



OLDHAM SAFEGUARDING ADULTS BOARD, OLDHAM SAFEGUARDING CHILDREN PARTNERSHIP & OLDHAM COMMUNITY SAFETY PARTNERSHIP

Adult Sexual Exploitation Toolkit

A Toolkit providing an overview for Identifying, Preventing and Responding to Sexual Exploitation for everyone across Oldham to use



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With thanks to Newcastle and Hampshire Safeguarding Adults Boards

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1 Introduction

- 1.1 This document aims to explain plainly what Sexual Exploitation is and how everyone across Oldham can help identify, prevent, and respond to Sexual Exploitation.
- 1.2 This toolkit is primarily in relation to adults and is intended to complement each organisation's Safeguarding Policies and Procedures, the overarching Oldham Safeguarding Adults Board's (OSAB) Multi-Agency Safeguarding Adults [Policy](#) and [Procedures](#), and the [Greater Manchester Safeguarding Children Procedures](#). Local Safeguarding Policies and Procedures provide a framework through which a concern that an individual with care and support needs, who is unable to protect themselves from abuse can receive a coordinated multi-agency response which is both proportionate to the level of risk presented and involves the individual throughout.
- 1.3 This toolkit aims to provide advice and information to support multi-agency working with adults who are experiencing or at risk of experiencing sexual exploitation. It is intended to support good practice across all agencies in Oldham and may also assist others to identify sexual exploitation and offer support when safeguarding adult duties do not apply.
- 1.4 The toolkit was developed by a multi-agency group of practitioners from Oldham who drew upon existing publications, specifically those produced by Newcastle¹ and Hampshire² Safeguarding Adults Boards.

2 What Is Sexual Abuse and What Is Sexual Exploitation?

- 2.1 Sexual abuse is unwanted sexual activity or sexual behaviour that happens without consent or understanding.
- 2.2 Examples of sexual abuse include actual or threatened rape, sexual assault, indecent exposure, sexual harassment, inappropriate looking or touching, sexual teasing or innuendo, sexual photography, subjection to pornography or witnessing sexual acts or sexual acts to which the individual has not consented. Sexual abuse also includes being pressured into consenting under unequal or coercive conditions.
- 2.3 Sexual exploitation is a form of sexual abuse. Sexual exploitation is the actual or attempted abuse of a position of vulnerability, power, or trust, for sexual purposes, including, but not limited to, profiting monetarily, socially, or politically from the sexual exploitation of another. Sexual exploitation involves exploitative situations, context, and relationships where individuals receive something (e.g. food, accommodation, alcohol, cigarettes, affection, money) as a result of them performing and/or others performing on them, sexual activities
- 2.4 Examples of sexual exploitation include taking sexual advantage of another individual without effective consent; causing the prostitution of another individual; recording, photographing, or transmitting identifiable images of private sexual activity of another individual.

3 Signs and Indicators

- 3.1 The following signs and indicators is not exhaustive and the presence of one or more of these does not always mean that sexual exploitation is occurring. However, their presence may prompt the need for further exploration.
 - being frequently missing, staying out overnight or returning late with no plausible explanation
 - going missing and being found in areas where they have no known links
 - being socially isolated
 - mood swings or changes in emotional wellbeing

- having a low self-esteem, self-harming behaviour including cutting, overdosing, eating disorder, promiscuity
- disengagement from employment or daytime services
- entering or leaving vehicles driven by unknown people
- change in physical appearance/clothing
- having physical symptoms (bruising indicating either physical or sexual assault)
- having money/mobile phones/other items without a plausible explanation
- becoming involved in criminality
- increased use of drugs or alcohol
- inappropriate use of the internet and forming online relationships
- sending sexually explicit content via phone/social media
- multiple miscarriages/terminations
- sexually transmitted infections
- displaying inappropriate sexualised behaviour
- significantly older boyfriend
- developing inappropriate/unusual relationships/associations
- phone calls or letters from adults outside the usual range of social contacts
- unsuitable or inappropriate accommodation
- having previous experience of being sexually abused or exploited

Be aware that ordinary residential housing/hotels are being used more and more for brothels.

