Local Government Association

directors of adas adult social services

Health, adult social care and ageing

Adult safeguarding and domestic abuse

A guide to support practitioners and managers

Sector-led improvement

Contents

Background

The guide was commissioned by the Local Government Association (LGA), supported by Association of Directors of Adult Social Services (ADASS).

The content was developed by Sue Lewis, Consultant for the LGA, in consultation with Cathie Williams, Adult Safeguarding Programme Lead.

The references and resources it refers to, and much other information, can be found on the adult safeguarding group on the Knowledge Hub: www.knowledgehub.local.gov.uk/group/adultsafeguardingcommunityofpractice

Acknowledgements

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

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

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

1. Making the connections between adult safeguarding and domestic abuse

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

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

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

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

In summary, the guide aims to:

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

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

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

If you need guidance and support in implementing local procedures or in using this guide, you should speak to your manager in the first instance.

Alternatively, you can seek advice from a safeguarding lead/designated person in your organisation.

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

Domestic abuse used to be defined in terms of 'incidents' of threatening behaviour: violence or other forms of abuse between adults who are or have been intimate partners or family members. This definition is now felt to be too narrowly focused on single incidents rather than complex and controlling patterns of behaviour which may also be physically non-violent. Following a consultation by the government, the definition of domestic abuse has now been replaced, and the age range has also been extended so that young people in violent and abusive relationships are included.

From March 2013, the definition of domestic abuse is:

'Any incident or pattern of incidents of controlling, coercive or threatening behaviour, violence or abuse between those aged 16 or over who are or have been intimate partners or family members regardless of gender or sexuality.

This can encompass, but is not limited to, the following types of abuse: psychological; physical; sexual; financial; emotional.'

Family members are defined as: mother, father, son, daughter, brother, sister and grandparents, whether directly related, in-laws or step-family.

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

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

*'This definition, which is not a legal definition, includes so called 'honour' based violence, female genital mutilation (FGM) and forced marriage, and is clear that victims are not confined to one gender or ethnic group.' (Government press release 2012)

Examples of coercive and controlling behaviour might be: the destruction of property, isolation from friends, family or other potential sources of support, preventing or controlling access to money, personal items, food, transportation and the telephone, and stalking.

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

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

The adult safeguarding national policy agenda was set out in ‘No Secrets’ (Department of Health 2000), and safeguarding services have developed considerably since then.

‘No Secrets’ defined a vulnerable adult 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 herself or unable to protect him or herself against significant harm or exploitation.’

The term abuse in adult safeguarding includes physical, sexual, emotional, psychological, financial, material, neglect, acts of omission, discriminatory and institutional abuse.

The term ‘adult at risk’ has in many places now replaced ‘vulnerable adult’ as a more acceptable alternative proposed by the Law Commission, and is defined as:

‘anyone with social care needs who is or may be at risk of significant harm’.

A new definition in the draft Care and Support Bill 2012, currently being considered by parliament, describes an adult at risk/in need of a safeguarding service as someone who:

- has needs for care and support (whether or not the authority is meeting any of those needs)
- is experiencing, or is at risk of, abuse or neglect
- as a result of those needs is unable to protect himself or herself against the abuse or neglect or the risk of it.

This guide also supports the social model of disability, which recognises that people are disabled more by poor design, inaccessible services and other people’s attitudes than they are by their impairment. It is often the circumstances in which a person finds himself or herself, or the way society is organised, which determines vulnerability. For these reasons, ways to describe adults who need safeguarding, used in this guide are:

adult at risk; people living in vulnerable circumstances; or people with care and support needs.

These descriptions do not mean to imply that only people actually receiving services from local councils, or only people who have previously met local Fair Access to Care (FACS) criteria, are entitled to be

safeguarded. A self-funder (person who pays for their own care privately) or someone who has previously declined assessment or services may meet the definition. Professionals should consider what they know about the person's situation and needs, to decide whether a safeguarding referral may be the right way forward.

Making the links between adult safeguarding and domestic abuse is vital to make sure that people get access to the best help that can be offered, are treated with dignity and respect, and are supported to achieve the best outcomes for them.

The guiding principles for working with adults who need safeguarding are:

- empowerment
- prevention
- protection
- proportionate responses
- partnership working.

In adult safeguarding as in all kinds of social work and social care support, the principle of empowerment means that outcomes are at the heart of everything that is done to support the person, and that is demonstrated through a 'person-centred approach' – what does the person who has been harmed want to happen?

These principles are equally valid for working with people experiencing domestic abuse.

Finding a common language and better working definitions that can be shared across different contexts will also strengthen links (ADASS Advice Note April 2011 p.3). Terms like 'victim', 'perpetrator' and 'survivor' may not be appropriate in adult safeguarding work generally but are appropriate when used in the context of domestic abuse. 'Financial abuse' or 'sexual abuse' are terms commonly used in safeguarding but many people prefer the more straight-forward descriptions of theft, fraud, sexual assault or rape if these crimes have been alleged or committed.

Making the links with children's safeguarding

Where adult safeguarding and domestic abuse are being addressed, and children are involved or present as family members, professionals have a duty to refer to children's services, using local protocols and procedures, even if the adult victim chooses not to, or is not able to, accept help for themselves.

Exposure to domestic abuse is always abusive to children although the impact on them may vary. Section 120 of the Adoption and Children Act 2002 clarifies the definition of significant harm outlines in the Children Act 1989:

'Any impairment of the child's health or development as a result of witnessing the ill-treatment of another person, such as domestic violence.

Where there are opportunities for joint assessment and joint working across both services these should always be considered. Parents who are victims of domestic abuse and also receiving support themselves from adult social services, as well as their children, may benefit from this approach.

Family and inter-generational abuse

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

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

Gender, safeguarding and domestic abuse

The British Crime Survey shows that the vast majority of reported domestic abuse is perpetrated by men on women, and that domestic abuse poses a serious risk to women.

Accordingly, most of the research, information and services are focused on the needs of women abused by men, and that affects the content of the literature, which has informed this guide.

However, men also experience domestic abuse by women. The picture is complex because men who are primary victims of domestic abuse are counted alongside those men who make complaints of abuse, which could be the result of retaliation or self-defence from a partner they have abused.

According to an analysis of British Crime Survey data '…of those women who have been subject to domestic force, half (48 per cent) have also been subject to frightening threats and nearly half (41 per cent) to emotional or financial abuse. For men who have been subject to domestic force, only 9 per cent had also experienced frightening threats and 28 per cent emotional or financial abuse'. (Walby and Allen 2004)

1 per cent of men reported frightening threats (since 16 years of age) compared to 11 per cent of women. The researchers commented 'the context of fear is an important element in the understanding of domestic abuse as a pattern of coercive control'. (Walby and Allen)

Research conducted with male respondents to the Scottish Crime Survey 2000 found that men were less likely to have been repeat victims of domestic assault, less likely to be seriously injured and less likely to report feeling fearful in their own homes.

The survey also retraced men who were counted as victims in the Scottish Crime Survey and found that a majority of the men who said that they were victims of domestic abuse, were also perpetrators of abuse (13 of 22). A significant number of the men re-interviewed (13 out of 46) later said they had actually never experienced any form of domestic abuse (Scottish Executive Central Research Unit, 2002). This suggests that a proportion of men make counter-allegations when a partner reports abuse.

A UK study of abuse and neglect of older people in 2007 (O'Keeffe et al, 2007) found that the majority of perpetrators were men except for financial abuse where the gender ratios were similar.

Widely quoted statistics based on the British Crime Survey are:

- an average of two women per week are killed by current or ex-partners in England and Wales
- one in four women in the UK will experience domestic abuse in their lifetime
- domestic abuse accounts for 17 per cent of all violent crime in the UK, and the proportion will be higher in some areas.

Research also shows that:

- three per cent of women surveyed in refuges reported having a disability (Women's Aid 1997/8) although this figure is dated and also unlikely to reflect true need
- domestic abuse is experienced by women regardless of age, disability, ethnic background or mental health – the same is likely to be true of men too
- more than 50 per cent of disabled women in the UK may have experienced domestic abuse in their lives, a rate which is twice that of non disabled women (Magown 2004)
- disabled women, regardless of age, sexuality, ethnicity or social class, may be assaulted or raped at a rate at least twice that of non-disabled women (Magown, 2004).
- one in four lesbian, gay, bisexual or transgendered (LGBT) people may experience domestic violence.

