

South Australian Adult Safeguarding Unit Code of Practice



Government
of South Australia



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Background

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

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

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

- > promote and assist in the development of coordinated strategies for prevention and early intervention
- > receive enquiries and reports relating to suspected or actual abuse of adults
- > assess reports relating to the suspected or actual abuse
- > investigate reports relating to the suspected or actual abuse
- > refer to appropriate persons and organisations
- > coordinate responses to reports relating to the suspected or actual abuse.

In accordance with the Act, until October 2022, the ASU will respond to reports of actual or suspected abuse of adults who may be vulnerable who are aged 65 years and older, or

50 years and older for people who are Aboriginal or Torres Strait Islander. After this time the service will be available to all adults vulnerable to abuse, regardless of their age.

Purpose of the Code of Practice

This Code of Practice sets out how the ASU will fulfil its functions in accordance with the Act and guides in a practical way how the ASU operates.

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

Scope

This Code applies to staff within the Office for Ageing Well involved in the administration, operation or enforcement of the Act. Other organisations may also be guided by the Code.

What is abuse?

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

An adult may be considered vulnerable to abuse by reason of age, ill health, disability, social isolation, dependence on others, or other disadvantage.

Abuse is more likely to be carried out by someone familiar, such as a son or daughter, spouse or domestic partner, grandchild, friend, neighbour, or paid or unpaid carer.

It is common for abuse to be experienced at home, in places visited regularly, or where services or care are accessed. However, abuse can often remain hidden and continue without any suspicions being aroused.

Types of abuse

Abuse can be:

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

Abuse may also include:

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

Behaviours and signs of abuse

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



Physical

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



Sexual

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



Emotional / Psychological

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

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



Financial / Exploitation

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



Neglect

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

Making a report to the Adult Safeguarding Unit

Why make a report?

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

There is no mandatory legal requirement for a person to report their concerns to the ASU. Where a person believes that the person at risk of abuse is already being appropriately supported through existing interventions and services, a report does not need to be made to the ASU.

When a report is made it may enable the ASU to work alongside the adult at risk of abuse, with their consent (unless an exception to consent applies – see Consent section), to find out more about the situation and develop a plan for how to reduce or stop the abuse, and prevent the likelihood of future abuse.

Additionally, making a report will enable the ASU to collect information that will assist with identifying systemic abuse. This will be particularly important in cases where multiple, but separate reports are made in relation to one location or organisation.

Who may make a report?

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

Reports can be made anonymously. Ideally the caller's details will be obtained to enable future contact should further information be required.

Personal information will be kept confidential and not released without consent, unless authorised or required by law. Where a caller has concerns about being identified if contact is made with the person at risk of abuse, the ASU will, in discussion with the caller, consider possible solutions for how this can be managed.

How to make a report

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

- > Making a telephone call to the Elder Abuse Prevention Phone Line on **1800 372 310**
- > Reporting electronically to the Adult Safeguarding Unit via email at **stopelderabuse@sa.gov.au**
- > Contacting an interpreter on **131 450** and requesting that they contact the number above.

The hours of operation for the ASU are Monday to Friday between 9.00AM - 5.00PM, except Public Holidays. Callers may leave a message on voicemail outside of these hours, which will be responded to within business hours. The phone line does not provide a crisis response and callers will be directed to call emergency services on 000 in an emergency.



What to report

In making a report, the following information about the person at risk of abuse will be requested:

- > name
- > date of birth (or approximate age)
- > how the person can be contacted (address and/or telephone number), and any considerations for communication or contacting them (i.e. – language, cognition, other disability and safety considerations)
- > why the person affected is considered vulnerable (i.e. risk factors of age, health, disability, isolation, dependency and disadvantage or a combination of these)
- > the reasons for the caller's suspicion that the person is at risk of abuse
- > any other information that the caller believes would assist the ASU in relation to their suspicion of abuse.

Other information that may be asked includes:

- > is the person aware of the report?
- > is the suspected abuse escalating?
- > is there an immediate, imminent or serious risk?
- > what is the frequency and duration of the suspected abuse?
- > the identity of the alleged abuser/s
- > what safeguards are in place already?
- > what organisations and/or other key people are involved?
- > any potential risks (for the person or staff) in contacting the person at risk of abuse?

The ASU understands that the caller may find it difficult to discuss their concerns; however, their call will be answered by an experienced staff member within the ASU, who will assist them by asking relevant questions in a sensitive manner.



