

South Australian
Adult Safeguarding Unit

Code of Practice



Government
of South Australia

SA Health



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Background

The abuse of adults who may be vulnerable is unacceptable and can never be justified. Legislation, informed by state and national inquiries, was passed by the Parliament of South Australia in November 2018, which made important changes to the *Office for the Ageing Act 1995* (now the *Ageing and Adult Safeguarding Act 1995*) to safeguard the rights of adults who may be vulnerable to abuse.

The *Ageing and Adult Safeguarding Act 1995* (the Act) establishes an Adult Safeguarding Unit (the Unit), with a strong focus on safeguarding the rights of adults vulnerable to abuse in South Australia. The Unit, located in the Office for Ageing Well, complements the role of other government bodies by providing the South Australian community with an approachable, empowered body with statutory responsibility and accountability for receiving and responding to reports about adults who may be vulnerable and experiencing abuse or mistreatment.

In accordance with the Act, an adult may be vulnerable due to age, disability, ill health, social isolation, dependence on others or other disadvantage.

In supporting adults who may be vulnerable to abuse, the Unit will:

- > promote and assist in the development of coordinated strategies for prevention and early intervention
- > receive enquiries and reports relating to suspected or actual abuse
- > assess reports relating to suspected or actual abuse
- > investigate reports relating to suspected or actual abuse

- > refer to appropriate persons and organisations
- > coordinate responses to reports relating to the suspected or actual abuse.

Purpose of the Code of Practice

This *Code of Practice* sets out how the Unit will fulfil its functions in accordance with the Act and Regulations, and provides practical guidance on how the Unit operates.

This includes the actions Unit staff may take to respond to reports of suspected or actual abuse, how they will work with adults to ensure their rights are respected, and how the Unit will work with significant others, including organisations.

Scope

This Code applies to staff within the Office for Ageing Well involved in the administration, operation or enforcement of the Act.

Other organisations may also be guided by the Code.

What is abuse?

Abuse is any deliberate or unintentional action, or lack of action, carried out by a person, often in a trusted relationship, which causes distress and/or harm to a person who may be vulnerable, or causes loss or damage to property or assets.

People can experience abuse from a person they know and trust, such as a family member, friend, carer or neighbour. It can occur at home, in places visited regularly, or where services or care are accessed. However, abuse can often remain hidden and continue without any suspicions being aroused.

Types of abuse

Abuse can be:

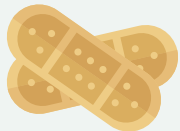
- > physical
- > sexual
- > emotional or psychological
- > financial or exploitation
- > neglect (this does not include self-neglect)

Abuse may also include:

- > abuse, exploitation or neglect consisting of a person's omission to act in circumstances where a person owes a duty of care to the adult vulnerable to abuse
- > a denial, without reasonable excuse, of the basic rights of a person who may be vulnerable to abuse.

Behaviours and signs of abuse

The behaviours and signs of abuse can include, but are not limited to:



Physical

- > hitting, slapping, burning, pushing, punching, pinching, biting, twisting, cutting, hair pulling
- > unlawful physical force
- > coercion, bullying
- > unlawful physical restraint, locking in a room, confining to a chair
- > inappropriate use of medication, including failure to provide prescribed medication, over or under medication, or chemical restraint
- > using prescriptions for personal addiction needs or financial gain.



Sexual

- > rape, sexual assault, indecent assault, sexual harassment
- > non-consensual sexual contact, language or exploitative behaviour
- > grooming for sexual activity
- > cleaning or treating the person's genital area roughly or inappropriately
- > unwanted exposure to pornography
- > enforced nudity
- > obscene language or viewing obscene material or making obscene phone calls in the presence of the person without their consent.



Emotional / Psychological

- > persistent name-calling, or degrading or humiliating behaviour
- > pressuring, intimidating or bullying
- > threatening to harm the person, other people or pets
- > verbal insults or harsh commands
- > silencing and emotional blackmail
- > repeatedly telling a person they are a burden or unwanted

- > treating the person like a child (overbearing, looking down on, and/or talking down to)
- > numerous, unwanted phone calls or messages
- > sending menacing images
- > inappropriate use of technology to track location or spy
- > restricting, stopping or discouraging activities or social contact with others
- > withholding mail
- > prohibiting, preventing access or not disclosing phone calls or messages
- > listening in on calls
- > restricting participation in religious or cultural practices
- > forced changes to an Advance Care Directive
- > patterns of controlling and manipulative behaviours within a relationship to make the person scared, isolated and dependent on the abuser (coercive control).



Financial / Exploitation

- > stealing
- > forgery
- > forced changes to a Will or (enduring) Powers of Attorney
- > taking control of finances against a person's wishes
- > being added as a signatory to a bank account to directly access funds without consent
- > unusual transfers of money or property
- > withholding funds
- > incurring debts for which the person is responsible
- > failure of others to repay monies loaned
- > lack of financial information provided to the person by the person holding a Power of Attorney
- > coercion or misleading behaviour to obtain money or property.



Neglect

- > lack of social, cultural, intellectual or physical stimulation
- > lack of nutrition, accommodation, clothing, medical or dental care
- > lack of safety precautions or supervision
- > injuries not being cared for
- > repeated justifications or excuses for older person's absence to other parties or not returning messages
- > refusal to permit others to provide appropriate care
- > denial of appropriate health care.

Contacting the Adult Safeguarding Unit

The Unit is a dedicated, South Australia-wide service that responds to concerns about adults who may be vulnerable and experiencing abuse or mistreatment, and has a strong focus on safeguarding their rights. The Unit provides free confidential advice, information and support and takes reports of actual or suspected abuse of an adult who may be vulnerable.

Enquiries

Service providers and community members can contact the Unit to seek free confidential information, advice and support. If the person does not wish to make a report or the situation does not fall within the Unit's legislative remit, the contact is usually taken as an enquiry.

With an enquiry, the Unit will provide advice, information and support to the person contacting the Unit, based on the individual circumstances of the case. The Unit will attempt to provide the person with advice about possible services available to them or relevant referral information to contact another agency or organisation, as appropriate.

Making a report

A report can be made to the Unit when a person is concerned about their own situation, or when they have seen or heard something that raises concerns that an adult who may be vulnerable is at risk of or is being abused.

Reporting suspected or actual abuse to the Unit is on a voluntary basis. There is no mandatory requirement to report. Where a person believes

that the adult at risk of abuse is already being appropriately supported through existing interventions and services, a report does not need to be made to the Unit.

