

# North Lincolnshire Safeguarding Adults Board



## Section 42 criteria (3 stage test)

### Introduction

This guide sets out key information for people who work with and support vulnerable adults. It aims to help staff understand when safeguarding referrals should be considered and made to the NLC Safeguarding Adults Team.

The statutory criteria for undertaking safeguarding enquiries is set out in Section 42 of the Care Act 2014. Known commonly as the '3 stage test', if there is cause to believe an adult meets the criteria the local authority (or a partner on their behalf) has a duty undertake a Section 42 enquiry.

Section 42 of the Care Act 2014 states that safeguarding enquiries should be made by the local authority where there is 'reasonable cause to suspect' that:

- a) a person has needs for care and support;
- b) is experiencing, or at risk of, abuse or neglect; and
- c) as a result of their care and support needs, is unable to protect him or herself against abuse or neglect, or the risk of it.

### Stage 1 – Does the person have needs for care and support?

The Care Act guidance 2014 describes 'care & support' as:

*'The mixture of practical, financial and emotional support for adults who need extra help to manage their lives and be independent – including older people, people with a disability or long-term illness, people with mental health problems, and carers. Care and support include assessment of people's needs, provision of services and the allocation of funds to enable a person to purchase their own care and support. It could include care home, home care, personal assistants, day services, or the provision of aids and adaptations.'*

The local authority will assess the person against the [Care and Support \(Eligibility Criteria\) Regulations 2015](#). An adult's needs meet the eligibility criteria if:

- a) the adult's needs arise from or are related to a physical or mental impairment or illness;
- b) as a result of the adult's needs, he or she is unable to achieve two or more of the outcomes specified below
- c) as a consequence there is, or is likely to be, a significant impact on the adult's wellbeing

The table below explains what 10 different 'eligibility outcomes' are and what they mean.

Please note these examples are not absolute and there are many factors which should also be considered in making judgements about a safeguarding concern and the eligibility criteria.

Eligibility outcome	Description	Things to consider
a) managing and maintaining nutrition	<p>Does the person have access to food and drink to maintain nutrition and can they prepare and consume food and drink?</p> <p>If a person is unable to afford adequate and nutritious food this does not mean that they would this eligibility need as they are capable of looking after themselves, but they may benefit from support from other services to access food and manage finances.</p>	<p>Does a person's illness or the medication they take mean they do not eat and drink regularly?</p> <p>Do they forget to eat or drink?</p> <p>Do they need someone to remind them to eat or drink?</p> <p>Can they go shopping for food on their own?</p> <p>Can they make themselves something to eat without assistance?</p> <p>Does the person have capacity to understand what constitutes as nutritious food and the knowledge of how to prepare it?</p>
b) maintaining personal hygiene	<p>Consider if they able to achieve the outcome independently and without assistance but if doing so causes the adult significant pain, distress or anxiety then this would meet the criteria.</p> <p>If the person is mentally and physically capable of taking care of himself and prefers their lifestyle, in which they live this would not meet the criteria. However, you should consider the potential of self-neglect if there are concerns around personal hygiene or poor home conditions.</p>	<p>Does the person wash themselves regularly?</p> <p>Does the person need someone to remind them to wash or someone to help them wash?</p> <p>Does the person understand how to use a washing machine and do their own laundry?</p> <p>Does the person remember to wash their own clothes?</p> <p>Can the person wash themselves and their clothes without assistance?</p> <p>Do they have the motivation to care for themselves?</p>
c) managing your toilet needs	<p>Does the person have a toilet, and do they know how to use it?</p> <p>Can they use it independently?</p> <p>If they cannot use the toilet safely due to a cognitive impairment or disability, then this may meet this eligibility need. However, If</p>	<p>Do they need any help to use the toilet?</p> <p>Do they have any issues with incontinence?</p> <p>Can they use the toilet safely and without pain or distress?</p>