Awareness is growing about men and women in same-sex partnerships who experience domestic abuse, and who need a response which meets their needs. For more information, see: www.brokenrainbow.org.uk

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

Case example 1

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

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

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

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

Quick reference

- Understand the definitions of safeguarding and domestic abuse, and how they link up for the person you are supporting.
- Look out for patterns of coercive or controlling behaviour, as well as incidents of abuse.
- Always take action to safeguard children, and other adults at risk, who may be affected.
- Take account of gender, sexuality and inter-generational issues.

3. Understanding the impact of domestic abuse

What is the potential impact of domestic abuse on victims?

The impact of domestic abuse on children and adults can be devastating. It can lead to any of the following:

- physical harm which affects an adult's ability to care for others and themselves, and has a short or long term impact on health
- emotional harm which affects an adult's ability to care for others and themselves
- preventing a child from achieving their full potential in terms of growth and development
- long-term emotional and social difficulties in childhood and throughout adulthood
- poor mental health, such as depression and post traumatic stress disorder.
- isolation from family and friends
- substance misuse, often as an attempt to cope with circumstances
- for some, primarily women and their children, domestic abuse will result in serious injury or death.

Practice tip: Using the bullet points above as a check-list, think about how you would assess the impacts of domestic abuse on an individual or family you are working with or know about.

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

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

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

(Making the Links, Women's Aid 2008)

Voices from research and practice

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

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

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

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

(Making the Links)

3. Understanding the impact of domestic abuse

Quick reference

- Consider the likely impact of abuse on all of the people involved, adults and children.
- Consider the additional likely impacts of abuse on any people with care and support needs.
- Consider how these factors might affect the approach you need to take to work with individuals or the family.

Case example 2

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

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

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

Adapted from case study in Domestic Abuse of Disabled Women in Wales, DADW research report, 2011

4. Understanding why people remain in abusive relationships

What are the barriers to seeking help? What extra barriers might people in vulnerable circumstances experience?

To work effectively with victims of domestic abuse, it is important to have an understanding of the reasons why people remain in abusive relationships or do not seek help. This is not an exhaustive list, but reasons can include:

- fear of the abuser and/or what they will do (these may be realistic fears based on threats)
- previous experiences and/or a fear of not being believed
- previous experience and/or a fear of being judged
- love or emotional attachment towards the abuser
- the hope that their partner/abuser will change
- feelings of shame or failure if the abuser is your adult child or grandchild
- pressure from family/ children/community/ friends
- the long term effects of abuse, eg prolonged trauma effects, disability resulting from abuse, self neglect, mental health problems
- religious and/or cultural norms or expectations
- numbness or depression arising from their circumstances
- the anticipated impact on children – could be fear of single parent stigma; fear of losing contact
- lack of knowledge/access to support services
- low self esteem/self worth
- drug and/or alcohol addiction – and afraid this will be used against them
- fear that the issues and concerns of people from the LGBT community will be poorly understood or ignored.

Practice tip: Using the bullet points above as a check-list, think of a current or past victim of domestic abuse you know well, and identify to the best of your knowledge how many of the items on the list definitely applied to them before they disclosed abuse; how many might have applied; and how many you are sure did not apply.

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

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

- language barriers
- family honour, shame and stigma
- fear of confidentiality being broken
- immigration status and no recourse to public funding
- racism, perceived or actual
- cultural beliefs and practices; fear of rejection by their community
- misunderstandings of forced marriage and female genital mutilation
- fear of so-called 'honour' based violence.

Practice tip: Using the bullet points above as a check-list, think about what you could do to help someone to cross each of these barriers and disclose abuse.

What extra barriers may be faced by people in vulnerable circumstances?

Some of the barriers to seeking help with domestic abuse explained above may be exacerbated by life experiences associated with living in vulnerable circumstances.

There may also be additional barriers faced by people living in vulnerable circumstances and/or with care and support needs. Research, again mainly carried out with women, has shown, for example, that:

- people living in vulnerable circumstances may have difficulty identifying themselves as abused
- depending on their particular circumstances and care and support needs, people will have many reasons to fear the consequences of intervention if they report domestic abuse, for example loss of contact with relatives such as children or grandchildren, loss of financial support, or fear of being placed in a care home
- the victim may rely on the abuser for their care and independence
- or the victim may be the carer of the abuser, and feel a sense of obligation to carry on and put up with the abuse
- older adults may be more physically vulnerable, more socially isolated and less able to escape, and the abuser may be constantly present (and this could apply more widely than older people)
- older adults who have put up with a lifetime of abuse may experience shame or stigma for having put up with it for so long
- although women with disabilities may have been in close contact with professionals, disclosure of abuse sometimes did not happen because professionals rarely asked about it, and women were reluctant to disclose if not asked.

For more information, see www.womensaid.org.uk – Making the Links, research report, 2008.

Voices from research and practice

"I was married at sixteen but I met him at fifteen. And from the beginning really – but you don't see it when you're in it. From the beginning, the violence and the power – you're just ruled by fear. Or I was, just by fear. And what he would do to you if you ever left. And I always believed that . . . But all the way through you ask for help but you don't actually stand there and say will you help me, my husband beats me up ... there wasn't the help in them days, you just got on with it. And for 39 years I got on with it." (Older Women and Domestic Violence in Scotland 2004)

"Because of her impairment, 'B' had regular interaction with health services, many of whom knew about the ongoing abuse. Several visitors asked if they could report her husband to police after seeing evidence of broken glass in her flat. (They did not offer to help her contact Women's Aid or to help her to find safety.) (Making the Links)

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

4. Understanding why people remain in abusive relationships

Quick reference

- Consider what might be preventing someone from seeking help to try and prevent abuse, or leave an abusive situation.
- Consider how you could help someone to overcome barriers to taking action.
- Remember that building trust with someone to help them disclose abuse, may take some time.
- Consider asking direct questions of someone who may be a victim of abuse, in a safe and confidential setting.

Case example 3

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

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

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

5. Working with people in vulnerable circumstances

Research shows us that practitioners should keep at the front of their mind a range of issues relevant to people in vulnerable circumstances, when identifying potential abuse; when trying to enable and encourage people to disclose abuse; when making assessments; and when planning any interventions.

Among the key areas to consider are:

Accommodation

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

Disabled women were also reluctant to leave their own housing if it had been adapted for them. They may also fear that institutional care could be forced upon them if they leave an adapted home and abusive carer. Adults with care and support needs should never be placed in residential institutions as a solution to domestic abuse (unless they wish this outcome).

Independence and self-esteem

Whilst loss of independence and low self esteem affects many people who suffer domestic abuse, people with care and support needs who are coerced and controlled by carers or family members may have more difficulties in recognising their experience as abuse; may be more likely to blame themselves or their needs for the abuse; may fear losing hard won independence; or may fear loss of pride and fear of failure to manage their condition.

In addition, people reliant on care packages or personal assistants (PAs) may feel that their options are even more severely limited, fearing that it will be impossible to take services with them if they leave a relationship and move area.

Confidence in services

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

Parenting

Parents with their own care and support needs may be particularly fearful of losing their children as a result of reporting domestic abuse. They may rely on a partner or other family member to support them with childcare, or they may feel that their capacity as a parent will be judged negatively due to their disability, addiction or mental health problem, for example.

Great sensitivity and good partnership working is required in these circumstances, as domestic abuse is acknowledged to pose a serious risk to children. Section 120 of the Adoption and Children Act 2002 clarifies the definition of significant harm outlined in the Children Act 1989 as:

'Any impairment of the child's health or development as a result of witnessing the ill-treatment of another person, such as domestic violence.'

Identifying and working effectively with domestic abuse within adult safeguarding work can, therefore, also become critical to the protection of children. Where children are linked to an abusive adult relationship, local children's safeguarding policies and procedures must be followed without delay.

