



North Wales Safeguarding Adults Board

Multi-Agency Practice Guidance for Dealing with Cases of Domestic Abuse to Safeguard Adults with Care and Support Needs

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1.0 INTRODUCTION

This document provides additional guidelines to assist North Wales Police, the local authorities and where appropriate health services to work together to address the issues of Domestic Abuse where they affect adults with care and support needs.

Under the Social Services and Well-being Act 2014 safeguarding concerns should be referred to local authority's social care departments as they have responsibility for agreeing that the s126 Duty to carry out enquiries are necessary. If s126 enquiries are required, the local authority can carry out the enquiries or require another more appropriate agency /service to carry out the enquiries on their behalf. E.g. if a crime has or appears to have been committed the police will carry out a criminal investigation, other agencies/ services may contribute to the process to ensure that the s126 duties are met.

The principle of safe enquiry is core to all work with victims of domestic violence/abuse. The Local Authority will need to consider the expressed views of the victim if it is qualified that they are making a capacitated decision and are not under duress. This may result in consent to share information with other agencies being withheld; in these circumstances there should be a consultation regarding the scenario only with the Police to inform the Designated Safeguarding Leads (DSL) risk assessment if it is believed a crime has been committed at the point the concern is reported.

The Adult at risk: Safeguarding duties apply to an adult who: has needs for care and support (whether or not the local authority is meeting any of those needs) and; is experiencing, or at risk of, abuse or neglect; and as a result of those care and support needs is unable to protect themselves from either the risk of, or the experience of abuse or neglect.

(Working together to Safeguard People Guidance issued under the Social Services and Well-being Act 2014):

<https://www.northwalesafeguardingboard.wales/document/working-together-to-safeguard-people-volume-6-handling-individual-cases-to-protect-adults-at-risk/>

Who may be considered for statutory and non-statutory enquiries?

This may include people with learning disabilities, mental health issues, older people, and people with a physical disability or impairment. It may also include adult victims of abusive care practices; neglect and self-neglect; domestic abuse; hate crime; female genital mutilation; forced marriage; modern slavery; trafficking and anti-social abuse behaviour. It may also include an individual who may be vulnerable as a consequence of their role as a carer in relation to any of the above.

An adult's need for additional support to protect themselves may be increased when complicated by additional factors, such as, physical frailty or chronic illness, sensory impairment, challenging behaviour, drug or alcohol problems, social or emotional problems, poverty or homelessness and it is important to note that vulnerability can fluctuate.

Domestic Abuse Act 2021: new definition

Definition of “domestic abuse”

(1) This section defines “domestic abuse” for the purposes of this Act.

(2) Behaviour of a person (“A”) towards another person (“B”) is “domestic abuse” if—

(a) A and B are each aged 16 or over and are personally connected to each other, and

(b) the behaviour is abusive.

(3) Behaviour is “abusive” if it consists of any of the following—

(a) physical or sexual abuse;

(b) violent or threatening behaviour;

(c) controlling or coercive behaviour;

(d) economic abuse (see subsection (4));

(e) psychological, emotional or other abuse;

and it does not matter whether the behaviour consists of a single incident or a course of conduct.

(4) “Economic abuse” means any behaviour that has a substantial adverse effect on B’s ability to—

(a) acquire, use or maintain money or other property, or

(b) obtain goods or services.

(5) For the purposes of this Act A’s behaviour may be behaviour “towards” B despite the fact that it consists of conduct directed at another person (for example, B’s child).”

Controlling Behaviour

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

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.

It is also important to remember that most research also suggests that domestic abuse occurs in all sections of society irrespective of race, culture, nationality, religion, sexuality, disability, age, class or educational level.

The definition includes incidents where extended family members may condone or share in the pattern of abuse e.g. forced marriage, female genital mutilation and crimes rationalized as punishing women for bringing 'dishonour' to the family.