Where the person identifies that their concern is with a paid care worker or service provider, the Unit will make recommendations regarding the appropriate regulatory body to make a report or complaint and will encourage a person to direct their concerns to the appropriate body that can investigate or take action. For example, where a person is reporting concerns about the actions of an aged care or National Disability Insurance Scheme (NDIS) worker or provider, the Unit will advise that the appropriate body to report to is the Aged Care Quality and Safety Commission or NDIS Quality and Safeguards Commission.

Who can make a report?

Anyone who suspects that an adult who may be vulnerable is at risk of abuse can report their suspicion to the Unit. In making a report, consent of the adult at risk is not required, however, their wishes may be considered in responding to the report.

Reports can be made anonymously. Ideally the reporter's details will be obtained to enable future contact should further information be required. Personal information will be kept confidential and not released without consent, unless authorised or required by law. Where a reporter is concerned about their identity being disclosed to the adult they are reporting about, the Unit will discuss with the reporter possible ways this can be managed.



How to make a report

A person can report a concern or suspicion that an adult who may be vulnerable is at risk of abuse to the Unit by:

- > Calling free call number **1800 372 310**
- > Completing the online report form available at **www.sahealth.sa.gov.au/adultsafeguardingunit**
- > Emailing **adultsafeguardingunit@sa.gov.au**

Anyone requiring assistance in contacting the Unit can get support through:

- > **Translating and Interpreting Service (TIS)** on **131 450** and requesting that they contact the free call number above.
- > **National Relay Service** if the person is deaf and/or find it hard hearing or speaking with people on a phone.
- > **Aboriginal Language Interpreting Service (ALIS)** if requiring assistance from an Aboriginal language speaker in South Australia.

The Unit's hours of operation are Monday to Friday between 9.00AM - 5.00PM, except Public Holidays. Outside of these hours, callers may leave a message on voicemail or complete the online report form, which will be responded to within business hours. The Unit is not an emergency/crisis response service and callers will be directed to call emergency services on 000 in an emergency.

What to report

In making a report, the following information about the adult at risk of abuse will be requested, to the extent that these are known:



Details of the adult the report is about (the vulnerable adult)

- > Name
- > Date of birth or approximate age
- > Contact details
- > Living arrangements
- > Cultural background
- > Communication and safety needs
- > Any substitute decision-making arrangements in place (e.g. Advance Care Directive, Enduring Power of Attorney, Administrator or Guardian)
- > Details of any disability and/or cognitive impairment and related support needs
- > Whether the adult is aware of the report

Details of the person believed to be responsible for the abuse or mistreatment

- > Name
- > Date of birth or approximate age

- > Contact details
- > Their relationship to the adult the report is about

Reason for making the report

- > Information about the nature of the actual or suspected abuse or mistreatment
- > Where the abuse is currently occurring
- > Whether any actions have been taken to address the abuse
- > Whether the reporter has a role in safeguarding the person
- > Supports or services involved in the adult's life
- > Whether the adult can manage the situation for themselves
- > Whether there are concerns that a serious criminal offence has occurred
- > The type of assistance being sought from the Unit.

The Unit understands that reporters may find it difficult to discuss their concerns, however, the Unit is staffed by experienced Adult Safeguarding Practitioners who will assist by asking relevant follow up questions in a sensitive manner. It is important to provide as much relevant information as possible so that the Unit can prioritise the report for response based on the risk factors identified. Once prioritised, reports are placed on an allocations list for assessment by an Adult Safeguarding Practitioner.

While the Unit is not a crisis response service, the Unit will consider the appropriate immediate measures to be undertaken when there are concerns of:

- > serious and imminent criminal activity, or
- > an immediate risk to an adult's health, safety or welfare.

This will usually require liaison with SA Police or SA Ambulance Service.

Higher priority for assessment may also be given in any of the following circumstances, where:

- > an adult vulnerable to abuse is primarily reliant on another person for their basic day to day activities and there are concerns about the care they are receiving
- > there is a suspicion of imminent risk of financial abuse or exploitation involving significant assets
- > there are no known services or supports in place for the adult
- > the adult is self-reporting.

Key points

How to make a report:

Call the Adult Safeguarding Unit on **1800 372 310**, complete an **online report form** or email **adultsafeguardingunit@sa.gov.au**

Is it mandatory to report suspected abuse?

There is no mandatory requirement for anyone to report suspected abuse to the Unit, however, if someone has concerns about an adult vulnerable to abuse, it may be helpful to report those concerns to enable support to be offered. Anyone can contact the Unit to make an enquiry and seek advice about a situation.

When making a report, can the caller remain anonymous?

Yes, however, if any personal information is provided it will be kept confidential and not released without consent, unless authorised or required by law.

Assessment of a report

What is an assessment of a report?

Once a report is received, the Unit will assess the report to determine if it meets the minimum criteria for a report and the most appropriate action, as prescribed by the legislation. Actions may include:

- > referring the matter to a more appropriate organisation or service (see Referral section)
- > undertaking an investigation to gather more information, better understand the abuse allegations and develop a safeguarding plan with the adult (see Investigation section)
- > taking no further action (see No further action section).

The Unit often works with the adult and other services and individuals to put in place safeguarding supports, in line with the adults wishes and circumstances. This may happen

during the assessment process or as part of the subsequent investigation stage.

The Act enables the Unit to gather a range of information without the consent of the adult for the purposes of assessing the initial report and determining the most appropriate action. The Unit makes full use of these provisions to ensure all reports are comprehensively assessed, so the next action can be determined. The Unit will ensure that privacy principles are adhered to as part of the information gathering process.

Staff gather information that is relevant to understand the concerns reported about the adult, such as any current support services in place, decision-making capacity and legal orders. This approach ensures well informed, targeted and sensitive discussions occur.





When assessing a report, the Unit's Adult Safeguarding Practitioners gather relevant background information. For example, the Unit can collect medical and financial information to assess a report. Contact is usually made with a range of government and non-government organisations, family members and friends. These contacts allow practitioners to gain a comprehensive understanding of the situation and assess risk, including risks associated with contacting the adult at the centre of the report. Direct contact with the adult at risk of abuse is usually made as part of the assessment and it is at this point that consent is sought to continue with an investigation for the purposes of ensuring a safeguarding response.

The thorough assessment process supports practitioners to make a clear determination about next steps.