- 3.2 There are many possible harmless reasons why an 'adult at risk' might go 'missing' from their usual accommodation, however in some cases where a pattern has emerged, this could be an indicator that the 'adult at risk' is being sexually exploited. Individuals who may be less able to protect themselves from exploitation and are going 'missing' on a regular basis could become vulnerable to being groomed and sexually exploited. If an adult at risk's whereabouts cannot be established and the circumstances are out of character, or the context suggests the individual may be the subject of crime, or they may be a risk themselves or others, concerns should be raised.

4 Risk Factors

- 4.1 Practitioners should not be constrained in their view of who might be at risk of sexual exploitation. It can span all age groups, genders, income groups and circumstances. However, being aware of some of the risk factors and where financial abuse can be more prevalent can assist practitioners in taking proactive steps to prevent sexual exploitation occurring.
- 4.2 The following factors increase risk across all abuse types:
- The individual having needs for care and support
 - The individual not being able to protect themselves from the abuse or risk of it
 - The individual not having the ability/skills to communicate a concern about themselves
 - The individual lacking mental capacity
 - The individual being dependent on the alleged perpetrator
 - The individual has been threatened or coerced into making decisions.
- 4.3 There are certain factors that can result, lead to, or identify individuals that are at more risk of sexual exploitation. These include:
- bereavement
 - missing from home/care/education/work
 - social exclusion
 - homelessness/rough sleepers
 - poverty or deprivation
 - personal or family physical or learning disability/mental ill health/substance misuse

- communication difficulties
- prior personal or family experience of abuse/neglect/domestic abuse
- personal or family history of prostitution or sex work
- breakdown of family relationships
- low self-esteem
- bullying
- those from abroad with insecure immigration rights
- Looked After Child or have children who are Looked After.

5 Who is Likely to Perpetrate Sexual Exploitation?

- 5.1 Perpetrators of sexual exploitation are often male, but women and girls are known to be perpetrators too. Perpetrators and victims are known to come from a variety of ethnic/cultural backgrounds. Sexual exploitation happens in all parts of the country, whether in large towns and cities or rural areas.
- 5.2 More often the person or people who are organising or benefitting from the sexual exploitation of adult exploitation will be known by the adult at risk. Very often there is an element of grooming involved in advance of the exploitation. Grooming refers to actions deliberately undertaken with the aim of befriending and establishing an emotional connection with a individual, in order to lower their inhibitions in preparation for abuse or exploitation. The perpetrator may even be regarded by the individual as a friend. Apparent collusion with the perpetrator can add to confusion when attempting to identify an adult at risk as a victim.
- 5.3 There are not always clear distinctions between those experiencing and those who are perpetrating exploitation. There can be complex hierarchies and dynamics which need to be considered. For example, an individual may have been controlled or coerced into carrying out a criminal act or recruiting/facilitating someone else to be exploited. Practitioners should be professionally curious and avoid labelling someone as a perpetrator and/or a criminal until this has been established.

6 The Impact of Sexual Exploitation on Adults

- 6.1 Sexual exploitation can seriously affect the health, including mental health well-being, of an adult. Individuals, especially those subject to exploitation for long periods, can suffer from serious health problems, including mental, physical, and sexual health issues.
- 6.2 Individuals can experience physical and sexual violence and may have long-term health problems from any sustained injuries. Mental health problems may include depression, anxiety, and post-traumatic stress disorder (PTSD). Victims may sometimes have complicated feelings about the perpetrator; this can include thinking positively about their relationship, which makes it difficult to understand the harm they have experienced³. There is an increased likelihood that victims will have sexual health problems, for example, sexually transmitted diseases and poor reproductive health. There is also a strong link between sexual exploitation and drug use. Individuals may be sexually exploited when they have taken drugs or because they are dependent on drugs. individuals may also use drugs as a means of coping with the trauma they have experienced³.
- 6.3 It is important for individuals who have been sexually exploited to be supported in a way that will help their health and wellbeing to improve. The support a victim of sexual exploitation needs will vary from one individual to the next. Disclosure from the individual can take time and relies on a relationship of trust and safety being established, especially where they are within the control of the perpetrator. Being professionally curious could maximise the opportunity to identify sexual exploitation, gain clarity about concerns and help to inform next steps. This will involve having a real conversation with the individual you are concerned about, unpicking things that don't seem right or are uncomfortable.

