



Lambeth Safeguarding Adult Board

# ADULT SAFEGUARDING

## POLICY

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# 1 Policy Statement

Lambeth Safeguarding Adults Board (LSAB) is the Safeguarding Adult Board for Lambeth for the purposes of section 43 of the Care Act 2014.

This policy and procedure sets out how Lambeth Safeguarding Adults Board ('LSAB' or 'the Board') will meet the objective required of it in section 43 of the Care Act 2014 ('the Care Act') of co-ordinating and ensuring the effectiveness of what each of its members does to help and protect adults in Lambeth in cases where;

- The adult has care and support needs; and
- They are experiencing, or are at risk of, abuse or neglect; and
- They are unable to protect themselves from the abuse or neglect, or the risk of it, as a result of those care and support needs

In such cases, there is a duty under section 42 of the Care Act to ensure there is a safeguarding adults enquiry. Paragraph 14.6 of the Care and Support Statutory Guidance ('the guidance') says this duty will be on:

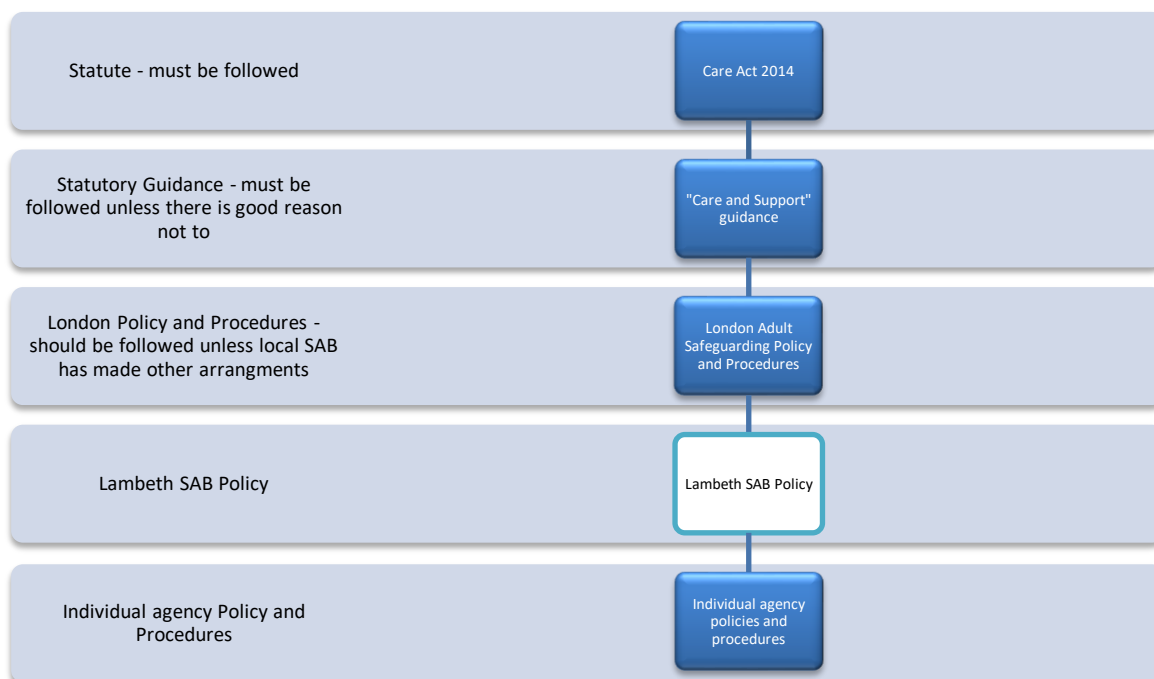
- The prison governor, where the adult is in prison
- Her Majesty's Prison and Probation Service (HMPPS) where the person is in approved premises
- Lambeth Council's Adult Social Care services in all other cases

Those organisations will have their own arrangements for how they meet this duty. This policy, and any procedures of guidance that accompany it, set the multi-agency context for those enquiries.

Appendix A sets out how LSAB meets the expectations of a Safeguarding Adults Board as set out in Paragraph 14.139 of the Care and Support Statutory guidance. The LSAB has a constitution which sets out how it operates.

## 2 Context for this policy

Diagram 1 illustrates the context for this policy and the accompanying procedure



**Diagram 1: Hierarchy of adult safeguarding law, guidance, policy and procedures**

In the interests of brevity and readability this policy and the associated procedure will not repeat the content of the Care Act, the Care and Support statutory guidance or the London policy and procedures, except where necessary for the purposes of clarity. It is expected that readers will make themselves familiar with those documents and the SCIE Adult Safeguarding guidance.

## 3 Roles in adult safeguarding enquiries

Safeguarding adults' enquiries will often involve collaboration by a significant number of people who may be in a number of different organisations. It can be helpful to have a shared language to describe who does what. The Board has adopted the following terms to describe key roles in adult safeguarding enquiries where Lambeth Local Authority has the duty under section 42 of the Care Act.

These terms relate to roles in an enquiry and are not job titles:

### **3.1 Safeguarding Adults Enquiry Decision Maker ('SAD')**

This is the person with responsibility for making the decisions required by s42 Care Act on behalf of the local authority, which are

- Is there a duty to have an enquiry?
- What will the enquiry consist of?
- Has the enquiry been completed?
- In light of the enquiry what actions, if any, are required and who by?

There is only one person in the SAD role at any one time, though the role may pass from one person to another as the work progresses.

### **3.2 Safeguarding Adults Enquiry Manager ('SAM')**

This is the person who carries out day-to-day management of the adult safeguarding enquiry. This will include:

- Allocating resources to enquiry
- Ensuring communication takes place and feedback is given at the end of an enquiry
- One person can act as both SAD and SAM
- In some contexts, there may be an expectation that different people hold the SAD and SAM roles.
- In other settings a decision will be made case-by-case whether to have separate SAD and SAM. Indicators of when this might be useful include
  - Where the concern relates to operational work in sphere of SAM's responsibilities, and a degree of independent oversight may be required
  - Where there are risks or issues which make it useful to escalate the seniority of the person in the SAD role

If the SAD and SAM roles are held by different people

- The SAM will escalate to SAD at the key points where a decision is required that falls within section 42 of the Care Act
- At those times, the SAM will make a recommendation to SAD on the decision

There is only one person in the SAM role at any one time, though the role may pass from one person to another as the work progresses.