Once the Unit has determined the appropriate action to be taken, priority and timeframes for next steps will be based on the risk factors identified within the assessment

Feedback following making a report

At the time of the initial report, the reporter will be advised that the Unit has a statutory responsibility to assess all reports received and take action, in line with the requirements of the Act.

The Unit is required under the Act to keep personal information, including the details and outcome of the report confidential, except in specific circumstances or with the consent of the adult.

Where practicable and appropriate (and with the consent of the adult to whom the report relates), the Unit may inform the reporter about the outcome of the report or any actions that the Unit is taking that may be useful to the reporter's ongoing contact with the adult at risk of abuse.

Key points

What can happen once a report has been made?

The report will be assessed and there are a number of actions that may occur, including referral, investigation or, in some cases, no further action.

Will the caller be provided with feedback regarding actions taken?

The caller will be advised that the Unit has a mandated responsibility to take action once a report has been received. Where practicable and appropriate, the Unit *may* inform the caller about the outcome of the report. In most cases the person at risk will need to provide consent for this information to be shared.



Taking no further action after assessment

After assessing a report, the Unit may decide to take no further action in respect of the matter if:

- > the report has been previously dealt with and there is no reason to re-examine (this may occur where there is a new report but there has been no new information provided)
- > the report is considered trivial, vexatious or frivolous
- > there is good reason why no action should be taken, for example:
 - » the case is already being appropriately managed/ safeguarded
 - » after assessment, no abuse is identified
 - » consent is not provided for involvement of the Unit
 - » safeguarding advice is provided and further assistance from the Unit is declined.

On some occasions, the assessment may provide sufficient information to determine no abuse is being carried out but that there is significant family conflict and breakdown in communication.

Where conflict is identified, the Unit may where appropriate, provide information to family members regarding family counselling and/or family dispute resolution services.

In many cases, because of the Unit's input and advice during the assessment phase, supports are strengthened to safeguard the adult such that the case does not need to formally progress to investigation for safeguarding. Information gathering during the assessment phase is an interactive process where the adult's situation is usually discussed in detail. Solutions are identified and implemented by either the adult themselves, the Unit or others involved in their support and care, and safeguarding actions are completed. Safeguarding often overlaps with the assessment process.

Persons reporting to the Unit are encouraged to re-contact the Unit with any future concerns. In addition, the Unit may assist the reporter to access other services such as counselling, advocacy and dispute resolution services.



Consent

The Unit's work is consent driven; coordinating responses to safeguard the rights of adults experiencing abuse, tailored to their needs, wishes and circumstances. The Unit aims to work positively with and for the adult experiencing abuse to preserve relationships that are important to them.

It is presumed that an adult has decision-making capacity unless there is evidence otherwise. This includes the decision to be supported by the Unit.

Under the Act, the Unit is generally required to seek the consent of the adult to whom the report relates prior to taking any action following the assessment of the report (such as undertaking an investigation for the purposes of safeguarding or referral of the matter). However, in some instances it may be appropriate for the Unit to act without an adult's consent (see – Exceptions to consent section).

When will the Unit seek consent?

As described above, the Act enables the Unit to gather a range of information without the consent of the adult for the purposes of assessing the initial report and determining the most appropriate action.

After assessment of the report has been completed, the Unit will seek the consent of the adult reported to be experiencing the abuse prior to undertaking any further action, unless an exception to consent applies. Where possible, this will occur at a face-to-face meeting allowing time for the adult to fully understand what they are consenting to.

When seeking consent, the Unit will provide the adult with information regarding the decision to be made and the likely consequences of that decision. The way in which this information will be provided will be adapted to the adult's unique situation, needs and wishes.

How will the Unit seek consent?

The Unit will seek the adult's consent either in writing or in person, depending on the adult's wishes and needs. The Unit will work with the adult flexibly to ensure they are given the best opportunity to consider providing consent.

Exceptions to consent

The Act outlines limited circumstances in which the Unit may act without first obtaining the consent of the adult who is reported to be experiencing the abuse. These include:

- > when the adult's life or physical safety is at immediate risk
- > where the risk of abuse to which the report relates consists of an allegation that a serious criminal offence has been, or is likely to be, committed against the adult
- > when the adult to whom the report relates has impaired decision-making capacity in respect of a decision to consent to action of the relevant kind being taken
- > when the Unit has not, after reasonable inquiries, been able to contact the adult.

The Unit must be satisfied that acting without the consent of the adult is necessary or appropriate in the circumstances. The Unit will not act to override consent simply because an adult's decision may be regarded as reckless, wrong or inappropriate.

Any decision to act without consent requires the approval of the Director, Office for Ageing Well.

Prior to acting without an adult's consent, in most situations and where appropriate, the Unit will meet with the adult to establish their wishes and preferences and ensure that, where possible, the adult has the opportunity to be supported in their decision-making.

All decisions to act without consent will be made on a case-by-case basis and will be contemporaneously documented.

Supported decision-making

The Unit recognises that some adults vulnerable to abuse may require support to make decisions about their own lives. An adult should be allowed to make their own decisions about their own



affairs to the extent that they are able and be supported to make such decisions for as long as they can.

An adult at risk of abuse will be supported to make their own safeguarding decisions by:

- > using the most appropriate method of communication for the adult, such as non-verbal communication, visual aids, and communication aids
- > providing information in an accessible way, such as offering an interpreter or discussing the option of a cultural representative or support person who can provide assistance
- > finding a suitable location or better time of day
- > giving appropriate time to consider a decision
- > suggesting or assisting the adult to get treatment for a medical condition that may affect their decision-making
- > supporting the adult to resolve, or to get help in resolving, underlying personal or social issues that are causing them stress, and may affect their decision-making
- > helping the adult find someone to support them to make choices or express their view, which could include a family member, friend or independent advocate
- > helping the adult to access a program or support, which may improve their capacity to make decisions
- > giving the adult relevant information about the decision and its consequences.

Impaired decision-making capacity

The Unit assumes that an adult has decision-making capacity in respect to any proposed action undertaken by the Unit,

Key points

Does the Unit seek consent from an adult to take further action?