Section 76 of the Serious Crime Act (2015) created a new offence of controlling or coercive behaviour in an intimate or family relationship. This legislation, which does not have retrospective effect, came in to force on 29th December 2015. Coercive or controlling behaviour does not relate to a single incident, it is a purposeful pattern of incidents that occur over time in order for one individual to exert power, control or coercion over another. The legislation aims to close a gap in the law around patterns of coercive and controlling behaviour during a relationship between intimate partners, former partners who still live together, or family members.

2.0 PURPOSE

This practice guide aims to identify effective joint working practices for all agencies when Domestic Abuse affects an adult at risk.

The purpose of this practice guide is to set out a minimum standard of service when an adult at risk requires some support to protect them from Domestic Abuse and to identify appropriate support networks.

3.0 OBJECTIVES

The objectives of this practice guide are:

- a) To provide guidance to all agencies in referring cases of concern to appropriate service (see section 1.2). please refer to the Wales Safeguarding procedures
- b) To provide guidance that enables agencies to apply a consistent approach to sharing information.
- c) To set out a minimum standard of service for responding to adults at risk who may be in need of protection and other Support Services because of Domestic Abuse.
- d) To include the principles of Wellbeing as described in the Social Services and Wellbeing Act 2014

- e) To support the Statutory guidance framework; controlling or coercive behaviour in an intimate or family relationship (2015). 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. 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.

This practice guide recognises that:

- a) All agencies will always seek to act in the best interest of adults at risk with whom they are involved.
- b) All agencies are bound by a duty to protect the confidentiality of shared material. The General Data Protection Regulation (GDPR) and Data Protection Act 2018 (DPA 2018) provides a legal framework for lawful information sharing. Any decision made to share confidential information must have a lawful basis, be necessary and justified and proportionate with regard to the Human Rights Act (1998) (JAPAN principles Justified, Authorised, Proportionate, Auditable and Necessary). The Police will use the following acronym: PLAN – Proportionate, Legal, Accountable and Necessary.
- c) All agencies will use shared material only for the purposes for which it is disclosed and not for secondary reasons.
- d) It is important that adults at risk understand the agreement they are entering into and that you revisit the agreement. You need to explain the reasons why their information might be shared and how the service will treat the sensitive and personal data it is given. Explain that every case is individual but, in general, the service does not need consent to share information where the adult or their children are at high risk of serious harm.

4.0 EFFECTS OF DOMESTIC ABUSE ON ADULTS WITH CARE AND SUPPORT NEEDS

It is important to recognise that adults with care and support needs may be the victims of Domestic Abuse themselves or be affected by it occurring within their household. This is likely to have a serious effect on their physical and mental well-being.

Research has mainly been carried out with women, and findings include that being disabled strongly affects the nature, extent and impact of abuse. That it is especially acute where the abusive partner is also the carer, the carer has considerable power and control and the victim relies on them.

Where adults at risk are victims of Domestic Abuse; they may need extra support to plan their future. The abuse or threat of abuse may continue after a victim has separated from the abuser. It is important to ensure that all adults at risk in this situation have appropriate support to enable them to maintain their personal safety.

Although it is recognised that carers are sometimes under pressure this should not be used as mitigation for violence or abuse where there is power and control identified over the adult. Where domestic abuse is identified consideration should always be given as to whether the perpetrator has a history of domestic violence or abuse prior to the onset of the disability or capacity issues that defined them as an adult with care and support needs. Consideration should also be given to whether the disability or capacity issue is contributing to the Domestic violence or abuse episodes. This should assist workers to address the needs of the adult at risk within a domestic abuse or violence situation.

Consultation and advice can be sought from the Central Referral Unit.

5.0 POLICE RESPONSIBILITIES

North Wales Police will work with multi-agency partners to ensure the overriding priorities in dealing with all incidents of domestic abuse are:

- a) To protect the lives of adults and children who are at risk of domestic abuse;
- b) To ensure safeguarding and signposting to national and local support resources for victims of domestic abuse;
- c) To record all incidents of domestic abuse;
- d) To facilitate effective action against offenders so they can be held accountable through the criminal justice system.
- e) Domestic abuse is not a specific criminal offence. The term is used to describe a range of incidents occurring in particular circumstances where the victims can be of any gender and from any ethnic group as can the perpetrator. North Wales Police will respond to all victims of domestic abuse so they can receive the appropriate quality of service according to their individual needs. All allegations will be properly investigated and the perpetrators held accountable through the criminal justice system.