7 Making Safeguarding Personal

- 7.1 A person-centred approach should always be taken, whether that is when you are preventing, identifying, or responding to sexual exploitation. Making Safeguarding Personal (MSP) is the approach taken for all safeguarding adults work. It is about seeing individuals as experts in their own lives and working alongside them to identify the outcomes they want. There should be shared conversations between practitioners and the adult at risk (or their representative).
- 7.2 Taking a person-centred approach might involve:
- Talking to the individual about the concerns that you have
 - Seeking the individual's views on the perceived risk or harm
 - Asking the individual what they would like to happen as a result of the concerns
 - Seeking the individual's consent to share information on a multi-agency basis
 - Explaining the different options that might be available to help the individual.
 - Taking a strengths-based approach to the conversation: asking the individual what is important to them, what solutions have they tried, what has worked/not worked in the past, understanding any barriers for the individual.
 - Ensuring the adult at risk is appropriately represented (by a family member, friend, or independent advocate) in the safeguarding adults process if they would have substantial difficulty in participating themselves.
- 7.3 Remember to be sensitive while asking questions, and to be aware that an individual may not be willing to open up, especially if the situation involves a family member or friend. The individual might be fearful of speaking out and it might be that risks increase because of doing so. You can provide reassurance by:
- Explaining that they are not to blame for what has happened
 - Advising that there is help available (describe the different options that might be open to the individual)
 - Confirming that whatever action is taken will be in line with their wishes (unless there are other individuals at risk or there is a risk of serious harm)
 - Agree a safe communication method with the individual (particularly in a domestic abuse scenario) which might involve an agreed telephone number/email address/address for correspondence, a time and/or place.

8 Encouraging Individuals to Seek Help and Support

- 8.1 In order for police to commence an investigation, there needs to be a complainant and a reported offence as sexual exploitation of adults is not an offence in itself, unless it involves trafficking. Therefore, it is crucial that victims feel confident in giving evidence and that they will be supported, believed, and protected.
- 8.2 There are many reasons why victims will not, or feel they cannot, speak about their experiences or seek help and support so it is important to build trust to enable this to happen.
- Always be alert to the possibility that an individual could be experiencing sexual exploitation, regardless of their age or gender, and be prepared to offer support.
 - When a victim is hard to engage with, the person with the best relationship with them should lead discussions.
 - Ensure professional interpreters are used, never use family members, children, or friends where sexual exploitation is known or suspected.
 - Only ask questions about sexual exploitation when victims are on their own and in a private place.
- 8.3 Individuals may need to be supported and enabled to express their wishes and feelings to make sense of their particular circumstances and contribute to or be supported to make decisions that affect them. They may have been groomed or intimidated, be afraid and/or dependent on the perpetrator in terms of money,

gifts, drugs, or alcohol and may therefore reject offers of help and support; interventions need to be designed to address this. There are a wide range of local and national services and support that might be considered and used in both preventing sexual exploitation and supporting individuals at risk of or experiencing sexual exploitation. The following table details these:

Name of Service	Contact Details/Website	What can they help with?
Adult Social Care, Oldham Council	Request Support from Adult Social Care 0161 770 7777	Provision of advice and support to adults with care and support needs, developing care and support plans, both of which might include financial aspects. Adult Social Care lead and coordinate the safeguarding adults process.
Greater Manchester Police (GMP)	In an emergency or if the crime is happening now: 999. To make a silent 999 call to police from a mobile if you don't speak, press 55 when prompted and your call will be transferred to police. From a landline, if you don't speak and the operator can only hear background noise, your call will be transferred to police. Find out more via the GMP Website . Non-emergency: 101 or online via the GMP 'Report a Crime' webpage .	Investigation of all aspects of crime, aiming to ensure the individual gets the best course of action to meet their needs.
Greater Manchester Rape Crisis	Rape Crisis Website or Greater Manchester Rape Crisis Website 0808 500 2222 or 0161 273 4500 help@manchesterrapecrisis.co.uk	A confidential support service run by women for women who have experienced sexual violence at any time in their lives.
Housing Options Service, Oldham Council	0161 770 4605 housing.options@oldham.gov.uk	Deliver a range of services including applying for social housing, housing advice, homelessness service and tenancy relations service.
Independent Domestic Violence Advisory Service (IDVA Service)	IDVA Service, Oldham Council Website 0161 770 1572 IDAA.Service@oldham.gov.uk	Provides one to one work with victims and survivors of domestic violence (including Forced Marriage and Honour Based Violence) on a short-medium term basis.
NHS Oldham Talking Therapies	NHS Oldham Talking Therapies Website 0161 716 2777	Offer support and treatment for low mood, anxiety, obsessive compulsive disorder, panic, phobias, post-traumatic stress disorder, grief, and sleep difficulties.
Sexual Health Hub: HCRG Care Group (Oldham)	Sexual Health Hub Website 0300 303 8565	Provides free and confidential sexual health services including information and advice on all types of contraception and STI testing and treatment.

St Mary's Centre: Sexual Assault Referral Centre	St Mary's Centre Website 24 hour helpline: 0161 276 6515	Provides advice, sexual health screening and medical and counselling services following a sexual assault. Do not have to report to Police.
Survivors Manchester UK	Survivors Manchester UK Website 24 hour support line: 0808 800 5005 support@wearesurvivors.org.uk	Creates and facilitates safe spaces for male survivors of sexual abuse, rape and sexual exploitation across Greater Manchester providing access to quality assured support.
Turning Point: Rochdale and Oldham Active Recovery	Turning Point Oldham Website 0300 555 0234 ROARreferrals@turning-point.co.uk	Drug and alcohol recovery services for anyone who is affected by drugs or alcohol and wants support to make a change.
Victim Support	Oldham Victim Support and Witness Service: 0161 652 0405 Victim Support Website Greater Manchester Victims' Services Website	Support and advice for anyone affected by crime, whether it is reported to the Police or not.

9 Responding to Sexual Exploitation

The table in section 8 includes the main contacts and services available to residents in Oldham around responding to sexual exploitation. The table should be used in conjunction with the information in this section.

9.1 Immediate Action

As with all types of abuse, consideration should be given to any immediate risks and how they might be managed. Deal with any immediate risks and safety issues, including risks to others and yourself. Do not take any action that could place you or your colleagues at risk of harm. Contact emergency services if required. Check records for risk information or warnings.

9.2 Good Practice

If you suspect that sexual exploitation is happening, but it is not directly reported:

- It is important that you act on your suspicions. You could provide the only opportunity for the victim to tell someone.
- Ensure privacy – you are unlikely to receive a report from a victim if someone might overhear.
- Show the individual you have time to listen – if you appear rushed or uninterested you are less likely to receive a report.
- Reassure about confidentiality and explain the limits of this, e.g. “I want you to know that whatever you tell me will go no further without your permission, unless I believe there are risks to others or a serious crime has or may be committed.”
- Begin with open questions, e.g. “tell me how things are going”.

- Follow up with direct questions, e.g. “I notice that you seem anxious/have some bruises/often miss appointments (whatever your concern is), is there anything happening that you are worried about? Is anything happening in your life that is making you feel unsafe? Is someone hurting you?”
- It may be necessary to ask more than once, as many victims do not identify that they are experiencing abuse.