### **3.3 Lead Enquiry Officer ('LEO')**

The Lead Enquiry Officer leads the carrying out of an adult safeguarding enquiry. Their tasks in this are:

- Applying "Making Safeguarding Personal" objectives
- Ensuring communication happens
- Implement enquiry plan
- Coordinate contributions from others
- Produce an enquiry report that brings together information from all sources and makes judgements and recommendations on the questions
  - Has there been abuse and neglect, or clear risk of these?
  - If so, why? This will include root cause analysis.

- What actions may be needed?
- Ensuring there is appropriate record of the enquiry

There is only one person in the LEO role at any one time, though the role may pass from one person to another as the work progresses.

### **3.4 Safeguarding Adults Enquiry Contributor(s) ('SAEC')**

This term refers to all people who contribute to Safeguarding Adults Enquiry from a range of organisations, they will

- Provide the LEO with support and information in line with the enquiry plan
- Makes use of expertise to provide LEO with planning the enquiry and with analysis, judgements and recommendations
- Ensures their own agency or service cooperates with the enquiry
- Ensures their own agency or service acts on the enquiry findings

### **3.5 Who undertakes these roles?**

Lambeth Council's Adult Social Care policies and procedures set out which roles and how the SAD, SAM and LEO roles are identified for a safeguarding adults enquiry. The SAEC(s) will be identified during enquiry planning in partnership with relevant organisations.



## 4 Applying the Care Act 2014 in Lambeth

The guidance below has the aim of clarifying elements of the Care Act 2014 that can cause difficulty in practice. It may be that case law will develop on these areas, which would supersede the relevant section here.

### 4.1 The Decision Making Tree (Diagram 1B)

Statutory Guidance should be followed unless there is good reason not to. Lambeth Safeguarding Adults Board believes it to be reasonable to disregard the Decision Making Tree Diagram 1B at paragraph 14.92 of the Care and Support statutory guidance on the grounds that it has errors to a degree that it cannot be made use of. A summary of these issues can be found in Appendix B.

The diagram titled “Section 42 Safeguarding Enquiry Flowchart” on page 69 of the [London Adult Safeguarding Policy and Procedures](#) should be used instead of Diagram 1B.

### 4.2 The meaning of “care and support needs”

The Care Act 2014 says that adult safeguarding enquiries relate to adults with care and support needs (section 42), and that the objective of Safeguarding Adults Boards relates to adults with care and support needs. However, the Act does not define care and support needs.

#### 4.2.1 SCIE guidance

In its “[Adult safeguarding practice questions](#)” (March 2015) SCIE wrote “An adult with care and support needs may be:

- an older person
- a person with a physical disability, a learning difficulty or a sensory impairment
- someone with mental health needs, including dementia or a personality disorder
- a person with a long-term health condition
- someone who misuses substances or alcohol to the extent that it affects their ability to manage day-to-day living.

*This is not an exhaustive list ... There may be times when a person has care and support needs and is unable to protect themselves for a short, temporary period – for example, when they are in hospital under anaesthetic.”*

The position of the Board is that “an older person” should not be taken to mean that age alone means a person has care and support needs, but is a recognition that older people are at higher risk of some conditions that can lead to care and support needs developing.

#### **4.2.2 The cause of the need**

The Care and Support (Eligibility Criteria) Regulations 2014 say that an eligible care and support need is one that

1. Arises from or is related to a physical or mental impairment or illness;
2. Results in the adult being unable to achieve two or more of the outcomes specified in the regulations; and
3. Which has, or is likely to have, a significant impact on the adult's well-being

Items (2) and (3) relate to the degree of the need, but item (1) relates to the nature of the need. LSAB therefore take the view that (1) gives the boundary of what is a care and support need.

#### **4.2.3 The impact of the need**

The regulations go on to say that care and support needs have an impact on the following outcomes:

- Managing and maintaining nutrition
- Maintaining personal hygiene
- Managing toilet needs
- Being appropriately clothed
- Being able to make use of the home safely
- Maintaining a habitable home environment
- Developing and maintaining family or other personal relationships
- Accessing and engaging in work, training, education or volunteering
- Making use of necessary facilities or services in the local community including public transport and recreational facilities or services
- Carrying out any caring responsibilities the adult has for a child

Unless and until the statutory guidance or case law say otherwise, the position of the Board is that a starting point for understanding care and support needs in the context of adult safeguarding issues is:

- The adult falls within the examples given in the SCIE guidance or has needs arising from or are related to a physical or mental impairment or illness (Care and Support (Eligibility Criteria) Regulations 2014); and
- The adult has needs which impact on one or more of the outcomes listed at 4.2.3.

### **4.3 The meaning of “is experiencing, or is at risk of, abuse or neglect”**

Section 42 (1) (b) of the Care Act says that one of the tests to determine whether there is a duty for there to be a safeguarding adults enquiry is that the person “is experiencing, or is at risk of, abuse or neglect”.

In practice, some difficulties can arise because this is written in the present tense. For example

- A concern may arise that a person is at risk of abuse, and a decision is made to refer this to the local authority
- Perhaps through a combination of processes within the organisation where the concern has arisen, the time taken to pass the concern to the local authority, and for the concern to reach the appropriate decision maker in the local authority, the circumstances may have changed. For example, the person may have died in the interim. The person in the local authority making a decision whether there must be an adult safeguarding enquiry faces a dilemma.
  - Should they apply the test in s42 as per the circumstances on the day the concern arose, in which case the test is met
  - Should they apply the test in s42 as per the circumstances today, in which case the test is not met

#### The position of LSAB is

- Unless and until there is case law that clarifies this, there will be uncertainty on this matter and a need for sound professional judgement informed by the factors in the fourth bullet point below.
- However, the starting point should be that if the tests in s42(1) were met *at any point* during the period from when the concern arose to when the decision is being made then the presumption should be that there will be an adult safeguarding enquiry
- Factors that would strengthen this presumption might include there being risks to other adults with care and support needs, there being some public interest in the matter leading to an adult safeguarding enquiry, and an adult safeguarding enquiry being likely to promote public confidence in the services involved
- Factors that may lead to a reversal of the presumption might include that there were no apparent risks to others, no questions to be addressed about the actions of any agencies involved, or if there was going to be another process that might provide sufficient scrutiny such as a Safeguarding Adults Review (and taking account that the aims of an Enquiry and Review are different)

For the absence of doubt, the decision in question here is one that sits with the local authority under s42 of the Care Act, and not with the individual making the initial referral. These are not factors that should lead to a decision to not refer an adult safeguarding concern to the local authority. Paragraph 14.199 of the Care and Support statutory guidance applies: “It is not for front line staff to second-guess the outcome of an enquiry in deciding whether or not to share their concerns.”