Following a report of a Domestic Abuse incident it is the responsibility of the Central Referral Unit (CRU), to identify if the victim appears to have care and support needs and be at risk of Domestic Abuse. Those adults deemed at risk will be immediately referred via CRU.

A referral of concern will be made to the Local authorities (See 1.2) in all cases where:

- It is believed that an adult at risk and/or associated children are suffering or are at risk of suffering significant harm
- It is believed that an adult at risk and/or children are in need of more support services

If there is any uncertainty regarding the need for a referral, a consultation can be sought through the relevant Local Authority Social Services

Domestic Violence Protection Notices (DVPN) and Domestic Violence Protection Orders (DVPO).

These may be used following a domestic incident to provide short-term protection to the victim when arrest has not been made but positive action is required, or where an arrest has taken place but the investigation is in progress. This could be where a decision is made to caution the perpetrator or take no further action (NFA), or when the suspect is bailed without conditions. They may also be considered when a case is referred by MARAC.

The process is designed to give breathing space to victims by granting a temporary respite from their abuser and allowing referral to support services without interference. The point at which victims seek help or leave their abuser can be when they are most at risk. The DVPN/DVPO process can be pursued without the victim's active support, or even against their wishes, if this is considered necessary to protect them from violence or threat of violence. The victim also does not have to attend court. This can help by removing responsibility from the victim for taking action against their abuser.

Initially Police may serve a DVPN then an application to court for a DVPO must be made within 48 hours. If the court issues a DVPO it must last for a minimum of 14 days and a maximum of 28 days.

Breaches of a DVPN should be reported to Police. There is no specific power of arrest however other powers can be used to detain the suspect to appear before the next available magistrate court so that a full order can be granted. Consideration will be given to the commission of further offences which may result in the suspect being arrested and investigated for these further offences as well.

Breaches of a DVPO have a power of arrest attached. Therefore, any breaches should be reported to police who have the power to arrest and place the suspect before a magistrate's court. A breach of a DVPO is a civil breach of a court order. The penalty for a breach of a civil order is £50 for every day that the person is in default of the order, up to a maximum of £5000 or 2 months' imprisonment. Consideration will be given to the commission of further offences which may result in the suspect being arrested and investigated for these further offences as well.

Domestic Violence Disclosure Scheme (DVDS) (Clare's Law). The aim of this scheme is to give members of the public a formal mechanism to make enquires about an individual who they are in a relationship with, or who is in a relationship with

someone they know, and there is a concern that the individual may have a record of abuse.

If police checks show that the individual has a record of abusive offending, or there is other information to indicate the person you know is at risk, the police will consider sharing this information with the person(s) best placed to protect the potential victim. Any concerned third party, such as a parent, neighbour, friend or professional can make an application, not just the potential victim.

A third party making an application would not necessarily receive the information about the individual concerned. It may be more appropriate for someone else to receive the information such as the potential victim or another person who is best placed to protect the potential victim. If an adult at risk is open to Social Services, then the normal Police Checks process should be used.

CONSENT AND DATA PROTECTION

The General Data Protection Regulation (GDPR) and Data Protection Act 2018 (DPA 2018) protects personal privacy and upholds individual's rights.

