeguarding Adults process and its outcomes.	On-going

- 5.2 Local Authorities often coordinate adult protection investigations in their area, chairing strategy meetings etc, but an investigation may be coordinated and conducted by staff from other agencies, whichever is best placed to lead. For example, where the alleged abuse is within a care home, CSCI/CSSIW may lead.
- 5.3 Local Authorities structure their Adult Care Social Services departments in different ways. Some have dedicated Safeguarding Vulnerable Adults/Adult Protection Teams. Most have a Safeguarding Vulnerable Adults/Adult Protection Lead Officer. Some have a call centre and a duty service, whilst many have separate teams and duty services for people with learning disabilities, people with mental health problems, and older and physically disabled people. Each authority's website gives contact details for reporting adult protection concerns. Team Managers within the Adult Care Social Services department usually lead safeguarding adults/adult protection work and chair meetings.
- 5.4 The appointment of Investigating Officers to a case is usually done at a strategy meeting/decision, and investigators are usually qualified Social Workers, Care Standards Inspectors and Police Officers who have received joint training in adult protection investigation work.
- 5.5 Where a Local Authority gets a referral about a vulnerable adult who lacks capacity to make certain decisions, they can check with the OPG if the person has a registered EPA or LPA, or if there is an appointed Deputy. They may also need to discuss the case and possible courses of action with the OPG. Section 11 below details how to route enquiries and what the OPG can assist with.
- 5.6 Some Local Authorities have staff who manage appointeeships (collection of Social Security benefits for people who are unable to manage their own money) and Deputyship Officers. These teams are often involved in Adult Protection financial abuse cases to advise on, and help to implement, remedies, e.g. applying to the Court for a Deputyship Order.

6. The powers of the Court of Protection

- 6.1 The following are examples of how the Court uses its powers to protect vulnerable adults or prevent possible financial abuse where an individual lacks or may lack specific capacity to make a decision.
- 6.2 The Court has, in connection with its jurisdiction, the same powers, rights privileges and authority as the High Court. It may make a declaration as to whether a person has capacity. It may also make decisions, appoint a Deputy or authorise a person to make decisions or carry out transactions on behalf of someone who lacks capacity, for example, it may:

- Appoint a Deputy to make decisions about the property and affairs and/or personal welfare of a client. In some cases the Court will appoint a panel Deputy from a list of professionals (mainly solicitors) who are willing to take on Deputyships. An interim Deputy may be appointed in urgent situations.
- Authorise someone to acquire, sell, exchange, gift or otherwise dispose of property belonging to the client.
- Authorise the discharge of debts whether legally enforceable or not.
- Authorise someone to dissolve a partnership on behalf of a client.
- Authorise someone to carry out contracts on behalf of a client
- Authorise someone to carry out a trade/business/profession on behalf of the client.
- Exercise any power vested in the client as trustees or similar.
- Order an investigation and report into the management of a client's affairs, e.g. from a person applying to be Deputy, or from the Public Guardian. This is common when a Local Authority applies to the Court to become Deputy due to concerns about the management of the person's finances.
- Order a report from a Court of Protection Visitor, a Local Authority or NHS body.
- Order a report from a person who has been authorised to carry out any transaction for a client.
- Give general directions regarding the proper management of a client's financial or welfare affairs.
- Authorise the drawing up of a will for a client aged 18 or over.
- Consider whether to exercise powers in respect of property and affairs for clients under the age of 18 where the Court considers it likely that the client will still lack capacity to make decisions in respect of that matter when s/he reaches 18.
- Give interim directions or make an interim order where there is reason to believe that someone lacks capacity and it is in their best interests to do so.
- Call in a Deputy's security bond.
- Revoke an Enduring or Lasting Power of Attorney on behalf of a Donor.
- Direct an Attorney to provide a report, inventory and account.
- Remove Deputies or Attorneys who fail to carry out their duties.
- Suspend or replace a Deputy
- Authorise the lawful detention of an incapacitated adult.
- Make an Order/Declaration in respect of contact for an incapacitated adult.
- Prohibit named persons from contacting a client.
- Make an Order/Declaration in respect of serious medical treatment of an incapacitated adult – allowing or refusing treatment (however a Deputy may not refuse consent to the carrying out or continuation of life-sustaining treatment in relation to the client).
- Make an Order/Declaration to determine an incapacitated adult's residency.
- Require the Public Guardian to report to the Court on a matter relating to proceedings.

7. The role of the Office of the Public Guardian in safeguarding vulnerable adults

7.1 The OPG's safeguarding vulnerable adults policy states that the organisation will strive to ensure that vulnerable adults receive their entitlement to safeguards that:

- prevent abuse from occurring and/or continuing where possible
- identify abuse promptly
- ensure the abuse ceases and the perpetrator is dealt with wherever possible
- Undertake to notify Local Authorities/Police and other appropriate agencies when an abuse situation is identified.

7.2 The OPG are involved in safeguarding vulnerable adults in a number of ways, including:

- Promoting and raising awareness of legal safeguards and remedies, e.g. Lasting Powers of Attorney, and the services of the OPG and the Court.
- Receiving reports of abuse relating to vulnerable adults (whistle blowing)
- Responding to requests to search the register of Deputies and Attorneys (provided free of charge to Local Authorities and registered health bodies).
- Investigating reported concerns, on behalf of the Public Guardian, about the actions of a Deputy or registered Attorney, or someone acting under a single Order from the Court (see 8.2 – 8.6).
- Working in partnership with other Agencies, including Adult Care Social Services and the Police, in various ways, which may include:
 - Referring suspicions and allegations to external agencies where appropriate (see list in 4.2)
 - Participating in meetings/case conferences with Adult Care Social Services and other agencies (see 9.5)
 - Participating in joint investigations of suspected abuse (see 9.5)
- Supervising Deputies appointed by the Court to make decisions on behalf of vulnerable adults (see 8.8)
- Reviewing client files and monitoring the situation through visits where abuse is known to have occurred previously or there is considered to be an ongoing risk of abuse.
- Applying to the Court for suspension, discharge or replacement of a Deputy or to cancel registration and revoke an EPA/LPA.
- Providing reports to the Court under Sections 49 and 58 of the Mental Capacity Act 2005 to assist the Court in decision-making.
- Ensuring systems are in place to prevent/reduce the likelihood of abuse of vulnerable adults by OPG staff and contractors
- Development and review of strategies and policies regarding protection of its clients, in partnership with other government departments and agencies,

external agencies, key partners and stakeholders, e.g. Department of Health, Welsh Assembly, Department for Work and Pensions, British Bankers' Association.

8. The Statutory Role of the Public Guardian

8.1 The OPG, on behalf of the Public Guardian maintains a register of Lasting Powers of Attorney, registered Enduring Powers of Attorney and of Orders appointing Deputies. Under its statutory powers it may be involved in safeguarding vulnerable adults in the following ways.

8.2 Investigations

8.3 The OPG can carry out an investigation into the actions of a Deputy, a donee of a registered Attorney (LPA or EPA) or someone authorised by the Court to carry out a transaction for someone who lacks capacity, and report to the Public Guardian or the Court. The nature and pattern of an investigation is determined in each case at the start. Typically it may involve contact with people and agencies associated with the client, requests for copies of accounts, review of decisions and transactions, review of OPG file records, etc. The OPG can require a Deputy or Attorney to provide specified information or documents when investigating complaints or concerns.