The Unit will support an adult to make a decision about their situation, including giving consent to safeguarding actions. There are, however, some circumstances where the Unit may take safeguarding action without an adult's consent.

unless there is evidence indicating otherwise. The existence of South Australian Civil and Administrative Orders (such as guardianship or administration orders) and clinical assessments will be used as a guide and can contribute to the Unit's opinion in relation to decision-making capacity. When working with the adult who is reported to be experiencing abuse, the Unit will consider whether the adult can:

- > understand information relevant to the decision and the choices that exist
- > retain the information long enough to make a decision
- > weigh up the consequences of the decision and understand how this affects them
- > communicate their decision.

The Unit will also consider:

- > whether the adult's actions are guided by delusion or false belief
- > the adult's level of suggestibility.

Where the Unit believes there are concerns regarding an adult's capacity to make decisions, the Unit will consider the most appropriate way to safeguard the adult.





This may include:

- > assisting with an appropriate assessment of their capacity
- > undertaking any required safeguarding actions without their consent.

Decisions regarding an adult's capacity will be made with regard to the principles that mental capacity is decision specific and that the ability to make a decision can fluctuate, depending on the complexity of the decision and the point in time when the decision is made, and will be made on a case-by-case basis. Where the adult has been assessed as unable to make a certain decision, the Unit will attempt to gather information about their past and present wishes through any existing Advance Care Directive, Enduring Power of Attorney or with family or significant others if appropriate.

What if the adult to whom the report relates does not consent to the Unit taking further action?

The Unit values and is guided by principles of self-determination, respect for dignity and autonomy. Where an adult has decision-making capacity with respect to a decision, they have

the right to decline support, assistance or other measures designed to safeguard them.

The Unit will ensure that the adult who is reported to be experiencing the abuse is provided with enough information, time and support to make informed decisions regarding any measures designed to safeguard them. At times, it might be appropriate for someone known and trusted to the adult at risk of abuse to be present during meetings to offer support.

An adult with decision-making capacity may choose to remain in a situation where they are at risk of being mistreated or abused and understand the implications of doing so, and may decline support from the Unit. They may also initially consent to an action and then change their mind. The Unit will support the adult with their decision, unless an exception to consent provided for under the Act applies.

In situations where support is declined, the adult's decision will be documented and the Unit will close the case. Where the adult declines or withdraws consent, the Unit may still provide relevant information and advice that may assist the adult in the future.

Referrals

The responsibility of preventing abuse and mistreatment is shared by many. There are a variety of South Australian organisations offering preventative services, supports and interventions to stop abuse from occurring, and to restore people's right to safety, respect and self-determination.

In supporting adults to access services and supports to help safeguard them against the abuse and mistreatment they are experiencing, the Unit collaborates with other service providers, government and non-government agencies and organisations to provide advice and information, as well as safeguarding responses.

As part of the assessment of a report, the Unit will consider whether one or more other organisations may be more appropriately placed to assist a person or have a role to play in the development and/or implementation of a safeguarding plan. The Unit's role is to complement rather than duplicate existing

services, so where a more appropriate service exists that can respond to a situation, a referral will be made to that service for a response.

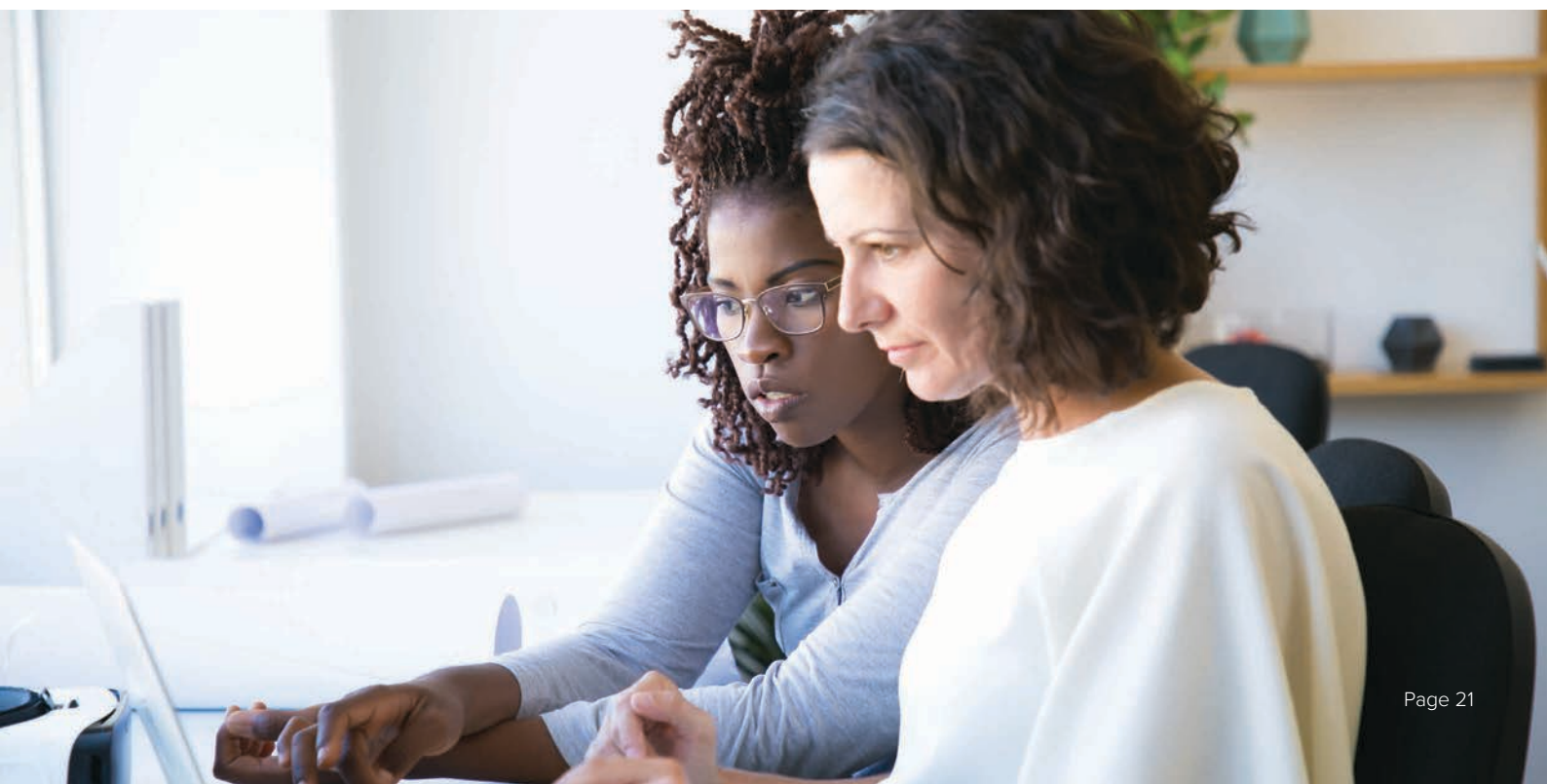
The Unit will also consider whether, in situations where the report relates to a service provider, the matter should be referred to the appropriate regulatory body such as the Aged Care Quality and Safety Commission or the NDIS Quality and Safeguards Commission. Depending on the circumstances, the Unit may support the reporter to make a complaint to the appropriate organisation directly rather than coming as a referral from the Unit.