The person in the decision-making role under s42 of the Care Act for the local authority should consider seeking advice from Lambeth Council’s Safeguarding Adults Lead/Service and / or escalating the matter.

#### **4.2.1. The meaning of “at risk of abuse”**

The position of the Board is that, in applying section 42 of the Care Act in Lambeth, “risk” means actual clear and present risk. It must be more than simply a theoretical risk.

#### **4.2.2 The meaning of “unable to protect himself or herself (themselves)”**

For the duty to have an adult safeguarding enquiry to apply, the person with care and support needs must be unable to protect themselves against the abuse and neglect because of the care and support needs they have. This requires there to be a causal link between the care and support needs and the inability to protect themselves.

### **4.3 Making decisions on the duty to carry out Safeguarding Adults enquiries**

ADASS and the LGA developed a [framework](#) which offers support in making decisions about whether or not a reported safeguarding adults concern requires a statutory enquiry under the Section 42 (S42) duty of the Care Act.

Prior to the Care Act (2014) many councils operated thresholds consistent with eligibility thresholds in their understanding of where their safeguarding duties lie.

The Care Act (2014) sets out clear criteria in S42(1) which, if met, must trigger a statutory enquiry (S42(2)) to take place. The proportionate conversations and information gathering that take place in finding out whether the criteria in S42(1) are met (and therefore whether a statutory enquiry is triggered) sometimes themselves offer protective and preventive value. Activity within S42(1) includes determining whether, within a human rights context, it is fair, reasonable, lawful to ‘interfere’.

It may turn out that the S42(2) duty is not triggered because the concern does not meet the S42 (1) criteria. The local authority is responsible for that public law decision as to whether the statutory S42 (2) duty is triggered.

The Safeguarding Adults Board (SAB) will obtain information on both the early work done under S42(1) as well as S42(2)) enquiries undertaken, so there is assurance around decision making, impact and effectiveness of safeguarding support from prevention through to intervention, resolution and recovery.

### **4.4 Consent**

The Care Act does not require consent for adult safeguarding work, so absence of consent is not a barrier to such work. However, the person should be informed before referring an adult safeguarding concern to the local authority, unless doing so creates disproportionate risk. There is a link between sections 42, 9 and 11 of the Care Act 2014 which has an implication on this matter:

- Section 42 relates to when there is a duty on the local authority to ensure there is an adult safeguarding enquiry. One of the tests is that the person must have care and support needs. There is no requirement for the person to consent for the enquiry duty to be met.

- Section 9 relates to the duty on the local authority to assess the care and support needs of a person. The test is that there is a reasonable belief that the person has care and support needs, therefore people falling under section 42 will also fall under section 9
- Section 11 says that adults can decline to have their care and support needs assessed except when
  - They lack the mental capacity to make that decision and the local authority believes the assessment is in their best interests; or
  - Where there is a concern that the person is experiencing or is at risk of abuse or neglect

#### This means that

- Where the tests for an adult safeguarding enquiry are met, there is no requirement in the Care Act for their consent
- Where there is a requirement for there to be an adult safeguarding enquiry, there is likely to be a requirement for the local authority to assess the person's care and support needs, and the person cannot decline this assessment.

It should also be noted that Section 11 does not require the person to be unable to protect themselves. Section 9 and 11 of the Care Act 2014 can apply to a person with care and support needs who is experiencing or at risk of neglect but who does not fall within s42 Care Act because they are able to protect themselves. *In such a case, the duty to assess the person's care and support needs applies, but the duty for there to be an adult safeguarding enquiry does not. (See Paragraph 6.20 of the guidance)*

## 4.5 Requirement to report concerns

4.6.1 Paragraph 14.43 of the guidance says *"No professional should assume that someone else will pass on information which they think may be critical to the safety and wellbeing of the adult. If a professional has concerns about the adult's welfare and believes they are suffering or likely to suffer abuse or neglect, then they should share the information with the local authority and, or, the police if they believe or suspect that a crime has been committed."*

Paragraphs 14.199 – 200 of the guidance say *"It is not for front line staff to second-guess the outcome of an enquiry in deciding whether or not to share their concerns..."*

The LSAB's position is that in combination these provisions show it is the policy of central government that **adult safeguarding concerns should be referred to the local authority irrespective of whether the person has consented to this or not**, though that does not mean that consent should not be sought, and the person should be told that a referral may be made even without their consent.

This can raise complex legal, ethical and practice issues where a person does not consent to these processes which may have to proceed irrespective of their consent, and guidance may

need to be sought from adult safeguarding specialists within the organisation or the local authority.

If there is adult safeguarding work to be done though the person is not consenting to it, that does not overturn the expectation that the work itself is done in line with person-centred principles and in line with Making Safeguarding Personal.

#### **4.6 The meaning of “adult safeguarding enquiry” and “Safeguarding or Protection Plan”**

The duty under s42 Care Act 2014 requires the local authority to

- Determine if the person is one that the duty applies to;
- Make, or cause to be made, whatever enquiries it thinks are necessary; and
- Decide whether any action should be taken and, if so, what and by whom

An adult safeguarding enquiry is the aggregation of the separate strands that make up whatever enquiries the local authority thinks are necessary. The Safeguarding Plan or Protection Plan (the statutory guidance uses both terms interchangeably) is made up of the actions the local authority decide should be taken.

In Lambeth we shall use the terms

- “Enquiry Plan” to mean the plan for the enquiries that the local authority will make or cause to be made
- “Safeguarding Plan” to mean the plan for the actions the local authority decides should be taken (and by whom) as a result of an adult safeguarding enquiry

#### **4.7 Powers to carry out an adult safeguarding enquiry**

S42 Care Act 2014 does not create powers to undertake the enquiry so the local authority, and any other partner involved with the case, will need to determine for themselves what powers and duties they are exercising when making enquiries or carrying out actions. As noted above, for the local authority some or all of the enquiries it makes as part of an adult safeguarding enquiry will be carried out under s9 of the Care Act.