When responding to an initial report of sexual exploitation:

- Be sensitive, respectful and listen carefully to what you are being told.
- Seek to empower victims, not to take over or make decisions for them. Ask them what they want you to do.
- Remain non-judgemental – never imply that the victim is to blame for the exploitation.
- Validate the victim’s experience; tell them you are glad they told you.
- Give key messages, e.g. you are not alone, you do not deserve to be treated like this, there is help available for you.
- Never assume that someone else will take care of the sexual exploitation issues. You should seek confirmation that other professionals/agencies have acted in a way which you would expect.
- Individuals who are subject to sexual exploitation may be at increased risk following the recognition by practitioners that they are being exploited, if the perpetrator becomes aware. Very careful consideration is required in the handling of this initial stage to reduce the possibility that the individual is put at increased risk of harm or disengaging from the agency involvement.

If the individual does not want any action to be taken:

- Consider mental capacity, coercion, public interest, risks of significant harm. The Mental Capacity Act applies from age 16. See section 11 for more information.
- Remember that sexual exploitation is a serious crime and professionals have a duty to share information with the Police if they believe it may be occurring. Sexual activity with a child aged under 16 is a serious criminal offence.
- Always leave the door open for future discussion e.g. “You can contact me in the future if you feel you need help and support”.
- Individuals will be considered most unlikely to have agreed to sexual activity if they were: subject to threats or fear of serious harm; unconscious; drugged; abducted; or were unable to communicate because of a disability.

9.3 Consent

Where possible, there should be an early conversation with the individual about the concerns and what they want to happen (see section 7). This should help inform the next steps. If the individual says they do not want any further help, support or information passed onto other agencies, you need to consider whether their consent needs to be overridden. Consent would likely be overridden in the following circumstances:

- The individual lacks mental capacity to make decisions in relation to decisions about their safety and taking further action is deemed to be in their best interests
- The abuse is a serious crime
- There is a concern that the abuse may cause serious harm to the individual or others
- The abuse has been caused by a paid worker or volunteer and other adults (or children) are at risk from the person causing the harm
- The concern is about institutional or systemic abuse
- There is a concern that an individual is not able to freely consent because they have been threatened or coerced.

9.4 Exploitation Risk Assessment Checklist

The Exploitation Risk Assessment Checklist (appendix A) is available for use by practitioners across agencies to provide an early screening tool for use with individuals who may be at risk of or experiencing sexual exploitation. The questions support the sensitive conversations that need to take place around sexual risk to

inform risk assessment. Consider each individual case in relation to all of the criteria in each of the three segments. The results can be used to determine the risk or presence of both sexual and criminal exploitation. The results are not a definitive assessment of risk but should be used to provide you with a structure to inform your judgement, analysis, risk management and enable safeguarding actions to be linked to evidence of risk, providing the opportunity to identify those at potential or actual risk and prompt professionals to consider preventative actions or interventions.

If any indicators of significant risk (section three) are identified, then immediate action needs to be taken to safeguard the individual(s). Remember that victims can deny sexual exploitation is happening and minimise the risk and/or harm. Discuss the risk assessment with your line manager, assess the risk level and act accordingly.

9.5 Response

The table below advise the next steps to take should it be determined following risk assessment and discussion with your line manager that the case involves children (individuals aged under 18), meets the safeguarding adults criteria, meets MARAC Criteria (individuals aged 16 or over) or does not meet safeguarding or MARAC criteria.

Cases Where Children Are Involved

A child is a male or female between 0-18 years of age. Sexual exploitation of children is a form of abuse that is covered by legislation and multi-agency procedural guidance. Where a child is a victim of, or potentially a victim of, sexual exploitation, he or she is either at risk of, or suffering significant harm. 'Harm' as defined by Under sections 31(9) and (10) of the Children Act 1989 as amended by the Adoption and Children Act 2002.

If you have a concern that a child has been sexually exploited, you should:

1. Contact your agency's Safeguarding Lead or Team who will take details and refer to Children's Social Care. If you are not a member of an organisation, contact Children's Social Care directly and immediately providing as much information as you can: 0161 770 7777.
2. Send a referral to Children's Social Care using the [Online Referral Form](#).
3. All Child Sexual Exploitation referrals are considered by Children's Social Care.