8.4 As part of an investigation, the OPG may visit a client or Deputy, or a Donor or Donee of a registered Enduring or Lasting Power of Attorney. If a visit is made by a Court of Protection Visitor, Regulation 44 of the Lasting Powers of Attorney, Enduring Powers of Attorney and Public Guardian Regulations provides that a report may be disclosed, where the Public Guardian considers it is appropriate, to any person interviewed in the course of preparing the report.

8.5 The OPG publishes Key Performance Indicators that set out timescales for initiating and concluding investigations. These can be found in the OPG's business plan, available on the OPG website.

8.6 Exclusions from investigations

8.7 The Public Guardian does **not** have statutory authority to conduct investigations in the following scenarios. However, the Court and/or OPG may become involved, as detailed below:

Concerns about the actions of Attorneys acting under an unregistered EPA

In this scenario the OPG will normally make a referral to Adult Care Social Services for an investigation under their procedures which will determine how to continue. If the donor of the EPA lacks capacity to make decisions, the OPG may advise that an application is made to the Court of Protection for revocation

of the EPA and the appointment of a Deputy. The Court will sometimes order the Public Guardian to provide a report under Section 49 of the Mental Capacity Act 2005 in such cases. If the donor of the EPA has capacity, then the OPG may suggest that a local agency/solicitor or third party could help her/him decide whether to revoke the EPA and make an LPA.

Concerns about the actions of persons acting under certain types of Court of Protection Short Orders

Short Orders were granted by the Court prior to implementation of the Mental Capacity Act 2005 in October 2007. The Public Guardian does not have powers to investigate all short order scenarios. Short order “applicants” (as the person acting was known) were not converted to Deputies by the Mental Capacity Act 2005 and therefore the Public Guardian does not have legal authority to investigate complaints. However, it may be possible for the OPG to investigate single transactions that were authorised by way of short order. Where they do not have authority, the OPG will normally make a referral to Adult Care Social Services for an investigation under their procedures which will determine how to continue and/or advise that an application is made to the Court for revocation of the Order, and if, necessary, for an Order appointing a Deputy. The application could include authority to investigate the transactions of the person acting under the Short Order.

Concerns about the actions of former Receivers or Deputies

Where there are concerns about the actions of a former Receiver (ie someone whose appointment was terminated prior to 1 October 2007) or a Deputy whose appointment has terminated, the OPG will normally advise that this is a matter for the current Deputy, if there is one, to deal with. This includes scenarios where the former Receiver or Deputy has died. If the Court terminates a Deputyship due to concerns about the actions of the Deputy, the Court may order any new Deputy who is appointed to investigate the former Receiver or Deputy.

Sometimes concerns arise after the vulnerable adult has died. Any Deputyship terminates on death and it falls to the vulnerable adult’s personal representatives to deal with any investigation.

Where a Deputy has been discharged, or has died, or the vulnerable adult has died, the OPG can call for a final report from the former Deputy (or the personal representatives if the Deputy has died). If the Public Guardian is not satisfied, he may apply to the Court for enforcement of the security bond. This only applies to deaths/discharges after 1 October 2007.

Concerns about the actions of third persons other than Deputies and Attorneys

In this scenario the OPG will make a referral to Adult Care Social Services for an investigation under their procedures which will determine how to continue. If the vulnerable adult has an appointed Deputy then the OPG will want to be kept informed of the situation and could contribute to the action by monitoring the

situation through supervision of the Deputy and visits to the vulnerable adult from a Court of Protection Visitor.

Concerns about persons acting under an appointeeship made by the Department of Work and Pensions

In these circumstances, the OPG will notify the Department for Work and Pensions and make a referral to Adult Care Social Services for investigation under their procedures.

8.8 Supervision

8.9 The Public Guardian has a statutory duty to supervise Deputies appointed by the Court to make decisions on behalf of someone who lacks capacity. Supervision is an important part of safeguarding, involving the following activities:

- **Preventative measures**, e.g. calling for Deputy reports, ensuring Deputies pay security premiums;
- **Monitoring the Deputy's decision making**, e.g. through checking Deputy reports, regular contact with the Deputy and others with an interest in the client's welfare, and through visits by a Court of Protection Visitor;
- **Responding** to concerns and complaints about the actions of the Deputy, and making applications to Court to discharge unsuitable Deputies.

8.10 Remedies

8.11 The OPG considers a range of remedies where abuse has been discovered. It may:

- Apply to the Court for the **suspension, discharge or replacement of a Deputy**
- Apply to the Court for an **Order to be varied or for a Deputy's security Bond to be called in or varied**
- Apply to the Court for a **revocation of a Power of Attorney**
- Inform the **Police**, where a crime may have been committed
- Require a Deputy to **provide a final report** where the person s/he was acting for has died or the Deputy has been discharged. If the Deputy has died, the Public Guardian can require the Deputy's personal representatives to submit a final report.
- Monitor the situation through ongoing close **supervision** of the case.
- Inform **external agencies** (see list in 4.2). This will include notifying any professional body, where the perpetrator is a member, and the Independent Safeguarding Authority (from October 2009).

9. OPG procedures for responding to concerns

- 9.1 If the OPG receives a report, allegation, or raises a suspicion of abuse, the *OPG Safeguarding Vulnerable Adults Policy* and *OPG Safeguarding Vulnerable Adults Procedures and Guidance* determine what action should be taken, and the timescales involved. These documents are available on the OPG website. The process is summarised in Appendix 1.
- 9.2 Information about abuse may come to the OPG's attention from evidence or from any individual, for example:
- A client
 - Deputy
 - Attorney
 - Relative or friend, or a third party e.g. a neighbour
 - Member of staff
 - A provider or a commissioner of services
 - Court of Protection Visitor
 - OPG staff (from information found in the client records)
 - Others agencies such as Court Funds Office, Adult Care Social Services, the Police, Solicitors Regulation Authority, CSCI
- 9.3 Information may be found in or received by:
- Phone
 - Court Order (ordering an investigation or report from the Public Guardian)
 - Letter or document
 - E mail/fax
 - Court of Protection Visitors report
 - An OPG form, including a report form, or a complaints form.
- 9.4 The Supervision division of the OPG is responsible for responding to alerts of abuse. The team responsible for carrying out an initial assessment of the situation and risk to the vulnerable adult is the Compliance and Regulation Team. Any OPG staff, Court of Protection Visitor or contractor engaged in OPG business must refer an allegation, suspicion or report of abuse to the Compliance and Regulation Team on the day of receipt, using the internal abuse alert form.
- 9.5 The OPG's response is determined in each case as it arises. It may:
- Take responsibility for investigating (see 8.2 -8.5 above). If this course of action is taken, agencies including Adult Care Social Services and the Police can still be informed of the allegation or suspicion where appropriate. It is NOT necessary to establish that abuse has occurred before a referral can be made by the OPG to another agency.

- Refer straight to Adult Care Social Services and/or the Police, if the Public Guardian has no statutory authority to investigate, or the abuse does not relate to a client of the OPG. In this case, the OPG will request that the agency keeps the OPG informed of the progress of the case and shares the conclusion of any investigations/intended action which may impact upon the OPG, its clients, Deputies or Attorneys.
- Work independently or in partnership with other agencies (in particular Adult Care Social Services) to investigate and deal with an allegation or suspicion affecting an OPG client/s. Joint investigations will follow a discussion with the Safeguarding/Adult Protection lead in the relevant Local Authority area and will usually be when a joint investigation and action is beneficial, for example, when the Local Authority is already involved with a client, or alleged abuse may affect others in the same care setting, or the OPG is investigating a concern about the financial transactions of a property and affairs Deputy and there is a linked welfare issue.