Key points

How to make a report:

Call the Elder Abuse Prevention Phone Line on **1800 372 310** or email **stopelderabuse@sa.gov.au**

Is it mandatory to report suspected abuse?

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

When making a report, can the caller remain anonymous?

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

Assessment of a report

What is an assessment of a report?

Once the ASU determines that the concerns raised by the caller relate to a person who is vulnerable as defined within the Act, the report will be assessed and the ASU will have a mandated responsibility to take one of the following actions:

1. the matter (or part of) may be referred to an appropriate State Authority or other person or body – (see Referral section)
2. an investigation may be conducted – (see Investigations section)
3. no further action – (see No further action section).

In most cases, the assessment of the report will rely on the information provided by the caller.

In some situations, the ASU may require other organisations or people who are involved with the person at risk of abuse to provide information to assist with the assessment. This may include seeking information about the existence of a Guardianship or Administration Order, or obtaining further information about potential safety issues. Where additional information is required, this request will be made in writing. On receiving this request, the organisation or person will be required to provide a written statement responding to the information that has been requested. The timeframe will be provided in the request or as negotiated by the parties.

Information gathering that assists the ASU to undertake an assessment does not require the consent of the adult reported to be experiencing the abuse, however, the ASU will ensure that privacy principles are adhered to.

Once the ASU has determined the appropriate action to be taken, priority will be given according to the risk factors identified within the assessment.

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

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

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

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

- > an adult vulnerable to abuse is primarily reliant on another person for their basic day to day activities and there are concerns about the care they are receiving
- > there is a suspicion of imminent risk of financial abuse or exploitation involving significant assets
- > there is a current or imminent change in circumstance that places a person at greater risk.

Feedback after making a report

At the time of the initial call, the caller will be advised that the ASU has a mandated responsibility to take action once a report has been received. Where practicable and appropriate, the ASU may inform the caller about the outcome of the report. Feedback about the outcome of a report can help in guiding intervention and/or supporting the caller's ongoing contact with the person at risk of abuse. In most cases the person at risk will need to provide consent for this information to be shared.

Feedback may include:

- > outcome of the assessment of the report
- > any actions that the ASU is taking that may be useful to the caller's ongoing contact with the person at risk of abuse.

Key points

What can happen once a report has been made?

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

Will the caller be provided with feedback regarding actions taken?

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



Consent

It is presumed that a person has decision making capacity, unless there is evidence otherwise.

The ASU will seek consent from the person who is reported to be experiencing the abuse after an assessment has occurred and before taking any safeguarding actions, unless an exception to consent applies (see section “Exceptions to consent”).

When will the ASU seek consent?

After the assessment of a report, initial consent will be sought from the person at risk of abuse prior to undertaking an investigation or referral. This will usually occur at a face-to-face meeting allowing time for the person to fully understand what they are consenting to.

Consent will also be obtained (unless an exception to consent applies) prior to contacting others (including family members, relevant individuals, the alleged abuser or organisations) to assist with information gathering or as part of an investigation or safeguarding plan.

When seeking consent, the ASU will provide the person reported to be experiencing the abuse with information regarding the decision to be made and the likely consequences of that decision. The way in which this information will be provided will be adapted to the person’s unique situation, needs and wishes.

How will the ASU seek consent?

The ASU will seek the person’s consent, either in writing or in person, depending on the person’s wishes and needs. The ASU will work with the person flexibly to ensure the person is given the best opportunity to consider providing consent.

Exceptions to consent

There are some circumstances in which the ASU may take action without first obtaining the consent of the person who is reported to be experiencing the abuse. These circumstances are:

- > the person’s life or physical safety is at immediate risk
- > a serious criminal offence has been, or is likely to be, committed against the person
- > the person has impaired decision making capacity in relation to a specific decision and is therefore unable to provide consent
- > the ASU has not, after reasonable inquiries, been able to contact the person
- > circumstances in which it is necessary or appropriate that relevant action be taken.

The ASU must be satisfied that taking action without consent is necessary or appropriate in the circumstances. The ASU will not act to override consent simply because a person’s decision may be regarded as reckless, wrong or inappropriate. Any decision to take action without consent will require the approval of the Director of the ASU.