Substance misuse

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

Perpetrators who misuse substances will often evade taking any responsibility for their behaviour and it is crucial that professionals do not collude by accepting their substance misuse as a valid excuse. Interventions often work best when substance misuse and abusive behaviour are both addressed.

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

There is also potential for a perpetrator to exercise control over a victim who is dependent upon substances, by controlling access to their substances of dependence, or access to treatment.

Research shows that victims of domestic abuse who misuse substances felt they were consistently judged and stigmatised by agencies and that false assumptions were frequently made. See the Stella Project: www.avaproject.org.uk

This demonstrates the need for professionals to emphasise that their role is to support the person and their family and encourage the victim to disclose if they are struggling as a result of drug or alcohol misuse.

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

- recognise the relationship between domestic abuse and substance misuse and implement safe enquiry into both of these areas as part of a holistic assessment of need
- respect that a victim may wish to address the effects of domestic abuse before tackling their substance misuse and may therefore need support to minimise any harm posed to themselves or others as a result of substance misuse
- listen to any concerns from children or adults at risk and prioritise their needs
- be mindful that substance misuse by the victim may make it difficult for them to accurately assess risk posed to them – it may 'dull' their perception (AVA Stella project)
- remember that if the perpetrator goes through detox the risk to the victim can increase as episodes of violence and increased control can escalate
- be aware that one in four suicide attempts by women are thought to be domestic abuse-related.

Older age

Although stereotyping older people is to be avoided, experience shows that some older people may feel less able to access services; they may be less aware than younger people of the services and options available to them; or they may believe that services are only for younger people, or people with children.

The 'self-help' model familiar to younger people, and the possibility of calling a stranger to discuss personal or family problems may also be unfamiliar to some older people. The age profile of users of many domestic violence services tends to veer towards younger people.

Older women with no formal education or economic resources are also likely to be more economically vulnerable and more likely to be financially dependent on their abuser than younger women. They may have suffered abuse for many years in a long-standing relationship and feel shame or embarrassment from years of accepting abuse without apparent complaint.

It could be extremely difficult for some older people to accept help – they may need more time, more reassurance and more confidence in what might happen and the services available, before they disclose abuse and accept help to move forward.

Also, when older people are seen to be injured, unhappy, depressed or have other difficulties, these may be assumed to be the result of health or social care needs if individuals are stereotyped using their age. Professionals should take great care to assess older people in a holistic way which avoids a rush to judgement based on their own expectations of the needs of older people and the services they require.

See www.womensaid.org.uk for report – Older Women and Domestic Violence, 2007.

Mental ill-health

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

Whether the abuse is deliberately perpetrated or not, this does not mean that it should be tolerated by those on the receiving end of the violence. It is still crucial that the safety of the victim and any other family members is prioritised at all times.

As with substance misuse, poor mental health is potentially a consequence for victims. A dual approach to address both the domestic violence and their mental health needs may be required.

Carers who harm and/or are at risk of harm

ADASS defines a carer as someone who:

'... spends a significant proportion of their time providing unpaid support to a family member, partner or friend who is ill, frail, disabled or has mental health or substance misuse problems.' (Carers and Safeguarding Adults – working together to improve outcomes, July 2011).

Sometimes domestic abuse referrals are judged to be a result of carer stress, which should be managed through the provision of extra support by social services without the involvement of MARAC or police.

The ADASS report (2011) draws a distinction between intentional harm and unintentional harm.

It says that some actions by carers or their impacts may be unintentional and arise from lack of coping skills or unmet needs. Others may be intentional. The report proposes that the issue is always one of impact on the individual affected by the carer's actions or lack of action. The outcomes of intervention should be person centred and not process driven. Careful assessment of the impact of abuse, and the risks of further abuse; risk enablement; consistency and competence in safeguarding functions; and in working with carers, are all considered essential skills to assess whether harm is intentional or unintentional.

It is accepted that families and carers make an invaluable contribution to society; support of carers is seen as integral to the way agencies seek to work. We need to keep in mind, however, the potential of 'the rule of optimism' (when professionals may place undue confidence in the capacity of families to care effectively and safely) to affect professional perceptions and recognition of risk of harm, abuse or neglect.

This may arise from:

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

If the ‘rule of optimism’ prevails, situations where there is harmful intent on the part of the carer may not be seen as such. Agencies that could protect the victim may then be excluded with a consequent impact on ability to protect people from harm. Such cases are the exception but they exist and have been identified through serious case reviews. If deliberate acts of harm or omission leading to neglect are suspected, safeguarding procedures and police referral must always follow.

Questions to consider are:

- Is the violent or abusive behaviour an isolated incident or part of a pattern of incidents, which could be described as controlling or coercive?
- Is there a history of violent or abusive behaviour or domestic abuse referrals?
- Has the perspective/opinions of the victim and other family members been sought independently and in private?

Some of the situations that place carers more at risk of harm also have within them factors that increase the risk of carers themselves causing harm. This potential vicious circle is something that early intervention, information, sensitive assessment and skills in carer support and recognition may help to avoid.

ADASS (Advice Note 2011) suggests that the risk of harmful behaviour, whether intended or not, by a carer, tend to be greater where the carer:

- has unmet or unrecognised needs of their own
- is themselves vulnerable
- has little insight or understanding of the vulnerable person’s condition or needs
- has unwillingly had to change his or her lifestyle
- is not receiving practical and/or emotional support from other family members
- is feeling emotionally and socially isolated, undervalued or stigmatised
- has other responsibilities such as family or work
- has no personal or private space or life outside the caring environment
- has frequently requested help but problems have not been solved
- is being abused by the vulnerable person
- feels unappreciated by the vulnerable person or exploited by relatives or services.

Potential signposts to situations where abuse of carers is more likely, include those situations where relationships and/or communication are unsatisfactory and the person being cared for:

- has health and care needs that exceed the carer's ability to meet them, especially where of some duration
- does not consider the needs of the carer or family members
- treats the carer with a lack or respect or courtesy
- rejects help and support from outside; including breaks
- refuses to be left alone by day or by night
- has control over financial resources, property and living arrangements
- engages in abusive, aggressive or frightening behaviours
- has a history of substance misuse, unusual or offensive behaviours
- does not understand their actions and their impact on the carer
- is angry about their situation and seeks to punish others for it
- has sought help or support but did not meet thresholds for this
- the caring situation is compounded by the impact of the nature and extent of emotional and/or social isolation of the carer or supported person.

(ADASS 2011)

Exposure to an abusive environment

A person may not experience abuse directly but be exposed to it in their family environment, for example adults with a learning disability living in the family home where another family member is the primary victim. It is important to recognise that such exposure to abuse can still present serious short and long-term harm. It is also an important reminder that a whole family approach is optimum for professionals in order to address the needs of all members, including those with care needs.

Forced marriage

There is a clear distinction between a forced marriage and an arranged marriage.

In arranged marriages, the families of both spouses take a leading role in arranging the marriage but the decision to accept the arrangement or not remains with the prospective spouses. In forced marriage, one or both spouses do not, or through lack of capacity cannot, consent to the marriage.

Forced marriage is regarded as an abuse of human rights, a form of domestic violence, and a form of violence against women. Where it affects people with disabilities it is an abuse of adults at risk. Practice guidelines have been developed by the Forced Marriage Unit (covering England and Wales) to assist professionals encountering cases of forced marriage of people with learning disabilities. www.gov.uk/forced-marriage

Voices from research and practice

"Because you can't run away from it, it's not like I could have gone to a safe house or anything like that... [They] don't have hoists. They wouldn't understand the PA system. You know the whole system just wouldn't work. And as well it was a woman abusing me. Which people don't really see as abuse… people still laugh if I say 'Oh yeah she was really abusive'."

"For example they [social services] could only think to send me to a completely inappropriate disabled care home, it was outrageous, I couldn't even consider going there. They also know nothing about domestic violence, not really, not for disabled women anyway, maybe for others they do know, but not for disabled…"

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

5. Working with people in vulnerable circumstances

Quick reference

- Consider the range of issues set out in this chapter and think about how you might explore any that could be a concern for the person being abused or harmed.
- Take time to build trust and confidence with the person being abused, accepting that they may not be able to describe or disclose all aspects of their situation initially.
- Avoid making assumptions based on stereotypes, particularly around older age, mental health and substance misuse.
- Make a careful assessment of any issues that involve carers and caring responsibilities.