Article 5 of the GDPR sets out seven key principles which lie at the heart of any general data protection regime: -

- a) processed lawfully, fairly and in a transparent manner in relation to individuals ('lawfulness, fairness and transparency');
- b) collected for specified, explicit and legitimate purposes and not further processed in a manner that is incompatible with those purposes; further processing for archiving purposes in the public interest, scientific or historical research purposes or statistical purposes shall not be considered to be incompatible with the initial purposes ('purpose limitation');
- c) adequate, relevant and limited to what is necessary in relation to the purposes for which they are processed ('data minimisation');
- d) accurate and, where necessary, kept up to date; every reasonable step must be taken to ensure that personal data that are inaccurate, having regard to the purposes for which they are processed, are erased or rectified without delay ('accuracy');
- e) kept in a form which permits identification of data subjects for no longer than is necessary for the purposes for which the personal data are processed; personal data may be stored for longer periods insofar as the personal data will be processed solely for archiving purposes in the public interest, scientific or historical research purposes or statistical purposes subject to implementation of the appropriate technical and organisational measures required by the GDPR in order to safeguard the rights and freedoms of individuals ('storage limitation');

- f) processed in a manner that ensures appropriate security of the personal data, including protection against unauthorised or unlawful processing and against accidental loss, destruction or damage, using appropriate technical or organisational measures ('integrity and confidentiality'). The Data Protection Act 1998 protects personal privacy and upholds individual's rights.

GDPR includes six lawful bases for information sharing. The lawful bases for processing are set out in Article 6 of the GDPR. Those relevant to this policy are:

- a) Consent: the individual has given clear consent for you to process their personal data for a specific purpose.
- b) Legal obligation: the processing is necessary for you to comply with the law.
- c) Vital interests: the processing is necessary to protect someone's life.
- d) Public task: the processing is necessary for you to perform a task in the public interest or for your official functions, and the task or function has a clear basis in law.

Consent should be sought in all cases where it is safe to do so. Where consent cannot be obtained sharing of information can take place without consent, under DPA 2018, where the individual is a child or an adult at risk; if the circumstances justify it, where it is in the substantial public interest, and sharing is necessary for the purpose of:

- i. protecting an individual from neglect or physical, mental or emotional harm; or
- ii. protecting the physical, mental or emotional well-being of an individual

Article 8 of the Human Rights Act 1998, states that everyone has the right to respect for his private and family life, and that there shall be no interference by a Public Authority with this right except as in accordance with the law: -

- a) In the interests of national security
- b) Public safety
- c) Economic wellbeing of the country
- d) The prevention of disorder or crime
- e) The protection of health or morals
- f) The protection of the rights or freedoms of others.

In most circumstances the agreement of the adult should be sought before a referral is made. However, consent should not be sought where: -

- a) It would hinder the prevention or detection of a crime or the apprehension of

an offender.

- b) It would place the subject of the referral or other adults at risk of harm.
- c) An urgent referral is necessary and it is not possible or appropriate to seek consent, i.e. cases where the alleged abusers are the only persons able to give consent.

Statutory agencies have a responsibility to act to prevent a crime or abuse of children and adults at risk.

If a professional has concerns about the adult's welfare and believes they are suffering or likely to suffer abuse or neglect, then they should share the information with the local authority and, or, the police if they believe or suspect that a crime has been committed.

If the adult at risk withholds his/her agreement to a referral being made and they have capacity (as per the requirements of the Mental Capacity Act 2005) to understand the risk issues following completion of a risk assessment conducted during safe enquiry and it is qualified that they are not being intimidated, then their wishes should be respected and this decision recorded.

If, however, other adults with care and support needs or Children are at risk then referral to social services should be made in respect of these people.

Lessons learned from domestic homicide reviews reveal that failing to share vital information is a contributory factor in many cases but while the current 'message' is very much that professionals should consider the potential risks of not sharing information; both strategically and at the front-line there is still much caution attached to doing so.

6.0 LOCAL AUTHORITIES

In all situations of Domestic Abuse, local authorities and other agencies or services will, wherever possible, work to support and assist adults at risk to take action necessary to protect themselves from abuse especially where this may result in significant harm to themselves or other adults with care and support needs and children.

In accordance with the Wales Safeguarding Procedures, it is a responsibility of the Designated Safeguarding Lead (DSL) in the local authorities to make a decision about what course of action will be taken. This would be in accordance with the Wales Safeguarding Procedures following risk assessment of the seriousness of the abuse. The following are possible responses that may be made at any stage during the information gathering or enquiries made from initial consultation / formal referral to case conference: -

- a) It is abuse, the alleged victim is an adult at risk and a section 126 enquiry is commenced using the Wales Safeguarding Procedures.
- b) It is abuse but the adult at risk following safe enquiries requests case is

closed and DASH does not indicate referral to MARAC.