Supported decision making

The ASU recognises that some adults vulnerable to abuse may require support in order to make decisions about their own lives. A person should be allowed to make their own decisions about their own affairs to the extent that they are able, and be supported to make such decisions for as long as they can.



The person at risk of abuse will be supported to make their own safeguarding decisions by:

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

What if consent to take further action is not provided?

The ASU values and is guided by principles of self-determination, respect for dignity and autonomy. Where a person has decision making capacity with respect to a decision, a person generally has the right to decline support, assistance or other measures designed to safeguard them.

The ASU will also consider additional factors that may prevent the person from providing consent, such as:

- > fear of the alleged abuser
- > dependence on the alleged abuser, particularly if that person may have caused isolation of the person
- > coercion
- > the burden of family conflict on the person
- > shame due to the alleged abuse being perpetrated by a family member.

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

A person may initially consent to an action and then change their mind. The ASU will support the person at risk of abuse with their decision, unless an exception to consent applies. Where the person withdraws consent, the ASU may still provide relevant information and advice that may assist in the future.

Impaired decision making

The ASU assumes that a person has decision making capacity in respect to any proposed safeguarding actions, unless there is evidence indicating otherwise. This evidence may include where mental incapacity has been determined or where a Guardianship or Administration Order has been granted.

When working with the person who is reported to be experiencing abuse, the ASU will consider whether the person can:

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

In considering the above, the ASU will also consider:

- > the person's actions are not guided by delusion or false belief
- > the person's level of suggestibility.

Where the ASU believes there are concerns regarding a person's capacity to make decisions, the ASU will consider the most appropriate way to safeguard the person.

This may include:

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

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

Key points

Will the ASU support a person with impaired decision making to provide consent?

The ASU will provide support to assist a person to make a decision, including giving consent. There are, however, some exceptions to a person's circumstance where the ASU may take action without a person's consent.

Referrals

Once a report has been assessed and/or investigated, the ASU may determine that one or more other organisations may be more appropriate or have a role to play in the development and/or implementation of a safeguarding plan.

The ASU's role is to complement rather than duplicate existing services, so where a more appropriate service exists that can respond to a case, the case will be referred to that service for a response.

How will a referral be made?

The ASU will send referrals to other organisations in writing (this includes email).

The referral will include:

- > the name, date of birth, and contact details of the person at risk of abuse
- > contact details for the responsible officer at the ASU
- > reason for referral
- > information relevant to the referral



- > whether the person reported to be experiencing the abuse has consented to the referral, and if not, why not
- > whether an interpreter or other communication assistance is required
- > whether there are any concerns relating to the person's capacity
- > whether any other organisations are supporting the person
- > any safety considerations for the person who is reported to be experiencing the abuse, or for staff involved
- > the current safeguarding plan (if applicable)
- > whether a report is required in relation to the referral
- > any other relevant information.

For urgent or more complex referrals, the ASU will contact the organisation by phone to alert them to the nature of the referral and may ask for the referral to be prioritised for acceptance.

Can an organisation refuse a referral?

An organisation may refuse a referral due to:

- > lack of resources or capacity to accept the referral at the time
- > the referral is inappropriate to the services provided by the organisation
- > the ASU agrees to the refusal.

Where the organisation refuses a referral, the ASU will consider whether the matter can be:

- > referred to another organisation for a response
- > referred to another organisation to provide an interim response
- > whether an escalation of the matter is required.

Responsibilities of an organisation receiving a referral

On receiving a referral from the ASU, an organisation is requested to confirm their acceptance or non-acceptance of the referral within five (5) business days.

Where the referral is accepted, the organisation must endeavour to address the issues raised within the referral within a reasonable timeframe, having regard to the needs of the person at risk of abuse to ensure they are appropriately supported.

In most cases, an organisation will be required to provide a report back to the ASU as soon as practicable after addressing the issues raised within the referral, or within the timeframe specified by the ASU. The report should include:

- > the type of service and support provided or offered to the person who is reported to be experiencing the abuse
- > timeframes in which services were provided or offered
- > referrals / information provided (if applicable)
- > outcomes
- > details of any ongoing involvement
- > any issues that have prevented the services/ support from being provided/offered.

Key points

What happens if an organisation is unable to accept a referral?

The ASU will consider other relevant referrals that can be undertaken to support the person.



Investigations

Once a report has been received and assessed, the ASU may determine that further information is needed to better understand the situation. The ASU refers to this process as an investigation.