9.6 The OPG will consider a range of responses, including whether the situation is such that they should:

- Refer the matter immediately to Adult Care Social Services or the Police, especially if there is already sufficient evidence of abuse or the allegation is of such a magnitude that any remedial action cannot be delayed.
- alert other agencies, e.g. Department for Work and Pensions if benefit is in payment.
- contribute to an Adult Protection/safeguarding strategy discussion (generally telephone conversations).
- participate in strategy meetings or case conferences, though this will not often be possible due to the wide geographical area covered. However, the OPG may submit information to the strategy meeting if unable to send a representative, and will request copies of minutes.
- take action e.g. by making an application to the Court for the discharge, suspension or appointment of a Deputy or the revocation of a Power of Attorney. This action may be taken as soon as an allegation is received, once an investigation is underway, or when it is concluded and will be based on an assessment of the risk to the client and others and need for immediate action to protect or prevent further harm in each case;
- contribute to the ongoing review and oversight of a situation through the Public Guardian's supervision function, where the vulnerable adult has an appointed Deputy. This will be considered in any report to the Public Guardian following an investigation under Section 58 of the Mental Capacity Act 2005. It may also be agreed as part of a joint investigation, and can be authorised at any stage by the Manager of the Supervision Team involved in the case.

9.7 Out of hours and emergencies

- 9.8 The first priority is to ensure the safety of the individual. If it appears that someone is in immediate danger, OPG staff will contact the relevant emergency services, e.g. Police, ambulance. This decision is taken in consultation with a Senior Manager where available, but can be actioned without the sanction of a Senior Manager in emergency situations. Where concerns arise out of normal office hours, for example, during overtime, the most Senior Manager available will make a decision on the need for immediate action. This may involve contacting the Police or the Local Authority Emergency Duty Team in the vulnerable adults' local area for advice.
- 9.9 Where an out of hours concern is raised by a Court of Protection Visitor, e.g. during an evening or weekend visit, the Visitor will decide whether the situation is such that there is a need to contact the Police or Local Authority Emergency Duty Team. The Compliance and Regulation team will be alerted at the start of the next working day and an internal abuse alert form completed with details of any immediate action taken (see OPG Safeguarding Vulnerable Adults Procedures and Guidance, Appendix 2).

9.10 Reporting to the Police

- 9.11 When an incident of abuse is considered to be a criminal offence then the OPG will inform the Police. Examples of when action may be considered a criminal offence include: assault, whether physical or psychological, sexual assault and rape, theft, fraud or other forms of financial exploitation, and certain forms of discrimination, whether on racial or gender grounds.
- 9.12 In addition the Mental Capacity Act 2005 specifically states that a Deputy appointed by the Court, an Attorney acting under a Power of Attorney or a carer is guilty of an offence if s/he ill treats or wilfully neglects the client. Where the OPG suspects a Deputy or Attorney of this type of offence, the matter will be referred to the Police.
- 9.13 Whether to involve the Police during the course of an investigation will be a matter for the Compliance and Regulation Manager and Head of Supervision or in urgent situations a member of the OPG's Executive Management Team, if necessary in consultation with the OPG Legal Advisor, as it will not always be clear-cut. At the end of an investigation, the Public Guardian (or Head of Supervision in his absence) will make the decision. Where the Local Authority Safeguarding/Adult Protection Team are involved or are to be alerted, the OPG will consult with them and advise of any referrals to the Police.

10. OPG enquiries/referrals to Local Authorities

10.1 The OPG process for action and referral following an expression of concern is set out in Appendix 1. The person making the referral will identify the appropriate Adult Care Social Services Team or Safeguarding Adults team and speak to the Duty Officer, following up any verbal referral with written confirmation within 5 working days, using the Local Authority's standard form (if one is available), or by letter. Further detail on OPG procedures is in the *OPG Safeguarding Vulnerable Adults Procedures and Guidance*.

11. Local Authority enquiries/ referrals to the OPG

11.1 The process for Local Authority enquiries and referrals to the OPG is set out in Appendix 2. The process for the OPG to respond to abuse alerts is set out in Appendix 1. It is for each Local Authority to decide if and when to involve the OPG. The following are examples of how the OPG will assist Local Authority staff:

- **By providing information about legal processes that may help protect a client or resolve a situation:** for example, how to make an LPA or register an EPA, or apply to the Court. Information is available via the OPG's Customer Contact Centre and on the OPG's website (see contact details in Appendix 5).
- **By providing information about a specific client:** A search of the register of Attorneys and Deputies will tell the enquirer whether there is a registered Power of Attorney or a Deputy who has been appointed to make decisions in respect of someone who lacks capacity, including those that have been revoked or terminated. This search is free of charge for Local Authorities and registered health care providers. Details of how to apply for a search of the registers are on the OPG website. If the enquiry is urgent, the OPG's Compliance and Regulation Team can assist (see contact details in Appendix 5)
- **Discussion and advice,** sharing concerns and seeking help with an investigation or advice about options: The OPG's Compliance and Regulation Team can provide advice to Local Authorities (see Contact details in Appendix 5). NB: the Local Authority should always consider alerting the OPG to a safeguarding/adult protection investigation, using the form in Appendix 3, if they are aware that the alleged victim has an appointed Deputy or a registered Attorney, even where the alleged abuse is by someone other than the appointed Deputy or Attorney.
- **to report concerns about the actions of a Deputy, someone acting under a registered Power of Attorney, or person authorised by the Court to carry out a transaction on the part of the client.** Investigations are conducted by the OPG's Compliance and Regulation and Supervision Teams, who report directly to the Public Guardian with recommendations for any further action. Following a referral, the Compliance and Regulation Team or

Supervision Team will confirm to the Local Authority in writing within 15 working days whether the matter will be investigated by the OPG. The OPG publishes key performance indicators that set out timescales for conducting investigations.

- 11.2 Agencies referring a matter to the OPG may have their identity checked and verified. Any verbal enquiries to the OPG should be followed up by a written notification, using the referral form in Appendix 3. Care should be taken to transmit documents by secure means (see Information sharing protocol in Appendix 4).
- 11.3 General enquiries with regard to the OPG as an organisation, the process for applications or to search the register of Deputies and Attorneys should be directed to the OPG Customer Contact Centre so that straightforward requests (e.g. for a Deputyship application pack) can be dealt with at the point of contact.
- 11.4 There is a dedicated number for reporting concerns (see Contact details in Appendix 5). Telephone enquiries requiring further action or advice and urgent requests to search the register of Deputies and Attorneys should be directed to this number, which is answered by OPG staff trained in safeguarding procedures. Details will be passed to the Compliance and Regulation Team and will be assessed by that Team for urgency of action (See Contact details in Appendix 5.) They should be followed up with the referral form in Appendix 3.
- 11.5 The process for Local Authority enquiries is set out in appendix 2. Contact details for the OPG are set out in appendix 5.
- 11.6 If the person does not already have a Deputy or a registered Power of Attorney**
- 11.7 If the person does not have an appointed Deputy or a registered Power of Attorney, the OPG will advise the enquirer on what action can be taken to protect the person's finances or welfare. The options may include:
- inviting the client to make an LPA, if they have capacity to choose someone to manage their affairs;
 - inviting an Attorney to register an EPA;
 - Inviting an application from a third party to the Court for a Deputyship order or interim order. This is an option if the person lacks capacity to make decisions about their own financial and/or welfare affairs or there is sufficient information to suggest that this is probably so and will be supported by medical opinion. The Court's jurisdiction can only be invoked by the production of medical evidence, other than in exceptional circumstances where there is reason to believe incapacity exists, which may suffice until

medical evidence can be obtained. Where there are financial concerns but the person's assets are unknown or unclear the Court may make an Order to enable an applicant (e.g. the Local Authority) to obtain information from banks etc.