A referral may be made at any stage of the assessment, investigation or safeguarding process.

How will a referral be made?

The Unit may make a formal referral under the Act to another organisation in writing (this includes email) under the Act.

For urgent or more complex referrals, the Unit will contact the organisation by phone to alert



them to the nature of the referral and may ask for the referral to be prioritised for acceptance.

A matter that is referred to another organisation must be dealt with within a reasonable timeframe, having regard to the need to ensure the adult is protected from abuse. The receiving organisation must, as soon as reasonably practicable after dealing with the matter, provide a report back to the Unit.

Can an organisation refuse a referral?

The Act provides that an organisation may refuse a referral due to:

- > lack of resources or capacity to accept the referral at the time
- > the referral is inappropriate to the services provided by the organisation
- > following consultation, the Unit agrees to the refusal.
- > Where the organisation refuses a referral, the Unit will consider whether the matter can be:
 - > referred to another organisation for a response
 - > referred to another organisation to provide an interim response
 - > whether an escalation of the matter is required.

Other referral pathways

Referrals may also be made using established referral pathways already in place at the receiving organisation, rather than relying on formal referral provisions in the Act. This less formal approach may be preferred when the Unit is seeking to facilitate a multi-agency collaborative approach to safeguarding the adult, where multiple agencies are engaged to provide responses in a timely and collaborative manner.

Key points

Why does the Unit make referrals to other agencies?

The responsibility of preventing abuse and mistreatment is shared by many. The Unit collaborates with others to provide advice and information, as well as safeguarding responses. Other agencies or organisations may be better placed to assist a person or implement safeguards. The Unit's role is to complement rather than duplicate existing services, so where a more appropriate service exists that can respond to a situation, a referral will be made to that service.



Investigations

When will an investigation be undertaken?

The Unit will undertake an investigation in situations where further information is required to establish the facts about an allegation of abuse, explore risk factors, and ascertain the adult's wishes and preferences in relation to dealing with the abuse. The Act provides significant information sharing provisions and powers to authorised officers to ensure information can be gathered effectively.

The Unit does not investigate abuse with a view to prosecuting offenders. It is not the Unit's role to prove that the person accused of abuse or mistreatment is guilty of committing a crime. However, if at any time through the course of the Unit's work, staff believe that a criminal offence may have occurred or is occurring, the Unit will refer the matter to the South Australian (SA) Police.

In addition, it is not the Unit's role to investigate service providers or deal with matters of professional misconduct as there are more appropriate bodies that exist for this purpose. Concerns in relation to an adult who may be experiencing abuse or mistreatment by a service provider will be directed to the relevant organisation, as appropriate. This may include the Aged Care Quality and Safety Commission, Health and Community Services Complaints Commissioner, NDIS Quality and Safeguards Commissioner, the South Australian Ombudsman or the Australian Health Practitioner Regulation Agency (AHPRA).

What is the purpose of an investigation?

The purpose of an investigation is to:

- > gather further information to establish the facts about an incident or allegation
- > better understand the perspective and preferences of the adult who is reported to be experiencing the abuse
- > better understand if the adult's safety is at risk
- > explore risk factors that may be contributing to the abuse
- > identify, develop and implement safeguarding strategies, actions and plans to assist the adult to deal with the abuse and support their needs.

This may include referring the adult to an appropriate organisation, or meeting with the adult and their family to provide education and information.

Consent and guiding principles of an investigation

Prior to undertaking an investigation, the consent of the adult will be sought (unless an exception to consent applies). An adult's consent may be sought several times throughout an investigation depending on what information is required. This will ensure that the adult at risk of abuse is kept up to date and understands what the Unit is doing and why.

Where the adult does not agree to an investigation, the Unit will:

- > offer to contact the adult again within a negotiated timeframe
- > offer to provide information about the Unit and other relevant organisations should the adult wish to make contact in the future.

If the Unit is investigating a matter and an exception to obtaining consent applies, the adult will (where appropriate and/or safe to do so) be:

- > given notice of the decision to act without consent
- > informed of the progression of the investigation, as well as any actions or decisions that occur (see Consent section).

What might occur during an investigation?

Investigations are undertaken based on an individual's unique situation and wishes. Where possible, the Unit will endeavour to undertake an investigation with the cooperation of the parties involved. In situations where the report relates to unintentional abuse, the investigation will be undertaken with a strong focus on preserving family relationships.



Investigations will be undertaken in a manner that is tailored to suit the needs of the adult at risk of abuse. The issues and concerns explored during an investigation are addressed through the development of a safeguarding plan with the adult, based on their wishes and preferences.

Exercising powers of an authorised officer

Authorised officers are staff who are authorised by the Director to exercise powers in accordance with the Act. Authorised officers will carry identification that recognises their authority whilst undertaking an investigation, and this will be presented on request.

Where there is suspicion that a vulnerable adult is at risk of serious abuse, the Act enables authorised officers to exercise a range of powers during the course of an investigation, to support further information gathering and safeguarding of the adult. These include but are not limited to:

- > entering and inspecting premises, places and vehicles
- > requesting documents, records or books of accounts for inspection and/or removal in order to make copies
- > taking photographs, films, audio, video or other recordings
- > requiring any person who is in a position to provide information relating to the adult at risk of abuse to answer any questions
- > requiring any such person to state their full name, address and date of birth.

On occasion, an authorised officer may be required to use force to enter a premises, place, vehicle or vessel. This can only occur if certain criteria have been met indicating significant risk of harm, and with approval from the Director or on the authority of a warrant issued by a magistrate.

Who may be involved in the investigation process?

During an investigation, the Unit may wish to speak with people who have information relevant to the circumstances of the adult reported to be experiencing the abuse. This may include family members, service providers, other organisations and/or the reporter.