#### **4.8 Duty to cooperate**

Where the local authority makes a request of another organisation to make enquiries as part of an adult safeguarding enquiry, or to carry out an action as part of a Safeguarding Plan arising from an adult safeguarding enquiry, and that other organisation is a “Relevant Partner” as per s6 Care Act 2014, then the request should be treated as a request for cooperation under s7 Care Act 2014.

The partner organisation must comply with the request unless it considers that doing so

- would be incompatible with its own duties, or
- would otherwise have an adverse effect on the exercise of its functions.

If a Relevant Partner decides not to comply with such a request it must give the person who made the request written reasons for the decision.

## 5 Applying the Care and Support Statutory Guidance in Lambeth

### 5.1 Self-neglect

The Care and Support statutory guidance gives leeway as to whether concerns regarding self-neglect and hoarding should lead to an adult safeguarding enquiry under section 42 of the Care Act. This will be a matter for professional judgment case-by-case.

Where a situation is presented as a matter of self-neglect, consideration should be given as to whether or not there is also a concern about some other form of abuse or neglect present. If there is, then the situation may meet the s42 threshold on the basis of those other issues alone. Factors which sometimes can occur alongside self-neglect include

- There is a concern that there have been failures by agencies or professionals to work together to assess and manage risks effectively
- The person is at risk because care or access to facilities is being prevented by another person

In Lambeth, the starting point will be that an assessment of the individual's needs is the best response to a concern about self-neglect or hoarding *where someone is willing and able to engage to reduce their risks.*

A safeguarding enquiry process is likely to be required where someone lacks insight into their level of risk and/or refuses to engage in an assessment or accept support offered.

The presence of other factors that may warrant an adult safeguarding enquiry response include:

- The person is unable to protect themselves by controlling their own behaviour
- Self-neglect where there is *significant risk* associated with
  - Wellbeing is affected on a daily basis
  - Care being refused
  - Health treatment or interventions refused
  - Hygiene is poor and causing skin problems
- Hoarding where there is significant risk associated with
  - Risk of fire

- Established lack of mental capacity to manage the situation
  - Urgent health and safety risks
  - Pending enforcement action creating risk of losing home
  - A vulnerable person living where facilities have been disconnected
  - *The person refuses to engage with necessary services*
- And
  - The person in the role of SAM is of the view that an adult safeguarding enquiry is the most effective way of addressing the issues

## 5.2 Understanding the prevalence of abuse and neglect

The guidance states that each Safeguarding Adults Board should *“establish ways of analysing and interrogating data on safeguarding notifications that increase the SAB’s understanding of prevalence of abuse and neglect locally that builds up a picture over time”* (Care and Support statutory guidance, paragraph 14.139)

This will require those undertaking adult safeguarding enquiries in Lambeth to consider within those enquiries whether the facts established show that the person experienced or was at risk of abuse or neglect, and that there are recording systems in place that can capture this information and supply it to the Board to inform practice and learning.

## 5.3 Managing allegations against People in Positions of Trust (PiPOT)

The Care Act does not set out any primary legal duties on the local authority associated with managing allegations against people who work in a position of trust with adults with care and support needs. **There is no equivalent Local Authority Designated Officer (LADO) role in adult safeguarding legislation.**

The care and support statutory guidance *s14.120 – 14.119* does however set out the expectation for local authorities *and their relevant partners (as per Section 6(7) of the Care Act 2014)* to have their own clear policies in line with those from the safeguarding adults board for dealing with allegations against people who work, in either a paid or unpaid capacity, with adults with care and support needs.

[The LSAB has written a framework](#) to support partners in developing their own procedures and partners and LSAB members must consult this when doing so.



## 6 Timescales

Section 4.3.11 in the [London Adult Safeguarding Policy](#) gives indicative timescales and Lambeth will adopt these timescales.

The decision of whether a concern should lead to an enquiry is a key one, and the timeliness of this is a strong determinant of whether or not the adult safeguarding work is effective. Therefore, the expectation is that a decision is reached whether a concern will lead to an adult safeguarding enquiry *by the end of the working day* after the local authority becomes aware of the concern. However, we acknowledge that professional judgement must be applied case-by-case and so the timescales may not necessarily be met for any particular case. There should always be clear planning about what is the right timescale for each case and effective monitoring to ensure this is kept to.

Lambeth uses an approach to timeliness which aligns the use of the timescales with principles of good practice. The LSAB will receive assurance by monitoring the overall patterns of timeliness as described in appendix C.

## 7 Applying the London Multi-Agency Adult Safeguarding Policy and Procedure in Lambeth

### 7.1 Carers and adult safeguarding

Section 42 of the Care Act 2014 applies only to adults with care and support needs. For the purposes of the Care Act, carers are not adults with care and support needs. They may in certain circumstances have support needs and entitled to a S10 carer's assessment.

Where there is a concern about a carer being at risk of abuse and neglect, the matter should be responded to as set out in paragraph 14.48 of the Care and Support statutory guidance.

There will be exceptions in those cases where a person in a caring role happens to also have their own care and support needs and the tests in s42 of the Care Act are met in regard to that person.

### 7.2 Care and support needs in particular contexts

The guidance says that abuse and neglect include people who are victims of sexual exploitation, domestic abuse and modern slavery. In its "Adult safeguarding practice questions" (March 2015) SCIE wrote:

*“These are all largely criminal matters, however, and safeguarding duties would not be an alternative to police involvement, and would only be applicable at all where a person has care and support needs that mean that they are not able to protect themselves.”*

### **Modern Slavery**

Any safeguarding concerns raised about concerns about Modern Slavery must first be considered under the Modern Slavery Act 2015.

LSAB partners must ensure they understand their responsibilities as outlined within the Modern Slavery Act 2015. This includes duties to report victims to the National Referral Mechanism so they can be assessed to receive relevant support such as legal aid, housing, and counselling.

Responses to concerns about Modern Slavery under a S42 adult safeguarding enquiry would only be applicable *where a person has care and support needs that mean that they are not able to protect themselves.*

Partners can refer to [Lambeth Council’s Corporate Modern Slavery Policy and Procedure](#).