If the concern is immediate and you feel the child is at immediate risk of harm due to exploitation, you should contact Police to inform them of the incident that is ongoing to ensure immediate protection of the child or young person.

Case Meets Safeguarding Adults Criteria

Sexual exploitation is a form of abuse covered by OSAB's Multi-Agency Safeguarding Adults [Policy](#) and [Procedures](#).

Where the victim of sexual exploitation is an adult at risk as defined by the Care Act 2014:

- aged 18 or over; and
 - has needs for care and support (whether or not those needs are being met); and
 - as a result of those needs is unable to protect themselves against the abuse or neglect or the risk of it
- A safeguarding adults referral must be made.

1. Contact your agency's Safeguarding Lead or Team who will take details and refer to the Adult Multi-Agency Safeguarding Hub (MASH). If you are not a member of an organisation, contact Adult MASH directly and immediately providing as much information as you can: 0161 770 7777.
2. Send a referral to Adult MASH using the [Online Professional Referral Form](#).
3. Adult MASH determines whether a Safeguarding Adults Enquiry needs to progress and a Safeguarding Protection Plan developed.

If the concern is immediate and you feel the individual is at immediate risk of harm due to exploitation, you should contact Police to inform them of the incident that is ongoing to ensure immediate protection of the individual.

Case Meets MARAC Criteria

(Individuals aged 16 or over and the exploitation involves high risk domestic abuse)

1. Be clear with the victim about confidentiality and Multi-Agency Risk Assessment Conference (MARAC) procedures.
2. Complete the [DASH RIC Checklist/Greater Manchester MARAC Referral Form](#) with the victim where possible.
3. Where a victim is assessed as being at high risk, the completed DASH RIC Checklist should be forwarded to the MARAC lead for your organisation in order for the risk assessment to be uploaded to SharePoint. Your agency single point of contact (SPOC) sends referral to the MARAC Coordinator.
4. Any immediate safety concerns should be discussed with the Independent Domestic Violence Advisor (IDVA) team on 0161 770 1572.
5. MARAC meeting takes place and victim's views are presented.
6. Action plan is developed.

For more information, please see the [Oldham Multi-Agency Domestic Abuse Policy](#).

Case Does Not Meet Safeguarding/MARAC Criteria

- Consider immediate and long term risks.
- Signpost/refer the victim to relevant support/specialist services (see section 8).
- Share information with relevant agencies and use professional judgement to determine when the level of risk is too great for a single agency to manage alone and use the Team Around the Adult (TAA) approach to manage the escalating risk. See the [Tiered Risk Assessment and Management \(TRAM\) Protocol](#) for more details.
- Regularly revisit level of risk in terms of MARAC and safeguarding action.

If no victim is identified but you have information that suggests exploitation may be occurring, it is important that information is shared with police. You can complete the [GMP Partner Intelligence Form](#) and sending it via email to FIB@gmp.police.uk.

In All Circumstances

- Document decision-making, actions taken and reasons for sharing or not sharing information.
- Be aware of your professional role and consult with other partners to clarify roles and responsibilities and share information
- Follow up any referrals.
- When signposting to other agencies, always consider the risks associated with the perpetrator finding leaflets/letters etc.

9.6 Evidence Gathering

If the police are contacted, it is important that forensic and other evidence is not contaminated or lost. Advice should be sought from the police about how to preserve evidence in specific situations. Evidence may be present even if it is not seen, therefore precautions should be taken, such as:

- do not disturb the scene or move any 'evidence' where possible
- secure the scene i.e. by locking a room or a property where the incident took place
- keep any documents, containers as potential evidence

If in doubt, contact the Police and ask for advice.

9.7 Professional Challenge

When responding to Sexual Exploitation and working with practitioners across professional disciplines and agencies, at times there will be differences in opinion, concerns about professional practice, or issues in difficulty in communication. The [OSAB Escalation and Resolution Conversations Protocol](#) and the [OSCP Protocol for Escalation and Resolution Conversations](#) seek to set out a standard of communication expectations alongside a pathway to resolve or escalate concern.