- Advising a third party to apply to the Court for the appointment of an interim Deputy (someone who can act as Deputy for a short, fixed period to enable a decision to be made whether a longer term appointment is necessary).
- Referral to another agency if the OPG is not the appropriate organisation to assist in a particular case.
- Referral to another agency in any event if the facts of the case suggest an agency should be involved.

12. Applications to the Court of Protection

- 12.1 Applications to the Court, for example to remove a Deputy or to revoke an EPA or LPA, are governed by the Court of Protection Rules 2007 and the Court's Practice Directions (Practice Direction 10B). These are available on the OPG website, together with the application forms.
- 12.2 Applications can be made to the Court for interim relief pending an investigation or in other urgent situations.
- 12.3 The Court may accept urgent applications by fax but should this be necessary it is advisable to firstly speak to the Court Administration Listing and Appeals Team to obtain the fax number which can be used for this purpose and also to establish when a judge will be available to determine an urgent application.
- 12.4 **Out of hours urgent applications**
People seeking to make a very urgent application to the Court outside normal office hours should telephone the Royal Courts of Justice switchboard on **020 7947 6000** and ask for Security.

13. Information Sharing

- 13.1 Understanding when and how to share information is critical when working with sensitive and personal information. The principle is that – wherever abuse is alleged or suspected – information should be shared between relevant professionals in exploring how to protect the individual concerned or others. People who are subject to abuse or allegations of abuse and their families and carers have a right to expect that confidences will be respected and their privacy protected. But where their “vital interests”² (that is questions of life or death),

² Data Protection Act 1998, Schedule 2, interpreted by the Information Commissioner

- “best interests”,³ or the public interest are involved, establishing the facts through information sharing takes precedence.
- 13.2 Safeguarding will involve sharing personal information both about someone who is alleged to have experienced abuse and an alleged perpetrator.
- 13.3 If personal or sensitive information is to be shared, this should be done where possible with the person’s agreement, after reasons have been explained. If this is not given, assessment of their best interests may still justify further enquiries, while questions involving the public interest may justify overriding their views. Where adults lack capacity to safeguard themselves, others will need to make decisions for them in accordance with the Mental Capacity Act Code of Practice and in the person’s best interests. The rights of “whistle-blowers” and of alleged perpetrators of abuse must also be respected.
- 13.4 The legal principles, framework and good practice for information sharing between the OPG and Local Authorities are set out in appendix 4, together with the OPG’s standards for secure exchange of information.

14. Complaints

- 14.1 Safeguarding vulnerable adults is a collaborative process. It is hoped that in most circumstances inter-agency disagreements can be prevented or resolved through effective communication and open dialogue. Every effort should be made to resolve complaints informally, but in the event that this is not possible, complaints about any matter covered by this protocol will be dealt with under the OPG’s Complaints procedure or the relevant Local Authority’s complaints procedure.

15. Review of the Protocol

- 15.1 This protocol will be reviewed annually, or more frequently if changes to legislation or policy suggest a review. In 2008, the Department of Health is consulting on the Safeguarding Adults Guidance in England. The OPG is also conducting a review into the implementation and impact of the Mental Capacity Act 2005. Accordingly, this protocol will be regularly reviewed.

³ Report on the Review of Patient-identifiable Information from the Caldecott Committee (1977).

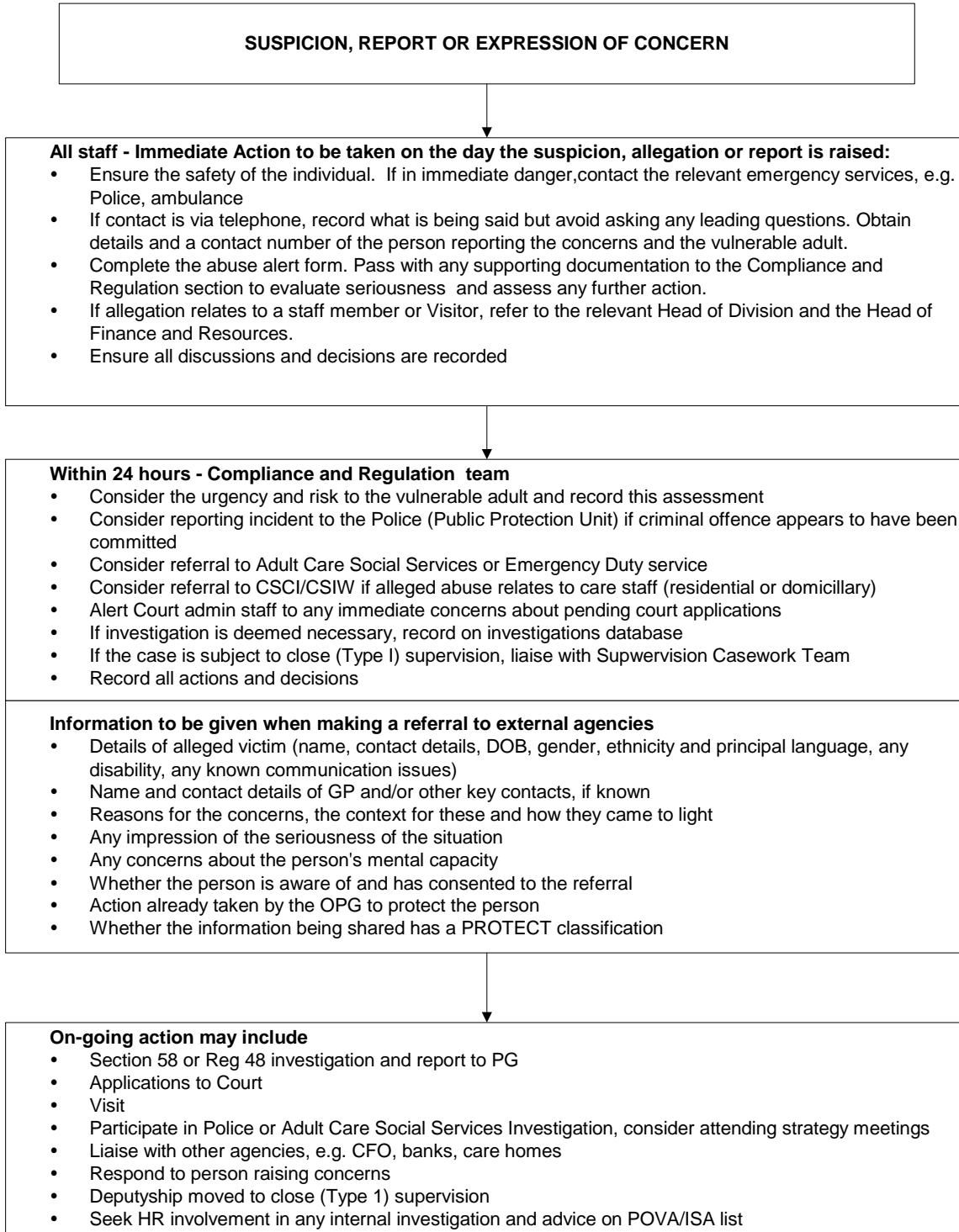
16. Organisations consulted about this protocol

Representatives from the following organisations have been consulted.