## **8 Making Safeguarding Personal**

The Board is committed to the Making Safeguarding Personal approach which means adult safeguarding work that

- is person-led
- is outcome-focused
- engages the person and enhances involvement, choice and control
- improves quality of life, wellbeing and safety

The Board are committed to delivering Making Safeguarding Personal by applying the principles of adult safeguarding set out in the guidance:

Empowerment	We ask people what outcomes they want as a result of the safeguarding adults process and these directly inform what happens. This means all staff and professionals from all organisations will routinely ask people about outcomes at the point of concern and record this information. This is recorded and analysed so that the safeguarding adults board can see the extent of partner engagement in Making Safeguarding Personal and mobilise advice and support where this is needed.
Protection	We help and support people to report abuse. We support people to be involved in the safeguarding adults process to the extent to which the adult wants.

Prevention	We can effectively identify and appropriately respond to signs of abuse and suspected criminal offences and take action before harm occurs. We make everyone aware, through provision of appropriate training and guidance, of how to recognise signs and take any appropriate action to prevent abuse occurring.
Proportionality	We work in the best interests of the adult and undertake the least intrusive response appropriate to the risk that is presented.
Partnership	We will work together to place the welfare of individuals above organisational boundaries. We have effective local information-sharing and multiagency partnership arrangements in place and staff understand these.
Accountability	The roles of the agencies are clear, together with the lines of accountability. Staff understand what is expected of them and others. Agencies recognise their responsibilities to each other, act upon them and accept collective responsibility for safeguarding arrangements.

## 9 The use of language in safeguarding adults work

We have learnt that the way we talk about abuse and neglect has an impact on how effective our response to safeguarding concerns is. The way we use language can shape the way we think about things. Some ways of expressing things will help us think about matters in more useful ways than others.

- The language we use may have connotations for others that we don't intend, and which creates barriers.
- Inconsistent use of language across organisations can lead to confusion, misunderstanding and can be the cause of failings in safeguarding work.

The LSAB will commit to avoiding unhelpful language in safeguarding adults matters as outlined below:

**Don't say**      **Using "safeguarding" as a stand-alone noun** causes confusion about whether the issue is really a safeguarding concern or if it may be a welfare issue. This influences expectations of the type of response required.

**Do say**            "We have referred four safeguarding concerns this week"  
 "This safeguarding concern won't lead to a safeguarding enquiry"

**Don't say**        **'I'm raising a safeguarding against you'** as it sets up safeguarding enquiries as oppositional and confrontational, when what is needed is a collaborative approach

- Do say** “There is a safeguarding concern about ...”  
“A safeguarding enquiry is necessary to understand what has happened”
- Don’t say** **“The outcome of the enquiry is ‘substantiated’”** - An enquiry may make a finding of whether or not there was abuse or neglect, but this is not the same as the outcome. The key outcomes for a safeguarding enquiry are whether or not it has achieved what the person at risk wanted from the process.
- Do say** “The information gathered during the enquiry shows that there had been abuse. The person at risk said at the beginning of the process that the outcomes they wanted were for the abuse to stop, and for them to be able to report the matter to the police. Both of these have happened.”
- Don’t say** **“Safeguarding Alert”** – old language used before the Care Act came in to force.
- Do say** In Lambeth we use the term “concern” in preference to “alert” and define an adult safeguarding concern as *“any concern that an adult is experiencing, or is at risk of, abuse or neglect which they are unable to protect themselves from because of their care and support needs.”*

### 9.1 “Allegation”, a “concern about the quality of care or practice”, and a “complaint”

Paragraph 14.120 of the guidance requires adult safeguarding policies to make a clear distinction between an allegation, a concern about the quality of care or practice or a complaint. In Lambeth we take these to mean

- An allegation: This is a safeguarding concern relating to a staff member or volunteer as the source of the risk
- A concern about the quality of care or practice: This can arise when someone has experienced or seen poor care
- A complaint: This is an expression of dissatisfaction from someone using services or their representative

A single issue may fall in to more than one category. Where there is an adult safeguarding concern, an adult safeguarding enquiry can be an effective means of coordinating the different strands.

### 9.2 Safeguarding Adults Work and Safeguarding Adults Enquiries

The term “Safeguarding Adults Enquiry” is often used interchangeably to refer to either

- the phase of the work related to the task in s42 of the Care Act 2014 of Lambeth Council to “make (or cause to be made) whatever enquiries it thinks necessary”; or
- the totality of the response by the Council to an adult safeguarding concern

This can cause confusion in practice as, for example, “ending the enquiry” can be taken to mean both completing one phase of the work or the completion of all the work.

To avoid confusion, in Lambeth we will distinguish between

- A piece of adult safeguarding work: This is the totality of the work in response to an adult safeguarding concern. It will involve deciding if an adult safeguarding enquiry is required, planning that enquiry, clarifying the person’s preferred outcomes, carrying it out and, on completion of the enquiry, deciding if a Safeguarding Plan is needed and, if so, what it will say;
- An adult safeguarding enquiry: The enquiry phase of a piece of adult safeguarding work which does the work of establishing the facts, ascertaining the wishes of the adult and assessing their needs

## **10 Natural justice and safeguarding adults**

The Board is committed to applying the principles of natural justice to the responses to adult safeguarding adults, in particular the principles that:

- No-one should be judge in their own cause: There should be no actual bias, or the appearance of possible bias. This is sometimes summed up as “Justice must not only be done, but must be seen to be done”
- Hear the other party too: No-one should be judged without a fair process, in which they get to hear and respond to the evidence against them

In most instances it will be straightforward to ensure these principles are taken into account of when planning the safeguarding enquiry.

This would be done by making sure that:

- The enquiry is carried out by someone who will not be seen by others as possibly being biased. There should not be any concern that their actions, non-actions or decisions may have contributed to any actual or risk of abuse or neglect that the enquiry is considering
- The person or organisation that may have caused the abuse or neglect, or created the risk of these, is properly involved in the enquiry. Unless there are good enough reasons not to, they should know what the concern about them is, and they should be given reasonable opportunities to give their account. This might involve them having support or advocacy to do this. The planning of the enquiry from the earliest stages should take account of how this will be done.

## **11 The Mental Capacity Act in adult safeguarding work**

Consideration should be given to whether the person can make a decision about "what should I do to protect myself from the abuse or neglect, or the risk of these that I am

facing". If there is a belief that they may not be able to then an assessment of capacity and, if required, a best interest decision may be required in relation to this decision in line with the requirements of the Mental Capacity Act 2005.

A best interest decision in the context of an adult safeguarding enquiry might require consultation with the person who is the source of risk, if they are required to be consulted with under section 4 of the Mental Capacity Act 2005.

