Lambeth Adult Social Care
SUPPORTING INCLUSION & INDEPENDENCE

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ADULT SOCIAL CARE SAFEGUARDING ADULTS AND CHILDREN

POLICY

Applicable to:	All staff in Adult Social Care

Approval date	01/04/2015
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Approver	Richard Sparkes

Lambeth

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1 Policy Statement

Lambeth Council has a corporate outcome of “Safer Communities”, which includes the aims of

- “Vulnerable children and adults get support and protection” and
- “Older, disabled and vulnerable people can live independently and have control over their lives”

Our safeguarding adults work is an important part of the contribution of Adult Social Care Delivery to achieving these aims. The aim of this policy is to set the direction for our safeguarding adults work.

2 Purpose, context and objective

The purpose and objective of this policy is that, by setting the direction of our safeguarding adults work, we will do better at

- Promoting the wellbeing of Lambeth citizens with care and support needs who are experiencing or at risk of abuse and neglect
- Reducing the risks that they face
- Responding when concerns arise in ways that the person with care and support needs finds useful, and which do what is needed to meet the aims of securing justice, promoting recovery and preventing reoccurrence

The context for this policy is

- The Care Act 2014, the Care and Support Statutory Guidance, and the associated regulations: These create the legal framework for safeguarding adults work, within which this policy must operate. In particular, the statutory guidance has expectations of what must be covered in the policies and processes of all partners involved in safeguarding adults work, and some particular requirements for local authorities regarding their decision-making role in safeguarding enquiries
- Making Safeguarding Personal: A sector-led improvement initiative which emphasises that safeguarding adults enquiries and reviews must be keep the adult with care and support needs at the centre and in control as much as possible. Making Safeguarding Personal says that important measures of the effectiveness of enquiries and reviews is how well they done in finding out what outcomes the person wants, and then meeting these outcomes
- The London Safeguarding Adults Policies and Procedures have been adopted by Lambeth Safeguarding Adults Partnership Board and by Lambeth Council, so this policy sits within that context and avoids repeating what is in that unless it is required here for clarity

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- Lambeth Safeguarding Adults Partnership Board sets the local context and will place expectations on the Council

3 Principles

The work of Lambeth Adult Social Care delivery sub-cluster in relation to safeguarding adults will be carried out in line with principles drawn from a number of sources. See Appendix 4 for a summary of these.

3.1 Lambeth's "Safer Communities" Corporate Outcome

- Vulnerable children and adults get support and protection
- Older, disabled and vulnerable people can live independently and have control over their lives

3.2 Our "Adult Social Care Commitment"

3.2.1 The outcomes we are seeking

- Greater number of people who are supported to maintain a good quality of health and wellbeing in their own home
- Reduction of the number of people we directly support as they take charge of their own care and support
- An increase in the number of people who successfully complete a programme of recovery or rehabilitation
- An increase in the number of people who lead healthy lives and are free from abuse and harm.

3.2.2 We will do this by

- Creating community solutions
- Empowering risk management
- Spending public money wisely
- Partnership with health professionals
- Partnership with providers
- Skilled and informed workforce

3.3 The Government's six principles for safeguarding adults

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- Empowerment
- Prevention
- Proportionality
- Protection
- Partnership
- Accountability

3.4 The Care Act 2014

The Care Act 2014 says

- “Local authorities must promote wellbeing when carrying out any of their care and support functions in respect of a person.”
- “Wellbeing includes … protection from abuse and neglect”

3.4.1 Section 42 and Safeguarding Adults Enquiries

Section 42 of the Care Act sets out the duties on the local authority regarding Safeguarding Adults Enquiries. It says

1) This section applies where a local authority has reasonable cause to suspect that an adult in its area (whether or not ordinarily resident there)
    a. has needs for care and support (whether or not the authority is meeting any of those needs),
    b. is experiencing, or is at risk of, abuse or neglect, and
    c. as a result of those needs is unable to protect himself or herself against the abuse or neglect or the risk of it.
2) The local authority must make (or cause to be made) whatever enquiries it thinks necessary to enable it to decide whether any action should be taken in the adult’s case (whether under this Part or otherwise) and, if so, what and by whom.
3) “Abuse” includes financial abuse; and for that purpose “financial abuse” includes—
    a. having money or other property stolen,
    b. being defrauded,
    c. being put under pressure in relation to money or other property, and
    d. having money or other property misused.

