

9. Unlawful Acts

- 9.1 Unlawful acts can be either a criminal or civil offence. Some instances of abuse will constitute a criminal offence or an unlawful act under civil law. In this respect, vulnerable adults are entitled to the protection of the law in the same way as any other member of the public. Examples of actions which may constitute criminal offences are assaults (whether physical, psychological or sexual) sexual relations without consent, harassment, threats, theft and fraud.
- 9.2 It is therefore essential that Police involvement should be considered as soon as any allegation or suspicion of abuse is made where there is an indication that a criminal offence has taken or is likely to take place. In these circumstances, no further investigation should be undertaken without consultation with the Police.
- 9.3 Criminal offences are dealt with by the State - the Police investigate and make the initial decisions whether or not to prosecute. The Crown Prosecution Service then receives the papers from the Police in order to progress the case. The Crown Prosecution Service has to apply two tests - whether there is a realistic prospect of conviction, and if so, whether it is in the public interest to proceed. If it does proceed then the case may be heard in the Magistrates Court or, if it is more serious, in the Crown Court. The Court decides on sentence.
- 9.4 The Police and the Crown Prosecution Service have a number of policies and standards relating to the prosecution of offences, and some of these have some bearing on the prosecution of offences to vulnerable adults.
- 9.5 Alleged criminal offences differ from all other non-criminal forms of abuse in that the responsibility for initiating action rests with the State in the form of the Police and Crown Prosecution Services (private prosecutions are possible, but rare). When complaints about alleged abuse suggest that a criminal offence may have been committed, it is important that reference is made to the Police as a matter of urgency.
- 9.6 The Police will advise on the necessary further action, level of urgency and the process for undertaking any subsequent investigation.
- 9.7 Where the Police conclude that there is no requirement for a formal criminal investigation, the local operational procedures should continue to be followed.