

West of Berkshire Safeguarding Adults Board Arrangements to Apply the SAB's Powers Under s45 of the Care Act

The Care Act introduces a new duty for Safeguarding Adults Boards. In essence section 45 of the Care Act means that:

- A person must supply information on request by the SAB if he/she is likely to have information relevant to the SAB's functions.
- The information can be about the person, or a function or activity they engage in, or a person in respect of whom they exercise the function / activity.

The power to request information could be used when carrying out a Safeguarding Adults Review, but might also assist in the context of an ongoing safeguarding investigation, particularly if issues are raised about the disclosure of relevant information. The request places the person it is made to under a duty to disclose.

It is the Board rather than Adult Social Care or any other agency which has the power to request disclosure.

The SAB has agreed an arrangement for requesting information in urgent cases, as outlined in the following procedure:

1. As the delegate of the Safeguarding Adults Board, the Chair or her nominee may request proportionate and relevant information which is required to assist in a safeguarding adults investigation.
2. A referral may be made to the Chair and should identify the agency or individual and the information sought from them, together with a brief statement of the reasons for seeking disclosure, and timescale. In specifying a timescale for disclosure, the Chair will consider both the urgency of the request and the time likely to be needed to make available the information requested.
3. The Chair will consider the referral and decide whether to make a request. Any individual or agency recipient will be given the opportunity to state any exceptional reasons for withholding information which has been requested. In deciding whether to make a request, the Chair will consider any exceptional reasons put forward for withholding some or all of the information and will balance these against the likely importance of the information to the achievement of the Board's functions. Any objections to a request under section 45 could be referred to an independent third party, whose decision on behalf of the Board would be final.

Protocol approved at Board meeting March 2015.