	<p>the toilet is inaccessible because of poor home conditions this alone would not meet this eligibility criteria and they would likely benefit from support from other services.</p>	
<p>d) being appropriately clothed</p>	<p>Can the person dress themselves and do they wear the right clothes for the weather?</p> <p>If there are concerns around affording appropriate clothing then this would not be an eligibility need and support should be explored by other services.</p>	<p>Does the person need anyone to help them get dressed?</p> <p>Do they dress appropriately for the weather?</p> <p>Are there any issues with under or over exposure?</p> <p>Are their clothes and shoes in good condition?</p>
<p>e) being able to make use of the home safely</p>	<p>Is the person able to stay safe at home and keep themselves safe there?</p> <p>If there concerns around anti-social behaviour or cuckooing, then it is important to consider if a person's disability or lack of capacity may impact on their ability to keep themselves safe.</p> <p>Anti-social behaviour on its own would not meet this eligibility criteria.</p>	<p>Can they move around their house safely and use the kitchen and bathroom?</p> <p>Do they remember to turn to cooker off after use?</p> <p>Can they get in and out of their house easily?</p> <p>If there was an emergency, would they be able to leave their house safely?</p> <p>Is there a learning disability which may impact on their safety?</p> <p>Do they recognise risk and take steps to keep themselves safe, such as locking their door?</p>
<p>f) maintaining a habitable home environment</p>	<p>Is the persons home clean and safe?</p> <p>Do they have water, electricity and gas?</p> <p>Consider other adults who may visit. If there is a risk of exploitation or criminal activity that the adult cannot recognise or protect themselves against due to a cognitive impairment or other care and support need, then this would meet the criteria.</p> <p>Does the person have the motivation to keep their home habitable? If their mental health or cognitive ability prevents this then this would meet this eligibility need.</p>	<p>Can the person keep their house free from clutter and mess?</p> <p>Do they find it difficult to do chores?</p> <p>Does the person find it hard to throw things away?</p> <p>Do they remember to put rubbish out to get collected?</p> <p>If they run out of gas or electricity, can they go and buy more if required?</p> <p>Can they pay bills independently?</p>

	<p>If the person is mentally and physically capable of taking care of himself and prefers their lifestyle, in which they live this would not meet the criteria. However, self-neglect should be considered. You should also consider a referral to the Fire Service if there are concerns around personal hygiene or poor home conditions.</p>	
g) developing and maintaining family or personal relationships	<p>Is the person isolated or lonely because their physical or mental health stops them from keeping personal relationships or making new ones?</p> <p>If there is coercion and control which prevents them from seeing family and friends, but they do not have any care and support needs, then they would not meet the criteria but would require support from specialist services.</p>	<p>Do they need more contact with people?</p> <p>Does their mental or physical health make it hard to meet people?</p> <p>Who does the person go to if they need help or support?</p>
h) accessing and engaging in work, training or volunteering	<p>Does the person have the opportunity to contribute to society through work, training, education or volunteering?</p> <p>Do they need support to do these things?</p> <p>If a person is not permitted to live independently because of coercion and control, they have capacity and no care or support needs then they would not meet the criteria but would require support from specialist services.</p>	<p>Does the person know where to access education, training or volunteering?</p> <p>Does their mental or physical health stop them from doing any education, training or volunteering?</p> <p>Do they feel connected to their community?</p> <p>Do they need help with learning or remembering information?</p>
i) making use of the necessary facilities or services in the local community. Including public transport and recreational facilities or services	<p>Can the person get around safely using public transport?</p> <p>Do they need support to get around?</p>	<p>Do they need help getting to appointments or attending events?</p> <p>Can they make new journeys on their own?</p> <p>Do they know how to access the hobbies and activities which they enjoy?</p>
j) carrying out any caring responsibilities the	<p>Does the person have any caring or parenting responsibilities?</p> <p>If their cognitive ability or health prevents them from carrying out these responsibilities, then they would meet the criteria.</p>	<p>Do the side effects of medication impact on their ability to care for someone?</p>

adult has for the child		Does their mental or physical health make it difficult for them to carry out any caring responsibilities?
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For the purposes of this regulation, an adult is to be regarded as being unable to achieve an outcome if he or she is:

- unable to achieve the outcome without assistance. This would include where a person would be unable to do so even when assistance is provided. It also includes where the person may need prompting, for example, some people may be physically able to wash but need reminding of the importance of personal hygiene
- able to achieve the outcome without assistance but doing so causes the person significant pain, distress, or anxiety
- able to achieve the outcome without assistance but doing so endangers or is likely to endanger the health and safety of the person, or of others
- able to achieve the outcome without assistance and can take significantly longer than would normally be expected

It is important that we use professional curiosity when having conversations with people and do not accept things at face value.

Local authorities must determine how the person's inability to achieve the outcomes above impacts on their wellbeing. Where the person is unable to achieve more than one of the outcomes, the local authority does not need to consider the impact of each individually but should consider whether the cumulative effect of being unable to achieve those outcomes is one of a 'significant impact on wellbeing'. The meaning of 'wellbeing' is set out in [Section 1 of the Care Act](#).