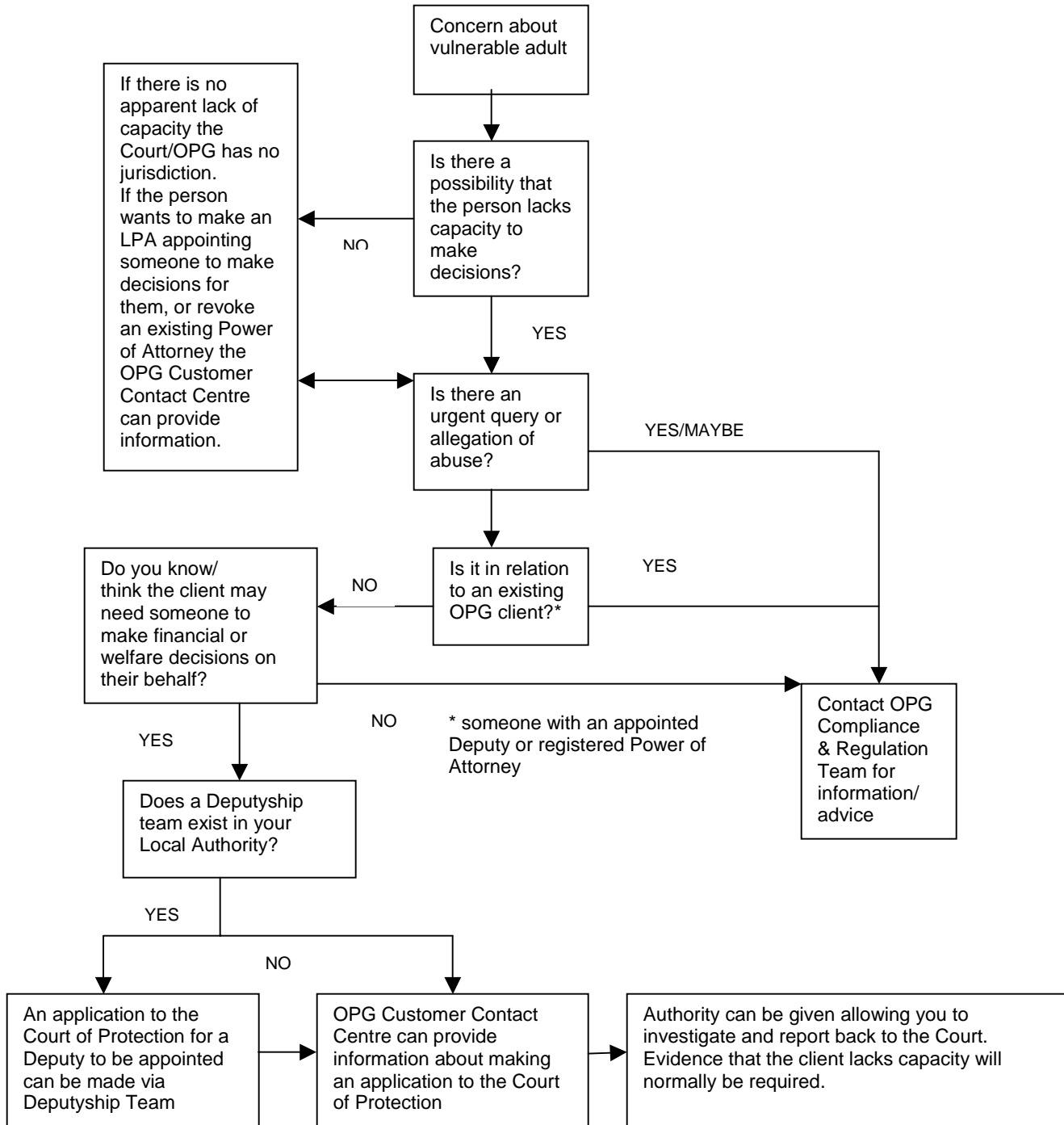
Action on Elder Abuse
Age Concern
Alheimers Society
Association of Directors of Adult Social Services
Association of Public Authority Deputies
British Bankers Association
Citizens Advice
Court Funds Office
Court of Protection Visitors
Department of Health
Department of Work and Pensions
Family Action
General Medical Council
Law Society
Members of the Court of Protection Users Group
Mental Health Foundation
Metropolitan Police
MIND
Muslim Doctors Association
Office of the Official Solicitor and Public Trustee
Rethink
Solicitors for the Elderly
Turning Point

Appendix 1

OPG process for action and referrals



Local Authority enquiries/referrals to the OPG



INVESTIGATION REFERRAL FORM FOR LOCAL AUTHORITIES

THE INFORMATION CONTAINED IN THIS FORM IS CONFIDENTIAL. PLEASE REFER TO THE OPG SAFEGUARDING VULNERABLE ADULT PROTOCOL FOR INFORMATION ABOUT DATA SHARING AND THE DATA PROTECTION ACT.

Local Authorities can use this form to refer concerns to the OPG relating to anyone who falls within the OPG definition of a vulnerable adult. This definition relates to the Public Guardian's statutory role, and covers any person:

- who has a Deputy appointed by the Court of Protection, or
- is the Donor of a registered Enduring Power of Attorney (EPA) or Lasting Power of Attorney (LPA) or
- is someone for whom the Court of Protection authorised a person to carry out a transaction on their behalf under s16(2) of the Mental Capacity Act 2005 (single orders).

This includes young people aged 16 or over who are defined as adults under the Mental Capacity Act 2005.

Further guidance on when to make a referral to the OPG can be found in the Protocol for Joint Work between the Office of the Public Guardian and Local Authorities for Safeguarding Vulnerable Adults, which is on the OPG Website.