What is the purpose of an investigation?

The purpose of an investigation is to:

- > gather further information to establish the facts about an incident or allegation
- > better understand the person's current and/or future safety and wellbeing
- > better understand the perspective and preferences of the person who is reported to be experiencing the abuse
- > better understand if the person at risk of abuse has been harmed or is likely to be harmed in the future
- > explore risk factors that may be contributing to the abuse
- > consider any safeguarding actions that may assist the person and support their needs. This may include referring the person to an appropriate organisation, or meeting with the person and their family to provide education and information.

Guiding principles of an investigation

Investigations will be conducted in a way that is fair to all concerned. The following principles apply:

- > the health, safety and wellbeing of the person at risk of abuse is the focus of the investigation
- > an investigation will be carried out impartially, fairly and with sensitivity
- > priority will be given to upholding the person's right to self-determination and preserving their significant personal relationships
- > consent of the person will be sought at all stages of an investigation (unless an exception to consent applies)
- > an investigation will base its findings on the established facts.

When will an investigation be undertaken?

An investigation may be undertaken following the assessment of a report made to the ASU, or as the Director determines appropriate.

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

Where the person does not agree to an investigation the ASU will:

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

If the ASU is investigating and an exception to obtaining consent applies, relevant persons will (where appropriate and/or safe to do so) be:

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

What might occur during an investigation?

In many instances, investigations will be undertaken in an informal manner, tailored to suit the needs of the person at risk of abuse. It is envisaged that the issues and concerns explored through an investigation will be addressed through developing a safeguarding plan with the person, based on their wishes and preferences. In some situations a more formal approach to the investigation may be considered appropriate. Where possible, this will be in accordance with the person's wishes (unless an exception to consent applies).

Interviews:

Conversations with any person in relation to an investigation will involve asking questions to help the ASU understand further details about the alleged abuse. The way in which interviews and conversations occur will vary and will largely depend on the wishes and needs of the person, as well as the unique circumstances of each situation.

When meeting with the person at risk, family members, other individuals and/ or organisations, the ASU is responsible for accurately recording the details of any conversations (interview). This can be undertaken in several ways, such as taking comprehensive notes during or after a conversation, or taking a formal statement.

In some circumstances it may be more appropriate to digitally record the conversation.

This will enable:

- > an accurate and full account of the information provided by interviewees
- > an efficient and timely gathering and recording of information.

Anyone who has their conversation audio recorded is entitled to a copy of the recorded conversation. A copy will be provided on request.

Interviews will generally be conducted at a time and place agreed to by the ASU staff member undertaking the investigation and the interviewee, either at the ASU office itself, in a person's home, or at an alternative location. Consideration will be given to the safety of the person at risk of abuse, as well as the safety of ASU staff when considering the location for the interview. Interviews will be conducted within ASU business hours, being Monday to Friday between 9.00AM - 5.00PM, except Public Holidays.

When meeting with a member of the ASU, a person at risk of abuse or another interviewee such as a family member can be accompanied by an appropriate support person, if they wish. Where the person being interviewed requires an interpreter or other support to participate, this support will be provided.

Exercising powers of an authorised officer:

Authorised officers are staff who have investigation skills and are authorised by the Director to exercise powers in accordance with the Act. Authorised officers will carry identification that recognises their authority to undertake an investigation and this will be presented on request. Where there is suspicion that a vulnerable adult is at risk of serious abuse, some of the activities an authorised officer may undertake include but are not limited to:

- > entering and inspecting premises, places and vehicles
- > requesting documents, records or books of accounts for inspection and/or removal in order to make copies
- > taking photographs, films, audio, video or other recordings (e.g. interviews)
- > requiring any person who is in a position to provide information relating to the person at risk of abuse to answer any questions

- > requiring any such person to state their full name, address and date of birth.

Requests for information and documents will be made in writing and will specify what information is required and by what date. The timeframes that are applied to the requested information will be associated with the level of urgency or risk. A receipt will be provided for any documents or items provided to the ASU, which will be retained for as long as reasonably necessary for the purpose of making a copy and will be returned as soon as practicable.

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



Who may be involved in the investigation process?

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

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

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

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

What happens if an investigation reveals criminal activity or professional misconduct?