3.5 Making Safeguarding Personal

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Making Safeguarding Person (MSP) is a sector-led improvement programme which promotes a shift in safeguarding adults practice from a focus on process to a focus on working with people experiencing abuse or neglect to achieving the outcomes that have meaning for them. This involves

- developing a real understanding of what people wish to achieve,
- agreeing, negotiating and recording their desired outcomes,
- working out with them (and their representatives or advocates if they lack capacity) how best those outcomes might be realised
- and then seeing, at the end, the extent to which desired outcomes have been realised.

3.6 The Human Rights Act 1998

In particular Article 2: Right to life

- Article 3: No one shall be subjected to torture or to inhuman or degrading treatment or punishment.
- Article 4: Prohibition of slavery and forced labour
- Article 5: No one shall be deprived of his liberty save … in accordance with a procedure prescribed by law
- Article 8: Right to respect for private and family life

3.7 The Mental Capacity Act 2005

- A person must be assumed to have capacity unless it is established that they lack capacity.
- A person is not to be treated as unable to make a decision unless all practicable steps to help him to do so have been taken without success.
- A person is not to be treated as unable to make a decision merely because he makes an unwise decision.
- An act done or decision made under this Act for or on behalf of a person who lacks capacity must be done, or made, in his best interests.
- Before the act is done, or the decision is made, regard must be had to whether the purpose for which it is needed can be as effectively achieved in a way that is less restrictive of the person's rights and freedom of action

3.8 Public Sector Equalities Duty

The Equality Act 2010 created an Equalities Duty on public bodies.

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We will, when carrying out our day-to-day work with all people who may have impaired capacity to make decisions and their families and others in their lives,

- have due regard to the need to eliminate discrimination
- advance equality of opportunity
- foster good relations between different people when carrying out their activities

The procedures and any guidance that accompany this policy will set out ways of working that will incorporate these elements.

3.9 Natural Justice

Natural justice is a term in law for the rule against bias. It is part of a general duty to act fairly. There are two key principles to natural justice

- 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

4 Scope

This policy applies to all staff in the Adult Social Care sub-cluster of Lambeth Council’s Delivery cluster.

Those staff made available to South London and Maudsley NHS Mental Health Foundation Trust (SLaM) services will also need to work in line with SLaM policies and procedures. As both are based on the London Policy and Procedures there will be no major conflicts, but there is scope for minor differences to arise. Staff should consult their manager for advice on any points of clarification required.

5 Arrangements for Safeguarding Adults work

Adult Social Care delivery sub-cluster follows the 2014 care and support statutory guidance and in particular chapter 14, and subject to local variations agreed by Lambeth Safeguarding Adults Partnership Board the London Safeguarding Adults Policy and Procedure (SCIE Report 39), Adult Social Care delivery sub-cluster shall

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produce its own safeguarding adults procedures, guidance and standards to support meeting the aims of this policy.

5.1 Arrangements for safeguarding adults enquiries within services and teams

The particular arrangements within any team or service at any given time are a matter for local decision by the managers of that team or service, but those decisions will be informed by these expectations:

5.1.1 Responsibilities of particular staff

All staff across the Council have a role to play in safeguarding adults, however there are particular responsibilities on those staff who

- Discharge the Council's duties in s42 of the Care Act, in deciding what a safeguarding enquiry will consist of and, when it is complete, determining what actions, if any, are to be taken and who by
- Undertake any actions on behalf of the Council that contribute to or are a result of a Safeguarding Adults Enquiries and Reviews

5.1.2 Lead responsibilities within teams

As far as is practicable in the context of other demands

- Teams and services will have staff with lead responsibility for undertaking and for managing safeguarding adults work.