## Stage 2 – Is the person experiencing, or is at risk of, abuse or neglect?

The 10 main categories of abuse as outlined by the Care Act 2014 are set out below:

- Physical abuse
- Sexual abuse
- Psychological abuse
- Financial/ material abuse
- Neglect and acts of omission
- Discriminatory abuse
- Domestic abuse
- Organisational abuse
- Modern Slavery
- Self-neglect and/or hoarding

In determining whether someone is at risk of abuse or neglect, you should consider:

- Why do you believe that the person is at risk?
- What type of abuse are you concerned about?
- Abuse can be deliberate or the result of negligence or ignorance. Consider each case on its merits on the individual circumstances and note that someone may be experiencing or at risk of multiple types of abuse

Other things to consider include:

- The specific type/area of vulnerability of the adult at risk

- Seriousness of the risk of or actual abuse
- Patterns of abuse
- Impact of the abuse on the adult at risk, how do they feel about it
- Impact on others
- Intent of the person causing the harm
- Illegality of actions
- Risk of repeated abuse to the adult at risk
- Risk of repeated abuse on others

Staff should always refer to the [North Lincolnshire Threshold Document and Risk Matrix](#) for further guidance on types of abuse or neglect which are reportable to the NLC Safeguarding Adults Team.

### Stage 3 – As a result of their care and support needs, is the person unable to protect themselves against abuse or neglect, or the risk of?

In determining whether someone is unable to protect themselves, you should consider:

- Are they able to take appropriate actions to remove or reduce the risk themselves?
- Can you equip them with the tools or information to do so?

It is also important to bear in mind that an inability to safeguard oneself is not the same as an adult lacking mental capacity. In all circumstances, one should consider that even where a person can make a decision, are they able to action that decision to safeguard themselves?

### Example scenarios

Scenario	Eligibility check	Action to take
Mrs Smith, an 82-year-old woman, lives alone and has been receiving frequent visits from a neighbour who offers to help with her shopping and finances. Recently, Mrs Smith's bank has noticed unusual withdrawals from her account.	<ul style="list-style-type: none"> <li>• <b>Needs for care and support:</b> Mrs Smith has needs related to her age and potential cognitive decline</li> <li>• <b>Experiencing or at risk of abuse or neglect:</b> There is a reasonable cause to suspect financial abuse due to unusual bank activity</li> <li>• <b>Unable to protect herself:</b> Due to her age and potential cognitive issues, Mrs Smith may be unable to protect herself from financial exploitation</li> </ul>	<p>A referral to the NLC Safeguarding Adults Team should be made.</p> <p>The local authority must make enquiries to decide what action should be taken to protect Mrs Smith</p>

<p>John, a 30-year-old man with learning disabilities, lives in a shared accommodation. His caregivers have reported that he feels unsafe because staff make fun of him and refuse to serve him when he goes to the local shop.</p>	<ul style="list-style-type: none"> <li>• <b>Needs for care and support:</b> John has learning disabilities that require support</li> <li>• <b>Experiencing or at risk of abuse or neglect:</b> He is at risk of discriminatory abuse</li> <li>• <b>Unable to protect himself:</b> Due to his learning disabilities, John may be unable to ensure his own wellbeing</li> </ul>	<p>A referral to the NLC Safeguarding Adults Team should be made.</p> <p>The local authority must conduct enquiries to determine the necessary actions to safeguard John.</p>
<p>Mr Brown, a 65-year-old retired teacher, is financially independent and does not require any care or support services. However, his neighbour has been coercing him into giving money under false pretences.</p>	<ul style="list-style-type: none"> <li>• <b>Needs for care and support:</b> Mr Brown does not have any care and support needs</li> <li>• <b>Experiencing or at risk of abuse or neglect:</b> He is at risk of financial exploitation</li> <li>• <b>Unable to protect himself:</b> Mr Brown is capable of protecting himself even if does not recognise the exploitation</li> </ul>	<p>Since Mr Brown does not have care and support needs, this scenario does not meet the criteria for a Section 42 enquiry.</p> <p><b>Alternative actions to take:</b></p> <ul style="list-style-type: none"> <li>• <b>Report to the Police:</b> Financial exploitation can be reported to the police as a potential crime</li> <li>• <b>Seek legal advice:</b> Mr Brown can be advised to seek legal advice to protect his assets</li> <li>• <b>Community support services:</b> Engage community support services or local charities that offer advice and support to older adults</li> </ul>
<p>Mrs Green, a 40-year-old professional, is experiencing domestic abuse from her partner. She is fully self-sufficient and does not require any external care or support.</p>	<ul style="list-style-type: none"> <li>• <b>Needs for care and support:</b> Mrs Green does not have any care and support needs</li> <li>• <b>Experiencing or at risk of abuse or neglect:</b> She is experiencing domestic abuse</li> <li>• <b>Unable to protect herself:</b> Mrs Green is capable of seeking help and protecting herself</li> </ul>	<p>Although Mrs Green is experiencing abuse, she does not have care and support needs, so this situation does not trigger a Section 42 enquiry.</p> <p><b>Alternative actions to take:</b></p> <ul style="list-style-type: none"> <li>• <b>Domestic abuse services:</b> Refer Mrs Green to domestic abuse services for support and advice</li> <li>• <b>Legal protection:</b> Encourage her to seek legal protection, such as a restraining order</li> <li>• <b>Counselling services:</b> Suggest counselling services to help her cope with the emotional impact of the abuse</li> </ul>
<p>Sarah, a 45-year-old woman with severe depression, has been found living with unsafe home conditions. She has not been taking her</p>	<ul style="list-style-type: none"> <li>• <b>Needs for care and support:</b> Sarah's mental health issues require care and support</li> </ul>	<p>A referral to the NLC Safeguarding Adults Team should be made.</p>