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

person who is reported to be experiencing the abuse, the ASU will refer the allegation to SA Police without their consent. A serious criminal offence may include, but is not limited to, physical harm, sexual offences, fraud or significant financial abuse.

Where an allegation is made that indicates professional misconduct, the ASU may report and/or make a complaint concerning the matter to a relevant regulatory or professional body. This may include the Aged Care Quality and Safety Commission, Health and Community Services Complaints Commissioner, the South Australian Ombudsman or the Australian Health Practitioner Regulation Agency (AHPRA).

How long does an investigation take?

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

Key points

Why is an investigation undertaken?

To understand the circumstances and the situation that has been reported to the ASU so that appropriate action can be taken.

Who will be responsible for undertaking investigations?

Investigations will be undertaken by staff of the ASU who will have skills in conducting investigations.

Taking no further action

There may be times where the ASU determines that no action should be taken.

The reasons for this decision may include:

- > the report has been previously dealt with and there is no reason to re-examine – this may occur where there is a new report but there has been no new information provided
- > the report is considered trivial, vexatious or frivolous
- > there is good reason why no action should be taken because:
 - » it does not meet the statutory threshold – for example, there is not enough information to determine that the person is vulnerable, or the concerns raised constitute abuse or risk of abuse
 - » the circumstances of the report are being appropriately managed by another organisation
 - » there is another more appropriate statutory or regulatory response.



Safeguarding Plan development and implementation

The Safeguarding Plan

A safeguarding plan is developed with the person who is reported to be experiencing the abuse, to map out actions to assist in safeguarding their rights and to reduce the risk of future abuse.

These actions should be in line with principles of adult safeguarding, being the least interventionist and least intrusive for the person concerned.

Care will be taken to ensure the actions are in accordance with the person's wishes (unless an exception to consent applies) as well as being considerate of any associated risks.

The safeguarding plan may include:

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

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

The safeguarding plan may change throughout the investigation and can be varied, with the consent of the person, should their circumstances or arrangements change.

Multi-agency approach to adult safeguarding

In many instances a safeguarding plan will require the involvement of a number of different parties and/or organisations. The ASU may provide a lead role in coordinating the plan, particularly where there are a number of different parties or organisations involved.

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

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

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

Inter-agency adult safeguarding meetings

An inter-agency adult safeguarding meeting may be convened to assist the development and coordination of a safeguarding plan, especially where several organisations may be involved. An inter-agency adult safeguarding meeting aims to:

- > better understand what is already in place to support the person at risk of abuse
- > assist the person in understanding the options that could be included in their safeguarding plan
- > coordinate the services / responses where several organisations are involved in a safeguarding plan
- > monitor the progress or address changes in the safeguarding plan.

The ASU will work with the person who is reported to be experiencing the abuse to determine the appropriate participants to attend an inter-agency adult safeguarding meeting. The ASU will convene the meeting at a time and location most suitable for the person at risk of abuse, with consideration of other attendees' availability.

The inter-agency adult safeguarding meeting will include the person who is reported to be experiencing the abuse, and support will be provided to enable them to participate. A support person can also be invited to attend, if they wish. Where the person at risk of abuse is unable to or does not wish to attend the meeting, their views will be sought prior to the meeting by the ASU and the outcomes and actions of the meeting will be provided.

The ASU will keep records of the decisions and actions of inter-agency adult safeguarding meetings and will provide a copy to attendees.

Coordination role of the ASU

Once a safeguarding plan has been developed, the ASU will continue working with the adult vulnerable to abuse to:

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

Case review

The ASU will routinely review each case at least once every three months (or as required) to determine if the safeguarding plan is meeting the needs of the person at risk of abuse.

This may include:

- > whether the agreed strategies/actions have occurred
- > the person's current risk status and whether the risk/s have been managed
- > the relevance of the plan to the current circumstances
- > the person's current wishes to continue with all or part of the plan.

The review will include contacting the person at risk of abuse and any other relevant parties involved in the plan.



Where the ASU is coordinating the safeguarding progress, the case will be closed once a regular review indicates that the safeguarding plan is meeting the needs of the person who is reported to be experiencing the abuse. The person at risk of abuse will be informed of the intent to close their case and invited to contact the ASU in the future if they require any further assistance.

