



## TSAB Guidance: Other Enquiries

### Purpose

This guidance links to the TSAB Inter-Agency Safeguarding Adults Procedures and provides information on those situations where the criteria for a Care Act Section 42 Enquiry are not met.

### Definitions

The following definitions must be taken into account when determining the action to be taken on receipt of a safeguarding concern.

#### Section 42 Enquiry;

Section 42 of the Care Act 2015 states that the duty to carry out a safeguarding enquiry is met when an adult:

- has needs for care and support (whether or not the local authority is meeting any of those needs) and;
- is experiencing, or at risk of, abuse or neglect; and
- as a result of those care and support needs is unable to protect themselves from either the risk of, or the experience of abuse or neglect.

#### Safeguarding Adult Review (SAR)

The Care Act 2014, Section 44 requires that Safeguarding Adults Boards (SABs) must arrange a Safeguarding Adults Review (SAR) when an adult in its area:

1. dies **either** 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;

#### Or

2. if an adult has not died, but the Safeguarding Adult Board knows or suspects that the adult has experienced serious abuse or neglect, and there is concern that partner agencies could have worked more effectively to protect the adult.

### Other Safeguarding Enquiries:

The definition of an 'Other Safeguarding Enquiry' for data reporting purposes is set out in the NHS Digital; Guidance for competing the Safeguarding Adults Collection (SAC) 2018-19: Those enquiries where an adult does not meet all of the Section 42 criteria but the Local Authority considers it necessary and proportionate to have a safeguarding enquiry. Whilst each local Authority has the jurisdiction to decide what safeguarding activity they undertake for adults who do not meet the Section 42 criteria, some examples could include safeguarding to promote an individual's well-being as related to the areas in Section 1 of the Care Act, or for carers who do not qualify for Section 42.

N.B. Practitioners will consider the above definitions and determine the appropriate route for specific cases. It should be noted that currently it is not a mandatory requirement to provide information on 'Other Enquiries' to NHS Digital as part of the Safeguarding Adults Collection, however, this is deemed as being best practice.

### **Regional Guidance**

In terms of safeguarding concerns when the adult has died or been seriously harmed either before or during the enquiry, the following regional guidance has been adapted by TSAB.

#### The relationship between Section 42 enquiries and Section 44 Safeguarding Adults Reviews

##### *When the adult has died:*

Section 42 enquiries are those that are undertaken when an adult, with care and support needs, has been identified as suffering or being at risk of abuse and neglect. **As a matter of law** an enquiry under section 42 cannot be undertaken in relation to a adult who is deceased. Where a death is suspected to be the result of abuse or neglect, a SAR notification should be submitted to the TSAB Business Unit to enable the SAR Sub-Group to consider whether the criteria are met for a SAR under section 44 of the Care Act.

If the circumstances of the death mean that there are reasons to be concerned about risks to other adults, section 42 enquiries may need to be made to decide whether action needs to be taken to protect them. For example, this will often be necessary following a death in an organisational setting where other adults are continuing to receive a service.

SAR Notifications must be submitted as soon as possible after the adult's death. It should be noted that brief investigation may be necessary to assemble the required information for the SAR committee to make a recommendation as to whether a SAR should take place. This investigation should aim only to gather sufficient information for that purpose, and should not aim to reach firm conclusions about what happened. This investigation should be recorded as an 'Other Enquiry'.

The TSAB Independent Chair will consider recommendations from the SAR Sub-Group on whether the criteria for a Safeguarding Adults Review (SAR) have been met and confirm their decision on whether to undertake a SAR. No other organisation should make that decision.

##### *When the adult is known or suspected to have suffered "serious abuse or neglect":*

The Care Act statutory guidance gives examples of serious abuse or neglect cases where an adult “would have been likely to have died but for an intervention, or has suffered permanent harm or has reduced capacity or quality of life (whether because of physical or psychological effects) as a result of the abuse or neglect”. In this case, section 42 enquiries into what happened to that adult will still need to take place in parallel, to ensure the adult’s immediate safety and the safety of any others who may be at risk, but should be limited to those purposes rather than duplicating more thorough investigations into the history which may take place through a SAR.

*Key points*

- The local authority may need to make initial enquiries to consider whether the conditions for a safeguarding adults review are met, but should not describe these as section 42 enquiries. In these circumstances the meeting should be a 'Safeguarding Information Sharing meeting' and logged on case management systems as an 'Other Enquiry'.
- Where there the suspected abuse or neglect has taken place in an organisational setting, and there may be potential risks to others, the meeting should be an 'Organisational Safeguarding meeting' and consideration should be given to invoking the TSAB Responding to and Addressing Serious Concerns Policy and Procedure.

<b>Revision Number</b>	<b>Date Approved by the Board</b>	<b>Change Record</b>	<b>Links to Other Policies</b>	<b>Review Date</b>
1	27.2.2020	Version One of Document	All other Teeswide Safeguarding Adults Policies	Feb-2021