Case example 4

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

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

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

Case example 5

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

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

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

(from Forced Marriage and Learning Disabilities: Practice Guidelines)

Case example 6

Mr and Mrs D have been married for 32 years. Recently, Mrs D had surgery, and her general health deteriorated significantly as a result, needing regular calls from a district nurse. Mrs D struggled with her conditions both psychologically and physically. Her husband was her sole carer and found himself struggling with the increasing demands of looking after his wife. The couple shared a first floor flat, which was not well appointed and was difficult to access.

During visits by carers they noted that Mrs D was suffering from unexplained injuries and that she was complaining about her husband's increasingly difficult behaviour towards her. Appropriate and timely referrals were made by the district nurses, resulting in a visit by a social worker from Adult Social Services and a police officer within twenty four hours.

The subsequent investigation revealed that the relationship between Mr and Mrs D had deteriorated to such an extent that both were subjecting the other to verbal and physical assaults, resulting in injuries to both. Within days there was a multi–agency strategy meeting, including all the relevant agencies. The meeting considered all the facts and the wishes of both individuals, neither of whom wanted to initiate criminal prosecutions in respect of their injuries, but wished to stay together. However, both felt that their living arrangements were not conducive to this arrangement. Consequently arrangements were made for both Mr and Mrs D to reside at a local nursing home on a short term basis to assess the suitability of the accommodation.

Ultimately both Mr and Mrs D took up long term residence at the same care home and are now enjoying living as, quote, 'a proper married couple' and feel 'in control of their situation'. Both now enjoy socialising, and are optimistic about the future.

6. Mental capacity, adult safeguarding and domestic abuse

Mental capacity to take decisions

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

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

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

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

In circumstances where adults need safeguarding because of domestic abuse, an assessment of lack of capacity of a person to make decisions about safety could have potentially serious and far-reaching consequences. It is therefore vital that such an assessment is carried out according to local protocols and procedures.

An unwise decision or a decision taken under duress?

Assessing capacity can be particularly challenging in domestic abuse situations, where the person is cared for by, or lives with a family member or intimate partner and is seen to be making decisions which place them in danger.

Skilled assessment and intervention is required to judge whether such decisions should be described as 'unwise decisions' which the person has capacity to make, or decisions not made freely, due to coercion and control, and therefore part of the abuse.

If, for example, professionals decide on limited information and time spent with someone that the person has made an unwise decision for which they have capacity, the victim may then not be offered options, which would enable them to disclose coercion and be safe.

It is important to remember that judgements about capacity must be decision specific; for instance someone may have capacity to make one decision and execute it, but not another. Judgements should also take account of fluctuating capacity.

This area of practice is often one of the most complex issues to consider when working in the field of safeguarding adults experiencing domestic abuse. Recent case law has clarified that there is scope for councils (using the principle of inherent jurisdiction) to commence proceedings in the High Court to safeguard people who do not lack capacity but whose ability to make decisions has been compromised because of constraints in their circumstances, coercion or undue influence. www.bailii.org/ew/cases/EWCA/Civ

People who lack capacity

When a person is assessed as lacking capacity to make decisions to keep themselves safe from domestic abuse which is taking place, or may potentially take place, then any decision made by professionals for, or on behalf of, that person must be made in their best interests.

Independent mental capacity advocates (IMCAs) are a statutory safeguard for people who lack capacity to make important decisions, and who do not have friends and family to represent them. However, in adult protection cases, access to IMCAs is not restricted to people who have no one else to support or represent them. People who lack capacity and who do have family and friends are still entitled to have an IMCA to support them in adult protection procedures if the decision-maker is satisfied that having an IMCA will benefit the person.

IMCAs can represent the person in discussions about important decisions which may arise during safeguarding and domestic abuse interventions, such as where they should live, who they should live with and what treatment they should receive.

As not all IMCAs have had training around domestic violence, the use of an IMCA does not preclude the use of another specialist advocate as well. It is important that IMCAs should be able to feel safe, confident and well-supported themselves when dealing with the complexities of domestic abuse, so that they can give the best support to their client in a challenging situation.

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

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

Case example 7

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

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

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

A social worker talks to the father about the risks of living with his son and the options about how he wants to manage this. They discuss options of providing support for his son for his mental health and drug use and finding him somewhere else to live. However, the father says his son has refused to consider living elsewhere.

The social worker discusses his rights to have his son evicted and that he could be supported with this. However, the father has stated emphatically that he does not wish this; he feels guilty about certain things that happened in his son's childhood and partly responsible for his son's current problems.

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

The local authority considers going to the High Court to ask them to grant an injunction having the same effect as a Non-Molestation Order. It is in two minds, however, as to do so would involve overriding the father's clearly stated wishes. This situation continues for some years until the point is reached when social services, and the man's general practitioner (GP), take the view that the father may be losing mental capacity to make decisions about his living arrangements and about attendant risks. He continues, however, to express exactly the same wishes about his son that he always has.

Taken from SCIE report no 50, by Michel Mandelstam

6. Mental capacity, adult safeguarding and domestic abuse

Quick reference

- Make sure you understand the fundamentals of the Mental Capacity Act, and/or have access to an experienced professional who can help you with this.
- Consider whether an apparently unwise decision may actually be the result of coercion or controlling behaviour by another person.
- Involve an IMCA (independent mental capacity advocate) as a safeguard to the abused person if the situation warrants it.

7. Assessing and working with the risks of domestic abuse

Involving the person at risk

Comprehensive, accurate and well-informed risk assessments are fundamental to good practice and good outcomes for people who need both adult safeguarding and domestic abuse services. Involving the person at risk, or their trusted advocate or IMCA (if the person lacks capacity), in the risk assessment, is the best and most effective way forward. This is much more likely to:

- end up with a much more accurate, comprehensive and better-evidenced risk assessment
- give the person themselves, or someone on their behalf, an opportunity to identify, describe and understand the risks for themselves, with support, and therefore contribute to their confidence and self-esteem.

Using risk assessment tools and exercising professional judgement

It is important to use good evidence based risk assessment tools in order to guide decision making and begin to understand the risks posed to a person and family. Risk assessments, properly used, should then lead to robust risk management that aims to protect and promote the safety and well-being of the people affected by the abuse.

All councils have risk indicator tools to assess the level of risk in domestic abuse and safeguarding situations. Tools aid judgement and decision-making about the level of risk to individuals and families, how they might be reduced or managed, how any identified needs should be met, and who by.

Most areas now use the Coordinated Action Against Domestic Abuse Risk Identification Check-list, known as the CAADA-DASH RIC, or they will have a similar system, embedded in and referenced to their local procedures and protocols.

The CAADA-DASH RIC is an evidence-based check-list to inform a structured professional judgement of risk. It provides a 24 point check-list, with a threshold of 14 or more points ticked, indicating that a person or persons are at serious risk of injury or death.

However, there will be occasions where a particular context or set of circumstances gives rise to serious concerns even if the victim has been unable to disclose the information that might highlight their risk more clearly. This could reflect, for example, extreme levels of fear or cultural barriers to disclosure. Therefore, regardless of protective factors present, professional judgement should be used to make a final decision about any risk posed, and action taken to refer to MARAC.

Many practitioners now believe it is misleading and possibly dangerous to over-rely the CAADA-DASH-RIC as a points-based system, as there may be many cases where the risk is high, but the number of 'yes' responses to DASH questions is small. It is suggested that the threshold of 14 positive responses to the check-list should be regarded as a fall-back position – ie if the professional judgement is that there is not a high risk of serious harm or homicide but there are 14 'yes' responses to the DASH questions, then it should be concluded that there is high risk of harm.

The exercise of professional judgement is essential when considering the points score from the CAADA-DASH RIC (or similar systems), especially where it has resulted in a lower score than expected. Some practitioners have found this to be the case where the person experiencing domestic abuse is also an adult at risk. In particular, the CAADA-DASH risk assessment is felt to have limitations for older people, as it is predisposed to assess risks for women with children. An assessment of 'high risk' can be made and acted on when the level of risk is not identified through the check-list.

