



Lambeth Safeguarding Adult Board

ADULT SAFEGUARDING
POLICY

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Version Control

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Documents superseded

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Table of Contents

1	Policy Statement	4
2	Context for this policy	5
3	Applying the Care Act 2014 in Lambeth	6
3.1	The meaning of “care and support needs”	6
3.2	The meaning of “is experiencing, or is at risk of, abuse or neglect”	6
4	Applying the Care and Support Statutory Guidance in Lambeth	8
4.1	The Decision Making Tree (Diagram 1B).....	8
4.2	Self-neglect.....	8
5	Applying the London Multi-Agency Adult Safeguarding Policy and Procedure in Lambeth 10	
5.1	Carers and adult safeguarding	10
5.2	Hoarding.....	10
5.3	Consent	10
5.4	Local authorities, NHS partnerships and section 42 of the Care Act	11
5.5	Timescales	11
5.6	Organisational abuse.....	12
5.7	Thresholds	12
6	Single agency policies and procedures	13
7	Safeguarding Adults Reviews	14
8	Appendix A: Meeting the expectations on a SAB	15
9	Appendix C: The “Decision Making Tree”	18
9.1	Diagram 1B part 1	18
9.1.1	Diagram 1b Part 2	18
10	Appendix C: Timeliness	20

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.

Appendix A to this policy sets out how LSAB meets the expectations on a Safeguarding Adults Board set out in the Care and Support Statutory guidance.

LSAB shall have a constitution that sets out how it shall operate.

This policy, and the procedure that accompanies it, set out the expectations LSAB has of

- What should be done to help prevent the abuse and neglect of adults in Lambeth with care and support needs
- What should be done to respond to a concern that a person in Lambeth who has care and support needs is experiencing, or is at risk of, abuse or neglect that they cannot protect themselves from

2 Context for this policy

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

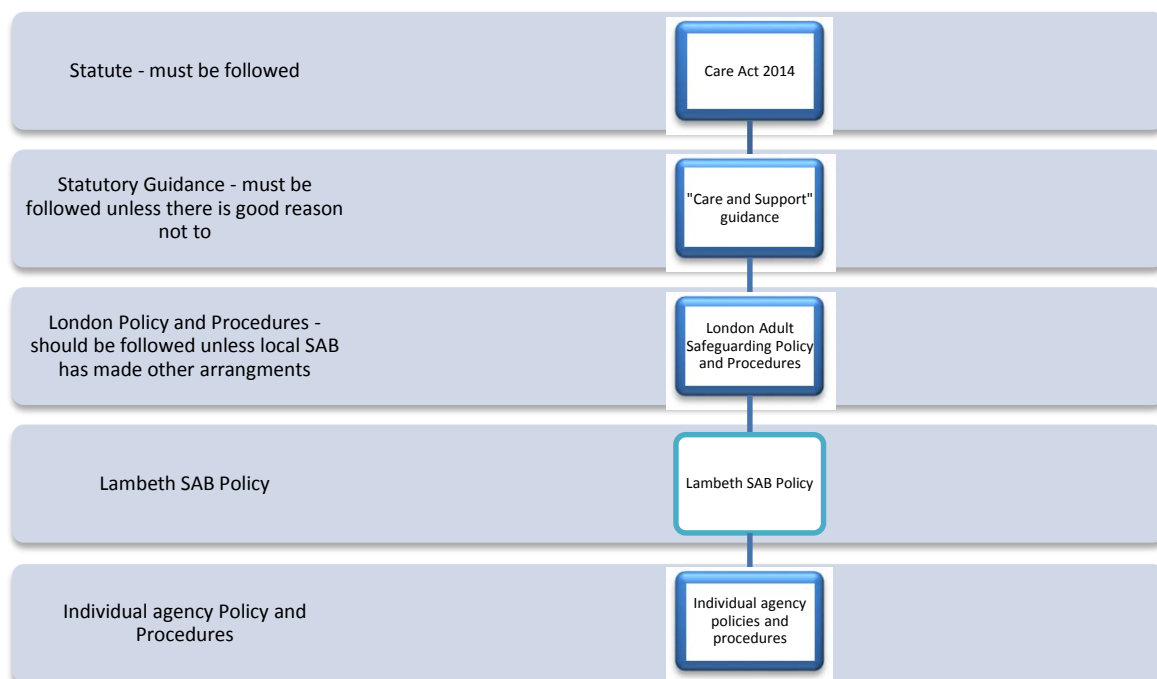


Diagram 1: Hierarchy of adult safeguarding law, guidance, policy and procedures

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.

3 Applying the Care Act 2014 in Lambeth

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

3.1 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.

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.