Can the information disclosed in an investigation be disclosed to third parties and/or be used as evidence in later legal proceedings?

Personal information obtained during an investigation must be kept confidential and can only be disclosed in specific circumstances. These include:

- > as required or authorised by or under any Act or law
- > with the consent of the adult to whom the information relates
- > for the purposes of referring the matter to a law enforcement agency
- > to an organisation for the purposes of the proper performance of its functions
- > if the disclosure is reasonably necessary for the protection of the lawful interests of that person.

What happens if an investigation reveals criminal activity?

If at any time throughout an investigation information is provided alleging a criminal offence, the Unit will refer the matter to SA Police. In most cases, the referral will be made with the consent of the adult. Where an allegation is made that a serious criminal offence has been or is likely to be committed against an adult who is reported to be experiencing the

abuse, the Unit will refer the allegation to SA Police without their consent.

What constitutes a serious criminal offence is not defined in the Ageing and Adult Safeguarding Act 1995 and must be considered on a case-by-case basis. Examples of matters that may be considered a serious criminal offence include where the suspected criminal activity relates to a risk of physical harm, a sexual offence, fraud or financial abuse.

How long does an investigation take?

The timeframes for completing an investigation will vary depending on the circumstances and requirements of each situation. There is no set timeframe for how long it will take to complete an investigation, however, safeguarding will occur as soon as required and does not need to wait for the completion of an investigation.

Key points

Why is an investigation undertaken?

An investigation is undertaken to gather further information, explore the adults wishes and preferences and develop and implement safeguarding strategies and plans to address the abuse and support needs.

What is the aim of an investigation?

Investigations are undertaken with the aim of reducing the risks of further abuse. Investigations are not undertaken for the purpose of making findings or punishing perpetrators.



Safeguarding

What is safeguarding?

Safeguarding is the action that a person, organisation or community takes to promote and protect the health, wellbeing and human rights of a person to live free from abuse or mistreatment.

The aims of safeguarding are to:

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

The Unit provides support to safeguard the rights of adults experiencing abuse or mistreatment that is tailored to their needs, wishes and circumstances. In line with the strong focus of the Act on the right to self-determination and autonomy, the Unit is guided by the following key principles in taking actions to safeguarding:

- 1. Empowerment** – People being supported and encouraged to make their own decisions and informed consent.
- 2. Prevention** – It is better to take action before harm occurs.

3. Proportionality - The least intrusive response as is appropriate to the risk being prevented.

4. Protection – Support and representation for those in greatest need.

5. Partnership – Solutions through services operating in their community. Communities have a part to play in preventing, detecting and reporting abuse and mistreatment.

6. Accountability – Accountability and transparency in delivering safeguarding.

Safeguarding actions the Unit can assist with may include:

- > supporting an adult to make a report to the police or apply for an intervention order
- > referring to support services such as aged care, NDIS services or other community support services
- > creating safety plans with a person
- > supporting an adult to complete legal documentation to safeguard their financial, legal or personal affairs
- > assisting an adult to move to alternative accommodation.

The Unit works positively with and for the adult experiencing abuse or mistreatment, to preserve relationships that are important to them. At all times, the Unit endeavours to balance the need to intervene, with the adult's right to autonomy and self-determination.

Where possible and appropriate, the Unit will undertake safeguarding actions at an early stage to mitigate the risk of the alleged abuse or mistreatment escalating further.



Safeguarding plans

During the course of an investigation, the Unit will work with the adult to develop a safeguarding plan. Safeguarding plans map out actions to safeguard the adult's rights and are aimed at reducing the risk of future abuse. Plans are guided by the adult at risk, in line with the strong focus within the Act on the right to self-determination and autonomy. Safeguarding plans can either be captured in a document or agreed upon verbally.

The actions in the safeguarding plan should be in line with principles of the legislation, being the least interventionist and least intrusive for the adult concerned. Care will be taken to ensure the actions are in accordance with the adult's wishes (unless an exception to consent applies) as well as being considerate of any associated risks.

The safeguarding plan may include:

- > goals or outcomes sought by the adult at risk of abuse
- > addressing any immediate risks, and any further risks that emerge as the investigation progresses
- > actions for the Unit
- > actions for other organisations or individuals
- > identifying and promoting how the adult can protect themselves now and in the future
- > any contingency plans
- > other relevant contacts or information, including emergency numbers
- > support or action plans concerning the needs of others, including the person responsible for the alleged abuse
- > details of who will receive a copy of the plan and how communication will occur
- > an agreed timeframe and process of review of the plan to ensure the adult's safeguarding needs are managed and sustained appropriately.

The safeguarding plan will be provided to the adult, and they will be asked to indicate their agreement by either signing or verbally agreeing to the plan.

The safeguarding plan may change throughout the Unit's involvement with the adult and can be varied with the consent of the adult, should their circumstances or arrangements change.

Multi-agency approach to adult safeguarding

Safeguarding an adult's rights is everyone's business. In many instances, a safeguarding plan will require the involvement of a number of different parties and/or organisations. The Unit collaborates with individuals, members of communities, service providers, government and non-government agencies and organisations to provide advice and information, as well as safeguarding responses.

The Unit may provide a lead role in coordinating the plan, particularly where there are a number of different parties or organisations involved.

When working with other organisations on a safeguarding plan, the Unit will be guided by the following principles:

- > collaboration should be for the benefit of the adult who is reported to be experiencing the abuse
- > where risk of harm can be more efficiently and effectively managed through interagency coordination, this should be undertaken
- > responses should be proportionate, outcome focused and relevant to the risk being managed
- > inter-agency collaboration should be tailored to and focus on the wishes of the adult who is reported to be experiencing the abuse.

Where another organisation is working with an adult who is reported to be experiencing the abuse and can appropriately support them or respond to the factors placing them at risk, they should continue to do so.

Coordination role of the Unit

To effectively prevent and address abuse and mistreatment of adults, responses must be in collaboration with various services and individuals, including the adult themselves.

The Unit provides a short-term, coordinating role to ensure engagement and cooperation between services, people and bodies to mitigate the factors contributing to the abuse the adult is experiencing.

Once a safeguarding plan has been developed, the Unit will:

- > ensure the adult has had contact from the organisations they have been referred to, in accordance with their safeguarding plan
- > monitor that the safeguarding plan is meeting the adult's needs
- > determine if any new issues have emerged and ensure the safeguarding plan is updated to reflect this.