Working with family and significant others

The ASU may work with family or others nominated by the person at risk of abuse to support them and enable them to contribute to the safeguarding plan. This may include involving them in the inter-agency adult safeguarding meeting. There may be times that a separate meeting is held with family and significant others to understand the opportunities to support

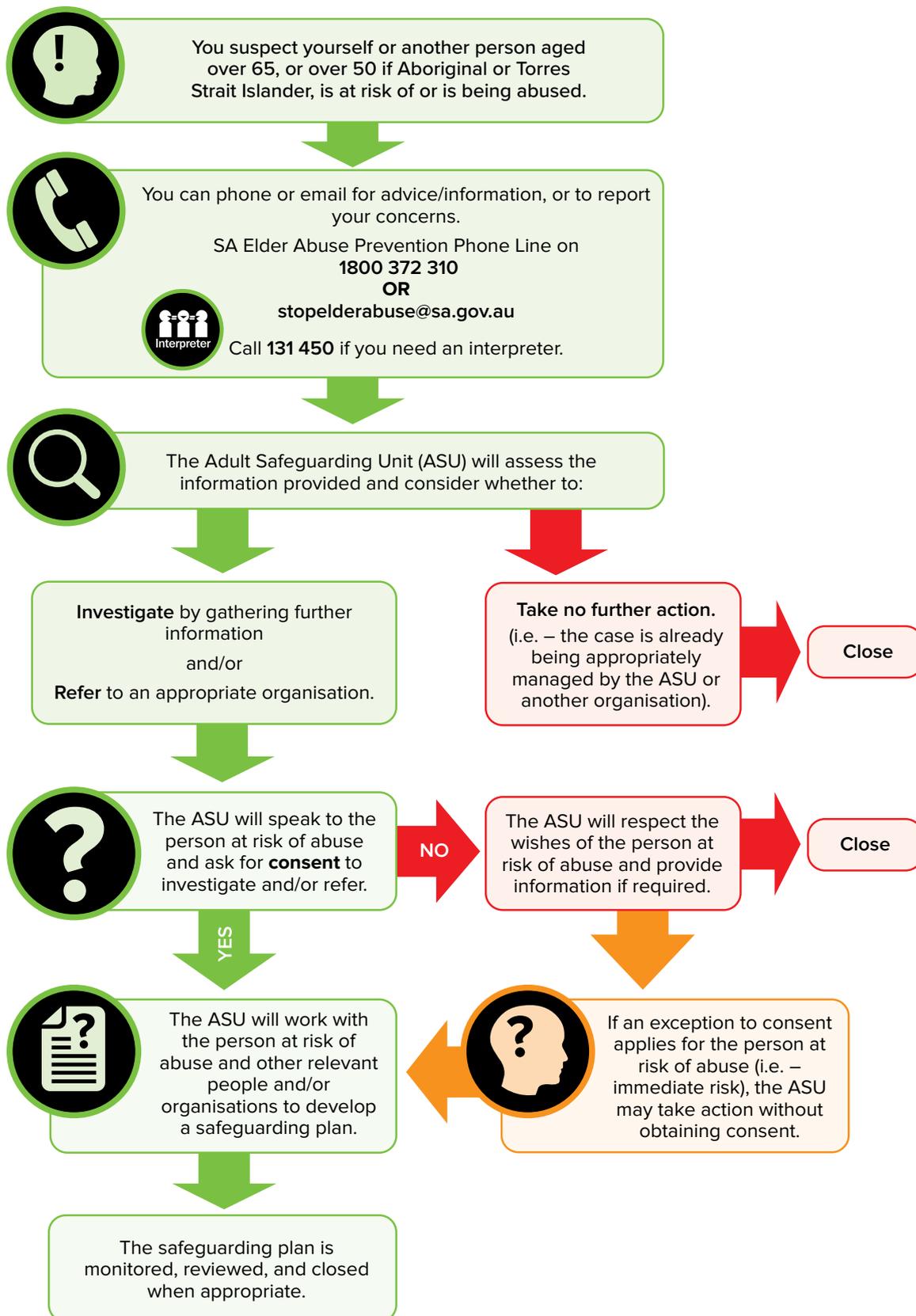
the safeguarding plan and to provide further information. This may include working with the alleged abuser.

Key points

What is a safeguarding plan?