## **12 Single agency policies and procedures**

The Care and Support statutory guidance makes a number of references to what each organisation should have in place by way of policies, procedures and guidance and what these should say, such as

- Paragraph 14.52 says "In any organisation, there should be adult safeguarding policies and procedures."
- Paragraph 14.223 says "All voluntary organisations that work with adults need to have safeguarding procedures and lead officers."

The Board has developed [guidance on producing an adult safeguarding policy and procedure](#), for organisations that work with Lambeth citizens.

It is expected that providers will have other policies and procedures related to safeguarding children and adults. The LSAB has developed a list of policies which the LSAB expects providers to have in place (where these are applicable to their service). These are outlined in appendix D.

## 13 Safeguarding Adults Reviews

Section 44 of the Care Act 2014 requires that the Lambeth Safeguarding Adults Board must arrange for there to be a review of cases involving an adult in its area with needs for care and support (whether or not the local authority has been meeting those needs) when an adult in its area dies or experiences significant harm as a result of abuse or neglect, whether known or suspected, and there is concern that partner agencies could have worked more effectively to protect the adult.

Any LSAB member, external provider or health or social care person can refer a case to the LSAB where they believe the above threshold has been met, using the SAR referral form on the [LSAB website](#).

The Safeguarding Adults Review (SAR) subgroup of the Board is responsible for

- Reviewing requests to the Board to consider commissioning a Safeguarding Adults Review (SAR) under S44 of the Care Act 2014 and deciding whether the duty for a SAR has been met or to exercise the discretionary power to arrange for a SAR
- Setting the terms of reference and determining the method for those SARs
- Overseeing the progress of SARs
- Monitoring the recommendations from SARs and that associated actions have been addressed by the multi-agency partnership and individual agencies.
- Providing assurance to LSAB on the progress of SARs that are underway and the implementation of action plans for completed SARs
- Advising LSAB on the learning from SARs carried out in other areas, and any early learning from SARs underway in Lambeth that can be identified in advance of the completion of those SARs

The Chair of the SAR subgroup has discretion to take actions on behalf of the group where this is needed for matters of expediency. When doing so the Chair will make reasonable efforts to consult with members of the subgroup and the Chair of the Board before taking any action.

The LSAB has agreed a stand-alone [policy and procedure on Safeguarding Adults Reviews](#) to supplement this policy and procedure.

## 14 NHS Health or Mental Health Serious Incidents and Safeguarding Adults Work

The coordination of serious incident investigations / safeguarding enquiries requires shared understanding of each organisations statutory and legal responsibilities, effective communication, transparency, learning and co-operation across the multi-agency safeguarding adults partnership.

Serious incidents are events in health care where the potential for learning is so great, or the consequences to patients, families and carers, staff or organisations are so significant, that they warrant investigating under the Serious Incident process. Serious incidents can be isolated, single events or multiple linked or unlinked events signalling systemic failures within a commissioning or health system.

A number of events that are reported as a serious incident are often safeguarding concerns too (for example, neglect or poor care in a health setting). Whilst such incidents should always be a serious incident and reported as serious incidents they are also a safeguarding concern and a notification must also be raised in line with these procedures.

As the focus of the safeguarding enquiry is different to the Serious Incident investigation, the findings of one do not in itself determine the conclusions of the other. The process of one should not delay the other. The Lead Enquiry Officer for the safeguarding enquiry and the lead undertaking the serious incident investigation must plan and co-ordinate the approach and tasks within both these processes.

## 15 Criminal investigations and Safeguarding Adults Work

Everyone is entitled to the protection of the law and access to justice. Behaviour which amounts to abuse and neglect also often constitutes criminal offences. Effective, efficient and continual co-operation and communication between health and social care services and the police is required to understand whether criminal offences have taken place.

Communication is required in both directions:

- If the police are investigating an offence and have concerns that the victim has experienced abuse or neglect due to their care and support needs, they must ensure that the local authority are aware and have been notified.
- If any health or social care worker notices or is made aware of unexplained injuries to an adult at risk, the police must be made aware immediately by calling 101. This will ensure all details and decisions are fully recorded and where appropriate an Investigating Officer is assigned to be part of the planning for safeguarding enquiry.

The timing of information sharing with the police is crucial in order not to miss forensic opportunities relating to a crime scene. A criminal investigation by the police takes priority over all other enquiries, although a multi-agency approach should be agreed to ensure that the



interests and wishes of adults are considered throughout, even if they do not wish to provide any evidence or support a prosecution.

## **16 Quality of service issues and adult safeguarding concerns**

The care provider needs to consider whether any incident or concern should be referred as a safeguarding concern to the Local Authority, and to other organisations such as their regulator (CQC), and commissioners. The care provider will also need to consider if it does not raise an incident/concern as a safeguarding concern how that will be recorded, and who this incident needs to be reported to.

Incident procedures cover a wide range of issues including minor incidents that may happen as a result of issues to do with practice or the quality of care provided. It is the provider manager's responsibility to ensure these are addressed proactively and effectively through internal processes and to ensure the service they provide meets the required standards of care.

Managers and staff are responsible for taking appropriate action in line with their own policy and procedures for incident reporting. This should reflect the Care Quality Commission's Compliance to Essential Standards of Quality and Safety.

Consideration should also be given, depending on the nature of the incident, as to whether it may be necessary to notify relevant parties such as relatives, or any external agencies or organisations due to contractual or regulatory requirements.

Where an incident occurs where abuse or neglect is suspected a safeguarding concern should be raised.

## **17 Missed home care visits, missed medication and medication errors**

These are areas that have caused challenges to services in determining whether and how they relate to adult safeguarding enquiries.

Decision making about this has sometimes been based on issues such as degree of harm or whether they are part of a pattern. These are not relevant issues for deciding whether a matter is a safeguarding concern or whether there is a duty to have an adult safeguarding enquiry. Presence, absence or scale of harm is irrelevant in the context of s42 of the Care Act. The test in s42 applies even where there is only risk of abuse or neglect, so there does not need to be any actual harm. 14.17 and 14.18 of the Care and Support statutory guidance have neither a harm test nor a distinction between minor or major incidents. One-off incidents are specifically included.

These issues can, however, be very relevant in deciding what an adult safeguarding enquiry will involve and what actions will be required. The expectation of the Lambeth Safeguarding Adults

Board is that a safeguarding concern should be raised on those occasions when it is considered the person has been at risk of abuse or neglect due to the visit being missed, medication being missed or a medication error occurring.