Case review and closure

The Unit will review each safeguarding plan as required to review actions achieved, what is outstanding and what role the Unit continues to provide.



The case will be closed once a clinical review indicates that:

- > the safeguarding plan and/or actions taken have addressed the abuse for the person, or
- > there is no further role for the Unit or is limited benefit in the Unit remaining involved, or
- > there are more appropriate organisations involved to support the safeguarding, or
- > the adult is appropriately safeguarded in relation to the abuse or mistreatment reported.

The Unit will discuss the closure of a case with the adult and other parties, as appropriate. Future contact with the Unit is encouraged if further assistance is required.

Working with family and significant others

The Unit delivers its services using a whole-of-community approach, based on the safeguarding required.

To effectively address abuse and mistreatment of adults, responses must be in collaboration with services and individuals. Neighbours, friends, families, community groups and local service providers are in an ideal position to identify suspected or actual abuse and support those experiencing abuse.

The Unit may work with family or others nominated by the adult to whom the report relates to support them and enable them to contribute to the safeguarding plan. There may be times that contact is made with family and significant others to understand the opportunities to support the safeguarding plan and to provide further information. This may include communicating with the person responsible for the alleged abuse.

Any personal information gathered in the course of the administration and operation of the Act must be kept confidential and may only be disclosed in certain circumstances.

Key points

What is a safeguarding plan?

A safeguarding plan will provide information to the person at risk of abuse, and others who are involved in their support or care, about key issues that have been discussed, and the agreed supports or actions that will be put in place. It may also include useful information that will assist the adult vulnerable to abuse.



Information sharing

Personal information will generally be shared with the consent of the adult to whom the information relates. Where personal information is disclosed without the adult's consent, the disclosure will be made in accordance with the Act, Regulations and Unit processes.

State Authorities, organisations actioning a referral and the South Australian Civil and Administrative Tribunal (SACAT)

Sharing information supports organisations to provide a collaborative, multi-disciplinary response for adults who are vulnerable to abuse.

The Act allows state authorities, SACAT and persons and bodies actioning a case referred by the Unit, to share certain information and documents among themselves where the information will assist them to:

- > perform official duties relating to the health, safety, welfare or wellbeing of an adult or class of adults who may be vulnerable
- > manage any risk to an adult or class of adults who may be vulnerable, which might arise in the recipient's capacity as an employer or provider of services.

The types of information and documents that can be shared are those that:

- > relate to the health, safety, welfare or wellbeing of an adult who is reported to be experiencing abuse
- > relate to the financial affairs of the adult who is reported to be experiencing abuse
- > are made by SACAT in respect of an adult who is reported to be experiencing abuse
- > may reduce a risk to the health or safety of a person or body, performing official functions in relation to an adult or class of adults who may be vulnerable.

A person or organisation sharing the information in these circumstances must confirm the identity of the recipient and be satisfied that the recipient is a person or organisation who can receive the information. They must also take reasonable steps to ensure that the information is not provided to any other person or organisation who should not receive the information.

Reporting to other organisations

The Unit is not a regulatory body. Investigations undertaken by the Unit will relate to cases where there are reasonable grounds to suspect that the adult who may be vulnerable is at risk of abuse. This includes information gathering to form a view about what support the adult needs and wants, to stay safe from abuse.

Part of the role of the Unit is to ensure the factors placing an adult at risk of abuse reach the organisation/s best able to assist them. The Unit is not intended to duplicate the functions of other organisations. Investigations conducted by the Unit are not designed to identify or punish alleged abusers, however, the Unit may refer cases to organisations with a remit to mediate, administer sanctions or to SA Police to investigate criminal matters.

Where an allegation is made that indicates professional misconduct, the Act enables the Unit to report the matter to a relevant regulatory or professional body. The Act also provides for the Unit to make complaints to the Ombudsman or Health and Community Services Complaints Commissioner, as relevant.

Working with diverse communities

The Unit acknowledges that working with people who are experiencing abuse or who are at risk of being abused requires a considered approach, which will vary according to the wishes and needs of the individual. It is understood that an adult may be vulnerable to abuse because of ill health, disability, isolation and/or dependence on others. It is recognised that being a member of a non-majority community compounds these risks and often worsens these experiences.

The Unit recognises that initial and ongoing contact with an adult who is reported to be experiencing the abuse will need to be tailored to meet the needs of the adult and will require flexibility and responsiveness. Services will be provided in a manner that maximises accessibility

and enhances opportunities to participate, tailored to each adult's communication needs, cultural background, language, identity, spirituality, traditions and beliefs.

Where required, the Unit will use translating and interpreter services or hearing assistance and other communication aids or technology, for example apps or visual images. The Unit will also develop relationships and work with relevant organisations to support Unit staff to work in a culturally appropriate and sensitive manner. This may include seeking assistance from organisations or community members to connect with the adult who is at risk of abuse or mistreatment.







Feedback, complaints and reviews

The Unit aims to provide the best possible service, however, there may be times when people will want to provide feedback, make a complaint, or seek a review of a decision made. The Unit respects feedback and complaints and sees these as essential to reviewing and improving its practice and service. Under the legislation, decisions made by the Unit can be reviewed in certain circumstances.

Feedback and complaints

The Unit takes complaints seriously and will deal with concerns fairly, impartially and within a reasonable timeframe. The Unit also encourages people who are happy with services provided by the Unit to provide their feedback.

The Unit complaints and feedback process is available on the SA Health website:
www.sahealth.sa.gov.au/adultsafeguardingunit.

Internal reviews

If a person is aggrieved by a decision made by the Unit, they are entitled to seek an internal review of that decision.

This relates to the following decisions:

- > a decision regarding the action/s to be taken following the assessment of a report
- > a decision to act without first obtaining the consent of the person reported to be experiencing abuse
- > a decision to refer a matter (or part of the matter) to another state authority, person or body
- > a decision to cause an investigation into the circumstances of the person reported to be experiencing abuse to be carried out.

Applications for internal review must be made within 30 days of receiving notice of the decision (or such longer time as the Chief Executive of the Department for Health and Wellbeing may allow).

The process for seeking an internal review of a decision made by the Unit is available on the SA Health website: www.sahealth.sa.gov.au/adultsafeguardingunit.

Once a review is completed, the Chief Executive will provide the outcome of the internal review to the applicant in writing.

External reviews

Should a person be dissatisfied with the outcome of the internal review, they can apply to the Ombudsman for an external review:
www.ombudsman.sa.gov.au.