WHEN COMPLETED, PLEASE SEND THE FORM ALONG WITH ANY SUPPORTING DOCUMENTS TO:

Compliance and Regulation Team
The Office of the Public Guardian
Archway Tower
2 Junction road
London N19 5SZ

Tel: 0207 664 7274

Website: <http://www.publicguardian.gov.uk/>

PROTECT

Please complete as many sections of this form as possible

Details of person making referral

Title Mr/Mrs/Miss/Ms/Other	<input type="text"/>
Surname	<input type="text"/>
Forename	<input type="text"/>
Job Title	<input type="text"/>

Contact Details

Local Authority	<input type="text"/>
Department	<input type="text"/>
Property number/ name	<input type="text"/>
Street name	<input type="text"/>
Town	<input type="text"/>
Postcode	<input type="text"/>
Telephone number Including area code	<input type="text"/>
E-Mail address	<input type="text"/>

Details of the Social Worker (if different from above)

Title Mr/Mrs/Miss/Ms/Other	<input type="text"/>
Surname	<input type="text"/>
Forename	<input type="text"/>
Job Title	<input type="text"/>

Contact Details

Local Authority	<input type="text"/>
Department	<input type="text"/>

Property number/ name	<input type="text"/>
Street name	<input type="text"/>
Town	<input type="text"/>
Postcode	<input type="text"/>
Telephone number Including area code	<input type="text"/>
E-Mail address	<input type="text"/>

Details of the vulnerable person

Title Mr/Mrs/Miss/Ms/Other	<input type="text"/>
Surname	<input type="text"/>
Forename	<input type="text"/>

Usual Home address

Property number/ name	<input type="text"/>
Street name	<input type="text"/>
Town	<input type="text"/>
Postcode	<input type="text"/>
Telephone number Including area code	<input type="text"/>

Section 1 – Details of care home/ hospital/ other accommodation (if appropriate)

Contact

(Manager/ Matron or Consultant)	<input type="text"/>
Title Mr/Mrs/Miss/Ms/Other	<input type="text"/>
Surname	<input type="text"/>
Forename	<input type="text"/>
Job Title	<input type="text"/>

Contact Details

Name of home/ hospital	<input type="text"/>
Property number/ name - Ward	<input type="text"/>
Street name	<input type="text"/>
Town	<input type="text"/>
Postcode	<input type="text"/>
Telephone number Including area code	<input type="text"/>
E-Mail address	<input type="text"/>

Section 2 – Details of the vulnerable person’s general practitioner

Contact

Title Dr/Mr/Mrs/Miss/Ms/Other	<input type="text"/>
Surname	<input type="text"/>
Forename	<input type="text"/>

Contact Details

Surgery name	<input type="text"/>
Property number/ name	<input type="text"/>
Street name	<input type="text"/>
Town	<input type="text"/>
Postcode	<input type="text"/>
Telephone number Including area code	<input type="text"/>
E-Mail address	<input type="text"/>

Section 3 – Indication as to capacity of the vulnerable person

What information do you have about vulnerable person’s capacity to be involved in decisions relating to his/her finance and property affairs, or his/her welfare? Does his/her capacity fluctuate?

What is the nature of the incapacity? (if known)

Section 4 – Details of party(s) causing concern

1. Title Mr/Mrs/Miss/Ms/Other

Surname

Forename

Contact Details

Property number/ name

Street name

Town

Postcode

Telephone number
Including area code

Relationship to
the vulnerable person

Does this person have any known authority to act on behalf of the vulnerable person? **Yes/No**

If yes, nature of authority (Attorney, Deputy, Appointee, etc.)

If you have a copy of any document, e.g., an Enduring or Lasting Power of Attorney, or a Deputyship Order, please include it with the form.

2. Title Mr/Mrs/Miss/Ms/Other

Surname

Forename

Contact Details

Property number/ name

Street name

Town

Postcode

Telephone number
Including area code

Relationship to
the vulnerable person

Does this person have any known authority to act on behalf of the vulnerable person? **Yes/No**

If yes, nature of authority (Attorney, Deputy, Appointee, etc.)

If you have a copy of any document, e.g., an Enduring or Lasting Power of Attorney, or a Deputyship Order, please include it with the form.

Section 5 – Nature of complaint/ concern

(Why are the vulnerable person's finance and property or welfare affairs thought to be at risk?)

What are the known past and present wishes of the vulnerable person?

How would the vulnerable person benefit from intervention by the Public Guardian?

What are the risks associated with non-intervention?

What action has been taken by the Local Authority to safeguard the vulnerable person?

Section 6 – Details of the vulnerable person’s nearest relative (if different from section 4)

1. Title Mr/Mrs/Miss/Ms/Other

Surname

Forename

Contact Details

Property number/ name

Street name

Town

Postcode

Telephone number
Including area code

What are the known views of the vulnerable person’s nearest relative?

Section 7 – Details of the vulnerable person’s primary carer (if different from section 1)

1. Title Mr/Mrs/Miss/Ms/Other

Surname

Forename

Contact Details

Property number/ name

Street name

Town

Postcode

Telephone number
Including area code

What are the known views of the vulnerable person’s primary carer?

Section 8 – Any other relevant information

(e.g. details of income, pension/ benefits)

Information Sharing Protocol

This protocol sets out the legal framework, principles and good practice that apply to information sharing between the OPG and Local Authorities when considering safeguarding issues for vulnerable adults.

Nothing in this framework overrides any legal obligation on the OPG or Local Authorities to share information in specified circumstances, e.g. under the requirements in the Safeguarding Vulnerable Groups Act.

What information may be shared

Information shared should be on a “need to know” basis, i.e. it should only be information that is directly relevant to the investigation, and the minimum necessary to achieve the objective of protection of vulnerable adults. Care should also be taken to ensure the quality of the information shared, e.g. names, addresses and dates of birth are accurately recorded.

Information about a client, an alleged perpetrator or others, which may be shared includes:

- contact details, e.g. names, addresses, telephone numbers, email addresses
- personal details, e.g. national insurance numbers, dates of birth, family and close contacts, carer’s details.
- information about someone’s health or welfare, e.g. G.P., details of care/support packages.
- financial information, e.g. bank details, investments
- sensitive information, e.g. details of alleged abuse.

When information will be shared

Information will be shared where consent is given to do so in compliance with the Data Protection Act 1998.

Information will be shared on a need to know basis with appropriate selection of information.

The scenarios that this protocol covers are:

- where it is practicable to obtain the individual’s consent, and consent is given
- where a decision is taken to apply an exemption under the Data Protection Act 1998 e.g. prevention or detection of crime, obtaining legal advice.
- Where it is in the public interest to share the information.

- Where the OPG wants to obtain information from a Local Authority about a safeguarding matter
- Where the OPG wants to disclose information to a Local Authority so that they can carry out their own investigation
- Where a Local Authority is carrying out an investigation and asks the OPG to disclose information to it by way of assistance.
- Joint investigations by the OPG and Local Authority in regard to a safeguarding matter.
- Where the OPG is carrying out its own investigation.

For other scenarios not listed above, staff should seek guidance from the Departmental Legal Team to ensure that information is shared within the requirements of the law.

Local authorities and the OPG may not share information that has been provided by their respective organisations with other organisations and individuals unless:

- Permission is given by the person about whom the information is held, *or*
- there is an overriding justification, legal requirement or duty to share information without the person's consent.

When the person does not have the capacity to consent to information sharing

If an adult does not have capacity to make a decision about consenting to information sharing, others can take that decision on their behalf. Capacity to be able to give consent can be assessed by considering:

- Does the person have a general understanding of what decision they need to make and why they need to make it?
- has the person got the ability to understand and retain the information relevant to the decision?
- will they be able to understand the reasonably foreseeable consequences of deciding one way or another?
- do they have the ability to communicate (by any means) the decision they have come to?

Where a person is not the legal representative but acts as a “carer” to a person not capable of giving consent, it should be considered whether they are acting on their behalf and in the individual's best interests.

Why information may be shared

The objective of sharing information will be to achieve where possible:

- The safeguarding of vulnerable adults
- Appropriate sharing of information between agencies for the benefit of safeguarding the vulnerable adult
- Prompt identification of abuse
- Prevention of abuse, or prevention of further abuse

- Safeguarding other vulnerable adults
- Dealing with a perpetrator of abuse

Personal and sensitive information will be shared in compliance with the requirements of the Data Protection Act 1998, i.e. where there is a legal obligation, it is to do with the administration of justice, it is “in the vital interest of the data subject” (in the best interest of a vulnerable adult) or “in the public interest” (e.g. where others in the same care setting may be at risk).