Where there is an adult safeguarding concern about such issues, the provider of the service should act in line with paragraphs 14.68 – 14.75 of the Care and Support statutory guidance.

The employer should review the concern against their own organisational policies and procedures and escalate to the LA where the criteria is met.

## 18 References

- [London Multi-Agency Adult Safeguarding Policy and Procedures](#)
- [Lambeth \(london wide agreed\) information sharing agreement](#)
- [Care Act statutory guidance](#)

## 19 Other relevant policies and procedures

- [Understanding existing definitions of 'vulnerable' in relation to Adult Safeguarding](#): This short document has been compiled to help improve understanding of how different organisations define a 'vulnerable' adult, and to highlight the different terminology introduced by the Care Act in 2014 which now refers to an 'adult at risk'.
- [Self-Neglect guidance](#): This guidance has been written to help provide a clearer pathway for all staff and practitioners in Lambeth to follow when dealing with people who are self-neglecting or hoarding.
- [LSAB Safeguarding Adults Review \(SAR\) policy and procedure](#)
- [LSAB MCA Charter and Guidance](#)

## Appendix A: Meeting the expectations on a SAB

Paragraph 14.139 sets out a number of things a SAB should do. The table below sets out how Lambeth SAB does or will meet those expectations.

Expectation: "Each SAB should ...	How it is or will be met
Identify the role, responsibility, authority and accountability with regard to the action each agency and professional group should take to ensure the protection of adults	Incorporated in the guidance for organisations that work with Lambeth citizens on producing an adult safeguarding policy and procedure
Establish ways of analysing and interrogating data on safeguarding notifications that increase the SAB's understanding of prevalence of abuse and neglect locally that builds up a picture over time	All safeguarding adults work in Lambeth is overseen by Lambeth Council Adult Social Care or SLaM, and these organisations capture the relevant data.  The Board has arrangements in place for receiving the data, which it keeps under review.
Establish how it will hold partners to account and gain assurance of the effectiveness of its arrangements	The Board receives assurance information at each of its meetings, and it keeps its arrangements for this under review.
Determine its arrangements for peer review and self-audit	The Board has arrangements in place, and it keeps these under review.
Establish mechanisms for developing policies and strategies for protecting adults which should be formulated, not only in collaboration and consultation with all relevant agencies but also take account of the views of adults who have needs for care and support, their families, advocates and carer representatives	The Board has this policy in place and shall keep it under review. It will make use of its Community Reference Group to gain the views of residents, service users, families and representatives
Develop preventative strategies that aim to reduce instances of abuse and neglect in its area	These are clearly outlined in Board policy and guidance documents. These are also incorporated into the Lambeth SAB's annual strategic plan as required
Identify types of circumstances giving grounds for concern and when they should	This is set out in this policy and in the guidance for organisations that work with Lambeth citizens on producing an adult safeguarding policy and procedure

be considered as a referral to the local authority as an enquiry	
Formulate guidance about the arrangements for managing adult safeguarding, and dealing with complaints, grievances and professional and administrative malpractice in relation to safeguarding adults	<p>This is set out in this policy and in the guidance for organisations that work with Lambeth citizens on producing an adult safeguarding policy and procedure</p> <p>The LSAB also has a Managing allegations against People in positions of Trust which board members can use to develop procedures in relation to this.</p>
Develop strategies to deal with the impact of issues of race, ethnicity, religion, gender and gender orientation, sexual orientation, age, disadvantage and disability on abuse and neglect	These are clearly outlined in Board policy and guidance documents. These are also incorporated into the Lambeth SAB's annual strategic plan as required
Balance the requirements of confidentiality with the consideration that, to protect adults, it may be necessary to share information on a 'need-to-know basis'	This is set out in this policy and in the guidance for organisations that work with Lambeth citizens on producing an adult safeguarding policy and procedure
Identify mechanisms for monitoring and reviewing the implementation and impact of policy and training	These will be incorporated into the annual strategic plan as required
Carry out safeguarding adult reviews and determine any publication arrangements	The Board has a separate policy and procedure on the arrangements for these
Produce a strategic plan and an annual report	The Board shall produce these each year
Evidence how SAB members have challenged one another and held other boards to account	This will be evidenced by the minutes of the meetings of the Board and its subgroups, and will be summarised in the Board's Annual Reports

<p>Promote multi-agency training and consider any specialist training that may be required. Consider any scope to jointly commission some training with other partnerships, such as the Community Safety Partnership</p>	<p>These will be incorporated into the annual strategic plan as required</p>
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## Appendix B: The “Decision Making Tree”

The Care and Support statutory guidance has a “Decision Making Tree” labelled Diagram 1B. A number of issues have been identified with this diagram.

### Diagram 1B part 1

- It fails to use standard flowchart symbols, leaving the meaning of parts of the diagram unclear
- There is no clear starting point
- The starting point can be inferred to be the box titled “Section 42 duty continues”, but it is unclear what preceded this
- That box has two routes of exit, without a decision given that would determine which path to follow
- There are two instances of boxes being connected in ways that are impossible to comply with
  - The boxes labelled “Further action needed ...” and “Continue to work ...”
  - The boxes labelled “Safeguarding plan ...” and “Review plan”
- The box labelled “Continue to work ...” has two connectors leaving it, without a decision given that would determine which path to follow
- One of the connectors leaving the box labelled “Continue to work ...” leads to one of the outcomes of a decision without going via that decision, which cannot be made sense of
- The box “Evaluate needs for other outcomes ...” leads to either a “Yes” or “No” option, when no closed question leading to a yes or no answer has been posed
- The path from “Evaluate needs for other outcomes ...” which leads to “No” comes to a dead end
- The path from “Final evaluation of outcomes” later comes to “Evaluation of outcomes”,
  - It is unclear what the difference is between the two evaluations
  - It is not logical for the “final evaluation” to precede the “evaluation”

### Diagram 1b Part 2

- It fails to use standard flowchart symbols, leaving the meaning of parts of the diagram unclear
- It starts with a box labelled “Local Decision Making Process”, the meaning of which is unclear. It is also unclear what the relationship is with Diagram 1b Part 1
- The box labelled “agree who is to take the action” appears to relate to the decision making after an adult safeguarding enquiry, about what actions, if any, are required and who by. The implication is that the enquiry has by now been completed. However it is connected to a box which says “The local authority retains accountability and oversight of the enquiry”, which means the enquiry is still in progress. Both cannot be true at the same time.