- c) There is evidence of abuse that does not constitute a criminal offence but following assessment of the issues reported it appears more appropriate to address the situation in a less formal way e.g. through the provision of support services for the adult at risk and their carer (who may also be the adult at risk).
- d) It is not assessed as adult abuse but an assessment of social care/support is initiated.
- e) It is abuse but the victim does not have Care and Support needs so a non-statutory enquiry may be appropriate.
- f) If the victim does not have either care or support needs it may be necessary to suggest a referral to a more appropriate service e.g. locally commissioned domestic abuse services.
- g) Initial assessment and evaluation of the presenting risks and protective factors concludes that there is no evidence of abuse or abuse is discounted following enquiries made.

The social services agency must make or cause to be made whatever enquiries necessary to decide what needs to happen and by whom. This then constitutes a formal Section 126 Enquiry; to assist in reaching this decision it is crucial that such enquiries are made when the person is safe to disclose and in a situation which will not increase risk to them.

The following enquiries will be undertaken: -

- a) The views and wishes of the adult once safe contact and enquiry has been made.
- b) Explain the limits of your confidentiality e.g. the only time I would tell anyone anything you told me would be if a child was in danger, if another adult was in serious danger or if a crime may have been committed. Even then, I would discuss it with you first if I could and I would do everything I could to support you.
- c) An Independent advocate may be appointed to support them if they have difficulty understanding the processes.
- d) Information gathering from other organisations. *If the adult does not want other agencies involved but there has been disclosure of a crime there should be consultation with the Police regarding the scenario (without passing personal details) to discuss and consider how to ensure that the person is and remains protected from abuse or neglect.

- e) Consider any records of previous or current involvement with the adult at risk and any other family members by statutory agencies.
- f) Domestic Abuse, Stalking and Honour Based Violence Risk Identification Checklist (DASH) should be completed with the adult unless it is not possible to do so.
- g) Referral to Multi-Agency Risk Assessment Conference (MARAC) if indicated by DASH.
- h) The adult should be informed of the role of an Independent Domestic Violence Advocate IDVA for their consideration.
- i) The adult should be advised of their nearest One Stop Shop
- j) Planning discussions by telephone or meetings involving the adult at risk and/or referrer.
- k) All planning discussions and decisions must be appropriately documented.

Further guidance regarding enquiries is available within the Wales Safeguarding Procedures

Should there be any disagreement between professionals regarding the decision the matter should be referred to the North Wales Resolving Professional differences practice guide.

DASH Risk Assessment

All staff having direct contact with adults at risk should be trained to complete the Risk Indicator toolkit (DASH) where it is identified that an adult at risk is in a domestic abuse situation.

The DASH tool is for all professionals working with victims of domestic abuse, stalking, and harassment and honour based violence.

The DASH risk assessment tool can be found here: [Safe Lives DASH Risk Assessment Checklist](#)

The recognised risk categories that are utilized by North Wales Police are standard, medium and high:

Standard	Current evidence and risk indicators do not indicate the likelihood of causing serious harm i.e. there is no escalation in seriousness of frequency.
Medium	There are identifiable indicators of risk of serious harm. The

	offender has the potential to cause serious harm but is unlikely to do so unless there is a change in circumstances, for example failure to take medication, loss of accommodation, relationship breakdown and drug or alcohol misuse.
High	<p>There are identifiable indicators of risk of serious harm. The potential event could happen at any time and the impact would be serious. Risk of serious harm is a risk that is life threatening and/or traumatic and from which recovery, whether physical or psychological, can be expected to be difficult or impossible.</p> <p>In addition, a significant escalation in severity or frequency of incidents should be considered as high risk. The professional judgement of the reviewing Police officer may also identify high risk cases.</p>

All victims whether assessed as High, Medium or Standard must receive safety planning advice and safeguarding. This should be tailored to be bespoke individual needs of the victim.