  Those staff will have a social work qualification

5.2 The Quality Assurance and Safeguarding Unit

In regards to safeguarding adults work, the Quality Assurance and Safeguarding Unit will

- Provide advice and support to those managing safeguarding enquiries on a case-by-case basis
- Provide regular forums for those with lead responsibility roles for safeguarding adults and, less frequently, for wider groups across Lambeth Council, partner agencies and user groups
- Undertake quality assurance, scrutiny and challenge work. This will include
  - o Annual monitoring of safeguarding arrangements for adults and children
  - o Supporting the sub-cluster with producing action plans to address issues arising from this auditing
  - o Communicating the audit outcomes and the action plans to staff

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- Support the functioning of Lambeth Safeguarding Adults Partnership Board
- Support the undertaking of Safeguarding Adults Reviews by the Board
- Produce and maintain good practice guidance. It will be made available as widely as possible through such means as the Adult Social Care SharePoint which will include o detail on how to apply the legal obligations as set out in the 2014 Care Act and the care and support statutory guidance, London policy and procedures in Lambeth Adult Social Care reflect emerging information on best practice, national and regional developments and guidance, and so on. o Include key learning from research, peer reviews, case law, recent cases and Safeguarding Adults Reviews

6 Recording

Good record keeping is essential for all agencies so that if they are challenged, they are able to demonstrate that decisions were not taken unlawfully or with maladministration. Defensive record keeping can easily become poor record keeping. This renders decision making opaque and difficult to defend against challenge.

The Human Rights Act 1998 brought into English law a distinct and different approach to thinking about rights, responsibilities and remedies. Also, courts appear increasingly willing to hold local authorities and individual practitioners to legal account. In addition, documentation in relation to the Safeguarding Adults process can be central in providing supported evidence when making referrals to the Disclosure and Barring Service Barred List.

In light of this, the importance placed on keeping detailed, accurate records is crucial. Record keeping is an integral part of professional practice and should assist the process. It demonstrates accountable actions and helps to focus work. It is essential to 'evidence' actions and decision making through record keeping. Simply stating the decision and action taken without giving the reasoning behind this is not acceptable. Evidencing decision making, even if the actions taken turn out to be problematic, will help to demonstrate intentions.

Records must be kept from the time that a concern is received or identified by the local authority.

The guidance produced by the Quality and Safeguarding Adults Service will give details of expectations and arrangements around recording.

7 Expectations on staff when they suspect or encounter abuse of adults in vulnerable situations

7.1 Abuse or neglect of adults with care and support needs

The initial response should follow the process outlined in the care and support statutory guidance paragraphs 14.77 – 14.98 in conjunction with London Policy and Procedures.

All those who express concern will be treated seriously and will receive a positive response from managers.

If a member of staff is concerned that their immediate line manager has not taken action in response to a concern being raised, there are a number of options open to them, to be considered:

1. Raise this with their line-manager’s manager
2. If, having done this, they still have concerns they can contact a Quality and Safeguarding Adults Manager, the Principal Social Worker, or the Head of Quality and Safeguarding Adults
3. If, having done this, they still have concerns they should consider making use of the Council’s Whistleblowing Policy

7.2 Referral point for safeguarding adults concerns

The referral point in Adult Social Care for adult safeguarding concerns is via the Initial Contact Team, except where

- The person making the referral is aware of the allocated social worker / assessor / Occupational Therapist for that team, in which case they may report the concern directly to them

- The person identifying the concern or who it is disclosed to is the allocated social worker / assessor / Occupational Therapist, who will then initiate the process themselves

Monday to Friday 9am to 5pm, the Initial Contact Team can be reached via 020 7926 5555 or at

https://www.lambeth.gov.uk/adult-social-care-and-health/safeguarding/report-concern-about-adult/report-neglect-or-abuse-adult

At other times, call the Emergency Duty Team on 020 7926 1000

7.3 Referral point for child safeguarding concerns

Information about raising concerns about a child can be found on Lambeth Council's website.

7.4 Sources of advice

Action on Elder Abuse
Helpline: 080 8808 8141
Email: enquiries@elderabuse.org.uk
www.elderabuse.org.uk

Ann Craft Trust
0115 951 5400
www.anncrafttrust.org

Respond
0808 808 0700

8 Managing allegations against employees and volunteers

Information and guidance regarding managing allegations against people in a position of truce can be found here.

https://www.lambethsab.org.uk/sites/default/files/2025-05/LSAB%20PiPOT%20Framework.pdf

9 Referrals to the Disclosure and Barring Service

The Guidance referred to in section 8 will cover the role of adult social care delivery staff in regard to the making of referrals to the Disclosure and Barring Service by Adult Social Care, covering both

Referrals that are being made under s35 of the Safeguarding Vulnerable Groups Act 2006. This relates to where the local authority may be under a duty to refer one of its own employees or volunteers. The guidance will make clear how these will relate to HR processes and what the roles involved are

Referrals that are being made under s39 of the Safeguarding Vulnerable Groups Act 2006. This relates to the powers of the local authority to refer a person where there is risk of harm, and usually relates to an employee or volunteer in another organisation.