Appendix

Legislation

The relevant legislation is:

- > *Ageing and Adult Safeguarding Act 1995*
- > *Ageing and Adult Safeguarding Regulations 2019.*

SA Charter of the Rights and Freedoms of Vulnerable Adults

The *South Australian Charter of the Rights and Freedoms of Vulnerable Adults* (Charter) clearly states the rights and freedoms of all adults who may be vulnerable in South Australia. It sets out a human rights-based approach to guide the actions of the Unit and other organisations supporting adults at risk of abuse.

Under the Act, all staff of the Office for Ageing Well, and in particular the Unit, must have regard to, and seek to give effect to the Charter.

The Charter does not create new 'rights' that are enforceable in the courts.

The *South Australian Charter of the Rights and Freedoms of Vulnerable Adults* is available on the SA Health website: www.sahealth.sa.gov.au/officeforageingwell.

Governance of the Adult Safeguarding Unit

The Unit is within the Office for Ageing Well as part of the South Australian Department for Health and Wellbeing.

The Office for Ageing Well works in partnership with other organisations and the broader community to raise awareness and understanding of the role and functions of the Unit.

The Unit has entered into several Memoranda of Administrative Agreements, which describe agreed working practices between the Unit and key organisations. The agreements include referral procedures, information sharing, and ongoing review. Where no memorandum exists, the Unit will work flexibly and in partnership with relevant organisations.

Functions of the Adult Safeguarding Unit

The functions of the Unit are set out in the Act. These functions are:

- > promoting and advocating for the rights and interests of vulnerable adults in South Australia
- > promoting participation by vulnerable adults in the making of decisions that affect their lives
- > promoting and assisting in the development of coordinated strategies for prevention and early intervention of abuse of vulnerable adults
- > to receive reports relating to the suspected abuse of vulnerable adults
- > to assess reports relating to the suspected abuse of vulnerable adults
- > to investigate reports relating to the suspected abuse of vulnerable adults
- > to coordinate responses to reports relating to the suspected abuse of a vulnerable adult with State authorities and other persons and bodies
- > to refer reports relating to the suspected abuse of a vulnerable adult to appropriate persons and bodies
- > to follow up on reports that have been assessed or investigated where it is appropriate to do so
- > to collate data on matters relating to the abuse of vulnerable adults
- > to advise Ministers, State authorities and other bodies (including non government bodies) on matters relating to the abuse of vulnerable adults at a systemic level
- > to prepare and publish reports on matters relating to the abuse of vulnerable adults at a systemic level



- > to prepare and publish reports on issues relating to vulnerable adults that are of public importance
- > to perform such other functions as may be assigned to the Adult Safeguarding Unit by the Minister or under this or any other Act.

Glossary

Abuse: There are different types or forms of abuse, and sometimes more than one type can occur together. Abuse is often committed by a person known and trusted by the person such as a family member, carer, friend or service provider. It is most likely to occur in the community.

Under the Ageing and Adult Safeguarding Act 1995, abuse of a vulnerable adult is defined to include:

- > physical, sexual, emotional or psychological abuse
- > financial abuse or exploitation, including unlawful physical or chemical restraint and over-medication or under-medication
- > neglect
- > abuse, exploitation or neglect consisting of a person's omission to act in circumstances where the person owes a duty of care
- > the abuse or exploitation of a position of trust or authority existing between an adult who may be vulnerable and another person
- > a denial, without reasonable excuse, of basic rights
- > any other act or omission of a kind declared by the regulations to be included in the ambit of this section within the Act, but not an act or omission of a kind declared by the regulations to be excluded.

Adult Safeguarding Investigation: An inquiry into the circumstances of an adult who may be vulnerable where there are reasonable grounds to suspect that the adult is at risk of abuse for the purposes of ensuring the adult is appropriately safeguarded from the abuse.

Assessment of a report: An assessment conducted by the Unit to determine what action is required to respond to a report.

Authorised Officer: A person appointed or engaged by the Unit and authorised by the Director to exercise powers and functions for the purpose of the Act.

Confidentiality: The *Ageing and Adult Safeguarding Act 1995* provides that personal information obtained in the administration of the Act must not be disclosed unless an exception applies (see information sharing section).

Director: The person for the time being appointed by the Minister and holding or acting in the office of Director of the Office for Ageing Well.

Enquiry: If a person contacts the Unit for advice, information or support but does not wish to make a report, or the situation does not fall within the Unit's legislative remit.

Record: Means—

- (a) written, graphic or pictorial matter
- (b) a disk, tape, film or other object that contains information or from which information may be reproduced (with or without the aid of another object or device).

Report: A notification made to the Unit of suspected or actual abuse of a named adult who may be vulnerable.

Safeguarding: An action that a person, organisation or community takes to promote and protect the health, wellbeing and human rights of a person to leave free from abuse or mistreatment.

Serious abuse: The term serious abuse is not defined in the *Ageing and Adult Safeguarding Act 1995* and should be given its ordinary, everyday meaning. Whether the abuse an adult who may be vulnerable is experiencing, or is suspected to be experiencing, is 'serious' is a question of fact, and must be assessed on case-by-case basis with regard given to the facts and circumstances of the case.

Serious criminal offence: What constitutes a serious criminal offence is not defined in the *Ageing and Adult Safeguarding Act 1995* and must be considered on a case-by-case basis. Examples of matters that may be considered a serious criminal offence include where the suspected criminal activity relates to a risk of physical harm, a sexual offence, fraud or financial abuse.

Serious and imminent harm: The decision of whether a case involves serious and imminent harm (or suspected serious and imminent harm) is a question of fact and is determined at a point in time. A case will involve 'imminent' harm if the harm is about to occur or, if without quick action, the risk of harm may escalate. The seriousness of the harm must be assessed on a case-by-case basis with regard given to the facts and circumstances of the case and the potential severity and consequences of the harm to the adult who may be vulnerable, if it were to occur. There must be a clear link between any proposed action to be taken by the Unit and the prevention or lessening of the serious and imminent harm to the person.

State Authority: A department, organisation, local council, person or body defined in section 2 of the *Ageing and Adult Safeguarding Act 1995*.

Vulnerable adult: A vulnerable adult is defined in the legislation as an adult person who, by reason of age, ill health, disability, social isolation, dependence on others or other disadvantage, is vulnerable to abuse.

For more information

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