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

Referral to a MARAC (Multi Agency Risk Assessment Conference) will be the outcome of identifying that an adult is at serious risk of injury or death from domestic abuse.

These are regular meetings which take place in each local area, chaired by the Police, where statutory and voluntary sector partners work together to share and discuss the information known about the risks faced by victims or potential victims of domestic abuse. They consider the highest risk cases, and a coordinated safety plan to protect each victim is developed. This can include recording the actions which are agreed for any children, any adults at risk and also perpetrators.

Any participating agency can refer a case for discussion by MARAC.

Taking immediate protective measures

Depending on local arrangements, it can take several weeks for a case to be heard at MARAC and victims may not engage with the support offered. Immediate support, protection and follow-up in line with local adults' and children's safeguarding procedures therefore need to be facilitated by the referring agency, in addition to any referral to MARAC.

Safeguarding procedures and MARAC should continue to operate side by side – not as an 'either/or' position.

On referral to MARAC information about the victim will also be passed to an IDVA service so they can offer support with immediate needs, within an early time frame. This is an additional protective measure.

Independent Domestic Violence Advisers (IDVA)

The success of safety plans agreed at MARAC are often closely linked with IDVAs, who are at the heart of services for victims of domestic abuse. They are trained advisers who give specialist support, based on a national model delivered locally. IDVAs prioritise victims at high risk of serious harm or murder; are independent; and provide emotional and practical support. They engage with adult victims from the point of crisis and a key part of their role is to mobilise the resources of local agencies to keep victims safe.

These resources may include Women's Aid, Victim Support, Action on Elder Abuse and the Sanctuary Scheme.

'Sanctuary schemes' are available in some areas and may be operating at a reduced level in other areas, depending on local developments. Such schemes are multi-agency victim centred initiatives which aim to enable people at risk of violence to remain safely in their own homes by either improving the security of the whole home, providing support to the household, or providing a 'sanctuary' in one or more rooms within the home. This type of intervention may also be referred to as 'target hardening'.

Sanctuary schemes or similar interventions could be one of the options to consider, to meet the needs of people in vulnerable circumstances where the abuser, rather than the victim, is required to leave the home.

Practitioners need to develop knowledge about the resources that are available for people locally. All councils and their partners should have a comprehensive and regularly updated directory of local and national resources available to their population. For good examples (although there are many others across the UK) go to:
www.endthefear.co.uk (Greater Manchester)
www.reducingtherisk.org.uk (Oxfordshire)

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

There are some common barriers and pitfalls that can prevent effective risk assessment and management which all agencies should be mindful of. Some of the most common barriers to effective risk management are:

Myths, stereotypes and flawed beliefs that are held true by professionals about the nature of domestic abuse, why it occurs and why victims remain in abusive relationships. This needs to be tackled through effective staff supervision and training.

This is often the biggest barrier to effective risk assessment and management and a frequent theme in Domestic Homicide Reviews. Effective staff supervision and training should therefore be a priority for any service.

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

- The victim is not seen as credible and their account of their circumstances are seen as inaccurate or embellished, possibly due to the extreme nature of the abuse or the appearance/ behaviour of the victim.
- Professionals/agencies view the victim as being somehow responsible for the abuse – this is often observed in instances where the victim presents as angry rather than passive, misuses substances or has mental health problems, and especially if the perpetrator does not.
- Agencies do not understand that a victim's ability to protect children, or adults with care and support needs, is seriously impaired by the effects of abuse. People experiencing abuse are usually better able to care for, and protect, dependants when they are offered support and understanding by agencies that recognise it is the perpetrator who is responsible for the abuse and for the effects of this on the victim's capacity to protect.
- When there are allegations of violence or abuse from both parties it is important to ask:
  - Who is fearful?
  - Who has suffered the most injury (either during this incident or historically)?
- Perpetrators are able to use their professional status, vulnerability, manipulation or 'charm' to avoid detection or being held to account.

Not asking children or adults in vulnerable circumstances about how their family situation is affecting them.

- Serious Case Reviews into death or serious injury indicate that professionals have sometimes failed to establish the perspective of the children or any adults with care and support needs, on their situation. This subsequently limits the ability of professionals to appropriately manage risks within the family.
- Always consider 'what is life like for this child or adult?' in situations where they are being exposed to domestic abuse and – where appropriate – seek their perspective.

Not using assessment and referral forms, or inappropriate use of forms required by your council/organisation when domestic abuse is disclosed or identified.

- These forms, used properly, can both help to inform the overall assessment of the level of risk posed and to guide how each of the risks are managed. They can also enable the victim to see what factors are placing them at high risk.
- Implementing risk management plans can be complicated by a range of factors but we know from research that risk assessment and management is consistently more effective when undertaken collaboratively with the person experiencing the abuse.

Challenging perpetrators on their behaviour or implementing zero tolerance policies without fully gauging how this can increase risks to the victim.

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

Not recognising, or responding to, additional key risks posed to BME domestic abuse victims. Key issues to remember are:

- always use a professional interpreter
- victims with insecure immigration status are still entitled to health care, protection from the police and recourse to apply for a court order (injunction) to protect them from their abuser
- seek help from specialist services for victims with immigration problems.

Not undertaking in-depth assessments that take full account of static risk factors (where this is part of your professional role).

- For those professionals required to undertake in-depth and on-going risk assessments, eg social workers, probation, CAFCASS officers, it is crucial to recognise that risk indicator tools are no substitute for a thorough examination of static risk factors – including previous incidents, past behaviour, background and personal circumstances.
- Advice from research highlights the importance of anchoring estimates of long-term likelihood of abuse reoccurring in a detailed consideration of static risk factors.
- Dynamic factors – current attitudes and statements of the perpetrator, current drug or alcohol use, stress levels, etc – should be used to make moderate adjustments to risk assessments and aid intervention/ treatment planning.

Practice tip: Offering constructive challenge to other professionals, and being open to constructive challenge yourself about your own practice, is a good way to approach concerns you may have if any of the above list of potential barriers appear to be operating in a situation you are involved in. Using the list, think about, and talk through with colleagues, how you would give or receive constructive challenge in assessing risks.

Practice tip: If there are many professionals working with an individual or family, you could ask each to rate the risk of significant harm on a scale of 1-10. If there is a wide discrepancy between scores then consider a professionals only meeting for a full case discussion.

Case example 8

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

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

Mr A was arrested on one occasion in relation to the alleged domestic violence incidents, approximately 5 months prior to Mrs A's death. He admitted assaulting his wife on two occasions, and was cautioned and returned home.

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

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

The serious case review concluded that there was a failure to treat Mr A as a suspect as officers believed he had dementia; and the 'mindset' with which this case was considered was that of abuse by Mr A to Mrs A and not a more complex situation with risks to both. The reasons behind this, according to the review, included: poor understanding of the Mental Capacity Act and the need for mental health assessments before making decisions on intent; a poor appreciation of the risks of domestic abuse in old age; an unwillingness to bring a frail man into custody, without considering alternative approaches to this; and a tendency to engage the two individuals separately in processes about their individual needs, rather than in a coherent approach, with a couple who were hard to engage. This meant that the complexities of the risks they posed to each other in the context of their relationship were not visible or fully explored.

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

Case example 9

G and H are brothers in their 20's who live together. G had a spinal injury as a result of a road traffic accident some years ago, and uses a wheelchair; G is the tenant of the flat they occupy; H acts as his brother's carer, and there are also professional carers. H is an alcoholic, and both brothers abuse alcohol at times. When they have both been drinking the relationship becomes violent – H beats G and G retaliates with violence too, but clearly G is at greater risk.

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

7. Assessing and working with the risks of domestic abuse

Quick reference

- Ensure that you understand local policies and procedures for risk assessments and risk management, and adhere to them.
- Exercise professional judgement in interpreting the results of risk assessment tools, avoiding the pitfalls which lead to ineffective risk management.
- Take any immediate protective measures that are needed, and refer to MARAC and safeguarding procedures for adults and children when risks are identified.
- Develop your knowledge of local resources that offer support for safeguarding and domestic abuse.