Benefits of sharing information (outcomes)

A number of agencies may be involved in different aspects of the care and support of a vulnerable adult. The benefits of sharing information in the above circumstances are:

- agencies can pool information and expertise to resolve problems;
- intelligence is shared and a full picture obtained that will initiate appropriate action;
- to enable investigations
- to assess the risk to the vulnerable adult and others
- to put in place protective measures.

Data handling of client information

Information may be shared in the context of an investigation into abuse without the individual’s knowledge or consent. This may be because the vulnerable adult may be unable to give informed consent, or because obtaining consent or notifying someone that information will be shared may prejudice the outcome of an investigation. The consent of the subject of the information will be sought wherever possible and where it will not undermine the purpose of the disclosure.

Individuals have a right of access to information recorded about them. The OPG and individual Local Authorities publish information about how individuals may access their records, and will ensure that shared information is covered by their records management and Information Security policies and practice.

It is the responsibility of the OPG and individual Local Authorities to ensure that there is no unauthorised access, loss, misuse, modification or disclosure of someone’s personal or sensitive information.

Legal framework

Data protection Act 1998 and The Data Protection (Processing of Sensitive Personal Data) Order 2000.

The conditions for disclosure that are relevant to this document are in Schedules 2 and 3 of the Data Protection Act 1998 and include conditions 3 (legal obligation) and 5 (e.g. administration of justice) of Schedule 2, as well as condition 4 (vital interests of the data

subject). Schedule 3 conditions 6 and 7 are also relevant to the processing of sensitive personal information and its disclosure.

The Data Protection Act permits the sharing of personal information when it is:

- in the vital interest of the data subject, *or*
- in the public interest

Mental Capacity Act 2005

Section 58(2) of the Mental Capacity Act 2005 provides for the Public Guardian's duties to supervise Deputies and investigate concerns about the way a Deputy or Attorney is exercising their powers to be discharged "in co-operation with any other person who has functions in relation to the care or treatment of P" (the person lacking capacity).

Section 58(5) of the Mental Capacity Act 2005 gives the Public Guardian authority, in the course of carrying out his duties, to examine and take copies of any health record, any record of, or held by, a Local Authority and compiled in connection with a social services function, and any record held by a person registered under Part 2 of the Care Standards Act 2004 (c.14), so far as the record relates to P. This authority does not extend to records relating to a Deputy or Attorney.

Information Security

Ensuring security of information

The OPG aims to ensure that there will be no unauthorised access to, loss, misuse, modification or disclosure of its client's information. It respects a client's right to privacy and understands that information may be imparted to in a relationship of confidence. It will ensure that disclosure is proportionate to the matter under investigation.

The following standards will be applied when exchanging information with Local Authorities.

Telephone calls

If the Local Authority requests information about a client, the OPG will verify who the caller is before releasing any information. Verification may be carried out by calling back the person on a number recorded in the OPG's case file, or asking for the query to be e-mailed. Once received, the e-mail will be checked that it has come from a Local Authority and the contact can be called back.

Use of e-mail

External e-mails sent between Local Authorities and the OPG are not encrypted in any way; nor are they transmitted over a secure medium. To avoid unauthorised disclosure of personal information, the OPG applies the following standards to e-mail correspondence:

- The OPG will not send any personal information about a client or deputy, e.g. information about finances or personal circumstances via e mail
- E mails received by the OPG that contain personal information will be acknowledged and replied to by letter within published correspondence targets
- If urgent, a letter may be sent as an attachment to an e-mail, in which case it will be password protected and the password sent in a separate e mail. Staff will take care to confirm e mail addresses and will keep personal information to a minimum
- E-mail communications can be used for non-case specific enquires, to send information about OPG services, to send electronic forms and templates, and to acknowledge receipts of letters, etc.

Paper documents and records

The OPG applies a system of protectively marking personal information and applying handling controls according to the sensitivity of the information and risk of unauthorised disclosure. Documents containing personal information can be sent to Local Authorities by ordinary letter post. Depending on the level of risk, documents may be double enveloped to ensure secure delivery. The outer envelope will not bear any markings or notations to indicate that the contents are protectively marked. Envelopes will be marked with a return address in the event of non-delivery.

Information security breaches

Any breach of procedure and or loss of information must be reported immediately by the member of staff who has discovered the breach to their Line Manager who will inform their Head of Department. Reporting of information security breaches within the OPG should follow the OPG Post-Incident Response Plan, a copy of which can be found on the OPG intranet. Loss of OPG information held outside of the OPG must be reported immediately to the OPG Records Manager.

Appendix 5

OPG Contact Guide

General enquiries: Customer Contact Centre

Tel: 0845 330 2900

Fax: 020 7664 7705

Text phone: 0845 7664 7755

(Mon-Fri 9am-6pm; calls charged at local rate)

E-Mail: customerservices@publicguardian.gsi.gov.uk

Number for reporting concerns: 0207 664 7734

Compliance and Regulation Unit

Tel: 0207 664 7274

Fax: 0870 739 5804

E-Mail: OPGComplaints@publicguardian.gsi.gov.uk

Urgent requests to search the register of Deputies and Attorneys

0207 664 7274

Website

www.publicguardian.gov.uk

Out-of-hours telephone number for urgent court applications

Royal Courts of Justice switchboard (020 7947 6000 – ask for Security).

Forms and guidance

www.publicguardian.gov.uk/forms/all-forms-guidance.htm

Office of the Public Guardian

Archway Tower

2 Junction Road

London N19 5SZ

Document exchange: DX 141150 Archway 2

Glossary

Abuse

Abuse is a violation of an individual's human and civil rights by another person or persons. Abuse may consist of a single act or repeated acts. It may be physical, verbal or psychological, it may be an act of neglect or an omission to act, or it may occur when a vulnerable person is persuaded to enter into a financial or sexual transaction to which he is she has not consented, or cannot consent. Abuse can occur in any relationship and may result in significant harm to, or exploitation of, the person subjected to it.

Appointee

Someone appointed under Social Security regulations to claim and collect social security benefits on behalf of a person who lacks capacity to manage their own benefits.

Attorney

Someone appointed under either a Lasting Power of Attorney (LPA) or an Enduring Power of Attorney (LPA), who has the legal right to make decisions within the scope of their authority on behalf of the person (the Donor) who made the power of Attorney. Also known as a Donee.

Care home

A home registered with the Commission for Social Care Inspection, or Care and Social Services Inspectorate in Wales, that provides accommodation with personal care. A care home with nursing provides nursing and personal care.

Commission for Social Care Inspection (CSCI)

The single, independent inspectorate for Social Care (all care providers) Services in England.

Capacity

The ability to make a decision about a particular matter at the time the decision needs to be made. The legal definition of a person who lacks capacity is set out in Section 2 of the Mental Capacity Act 2005.

Care and Social Services Inspectorate in Wales (CSSIW)

The single, independent inspectorate for social care (all care providers) services in Wales.

Care package

Services designed to meet an individual's assessed needs as part of the [care plan](#) arising from their [assessment](#). Consists of one or more services, which may be residential and/or community-based. Where necessary this covers both NHS and social care.