10 Roles and responsibilities

The relevant roles and responsibilities in regard to this policy are for those within Adult Social Care Delivery Sub-cluster with strategic responsibilities for safeguarding adults and children's work

10.1 Director of Adult Social Care

Overall responsibility for adult social care delivery
Member of Lambeth Adult Safeguarding Partnership Board
Member of Lambeth Safeguarding Childrens Board

10.2 Assistant Directors

Strategic management
Strategic risk management

10.3 Heads of Service

Senior operational management
May take the Safeguarding Adults Manager role, as defined in the London safeguarding adults policy and procedure, for high-risk or very complex cases

10.4 Head of Quality and Safeguarding Adults

Oversee the work of the Quality and Safeguarding Adults Service
Designated professional lead for safeguarding children in Adult Social Care Delivery

11 Monitoring, evaluation and review

Monitoring of this policy will be by Adult Social Care Leadership Board. It will be reviewed after two years.

12 References and associated documents

12.1 References

LSAPB Information Sharing Agreement

LSAPB Dispute resolution arrangements

12.2 Associated documents

New link to Pan London policy and procedure to be added when available

Lambeth Safeguarding Adults Board – Safeguarding Adults Policy which can be found here: Lambeth Safeguarding Adults Board

13 Appendices

13.1 Appendix 1: LSAPB local variations from London Policy and Procedures 2011 (SCIE 39)

Strategy meetings
At the discretion of the Safeguarding Adults Manager, the adult at risk may be invited to all or part of strategy meetings, as may any friends or family that they wish to attend even where that person may be the source of risk. Any decision to do so will

be clearly communicated to all those involved well in advance of the meeting, so that any adjustments can be made or concerns addressed.

Case Conferences
At the discretion of the Safeguarding Adults Manager, more flexibility can be taken with the arrangements for Case Conferences than is described in the London Policy and Procedure.
For example,

- The adult at risk may be present throughout.

- Rather than having the Case Conference as a single event, there may be a series of steps to ensure a shared understanding of issues and to make effective decisions about next steps

13.2 Appendix 2: Local arrangements for the period between the April 2015 implementation of the Care Act 2014 and the anticipated adoption of the revised London safeguarding adults policy and procedures

13.2.1 Timescales

Until the revised London policy and procedure is available, we shall work to the usually expected timescales in the 2015 London policy and procedures.

13.2.2 When will the local authority undertake a safeguarding enquiry relating to a health or social care provider service?

Lambeth Council must make enquiries or cause others to do so if they reasonably suspect an adult who meets s42 criteria is or is at risk of being abused or neglected.

Although Lambeth Council is the lead agency for making enquiries, it may require others to undertake them

Providers are under a duty to take action to correct abuse or neglect in their organisation and protect the adult from harm as soon as possible and inform the local authority and relevant agencies. (Paragraph 14.56 - 57 statutory guidance)

However, there are two triggers to the local authority giving consideration to who would be best placed to undertake an enquiry

- When a safeguarding concern first comes to the attention of the local authority. There are situations where the presumption to the provider undertaking the safeguarding adults enquiry might be set aside could include

o Where the concern involves a possible criminal investigation. The local authority should ensure there is early discussion with the police about whether they will lead the enquiry, and how the other partners should support them with this.

o Where the concern touches on more than one provider service and an effective enquiry cannot be completed by simply aggregating the contributions from parallel strands of the enquiry. This might be because there are material issues relating to the interfaces, overlaps or gaps between the various providers involved. The local authority would need to consider whether it or another organisation would be best placed to coordinate an enquiry that covered the breadth of issues.

o Where any actual or perceived matters result in a compelling reason why it is inappropriate or unsafe for the provider service to undertake the enquiry. For example, this could be a serious conflict of interest on the part of the employer, concerns having been raised about non-effective past enquiries or serious or multiple concerns. This could include situations such as the examples given in 14.59 of the Care and Support statutory guidance of a family-run business where organisational abuse is alleged, or where the manager or owner of the service is implicated.