8. Working with perpetrators of domestic abuse

The majority of perpetrators of domestic abuse are men. It is recognised that some women also perpetrate domestic abuse. However the effects of abuse by males are more likely to inflict serious injury and result in homicide. Interventions which should be considered fall into two categories, and are more likely to work if they are considered jointly:

The first intervention to consider is support for social and health needs.

This could include addressing substance misuse, mental health needs, parenting programmes and other social needs. Research suggests that these factors do not cause perpetrators to be abusive as they choose to use such behaviour. However, it is known that substance misuse, periods of stress and untreated mental health problems can increase the severity of incidents in some cases. This is not a rule as there is also research to suggest that many men who go on to murder women were not intoxicated at the time and abuse often continues when someone has no 'excuses'. The abuse will usually be targeted at a primary victim rather than someone else known to them, which indicates they have control over their actions. Addressing these issues in isolation is unlikely to result in long-term change but can in some cases reduce the severity or frequency of incidents.

The second important intervention to consider is challenging the abuser's behaviour using civil and criminal justice methods or perpetrator programmes.

Research shows that arrest can work in reducing some repeat offending for some men. Injunctions or restraining orders can prevent some perpetrators from continuing harassment or abuse. Probation intervention programmes are available to men who have been sentenced in a criminal court. Voluntary programmes may also be available to men who do not have a court sentence but who wish to address their behaviour. Such interventions as these are cognitive behavioural community-based programmes, which include assessment and group work on factors directly linked to domestic abuse.

Research has shown that the success of these programmes is related to the success of the intervention system as a whole, that is a combination of social and health support and challenging the abusive behaviour.

It is important to note that perpetrators of domestic abuse should not be referred to anger management or generic counselling to address their behaviour. These interventions are ineffective at targeting abuse as they often focus on techniques to control emotions and not on addressing the deliberate use of abuse and violence to control someone else.

These interventions can also increase the risks to the victims of domestic abuse and children as they are more likely to remain in the relationship believing the perpetrator is receiving appropriate support. In some cases it provides the perpetrator with an additional excuse to be abusive. Community or family conferencing are similarly contra-indicated and can be dangerous.

Specialist training should ideally be undertaken before assessing perpetrators of domestic abuse or providing interventions to address abusive behaviour. Practitioners should focus their interventions on the safety of adult victims and children, and signpost perpetrators to specialist services.

More information about research and working with perpetrators can be found by going to: www.respect.uk.net and looking at the 'research' pages, and www.avaproject.org.uk and looking at their projects, especially the Stella project.

Assessment questions for perpetrators (adapted from Manchester protocol)

Asking questions of a perpetrator of domestic abuse can be risky. Questions should be asked by a trained practitioner, with adults' and children's safeguarding measures in place to protect victims from any backlash (see also section on Making safe enquiries and defensible decisions).

In some cases, for example where a perpetrator's abuse has been openly stated as an issue and the enquirer is a professional supporting the family, it may be judged appropriate to speak to the perpetrator directly about the abuse.

Your response to any disclosure, however indirect, could be significant for encouraging accountability and motivating perpetrators towards change. Information provided by the perpetrator could also enhance existing risk management plans.

Good practice requires that we are clear with abusers that the abuse is ALWAYS unacceptable and that we affirm any accountability shown. Be respectful but don't collude and explain that there is no entitlement to confidentiality if others are at risk. In all cases be guided by child and adult safeguarding procedures, and by the police who are responsible for investigating criminal offences.

If a possible perpetrator has stated that domestic abuse is an issue, these can be useful questions to ask:

- "It sounds like your behaviour can be frightening; does your partner/children/family say they are frightened of you?"
- "How are the children/other adults affected?"
- "Have the police ever been called to the house because of your behaviour?"
- "Are you aware of any patterns – is the abuse getting worse or more frequent?"
- "How do you think alcohol or drugs affect your behaviour?"
- "What worries you most about your behaviour?"
- "How do you feel about your behaviour? What effect has it had on you?"
- "What effect has your behaviour had on your partner/children /family?"
- "What has been the worst occasion of violence?"

- “It sounds like you want to make some changes for your benefit and for your partner /children /family. What choices do you have? What can you do about it? What help would assist you to make these changes?

People with care and support needs who perpetrate domestic abuse

It is important to recognise that some adults in vulnerable circumstances themselves can also be perpetrators of domestic abuse and that this can often be hidden or go unrecognised by family members or professionals.

Even where the abuse appears to be linked to a person’s condition or state – e. dementia or mental illness – it does not mean that the abuse should be tolerated by the victim or ignored/colluded with by professionals.

The abuse may have been present for many years and an abuser’s vulnerability may have been used as an excuse for their behaviour when they could actually control their actions.

It is crucial to identify and manage the risks posed to the victim and to any others exposed to the abuse. Professionals should make it clear to the victim (as in all cases of abuse) that the abuse is not their fault and that they have a right to be protected and consider what their options are.

If the victim is the perpetrator’s primary carer, options to consider will include reassurance that the perpetrator’s care needs can be met in an alternative way and that any transitions can be well-managed.

The perpetrator may need information about care and support services and may also require a safeguarding response in line with multi-agency procedures. Information and services offered may include advocacy services, substance misuse or mental health services, or specialist domestic abuse services such as behavioural programmes.

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

9. Making safe enquiries and defensible decisions

When working with victims of domestic violence and abuse, the first key principle to follow is to:

How to enquire safely about violence or abuse

In order to do this you should:

- ensure privacy for the non-abusing adult victim
- establish the level of risk posed to the individual, child or family from the information you have, using locally agreed processes including the CAADA-DASH-RIC.

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

- deal with any immediate need for medical or police involvement or specialist domestic violence services
- take action to alert the appropriate professionals:
  - MARAC for all adult victims; and in addition
  - adult safeguarding for an adult with care and support needs
  - children's services, if a child is involved
- continue to support and safeguard the adult or child in your role
- continue to review needs and risks, remembering that the situation can escalate quickly.

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

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

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

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

Best practice in undertaking safe enquiry into domestic violence

To ensure safety and confidentiality:

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

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

- As we know domestic abuse is common and affects many women, we ask all women about it when we observe possible indicators of abuse.
- Domestic abuse isn't just about physical violence. It can be financial, sexual or emotional, and includes forced marriage.

Explain the limits of your confidentiality, for example:

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

Ask direct questions about their circumstances, for example:

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

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

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

When abuse is disclosed or identified:

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

Defensible decision-making

A defensible decision is one where:

- all reasonable steps have been taken to avoid harm
- reliable assessment methods have been used
- information has been collected and thoroughly evaluated
- decisions are recorded and subsequently carried out
- policies and procedures have been followed
- practitioners and their managers adopt an investigative approach and are proactive.

Decisions are defensible if they address the six points above, and:

- are recorded contemporaneously in a legible and approved system and format
- specify the rationale behind the decision in relation to the circumstances, including references to relevant legislation and guidance
- are retained with other records relating to the individual/organisation subject of the decision
- are 'signed' and dated by the person making the record
- the information is shared appropriately when others need to know.

9. Making safe enquiries and defensible decisions

Quick reference

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

10. Using legal remedies and sanctions

If the abuse or harm to an adult with care and support needs, is also domestic violence, this gives the person, and those supporting them, a range of other options to consider. These could be specialist services available to domestic abuse victims, or they could be legal remedies or sanctions which offer protection or redress.

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

The key consideration is for practitioners to:

- to be aware of the range of legal remedies and sanctions which may be available
- to know where to get expert advice, from the police or legal services with knowledge of safeguarding and domestic abuse.

A comprehensive reference point for practitioners who need more information about legal sanctions and remedies in the context of adult safeguarding, is: 'Safeguarding adults at risk of harm: A legal guide for practitioners', by Michael Mandelstam, published as an Adult Services SCIE Report number 50, www.scie.org.uk/publications/reports/report50.pdf

This legal guide provides comprehensive coverage of the law relating to adult safeguarding and domestic abuse, making links, for example, with: mental capacity; the Court of Protection; civil law remedies; criminal law, including issues around prosecution; housing law and homelessness; care planning; mental health legislation; and witness safety. This is not an exhaustive list.