Care plans

Written agreements setting out how care will be provided within the resources available for people with complex needs.

Carer

Person who provides a substantial amount of care on a regular basis, and is not employed to do so by an agency or organisation. Carers are usually friends or relatives looking after someone at home who is elderly, ill or disabled.

Care Quality Commission

From April 2009, the Care Quality Commission will have responsibility for regulating and improving the quality of health and social care in England and will look after the interests of people detained under the Mental Health Act. It takes over the work of the Commission for Social Care Inspection, the Healthcare Commission, and the Mental Health Act Commission.

Care worker

Paid workers that support people with everyday tasks who may be elderly, ill, have physical or learning disabilities, or emotional or social problems.

Continuing care

The criteria for assessing and providing health and social care over an extended time as the result of disability, accident or illness, in order to meet both physical and mental health needs. Continuing care can be provided in a range of settings, including hospital, care home or hospice and the individual's own home. Continuing care aims to provide the right long-term support, to promote independence, prevent deterioration and maximise a person's health and quality of life.

Court of Protection

The specialist Court for all issues relating to people who lack capacity to make specific decisions.

Court of Protection Visitor

Someone who is appointed to report to the Court of Protection or Public Guardian on how Attorneys or Deputies are carrying out their duties.

Criminal Records Bureau (CRB)

An executive agency of the Home Office which provides access to criminal records information. Organisations in the public, private and voluntary sectors can ask the CRB to check candidates for jobs to see if they have any criminal records which would make them unsuitable for certain work, especially that involves children or vulnerable adults.

Data Protection Act 1998

A law controlling the handling of, and access to, personal information, such as medical records, files held by public bodies and financial information held by credit reference agencies.

Day Centre

Facility, run by social services, health or a voluntary organisation, that provides care, stimulation and activities for people who need support during the day and is thus also a valuable source of respite for carers.

Declaration

A kind of Order made by the Court of Protection, e.g. whether a person has or lacks capacity to make a particular decision, or declaring that a particular act would or would not be lawful.

Dementia

Term used for different illnesses that affect the brain and diminish the ability to do everyday tasks. 'Dementia' should be used to describe symptoms, not the condition itself. Symptoms include loss of memory; difficulty in understanding people and finding the right words; difficulty in completing simple tasks and solving minor problems; mood changes and emotional upsets.

Deputy

Someone appointed by the Court of Protection with ongoing legal authority as prescribed by the Court to make decisions on behalf of someone who lacks capacity to make particular decisions. A Deputy may be appointed to make decisions in relation to property and affairs (financial) or welfare (including healthcare), or both. A Deputy may be a professional, e.g. solicitors, Local Authorities, or lay, e.g. family members, friends of the person lacking capacity.

Domiciliary care

Homecare that helps people cope with disability or illness, and allows them to maintain independence.

Donee

Someone appointed by a Donor to make decisions under a Lasting Power or Enduring Power of Attorney.

Donor

A person who makes a Lasting Power of Attorney or Enduring Power of Attorney.

Enduring Power of Attorney (EPA)

A power of Attorney created under the Enduring Powers of Attorney Act 1985 appointing an Attorney to deal with the Donor's property and financial affairs. The Mental Capacity Act 2005 replaced the EPA Act 1985 but existing EPAs continue to operate under Schedule 4 of the Act.

Health

State of complete physical, mental and social well-being – not merely the absence of disease and infirmity

Health Care Commission

The independent watchdog for healthcare (NHS and private) in England.

Health Care Inspectorate Wales (HIW)

A department of the National Assembly for Wales with responsibility for inspecting and investigating the provision of health care by and for Welsh NHS bodies.

Independent Mental Capacity Advocate (IMCA)

Someone who provides support and representation for a person who lacks capacity to make specific decisions, where the person has no-one else to support them.

Independent Safeguarding Authority (ISA)

The Independent Safeguarding Authority's role is to help prevent unsuitable people from working with children and vulnerable adults. From October 2009, employers will be required to ensure that any staff they have working with children or vulnerable adults are checked by the ISA and have gone through the registration process with the Criminal Records Bureau.

Key Worker

Person responsible for co-ordinating the care plan of an individual receiving social care, for monitoring their progress, and for staying in regular contact with the agencies and individuals involved.

Lasting Power of Attorney (LPA)

A power of Attorney created under the Mental Capacity Act appointing an Attorney or Attorneys to make decisions about the Donor's personal welfare (including healthcare) or deal with the Donor's property and affairs.

Learning disabilities

Disabilities that reduce a person's ability to understand new or complex information, learn new skills and cope independently.

Local Authority

Elected council responsible for providing public services such as education, housing and social services within a particular area. Most urban areas, including London, have unitary authorities i.e. one council provides all local government services

Long term conditions

Conditions, such as diabetes, asthma and arthritis that cannot currently be cured, but whose progress can be managed and influenced by medication and other therapies.

NHS Trusts

Hospitals, community health services, mental health services and ambulance services that are managed by their own boards of directors. NHS trusts provide services on the requirements of patients as represented by primary care trusts.

Nursing Home

Care home that provides nursing care (with, generally, at least one registered nurse on duty). Under the Care Standards Act 2000, which came into effect in April 2002, nursing homes were renamed 'care homes with nursing'.

Office of the Public Guardian (OPG)

An agency of the Ministry of Justice. The Public Guardian is an officer established under Section 57 of the Mental Capacity Act 2005. The OPG supports the Public Guardian to support and promote decision-making for those who lack capacity or wish to plan for their future. It registers powers of Attorney, and supervises Deputies appointed by the Court of Protection to make decisions on behalf of someone who lacks capacity. It also provides administrative support to the Court of Protection. The OPG replaced the Public Guardianship Office (PGO).

Primary care

The collective term for all services which are people's first point of contact with the NHS, eg GPs, dentists.

Primary care trusts (PCTs)

NHS bodies with responsibility for delivering health care services and health improvements to their local areas. Commissions primary care services within a particular area and is also responsible for providing local community health services.

Protection of vulnerable adults (POVA)

Public body initiative set up to specifically address the abuse of vulnerable adults. The POVA list is a register of individuals who have abused, neglected or otherwise harmed vulnerable adults in their care or placed vulnerable adults at risk of harm. A way of preventing the employment of people who should not be appointed to positions of trust e.g. Carers.

Public Protection Units

Public Protection Units are specialist units in local police forces that commonly manage and investigate crimes involving adult abuse, child abuse, domestic abuse, sex and dangerous offenders and vulnerable and intimidated witnesses. They are normally staffed with specialist officers trained on interviewing children and vulnerable adults.

Social Services Department (*Adult Care Social Services*)

Department of Local Authority providing needs assessments to determine individuals' eligibility for assistance and ascertain how support can be given to meet eligible needs. Also provides and purchases a range of residential, day and domiciliary care packages to support people in need.

Vulnerable adult

The definition of vulnerable adult that applies to Adult Care Social Services is “a person who is or may be in need of community care services by reason of mental or other disability, age or illness and who is or may be unable to take care of him or her self, or unable to protect him or her self against significant harm or exploitation.”

The OPG’s policy on safeguarding vulnerable adults applies to anyone who has a Deputy appointed by the Court of Protection or is the donor of a registered EPA or LPA, or is someone for whom the Court of Protection has authorised a person to carry out a transaction on their behalf under s16(2)(d) of the Mental Capacity Act (single orders).