- On receipt of a safeguarding enquiry from the provider service which does not satisfy the local authority that the employer's response has been sufficient to deal with the safeguarding issue. If the local authority has such concerns it should raise these with the provider service and give it a reasonable opportunity to put the matter right, unless there is urgency to the situation that makes this not practicable. If the provider service is unable to rectify the matter, or do so within a reasonable timeframe, then the local authority may either complete the enquiry itself, or cause another body which is better placed to do so. This could be a body such as a commissioner or regulator of the service, or some independent body with the necessary expertise.

Factors that the local authority would need to take in to account when making decisions about who is best placed to undertake a section 42 enquiry might include

- Whether there is a professional who already knows the adult. They may be a social worker, a housing support worker, a GP or other health worker such as a community nurse.
- Where the subject expertise to understand the issues relevant to the concern might be found. For example, if the concern relates to issues around

healthcare delivery, then the person(s) undertaking the enquiry should have relevant expertise or, at least, access to support from someone who has.

13.3 Appendix 3: The use of the Mental Capacity Act 2005 in complex cases: Learning from the Serious Case Review for Miss B

This appendix also appears in the ASC Mental Capacity procedures.

Serious Case Review for Miss B
Miss B was a person that Lambeth Adult Social Care and a number of local health services worked with in the years before her death in 2010. She had complex needs associated with physical and learning disabilities. There were a number of concerns about the circumstances leading up to her death, including how well she was supported by social care and health services, so the was a safeguarding adults investigation and a Serious Case Review.

The Serious Case Review identified that the work with Miss B had not applied the Mental Capacity Act 2005 (MCA) properly. One of the reasons for this was the MCA is predicated on there being a single, clearly defined issue on the table when in fact, in Ms B's case, there were multiple small decisions that affected her welfare cumulatively. This will be a common feature of situations involving people with complex needs.

Another issue in Miss B's case was that there were concerns from time-to-time from some health and social care professionals that her family may not always have ensured she received the health care that she needed. The family sought out medical input at some times but at others they seemed unable to cooperate with her medical care. They were of the belief that medical intervention had been the cause of their daughter's impairments.

This was emotionally persuasive, but it did not represent sufficient grounds for avoiding orthodox medical treatments later in her life. The parents of a person without capacity can only remain in charge of decision-making as long as they are acting in the person's best interests; they do not have the right to deprive a person who lacks capacity of appropriate professional attention. So the views of Miss B's family in relation to her medical care should not have been allowed to act as a barrier to coherent planning and action or to deter the working of a properly managed professional network.

Had it been made clear to Miss B's parents that professionals have a legal duty to act in a vulnerable person's best interests and that these matters might have had to be resolved by making an application to the Court of Protection if a course of action could not be agreed upon, they might perhaps have been brought to the table to

become part of a consensus building process. There seems to have been insufficient explanation of the options, the benefits and downsides of them, or of the optimal timeframe for considering the interventions available. It is unclear why this was not formally on the table as a decision to be taken within the MCA framework despite Miss B's continued low BMI and on-going concerns about her nutritional status.

Perhaps Miss B's family would have counselled against further medical intervention .If so, their decision should have been made in an appropriately formal context within which Miss B's interests and human rights could have been represented and protected. It might be that the Courts would have upheld such a decision. We cannot know what the outcome might have been, but this was clearly not a decision that should ever have been made behind closed doors.

Decision making and intervention in complex cases

Professionals, acting as decision-makers in respect of their particular remits, must intervene if they have concerns that a family member or another professional or organisation is not acting in the best interests of an adult who lacks capacity. This is not to say that cutting across a family's views, in this case to assess Miss B's best-interests, could ever have been other than painfully difficult. Moreover it was right that professionals were mindful of the care Miss B's immediate family provided and respected her place at the heart of their family life. But there are times when these matters should be challenged, first informally and then formally. These are decisions laden with anguish but they are nonetheless decisions that should have been made in a shared and open forum, guided by the person's best interests and scrutinised by an appropriate professional network.