10 Transition

- 10.1 Sexual exploitation has some similar aspects whether the victim is a child or an adult. Children who have already been sexually exploited may be particularly vulnerable to that abuse continuing after they become 18 years old. At that point the legal framework around them changes, however their risks of being sexually exploited may not necessarily decrease.
- 10.2 Many victims of exploitation are aged between 16-25 years old. It is therefore important that transition arrangements for children approaching their 18th birthday are robust. Information related to exploitation must be shared with relevant adult services. In Oldham, the Transitions Hub will work with young people to develop their Transitions Plan including those that have additional needs and are experiencing, or at high risk of experiencing, exploitation. For more information, see the Oldham Safeguarding Children Partnership and Oldham Safeguarding Adults Board [Preparing for Adulthood: Oldham's Transitions Policy](#).

11 Mental Capacity in Relation to Sexual Relationships

- 11.1 Practitioners face the challenge of balancing the promotion of the rights and needs of the individual (which include their right to a sexual life) with the need to support the individual to manage and reduce their risk of sexual harm. Individuals should be supported to make their own decisions wherever possible, however in cases where there are questions about decision-making and risk of harm, assessment of the individual's mental capacity to make decisions about their safety is key. Sexual acts with an individual who lacks the mental capacity to consent are sexual assault and are a criminal offence under Sexual Offences Act 2003.
- 11.2 When assessing an individual's capacity to consent to sexual acts:
- The assessment should be undertaken by a practitioner who knows the individual. It does not need to be undertaken by a doctor, psychiatrist, or psychologist, unless there is a particular reason that would be required (e.g. if the individual had a particularly complex mental health issue that was affecting their understanding about sexual relationships).
 - However, the individual may need specialist input to the assessment such as an Independent Mental Capacity Advocate (IMCA).
 - The courts (and relevant case law) regard the choice to form a sexual relationship or consent to sexual acts as a fundamental need and right. The individual being assessed should not be expected to approach decisions about sex with a greater level of reflection and rational analysis than other individuals generally demonstrate.
 - The ability to use or weigh relevant information must form part of the evaluation of capacity to consent to sex, alongside the ability to understand and retain information and to communicate a decision once made.
 - A number of assessments may be required, as it is important to distinguish which specific decisions the individual has or has not got capacity for (e.g. they may have capacity to decide on frequency of contact with a sexual partner but lack capacity to decide whether they should live with their sexual partner).
 - The assessor should identify a number of meaningful options, choices, and plans with the individual for them to consider as a part of the assessment process. The choices should be sufficiently detailed and realistic.

- Unwise decisions are not necessarily in themselves evidence that the individual lacks capacity in relation to sexual relationships.
- All reasonable steps should be taken to support decision making.
- The assessment of whether an individual has the capacity to consent to sexual relations is an assessment that considers their general capacity to consent to sex (the ability to decide to have sexual activity), rather than being specific to any particular person/partner or any particular occasion (the ability to decide to have sexual activity with a particular person/partner)⁴.
- An individual is unable to make a decision for themselves to consent to having sexual relations if they are unable to understand the information relevant to the decision, retain the information, to use or weigh that information as part of the process of making the decisions, or to communicate their decision (whether by talking, using sign language, or any other means).

