

CARE ACT 2014

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 1 – Care and Support

Safeguarding adults at risk of abuse or neglect

Section 42 – Enquiry by local authority

273. This section places a duty on local authorities to make enquiries, or to ask others to make enquiries, where they reasonably suspect that an adult in its area is at risk of neglect or abuse, including financial abuse. The purpose of the enquiry is to establish with the individual and/or their representatives, what, if any, action is required in relation to the situation; and to establish who should take such action. The duty supplements the existing obligations on other organisations to look after the people in their care effectively, or, in the case of the police, to prevent and respond to criminal activity.
274. *Subsection (1)* provides that the local authorities' enquiry duty applies to adults who have care and support needs (regardless of whether they are currently receiving support, from the local authority or indeed anyone); and who are at risk of or experiencing neglect or abuse, including financial abuse; but are unable to protect themselves. The eligibility criteria that the local authority sets for services and support are not relevant in relation to safeguarding. Safeguarding enquiries should be made on the understanding of the risk of neglect or abuse, irrespective of whether the individual would meet the criteria for the provision of services.
275. The local authority has a responsibility to make enquiries if the adult is currently in its geographical area of responsibility (whether or not the person is ordinarily resident there).
276. *Subsection (3)* defines “abuse” to include “financial abuse”. The Care Act explicitly refers to financial abuse not because it has a priority status, but for the avoidance of doubt because some definitions of abuse may not ordinarily include this type of abuse.