- One route from “Next steps planned ...” leads to a box which says “Outcomes achieved. S42 duty ends. Agree other actions eg review care plans.” The other route leads to a box which says “Outcomes not achieved”
  - The inference is that if outcomes are not achieved, then the s42 duty has not ended but the path leads to a dead end, so there is no indication of what is expected in order to discharge the duty
  - The duties in the Act are about decision making about the enquiry and the subsequent actions, so tying them to meeting outcomes would be extending the duty in the Act beyond the limits of the legislation
  - It is not made clear what outcomes are being referred to and who has set them. If it is assumed that this means the outcomes set by the adult, then it is possible that they may set outcomes that cannot be reasonably met. It cannot be reasonable for the local authority to be under an open-ended duty in relation to something it cannot reasonably be expected to do.

## Appendix C: Timeliness

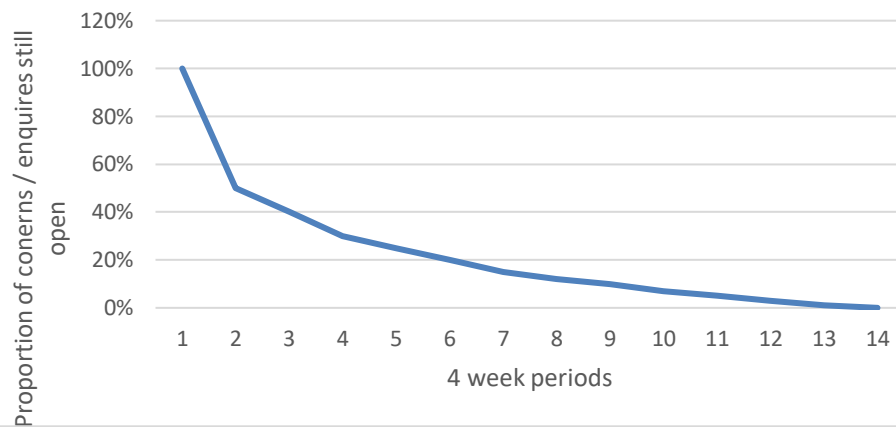
Being mindful of the relevance to adult safeguarding of comments by Eileen Munro regarding how arbitrary timescales can skew practice in child protection work in her review of that area, Lambeth Safeguarding Adults Board notes

- The timescales in the London policy and procedures can be of some use case-by-case, but are likely to be deviated from for reasonable purposes in many instances
- The model below sets out a useful way of measuring timeliness across cohorts of cases, and measuring against these expectations will be the Board’s primary means of assuring timeliness
- These proportions of cases open per month since concern relate to all concerns, whether or not they lead to enquiries. However, as the decision of whether a concern should lead to an enquiry is a key one and the timeliness of this is a strong determinant of whether or not the adult safeguarding work is effective, the expectation is that a decision is reached whether a concern will lead to an adult safeguarding enquiry by the end of the working day after the local authority becomes aware of the concern
- The proportions are based on lunar months (4 week months, 13 per annum) to avoid the different calendar month lengths distorting performance reporting

<b>Weeks since concern</b>	<b>Percent of cases open at end of period</b>
<b>0</b>	100%
<b>4</b>	50%
<b>8</b>	40%
<b>12</b>	30%
<b>16</b>	25%
<b>20</b>	20%
<b>24</b>	15%
<b>28</b>	12%
<b>32</b>	10%
<b>36</b>	7%
<b>40</b>	5%
<b>44</b>	3%
<b>48</b>	1%
<b>52</b>	0%



## Adult Safeguarding Concerns & Enquiries expected completion times



## 20 Appendix D – Policy requirements for Providers

<b>Chaperone Policy</b>	Which is applicable to children and adults
<b>Consent to Treatment Policy</b>	Which covers children and adults. This must make explicit reference to MCA and Gillick competence/Fraser guidelines.
<b>Choking Policy</b>	
<b>Deprivation of Liberty Safeguards (DoLS) 2009</b> (Oct 2020 - replace with Liberty Protection Safeguards (LPS) )	Will ensure that staff practice in accordance with legislation and any updated guidance
<b>Domestic Abuse Policy</b>	
<b>Domestic Abuse Workforce Policy</b>	
<b>Fall Management Policy/Protocol</b>	Supporting risk assessment, personalised care plan and least restrictive option. The falls policy will include guidance on which falls constitute a safeguarding concern.
<b>Key Safe Policy</b>	
<b>Medication Administration Policy</b>	Including covert administration and best interest decision making processes
<b>Nutrition and Hydration Policy</b>	With recommended assessment tool, which includes a risk of choking and best interest decision making processes
<b>Policy in relation to Severance Agreements</b>	Makes it explicit that no payments will be made to encourage staff to withhold any concerns about care quality and patient safety
<b>Record Keeping Policy</b>	Which outlines the minimum national standards in relation to accurate and safe record keeping
<b>Restriction/Restraint Policy</b>	Compliant with the Mental Capacity Act (MCA) covering the use of all forms of restraint. The restraint policy must include children and rapid tranquilisation as appropriate.
<b>Safeguarding Policy</b>	Reflects the Children Act 2004 and the Care Act 2014, and is compliant with the LSCB Safeguarding Children Procedures, LSAB Safeguarding Adults Policy, and includes specific information on Child Sexual Exploitation (CSE), Missing, Exploited and Trafficked, Female Genital Mutilation (FGM), Prevent, Looked after Children and Modern-Day Slavery
<b>Safeguarding Supervision Policy</b>	Sets out the requirements of the workforce in relation to the requirement for supervision for staff working directly with children and adults. The organisations supervision policy will clearly outline the process for enabling all staff who work directly with families,

	including those in adult services, to access supervision and also the level and frequency of supervision provided to all staff including the Named Professionals and Safeguarding Leads
<b>Safer Recruitment Policy</b>	Including DBS checks for staff and volunteers working with children and adults
<b>Serious Incident Policy</b>	
<b>Whistle Blowing Policy</b>	Reflects the Public Interest Disclosure Act 2012 and covers arrangements for staff to express concerns both within the organisation and to external agencies. The provider will ensure that appropriate, relevant, accessible information is available at all times in all areas to staff, users and carers and the wider public in relation to whistleblowing. The information will inform the public and staff how to report concerns or allegations.