Finding the balance between taking legal action, and the benefits of relationships which may contain abusive elements, for people in vulnerable circumstances/with care and support needs, is also addressed from a legal perspective.

In summary, legal remedies and sanctions can be pursued either through civil law or criminal law.

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

- assault
- false imprisonment
- criminal damage
- harassment
- attempted murder
- rape.

Crimes are reported and dealt with through the criminal justice system which is made up of a number of key agencies: the police; the Crown Prosecution Service (CPS); the courts (magistrates' courts and Crown court); and the probation service.

Victims of domestic violence can also get protection from abuse under the civil law through a court order (called an injunction or protection order). These orders can help prevent further abuse to the victim and her children, remove the abuser from the home and prevent them from returning. The application is usually made through a solicitor, either to the family proceedings court or the county court.

Applications for injunctions are made under Part IV of the Family Law Act 1996. Recent legislation – the Domestic Violence, Crime and Victims Act, 2004 – aims to strengthen the enforcement of civil injunctions, by making breach of a non-molestation order a criminal offence.

Applications are made ex parte (without the perpetrator present) and there is an appeal process. Emergency injunctions can be sought and applications are generally made where there has been a recent incident – ie within a ten day period.

Under the Domestic Violence, Crime and Victims Act 2004, there is also a specific offence of causing or allowing the death of a vulnerable adult, by a member of the household.

For more detailed information about legal remedies for domestic abuse go to: www.womensaid.org.uk and look at the sections on criminal law and civil law; and www.ncdv.org.uk for legal advice and support.

There is also an appendix about legal remedies and sanctions at the end of this document.

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

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

- Keep up to date with and learn from published research, disseminating learning within the organisation.
- Keep up to date with and learn from case law, to ensure that practitioners and legal advisers are aware of emerging practice in aligning responses to safeguarding and domestic abuse.
- Develop strong links with domestic abuse agencies.
- Encourage local organisations of older, disabled or mentally ill people to support their members with and to refer for appropriate support if they are experiencing domestic abuse.
- Develop protocols, policies and ways of working to enable safe enquiry within assessments of domestic abuse and safeguarding.
- Encourage improved access by domestic abuse-related organisations for older people; people with disabilities; people with mental health needs; and be aware of the many domestic abuse-related organisations who already have good access arrangements.
- Display support information in accessible ways and places.
- Expect domestic abuse services to have clear and fully developed disability policies and increased, high quality, disability equality training, and make specific attempts to reach, involve and provide for adults with care and support needs experiencing abuse.
- Foster partnerships between domestic abuse organisations and disability organisations to help develop and share good practice, and expect both sectors to have a responsibility to develop this, using both formal and informal channels.
- Provide or support training and awareness raising in all relevant sectors of the workforce, including demythologising disability and domestic violence, challenging prevailing attitudes, and overcoming fear, anxiety and lack of commitment among service providers. Consider providing integrated training ie covering both safeguarding adults and domestic abuse rather than separating them.

- Consider strategies for making care packages portable, when domestic violence victims need a flexible response. This could include agreements between different local authority areas to avoid disputes in individual cases about who is responsible (accepting that this is a major issue, not just relevant to this area of practice).
- Raise awareness of domestic violence and reach out to adults with care and support needs, using a variety of different mediums and formats when producing publicity and information.
- Learn from domestic homicide reviews and other case reviews through having robust local arrangements in place with all partners; use expertise gained from serious case reviews in undertaking domestic homicide reviews, and vice-versa.
- Consider how best to strengthen the links between safeguarding and domestic abuse services corporately in councils, which could be in relation to organisational structure; co-location, joint management or shared protocols and decision-making.
- Ensure that policies, protocols and procedures about safeguarding explain the links with domestic abuse, and similarly policies, protocols and procedures about domestic abuse refer to safeguarding.

12. Resources and references

ADASS – the Association of Directors of Adult Social Services – publications:
'Safeguarding Adults Advice Note' April 2011
'Carers and Safeguarding Adults – Working Together to Improve Outcomes', June 2011
www.adass.org.uk/images/stories/PolicyNetworks

ADASS/LGA Safeguarding Adults: 'Advice and guidance to Directors of Adults Social Services 2013'
www.local.gov.uk/adult-social-care

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

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

Co-ordinated Action Against Domestic Abuse (CAADA)
www.caada.org.uk

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

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

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

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

Forced Marriage Unit, Home Office
'The Right to Choose: Home Office Multi-agency guidance for dealing with forced marriage'
'Forced Marriage and Learning Disabilities: Multi-agency Practice Guidelines'
www.gov.uk/forced-marriage

'Making the Links', research report published by Women's Aid, 2008
www.womensaid.org.uk

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

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

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

Ministry of Justice guides and resources on Mental Capacity Act
www.justice.gov.uk/protecting-the-vulnerable/mental-capacity-act

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

O’Keeffe et al (2007) UK ‘Study of Abuse and Neglect of Older People Prevalence Survey Report’, National Centre for Social Research and King’s College, London.

‘Older Women and Domestic Violence’, research report by Women’s Aid, 2007
www.womensaid.org.uk

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

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

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

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

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

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

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

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

Appendix: Legal remedies and sanctions

Injunctions

Injunctions are court orders which require someone to do, or not to do, a certain act. The common areas in which injunctions are applied for is when a relationship has broken down and one party is harassing, threatening or assaulting the other.

There are two main types of injunctions available under Part IV of the Family Law Act 1996:

- a non-molestation order
- an occupation order.

What is a non-molestation order?

This is an order to stop the person who is the abuser from molesting the victim or their children. Molesting means harassing, pestering or interfering with the victim or their children and also includes assault. 'Assault' can mean pushing, punching, slapping, throwing objects, spitting, etc. The order can also extend to cover anyone else who the abuser may tell to molest, harass, pester or be violent towards the victim or their children.

A breach of a non-molestation order is now a criminal offence; however, a victim can also take the case back to the civil court if the order is broken if they prefer to do so. There may be a power of arrest attached.

Powers of arrest may also be attached to an occupation order. These powers come into effect if the abuser breaks the order (see below, Powers of arrest).

What is an occupation order?

An **occupation order** regulates who can live in the family home, and can also restrict an abuser from entering the surrounding area. Where a victim does not feel safe continuing to live with their abuser, or has had to leave home because of violence, but wants to return to their home and exclude their abuser then an occupation order can be used to help them to do this . The court will apply a 'balance of harm' test when deciding whether to make the order. When making an occupation order, the court may make other related orders imposing obligations on the victim or the abuser (for example, relating to repair and maintenance of the home, or to payment of rent or mortgage).

An occupation order can include the following outcomes:

- Allow the victim to remain in the home if the abuser is trying to get them out.
- Allow the victim back into the home if the abuser has already thrown them out or is preventing them from going back into the home.
- Exclude the abuser from all or part of the home.

- Impose a set of rules about living in the home.
- State that the victim and abuser must live in separate parts of the home.
- Exclude the abuser from coming within a certain distance of your home.
- Order the abuser to leave the home or a part of it.
- If the victim does not own the property and has not paid towards the cost of the property the victim can obtain an order which says that they are still entitled to live in the property because they have 'matrimonial rights'. There is also an order that this right will not end if the abusive partner dies or there is a divorce. However, the abuser can apply to the court to try and end the victim's 'matrimonial rights' or restrict them.

How long does an injunction last for?

Injunctions are normally for a specified period of time but can be renewed; or they may be made 'until further order'. There is no limit on the length of time that non-molestation orders can be extended for. Occupation orders can only be extended beyond 12 months if you have a legal right to stay in the home (ie as owner or co-owner, or tenant/joint tenant, or because you are or have been married to the owner/tenant).

Who is eligible to apply for an injunction?

In order for someone to apply for one of these orders they must be what is called an 'associated person'. This means the victim and abuser must be related or associated with each other in one of the following ways:

- they are or have been married to each other
- they are or have been in a civil partnership with each other
- they are cohabitants or former cohabitants (including same sex couples)
- they live or have lived in the same household
- they are relatives
- they have formally agreed to marry each other (even if that agreement has now ended)
- they have a child together (this can include those who are parents of the same child, and those who have parental responsibility for the same child)
- although not living together, they are in an 'intimate relationship of significant duration'
- they are both involved in the same family proceedings (eg divorce or child contact).

