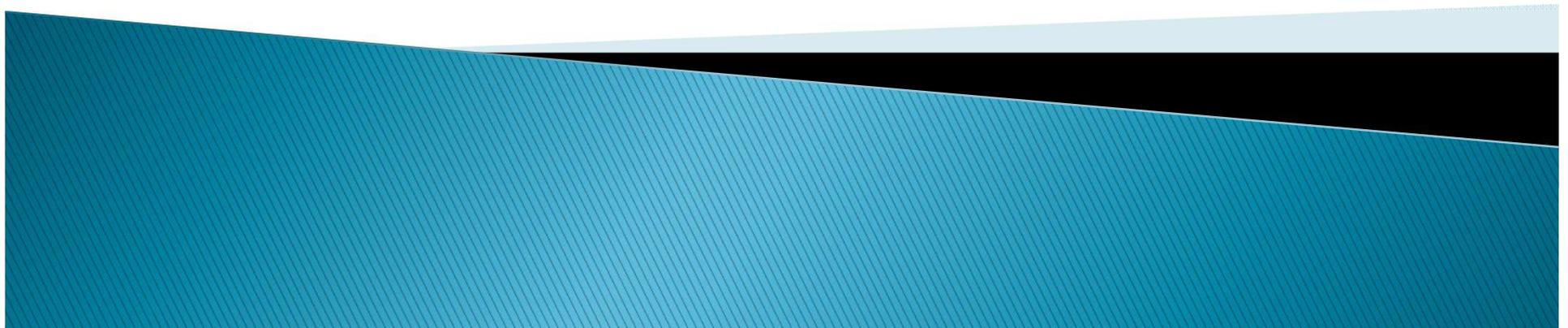


Adult Safeguarding Law

Presentation to Lewisham elected members

20th July 2017



Structure of the Legal Rules

- ▶ Primary legislation (Acts)
 - ▶ Secondary legislation (Regulations)
 - ▶ Policy Guidance
 - ▶ Practice Guidance
 - ▶ Case Law
-
- ▶ Local Authority Procedures – audit for compliance with the legal rules
 - ▶ How well do local authorities and partner agencies comply? (look at judicial reviews and Ombudsman reports)



Care Act 2014:

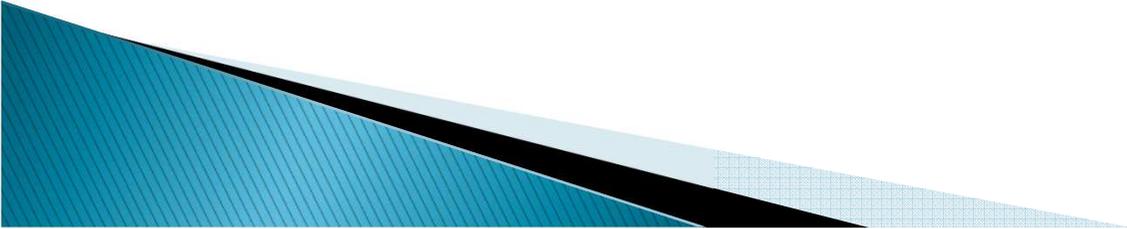
Adult safeguarding provisions

- ▶ Duty of enquiry
- ▶ Duty to establish Safeguarding Adults Board
- ▶ Duty to carry out safeguarding adults reviews
- ▶ Duty to share information

- ▶ All within the overall unifying principles of the Act
 - The well-being of the individual is paramount
 - Local authorities must promote the individual's well-being in all decisions made with and about them
 - 'Well-being' is the outcomes that individuals seek for themselves



Sections 42-47 – Safeguarding

- ▶ Duty to make enquiries if adult experiencing or at risk of abuse or neglect and is unable to protect themselves
 - ▶ No new protection powers or power of entry
 - ▶ Duty to have a Local Safeguarding Adults Board but what if agencies will not co-operate?
 - ▶ Power to require individuals/agencies to provide information but what if agencies do not comply?
 - ▶ LA obligation to protect property retained
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Duty of enquiry