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

Adult Safeguarding Unit Pathway



Information sharing

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

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

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

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

The *Ageing and Adult Safeguarding Act 1995* allows state authorities, SACAT and persons and bodies actioning a case referred by the ASU to share certain information and documents among themselves where the information will assist them to:

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

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

- > relate to the health, safety, welfare or wellbeing of a person who is reported to be experiencing abuse
- > relate to the financial affairs of the person who is reported to be experiencing abuse
- > are made by SACAT in respect of a person who is reported to be experiencing abuse

- > may reduce a risk to the health or safety of a person or body performing official functions in relation to an adult or class of adults who may be vulnerable.

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

Reporting to other organisations

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

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

The ASU has the power to refer or report cases to other organisations or bodies on a case by case basis, including the Health and Community Services Complaints Commissioner, Australian Health Practitioner Regulation Agency, the Aged Care Quality and Safety Commission and the South Australian Ombudsman, where that organisation or body is more appropriate to deal with the case.



Working with diverse communities

The ASU acknowledges that working with people who are reported to be experiencing abuse or who are at risk of being abused requires a considered approach, which will vary according to the wishes and needs of each individual.

It is understood that a person can become vulnerable to abuse because of ill health, disability, isolation and /or dependence on others. It is recognised that being a member of a non-majority community compounds these risks and often worsens these experiences.

The ASU recognises that initial and ongoing contact with a person who is reported to be experiencing the abuse will need to be tailored to meet the needs of the person and will require flexibility and responsiveness. Services will be provided in a manner that maximises accessibility and enhances opportunities to participate, tailored to each person's communication needs, cultural background, language, identity, spirituality, traditions and beliefs.

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



Feedback, complaints and internal reviews

Feedback and complaints

If a person wishes to provide feedback or make a complaint relating to a decision or action of the ASU, the initial step should be to explore whether the case can be resolved directly with the ASU.

If the person feels that their feedback or concern has not been resolved through this approach, they may make a complaint by writing to the Director of the Office for Ageing Well in accordance with the “SA Health Consumer feedback and complaints management policy directive”.

Internal reviews

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

This relates to the following decisions:

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

A person may apply for an internal review of a reviewable decision:

- > using the application for internal review form available from www.sahealth.sa.gov.au/adultsafeguardingunit
- > by applying within 30 days of receiving notice of the decision (or such longer time as the Chief Executive of the Department for Health and Wellbeing may allow).

The Chief Executive is responsible for undertaking internal reviews however may delegate this function to a department independent of the ASU. The person conducting the review may wish to speak with the applicant directly as part of this process or ask the applicant for more information.

Once a review is completed, the reviewer may confirm, vary or set aside the decision. This outcome will be communicated to the applicant as soon as practicable.



Appendix

Legislation

The relevant legislation is:

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

SA Charter of the Rights and Freedoms of Vulnerable Adults

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

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

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

For a copy of the *South Australian Charter of the Rights and Freedoms of Vulnerable Adults* please go to the website –

www.sahealth.sa.gov.au/adultsafeguardingunit

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

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

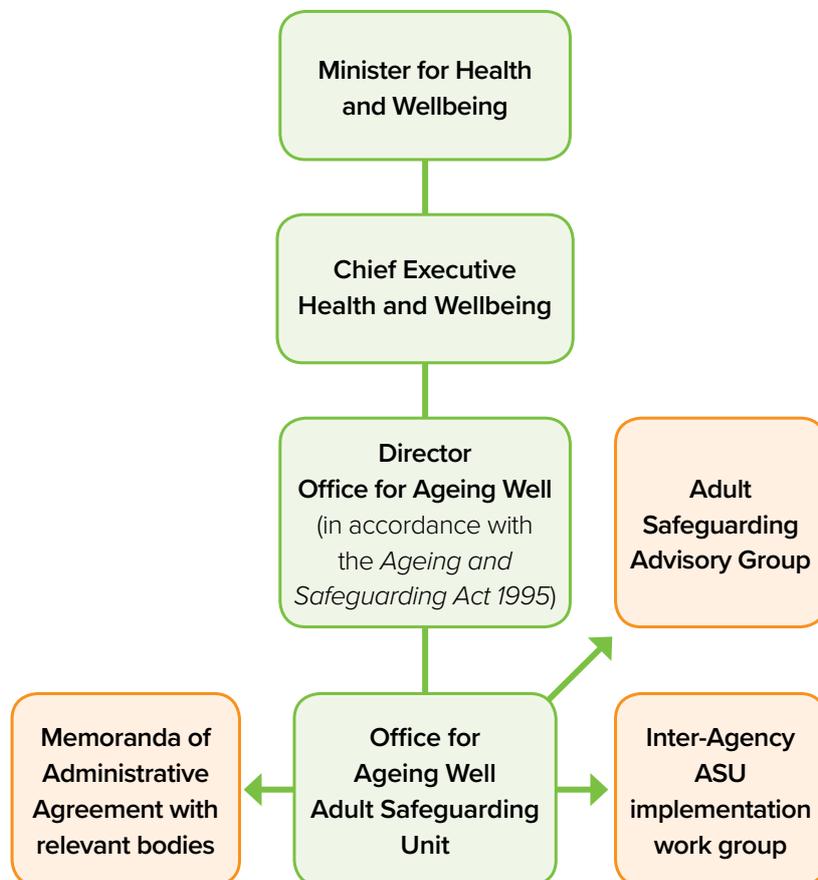
The ASU has entered into several Memoranda of Administrative Agreements which describe agreed working practices between the ASU and key organisations. The agreements include referral procedures, information sharing, and ongoing review. Where no memorandum exists, the ASU will work flexibly and in partnership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