Unless and until there the statutory guidance or case law say otherwise, the position of LSAB is that care and support needs in the context of adult safeguarding issues should be taken to mean needs that arise from or are related to a physical or mental impairment or illness.

3.2 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
- 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. These are not matters that should lead to a decision not to 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 Quality and Safeguarding Adults Service and / or escalating the matter.

4 Applying the Care and Support Statutory Guidance in Lambeth

Statutory Guidance should be followed unless there is good reason not to. Lambeth Safeguarding Adults Board believes there to be good reason to deviate from the Care and Support statutory guidance in the following areas.

4.1 The Decision Making Tree (Diagram 1B)

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 73 of the London Adult Safeguarding Policy and Procedures should be used instead of Diagram 1B.

4.2 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 adult safeguarding enquiry is not the best response to a concern about self-neglect or hoarding. Conditions that make it more likely to overturn this assumption on a particular case include, but are not limited to:

- The presence of factors such as
 - There is a concern that 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
 - The person refuses to engage with necessary services
 - 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
- 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 Applying the London Multi-Agency Adult Safeguarding Policy and Procedure in Lambeth

5.1 Carers and adult safeguarding

Section 2.6.6 of the London Policy and Procedure says “Where there is intentional abuse, adult safeguarding under Section 42, the Care Act should always be considered.”

This is not correct. Section 42 of the Care Act 2014 applied only to adults with care and support needs. For the purposes of the Care Act, carers are people with support needs and are not covered under section 42

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.

5.2 Hoarding

Section 2.6.1 of the London Policy and Procedure says “Hoarding does not fall under adult safeguarding but might be considered as safeguarding in the wider sense under the umbrella of prevention which is in the remit of the Safeguarding Adults Board.”

This has been superseded by the revised Care and Support statutory guidance, which should be used as the guide on this basis.

5.3 Consent

Section 3.1.2 of the London Policy and Procedures, on consent and adult safeguarding, is incomplete as it does not make the 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.

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.

5.4 Local authorities, NHS partnerships and section 42 of the Care Act

Section 4.3.1 of the London Policy and Procedures says partnership agreements under Section 75 of the NHS Act 2006 can allow health partners to make decisions under s42 of the Care Act 2014, as these are partnership arrangements and not delegation. Local authorities are not allowed to delegate their duties under section 42 of the Care Act 2014.

The position on this has not been tested in law, and not all organisations might take the same position so this must be an issue of negotiation between relevant organisations.

5.5 Timescales

Section 4.3.11 gives indicative timescales. In Lambeth a different approach to timeliness has been in use which helps align the use of the timescales with principles of good practice.

Lambeth will adopt the timescales described in Section 4.3.11. 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. However, there should be clear planning about what is the right timescale for each case and effective monitoring to ensure this is kept to.

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

LSAB will receive assurance by monitoring the overall patterns of timeliness as described in Appendix C.

5.6 Organisational abuse

The definition of Organisational Abuse given in section 5.7.1 of the London Policy and Procedure is incorrect. In Lambeth, we will apply the definition given in the Care and Support statutory guidance.

5.7 Thresholds

Page 99 of the London Policy and Procedure gives a table on thresholds. This table is based on the previous arrangements in Wales so is not compatible with the Care Act.

In Lambeth

- The threshold for an adult safeguarding concern is as per page 65 of the London Policy and Procedures
- The threshold for an adult safeguarding enquiry is as per the tests in section 42 of the Care Act 2014
- Page 99 of the London Policy and Procedure is to be disregarded

6 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 will produce guidance for organisations that works with Lambeth citizens on producing an adult safeguarding policy and procedure.

7 Safeguarding Adults Reviews

The Board will agree a stand-alone policy, procedure and guidance on Safeguarding Adults Reviews to supplement this policy and procedure.

8 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 the stakeholders
develop preventative strategies that aim to reduce instances of abuse and neglect in its area	These will be incorporated in to the 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

be considered as a referral to the local authority as an enquiry	Lambeth citizens on producing an adult safeguarding policy and procedure
formulate guidance about the arrangements for managing adult safeguarding, and dealing with complaints, grievances and professional and administrative malpractice in relation to safeguarding adults	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
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 will be incorporated in to the 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 in to the annual strategic plan as required
Carry out safeguarding adult reviews and determine any publication arrangements	The Board has separate guidance 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
Promote multi-agency training and consider any specialist training that may be required. Consider any scope to jointly commission	These will be incorporated in to the annual strategic plan as required

some training with other partnerships, such as the Community Safety Partnership	
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9 Appendix C: 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.

9.1 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”

9.1.1 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.

10 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

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

Adult Safeguarding Concerns & Enquiries expected completion times