<p>medication and has isolated herself from friends and family.</p>	<ul style="list-style-type: none"> <li>• <b>Experiencing or at risk of abuse or neglect:</b> Sarah is at risk of self-neglect due to her living conditions and lack of self-care</li> <li>• <b>Unable to protect herself:</b> Her mental health condition impairs her ability to seek help and maintain her wellbeing</li> </ul>	<p>The local authority must make enquiries to decide on the appropriate interventions to support Sarah.</p>
<p>Mr Blue, a 45-year-old man, is being harassed by a group of individuals in his neighbourhood. He is fully independent and does not require any care or support services.</p>	<ul style="list-style-type: none"> <li>• <b>Needs for care and support:</b> Mr Blue does not have any care and support needs</li> <li>• <b>Experiencing or at risk of abuse or neglect:</b> He is experiencing harassment</li> <li>• <b>Unable to protect himself:</b> Mr Blue is capable of seeking help from authorities.</li> </ul>	<p>Since Mr Blue does not have care and support needs, this scenario does not meet the criteria for a Section 42 enquiry.</p> <p><b>Alternative actions to take:</b></p> <ul style="list-style-type: none"> <li>• <b>Report to police:</b> Encourage Mr Blue to report the harassment to the police</li> <li>• <b>Community mediation:</b> Suggest community mediation services to resolve the conflict</li> <li>• <b>Support groups:</b> Refer him to support groups for individuals experiencing harassment</li> </ul>
<p>Mark, a 50-year-old man with physical disabilities, relies on his partner for daily care. Recently, he has shown signs of physical abuse, such as unexplained bruises.</p>	<ul style="list-style-type: none"> <li>• <b>Needs for care and support:</b> Mark's physical disabilities necessitate care and support</li> <li>• <b>Experiencing or at risk of abuse or neglect:</b> There is a reasonable cause to suspect domestic abuse</li> <li>• <b>Unable to protect himself:</b> Due to his physical disabilities and dependence on his partner, Mark may be unable to protect himself from abuse</li> </ul>	<p>A referral to the NLC Safeguarding Adults Team should be made.</p> <p>The local authority must conduct enquiries to determine the necessary steps to protect Mark.</p>
<p>Emma, a 28-year-old woman with a mild intellectual disability, has been befriended by a group of individuals who have started using her home for illegal activities.</p>	<ul style="list-style-type: none"> <li>• <b>Needs for care and support:</b> Emma's intellectual disability requires support</li> <li>• <b>Experiencing or at risk of abuse or neglect:</b> There is a risk of exploitation and abuse due to the illegal activities in her home</li> <li>• <b>Unable to protect herself:</b> Emma's intellectual disability may prevent her from understanding the situation and seeking help</li> </ul>	<p>A referral to the NLC Safeguarding Adults Team should be made.</p> <p>The local authority must make enquiries to decide on the appropriate actions to safeguard Emma.</p>
<p>Ms Black, a 30-year-old woman, is being exploited by her employer, who is making her work excessive hours without proper compensation. She is mentally and</p>	<ul style="list-style-type: none"> <li>• <b>Needs for care and support:</b> Ms Black does not have any care and support needs</li> <li>• <b>Experiencing or at risk of abuse or neglect:</b> She is experiencing exploitation at work</li> </ul>	<p>Although Ms Black is being exploited, she does not have care and support needs, so this situation does not trigger a Section 42 enquiry.</p> <p><b>Alternative actions to take:</b></p>

<p>physically capable and does not require any care or support.</p>	<ul style="list-style-type: none"> <li>• <b>Unable to protect herself:</b> Ms Black is capable of seeking legal or other forms of help.</li> </ul>	<ul style="list-style-type: none"> <li>• <b>Employment rights advice:</b> Refer Ms Black to employment rights organisations for advice and support</li> <li>• <b>Trade Union support:</b> Encourage her to join a trade union for protection and advocacy</li> <li>• <b>Legal action:</b> Suggest seeking legal action against the employer for exploitation</li> </ul>
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## Further information, advice and guidance

- [North Lincolnshire Threshold Document and Risk Matrix](#)
- [Guidance on what makes a good safeguarding referral](#)
- [Making decisions on the duty to carry out safeguarding adults enquiries](#) – LGA guidance on the duty to carry out safeguarding enquiries