Staff should have training, to a level depending on their role and responsibilities, in completing the DASH risk assessment tools and to understand the criteria for a referral to MARAC.

Adult social services must nominate MARAC representatives by local authority area. All staff in their area should know who the MARAC representatives are.

Stalking and harassment in domestic abuse incidents

Stalking is a pattern of repeated, unwanted behaviour that causes victims to feel distressed or scared. It can be perpetrated by men or women. It is a recurring theme in many domestic homicides and it is a high risk indicator.

Stalking often has a huge emotional impact on those it affects. It can lead to feelings of depression, anxiety and even post-traumatic stress disorder. It is a psychological as well as physical crime.

Stalking can be direct; by confrontation or by following the victim. It can also be conducted via phone, mail or on-line. It may be indirect; facilitated via third parties including family, associates and work contacts.

Domestic abuse investigations may include harassment-type offences and vice versa. Harassment can be a direct part of the domestic abuse or can occur due to the actions of people associated with the abuser.

Where stalking is apparent, it is vital that this is identified and appropriately dealt with. An enhanced safeguarding response allied to a prompt, robust and effective intervention with the perpetrator must take place.

The Police may consider imposing of stringent bail conditions where bail is granted. Police Investigators should ensure that the granting of a restraining order following conviction or acquittal at court is pursued by CPS prosecutors.

Victims of stalking and harassment in a domestic incident should be asked the additional 11 questions from the S-DASH for Stalking and Harassment cases (2009). This is to ensure an accurate risk assessment can be conducted and a full understanding of the victim's circumstances be obtained in order to safeguard and intervene appropriately.

Advice for those who have engaged in stalking behaviour can be obtained by contacting the National Stalking Clinic on 020 8702 6104 or emailing NationalStalkingClinic@nhs.net. More information on these services and who can make referrals can be found: <http://www.beh-mht.nhs.uk/services/national-stalking-clinic/208>

Advice and support for people who are victims of stalking can be found online at <http://www.stalkinghelpline.org/> or on the National Stalking Helpline 0808 802 0300.

Domestic Abuse Multi-Agency Risk Assessment Conference (MARAC)

MARAC is a multi-agency response to ensure that the highest risk victims of domestic abuse are protected within a multiagency arena.

In a single meeting, MARAC combines up-to-date risk information with comprehensive assessment of a victim's needs and links those directly to the provision of appropriate services for all those involved in a case: victim, children and perpetrator.

The aims of the MARAC are:

- a) To share information to increase the safety, health and wellbeing of victims, adults and their children;
- b) To determine whether the perpetrator poses a significant risk to any particular adult at risk and/or to the general community; also professional staff involved with domestic abuse.
- c) To jointly construct and implement a risk management plan that provides professional support to all those at risk and that reduces the risk of harm.
- d) To reduce repeat victimisation;
- e) To improve agency accountability.
- f) Improve support and safety for staff involved in high risk DA cases

The responsibility to take appropriate actions rests with individual agencies; it is not transferred to the MARAC.

The role of MARAC is to facilitate, monitor and evaluate effectively information sharing to enable appropriate actions to be taken to increase public safety.

Appendix 1 - Contact and referral details

**If police attention/presence or medical attention is required
urgently, please call: 999**

Police enquiries call: 101

**To report Adult at Risk concerns to Social Services please contact
the relevant local authority:**

Anglesey

01248 750057

01248 353551 (Out of hours)

Gwynedd

Adults Department, Health and Wellbeing 01766 772577

01248 353551 (Out of hours)

Conwy

0300 4561111 (Office hours)

0300 1233079 (Out of hours)

Denbighshire

0300 4561000

0345 053 3116 (Out of hours)

Flintshire

03000 858858

0845 053 3116 (Out of hours)

Wrexham

01978 292066

0345 053 3116 (Out of hours)

For further information, please visit the North Wales Safeguarding Website:
<https://www.northwalessafeguardingboard.wales/>