- 11.3 The court has considered the test for capacity to consent (or not to consent) to sexual relations in a number of cases. The information relevant to the decision has been held in those cases to be:
- A basic understanding of the mechanics of the act⁵
 - That there are health risks involved (e.g. STIs)
 - That sex between a man and a woman may result in the woman becoming pregnant;
- 11.4 While the Mental Capacity Act 2005 allows for the assessment of an individual's capacity to make decisions about sexual activity, the Act does not permit a person to make a decision on another's behalf about sexual relations (s.27 (1)(b) MCA 2005). An individual who lacks capacity in regard to sexual activity cannot consent. No 'best interests' questions can arise if there is a finding that the individual lacks capacity to consent to sexual relations. In those circumstances, it would be a criminal offence for a person to have sexual intercourse with the individual and safeguarding duties would arise which in all likelihood would mean that steps would have to be taken to protect the individual which may amount to a deprivation of their liberty. If a protection plan includes such significant restrictions as restricting access to the individual's chosen sexual partner, then it is likely that an application to the Court of Protection will be required in order to determine whether that restriction is appropriate and valid, given the potential breach of article 8 (Human Rights Act) right to family life.
- 11.5 Individuals who lack the mental capacity to consent to having a sexual relationship are highly vulnerable to being exploited. If they are involved in a sexual relationship, this is a criminal sexual assault unless an appropriate protection plan and legal framework has been agreed via the Court of Protection. If an individual is deemed to lack capacity in relation to decisions about sexual relations legal advice should be sought as the case may need to be escalated to the Court of Protection.
- 11.6 An individual with mental capacity may be being coerced into a sexual relationship. Victims may be subject to threats and will not always recognise what they are being subjected to is abuse. They may even think of their abuser as a friend, partner, or someone they are having a consensual sexual relationship with. The nature of the needs and vulnerabilities of the individuals involved may not always be immediately obvious. Careful consideration needs to be given to whether there is a level of coercion or duress involved in the sexual relationship. Additionally, even if they do recognise that the relationship or situation is abusive, they might make choices to continue in the abusive relationship because of powerful psychological reasons and/or because they have been coerced or threatened that they must remain in the relationship.
- 11.7 Individuals with mental capacity to make decisions about their sexual relationships may still be at risk of being manipulated or sexually exploited and their situation may still meet the safeguarding criteria. Section 42 safeguarding enquiries or other risk management frameworks and protection planning in partnership with the individual should work towards the individual finding ways to decrease the risks. The police should be contacted for advice where crimes are suspected. Although the Mental Capacity Act would not be applicable, in some cases the power of Inherent Jurisdiction can allow the High Court to issue directions or orders to support the individual who has capacity but is being coerced or controlled and where undue fear impacts their ability to give genuine and informed consent.

- 11.8 For more information, see the [OSAB Multi-Agency Mental Capacity Act & Deprivation of Liberty Safeguards Policy and Procedure](#) and the Mental Capacity Resources available from [39 Essex Chambers](#).

12 Training and Resources

- 12.1 Across Oldham, training has been agreed to meet the needs of all workers, from those who require or would like a basic awareness (through self-directed online learning or face to face learning) to training in more detail for those who work directly with children, young people, families, and adults:
- [OSAB Multi-Agency Training](#)
 - [OSCP Multi-Agency Training](#)
- 11.2 Please find links below to specific resources that are available:
- [OSAB 7-Minute Briefing – Adult Sexual Exploitation](#)
 - [OSAB Policies, Procedures and Guidance](#)
 - [Oldham Modern Slavery Toolkit](#)
 - [OSAB Mental Capacity Act & Deprivation of Liberty Safeguards Policy and Procedure](#)
 - [OSAB Tiered Risk Assessment and Management \(TRAM\) Protocol](#)
 - [OSAB Professional Curiosity Guidance](#)
 - [OSAB Guidance Where the Individual or Family are Not Engaging with Services](#)
 - [OSCP Policies, Procedures and Guidance](#)
 - [Research in Practice: A Brief Guide to Sexual Exploitation](#)
 - [Greater Manchester #IsThisOkay? Campaign](#) tackling gender-based violence in Greater Manchester.

References

1. [Newcastle Safeguarding Adults Board Sexual Exploitation Flowchart](#)
2. [Hampshire Safeguarding Adults Board Adult Sexual Exploitation Operational Guidance](#)
3. [Research in Practice: A Brief Guide to Sexual Exploitation](#)
4. [PC v City of York Council \(2013\) EWCA Civ 478, \(2013\) MHLO 61](#)
5. [Court of Protection - Mr Justice Mostyn \(D v AB, 2011\)](#)

Appendix

Exploitation Risk Assessment Checklist

[Available here](#)