An Adult Safeguarding Advisory Group has been established with representation from a range of key agencies, including SA Police, Office of the Public Advocate and Legal Services Commission. The group meets bi-monthly and provides high level strategic advice to the Office for Ageing Well on the establishment and ongoing development of the ASU.

An Interagency Adult Safeguarding Unit Implementation Work Group has also been developed to support the development and maintenance of effective referral pathways and multi-agency approaches to adult safeguarding.



Governance of the ASU



Functions of the ASU

The functions of the ASU are set out in section 15 of the Act. These functions are:

- > promoting and advocating for the rights and interests of vulnerable adults in South Australia
- > promoting participation by vulnerable adults in the making of decisions that affect their lives
- > promoting and assisting in the development of coordinated strategies for prevention of and early intervention in abuse of vulnerable adults
- > to receive reports relating to the suspected abuse of vulnerable adults
- > to assess reports relating to the suspected abuse of vulnerable adults
- > to investigate reports relating to the suspected abuse of vulnerable adults
- > to coordinate responses to reports relating to the suspected abuse of a vulnerable adult with State authorities and other persons and bodies
- > to refer reports relating to the suspected abuse of a vulnerable adult to appropriate persons and bodies
- > to follow up on reports that have been assessed or investigated where it is appropriate to do so
- > to collate data on matters relating to the abuse of vulnerable adults
- > to advise Ministers, State authorities and other bodies (including non Government bodies) on matters relating to the abuse of vulnerable adults at a systemic level
- > to prepare and publish reports on matters relating to the abuse of vulnerable adults at a systemic level
- > to prepare and publish reports on issues relating to vulnerable adults that are of public importance
- > to perform such other functions as may be assigned to the Adult Safeguarding Unit by the Minister or under this or any other Act.

Glossary

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

Under the legislation, abuse of a vulnerable adult is defined to include:

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

Adult safeguarding: means protecting a person's right to live in safety, free from abuse.

Adult Safeguarding Investigation: an inquiry into the circumstances of a vulnerable adult where there is reasonable grounds to suspect that the adult is at risk of abuse.

Serious criminal offence: what constitutes a serious criminal offence is not defined in the *Ageing and Adult Safeguarding Act 1995* and must be considered on a case by case basis. Examples

of matters that may be considered a serious criminal offence include where the suspected criminal activity relates to a risk of physical harm, a sexual offence, fraud or financial abuse.

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

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

Confidentiality: Section 49 of the *Ageing and Adult Safeguarding Act 1995* provides that personal information obtained in the administration of the Act must not be disclosed unless an exception applies (see also information sharing).

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

Enquiry: where a person who contacts the ASU requests general information only or does not provide sufficient information to raise a report (e.g. provides no identifying details for the person at risk of abuse).

Record: means—

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

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

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

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

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

Vulnerable adult: A vulnerable adult¹ is defined in the legislation as an adult person who, by reason of age, ill health, disability, social isolation, dependence on others, or other disadvantage, is vulnerable to abuse.

¹Under transitional provisions within the legislation, for the first three years, the ASU will respond to reports of actual or suspected abuse or neglect of adults at risk of harm aged 65 years and older or 50 and older for Aboriginal or Torres Strait Islander people.



For more information

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