This process, whereby a professional network has to switch from supporting family carers into a position where they are challenging their actions is extremely difficult to negotiate. Often decisions are delayed or fudged or unsuitable decisions that are not in a person's best interests keep on being made just under the radar of the MCA leading to inaction and paralysis in the professional network. Decisions may not be clearly "on the table" or their timing managed appropriately.

The MCA introduced a framework for decision-making in the best interests of adults who lack capacity to make some or all decisions by themselves. Although the Court of Protection has powers to appoint a "deputy" to act for a person unable to make significant decisions in several domains, a general authority to act was enshrined within this legislation allowing those closest to the person, such as a family member or carer, to make decisions on their behalf. The principle that has to be followed by anyone making decisions for someone who lacks capacity is that the decision is in their best interests.

Single issues about discrete medical treatment or social care decisions are covered thoroughly in the guidance to the MCA but managing complex decision-making, across all arenas of a person's life, or over time in relation to chronic health conditions, is less clearly anticipated.

Recent research has highlighted the difficulty of getting to grips with a series of relatively small decisions, rather than one single serious decision, even where the cumulative effect of those decisions might prove, as in this case, to be grave. Resistance, or hostility, from the carers in these studies made decision-making even more difficult. Lack of a clear consensus between health care professionals and failures in multi-agency communication were also mentioned as complicating factors. Daunting decisions or confrontations were often shelved until the optimal time for action had passed.

A framework for decision making

A framework that describes the distinct phases involved in shared decision-making and structuring the timing of practice interventions, decision making and if necessary the seeking of a legal mandate can be useful in such complex cases. Escalating concerns need to be placed within a clear managerial framework and a process of graduated decision making should be followed as part of a commitment to enhanced care planning and risk management.

By using this framework, family members can be helped to understand that they have to work within the limits of what is in their relative's best interests as defined in standard clinical pathways and agreed practice. It also supports the professionals involved to meet the expectations on them to

- Support involvement in the decision making by the person as far as is reasonable possible

- Ensure that those with an interest in the person's welfare, including family and friends, are given all the relevant information and any differences in view are explored and understood and attempts are made to resolve them

The table below sets out the phases of such an approach

A phased approach	**Tasks to prevents harm and contain risk**
Support	Provide encouragement and access to any necessary resources
Inform	Inform person of minimum standard of care and/or of agreed best practice
Challenge	Challenge where these standards are not being met
Adapt	Negotiate around difficult areas or short cuts
Agree	Agree any reasonable compromises
Insist	Be clear that you expect these standards to be adhered to, eg insist on attendance at appointments and follow up on any slippage
Intervene	Take action under MCA or MH or within regulatory framework

Putting the phased approach in to practice

Effective use of the phased approach is dependent upon

- Identification in a timely way of situations where the issues around complexity and mental capacity are relevant
- Cases being properly assigned, coordinated and risk-managed, with clarity about leadership of this
- Health and social care services working together
- Health care being proactively planned using proper evidence based treatment pathways.
- Acknowledging and negotiating differences of opinion, understanding and knowledge between family carers and the health professionals
- Ensuring the respective roles and responsibilities of family members and health care professionals are clear to everyone
- Ensuring there is clarity about the responsibility of health and social care professionals to intervene in family care where this is manifestly not in the person's best interests

In adult social care, typical ways to achieve this are

- In the context of an assessment of needs for care and support. The person undertaking the assessment would be in the leadership role.
- In the context of assessment of capacity and best interests decision making under the Mental Capacity Act 2005. The person in the role of decision-maker would be in the leadership role.
- In the context of a safeguarding adults enquiry. The person in the role of Safeguarding Adults Manager would be in the leadership role

References

Brown,H. and Marchant E. (2011) Best-interests decision making in complex cases Office of the Public Guardian London

H Brown and L Marchant (2013), Using the MCA in Complex Cases, 18 Tizard Learning Disability Review 2)

13.4 Appendix 4: Safeguarding Adults Principles

SAFEGUARDING ADULTS IN LAMBETH:

PRINCIPLES