What is a Power of Arrest?

This can be attached to an injunction and will give the police power to arrest the abuser if he or she breaks the order. To obtain a power of arrest you need to show that violence has been used against the victim or has been threatened and this is likely to happen again.

Other legal remedies

Unmarried couples not living together, neighbours, relatives, friends or acquaintances – can also apply for a 'Common Law Injunction'. These are sometimes called 'Assault and Trespass Injunctions'.

These injunctions will stop somebody coming onto the victim's property without their permission or assaulting them. Specifically these orders can enable the victim to:

- Stop the person from assaulting or harassing them. The harassment must be serious to the point that it interferes with their mental or physical health. The harassment must also be intentional. Repeated phone calls can amount to harassment.
- Stop the person from trespassing on their property. The victim must show they have an interest in the property, for example own it or be a tenant.
- Stop the person from causing a nuisance.
- Stop the person interfering with your possessions.
- More recently the courts have also allowed orders to exclude abusers from coming within a certain distance of the applicant's home or place of work.

You cannot get a power of arrest with this type of injunction or an order to force somebody who is living in the home (such as a relative) to leave, if they have a right to be there. If the abuser breaks the injunction the victim will need to go back to court to get an order to send them to prison.

Anti-harassment Injunctions

If the victim is not eligible to apply for an order under the Family Law Act, or if they are being continually harassed, threatened, pestered or stalked by a stranger, acquaintance, or after a relationship has ended, a civil injunction can be applied for under the Protection from Harassment Act (1997).

Restraining orders

Legislation also allows for a restraining order to be attached when criminal proceedings have been taken – even if the conviction has not been upheld – if the court believes that the victim is likely to be at risk. Restraining orders can provide the same protection as injunctions under the civil law but may be more effective as they carry stronger penalties. Taking action under the criminal law, coupled with restraining orders, may help the victim to avoid the cost of taking, what can be expensive, civil legal action if they do not also need to apply for an injunction to exclude the abuser from their home.

The Protection from Harassment Act (1997) makes harassment a criminal and civil offence and gives the police more powers to arrest and charge a person who is harassing someone, and can be used instead of 'Common Law Injunctions'. Harassment includes, nuisance phone calls, stalking, threats, excessive noise etc. Basically any behaviour which causes the victim 'alarm' or 'distress'. The harassment has to have happened more than once to use this Act. In the case of stalking the victim must show that the behaviour caused them to believe that the person was likely to use violence on them. The Act can also be used to prevent harassing behaviour by neighbours, protesters, family members, the media etc.

If there is evidence of harassment the police have powers to arrest suspected offenders, charge them and take them to either the Magistrates Court or the Crown Court. If they are found guilty in the Magistrates Court they can be sentenced to up to 6 months in prison and/or up to a £5,000 fine as well as an order preventing them from further harassment. In the Crown Court they can be sentenced to up to five years in prison or an unlimited fine as well as an order preventing them from further harassment.

As an alternative to the criminal justice route, the victim can decide to apply for an 'Anti-Harassment Injunction' from the civil courts, eg the County Court. A claim can also be made for compensation for 'anxiety', 'distress', 'alarm' or financial loss at the same time.

Unlike 'Common Law Injunctions' it is possible to attach powers of arrest to 'Anti-Harassment Injunctions', but only once the injunction has been broken. The victim will need to go back to court to apply for a 'warrant of arrest' and the police will be able to arrest the person and bring them back to the civil courts. The person(s) can then be committed to prison.

Undertakings

Undertakings can still be given by a person brought to court on an application for an injunction. This is a promise given to the court. If a person is accused of violence, threats, harassment etc., then they can promise the court not to behave in this way in the future. The person who gives the undertaking does not have to admit that they have done any of the acts they are accused of.

The undertaking is therefore given without admitting anything. Once an undertaking has been given it has the same effect as a court order. This means if it is broken then it will be contempt of court and an application can be made for committal to prison.

Criminal prosecution under the Mental Capacity Act 2005, Section 44

The Mental Capacity Act introduced a new criminal offence of ill-treatment or wilful neglect of a person who lacks capacity.

Criminal prosecution under the Domestic Violence, Crime and Victims (Amendment) Act 2012

This act extends the offence of causing or allowing the death of a child or vulnerable adult, to causing or allowing serious physical harm, like inflicting brain damage or broken bones. See Ministry of Justice Circular No. 2012/03.

Obtaining good legal advice

It is possible to apply for victims to make an application for an injunction themselves, but most people prefer to do this through a solicitor who has experience of dealing with domestic violence cases, to ensure the best representation and outcome. The Law Society or the local Citizens Advice Bureau has a list of family solicitors in each area.

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

Going to court

Applications for injunctions under the Family Law Act are held at the Magistrates' Family Proceedings Court or the County Court, or in some cases the High Court. The application will be in a closed court ('in chambers') and no one who is not directly concerned with the case will be allowed in. Local advocacy services for vulnerable victims of crimes can work with the court and other agencies to ensure that safety is considered throughout.

Appendix 2: Quick reference summary guide

1. Making the connections between adult safeguarding and domestic abuse

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

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

- Understand the definitions of safeguarding and domestic abuse, and how they link up for the person you are supporting.
- Look out for patterns of coercive or controlling behaviour, as well as incidents of abuse.
- Always take action to safeguard children, and other adults at risk, who may be affected.
- Take account of gender, sexuality and inter-generational issues.

3. Understanding the impact of domestic abuse

- Consider the likely impact of abuse on all of the people involved, adults and children.
- Consider the additional likely impacts of abuse on any people with care and support needs.
- Consider how these factors might affect the approach you need to take to work with individuals or the family.

4. Understanding why people remain in abusive relationships

- Consider what might be preventing someone from seeking help to try and prevent abuse, or leave an abusive situation.
- Consider how you could help someone to overcome barriers to taking action.
- Remember that building trust with someone to help them disclose abuse, may take some time.
- Consider asking direct questions of someone who may be a victim of abuse, in a safe and confidential setting.

5. Working with people in vulnerable circumstances

- Consider the range of issues set out in this chapter and think about how you might explore any that could be a concern for the person being abused or harmed.
- Take time to build trust and confidence with the person being abused, accepting that they may not be able to describe or disclose all aspects of their situation initially.
- Avoid making assumptions based on stereotypes, particularly around older age, mental health and substance misuse.
- Make a careful assessment of any issues which involve carers and caring responsibilities.

6. Mental capacity, adult safeguarding and domestic abuse

- Make sure you understand the fundamentals of the Mental Capacity Act, and/or have access to an experienced professional who can help you with this.
- Consider whether an apparently unwise decision may actually be the result of coercion or controlling behaviour by another person.
- Involve an IMCA (independent mental capacity advocate) as a safeguard to the abused person if the situation warrants it.

7. Assessing and working with the risks of domestic abuse

- Ensure that you understand local policies and procedures for risk assessments and risk management, and adhere to them.
- Exercise professional judgement in interpreting the results of risk assessment tools, avoiding the pitfalls which lead to ineffective risk management.
- Take any immediate protective measures that are needed, and refer to MARAC and safeguarding procedures for adults and children when risks are identified.
- Develop your knowledge of local resources which offer support for safeguarding and domestic abuse.

8. Working with perpetrators of domestic abuse

- Be aware of the need for specialist intervention programmes for perpetrators which challenge their behaviour and offer the right support.
- Do not refer perpetrators to inappropriate interventions such as anger management, generic counselling or family/community conferencing.
- If it is appropriate for you to speak directly to a perpetrator about domestic abuse, be clear with them about the unacceptability of abuse, their accountability for it, and the limits on confidentiality.
- If an abuser has care and support needs, make sure they and their carers have the information and advice they need to move forward.

9. Making safe enquiries and defensible decisions

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

10. Using legal remedies and sanctions

- Make sure that you are aware of the types of legal remedies and sanctions that can be used in safeguarding and domestic abuse.
- Know where to go to get good legal advice, both for the person you are supporting, and to advise you of the options available.
- Ensure that information and advice is provided in an accessible way.

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