

1

## What is the 'Right to Access' in Adult Safeguarding?

In the context of **safeguarding adults under the Care Act 2014**, the term "**right to access**" refers to the ability of professionals—typically from local authorities or partner agencies—to **gain access to an adult who may be at risk of abuse or neglect** in order to carry out safeguarding enquiries.

However, **there is no automatic legal "right of entry"** granted under the Care Act.

2

## Section 42 – Care Act 2014

Local authorities have a **duty to make safeguarding enquiries** (or cause them to be made) when they suspect an adult:

- ▶ Has **care and support needs** (regardless of whether those needs are being met),
- ▶ Is **experiencing or at risk of abuse or neglect**, and
- ▶ Is **unable to protect themselves** due to those needs.

However, this duty **does not include a statutory power of entry**.

All actions should reflect the **six principles of safeguarding: Empowerment, Prevention, Proportionality, Protection, Partnership, and Accountability**.

3

## When Access is denied

Access may be blocked by:

- ▶ The adult,
- ▶ A third party,
- ▶ Or coercive circumstances.

**In these cases, the first steps safeguarding professionals should take are:**

- ▶ Negotiate and build trust,
- ▶ Offer advocacy if engagement is difficult,
- ▶ Use a trauma-informed, culturally sensitive approach.

**If access cannot be negotiated, only then should legal powers for intervention be considered.**

4

## Mental Capacity and Health Acts – Legal Powers

**Mental Capacity Act 2005:**

- ▶ If the adult lacks capacity, access decisions must be in their **best interests** and use the **least restrictive option**.
- ▶ The **Court of Protection** can authorise intervention.

**Mental Health Act 1983:**

- ▶ **S115:** Allows entry to inspect premises.
- ▶ **S135:** Magistrates can issue a warrant for police to enter and remove a person for assessment.

5

## Other Legal Powers

- ▶ Under the **Police and Criminal Evidence Act 1984 (PACE)**, police can enter premises **without a warrant** to save life or prevent serious harm.
- ▶ Police may also assist social workers in gaining access where there is **immediate risk** to life or safety.
- ▶ **Regulatory Services** have access and entry powers that, while not specific to safeguarding, may be useful when there are concerns about a property but this will depend on individual circumstances.



6

## Court of Protection and High Court Legal Powers

**Court of Protection:**

- ▶ Can authorise access where an adult **lacks capacity**, especially in cases of **obstruction, coercion, or self-neglect**.

**High Court (Inherent Jurisdiction):**

- ▶ Applies when an adult **has capacity** but is under **coercion or control**. The court can issue orders to protect their **autonomy and safety**.

7

## Escalation and Support

- Refer to **SCIE guidance** on gaining access to adults at risk of abuse or neglect for best practice.
- **Speak to your local safeguarding lead** for advice and oversight.
- **Consult legal services** for guidance on access powers and legal routes if required.
- **High Risk Advisory Panel:**  
Use in complex or high-risk situations to coordinate multi-agency input.