- ▶ Where a local authority has reasonable cause to suspect that an adult in its area (whether or not ordinarily resident there)
 - has needs for care and support (whether or not the authority is meeting any of those needs)
 - is experiencing, or is at risk of, abuse or neglect, including financial abuse, and
 - as a result of those needs is unable to protect himself or herself against the abuse or neglect or the risk of itthe 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 and, if so, what and by whom
- Eligibility criteria do not apply
- 

Duty to establish SAB

- ▶ Each local authority must establish a Safeguarding Adults Board for its area (two or more LAs may combine).
 - ▶ The objective of a SAB is to help and protect adults in its area who have care needs and are at risk of abuse and neglect and are unable to protect themselves.
 - ▶ The SAB must co-ordinate and ensure the effectiveness of what each of its members does, including provision of training.
 - ▶ It must ensure the development of policies for protecting adults at risk in collaboration with relevant agencies, service users and their representatives.
 - ▶ SAB membership must include the LA, the CCG and the Police; the LA, in consultation with the SAB, may decide further appropriate membership and must appoint a chair. All members and the chair must have relevant skills and experience, and members must attend meetings.
 - ▶ SAB members may contribute financially and in kind.
 - ▶ The SAB must produce a safeguarding plan, on which it must report progress annually; it should determine arrangements for peer review and self-audit
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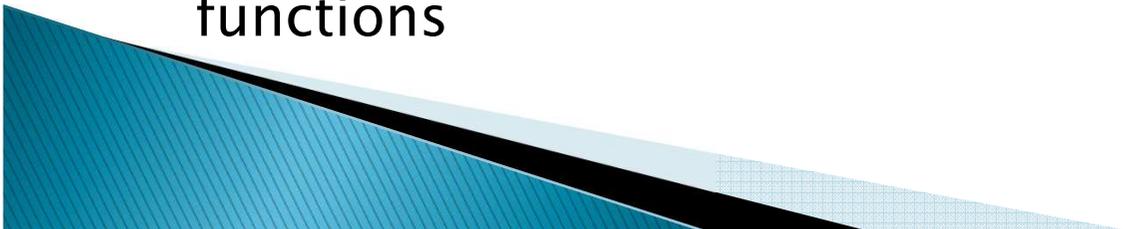
Safeguarding Adults Reviews

- ▶ The SAB must carry out a safeguarding adult review
 - where they know or suspect that serious abuse or neglect has contributed to the death or serious harm of an individual, and
 - there is reasonable cause for concern about how SAB members or other persons with relevant care and support functions actedwith the aim of learning lessons, improving future practice and partnership, and minimising future recurrence
 - ▶ Each member of the SAB must cooperate in and contribute to the carrying out of the review and applying the lessons learnt.
 - ▶ SABs have the power to undertake reviews in other circumstances if they so choose
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Duty to share information

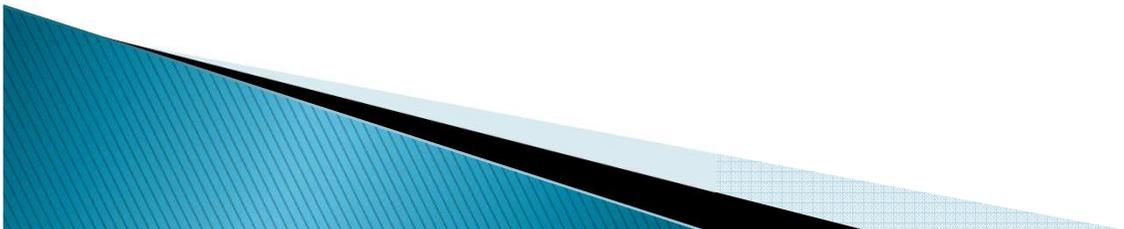
- ▶ Duty to comply with a SAB request for information if:
 - the request is made for the purpose of enabling or assisting the SAB to exercise its functions, and
 - the request is made to a person whose functions or activities are such that they are likely to have information relevant to the SAB's work, and
 - the information relates to the person to whom the request is made, a function or activity of that person, or a person in respect of they exercise a function or engage in an activity

Thus the duty could apply to a GP, family carer, volunteer, church minister, or people in similar roles, in relation to any aspect of the SAB's role (which is to help and protect adults who have care needs and are at risk of abuse and neglect and unable to protect themselves)
- ▶ The information may be used by the SAB only for the purpose of enabling or assisting the SAB to exercise its functions



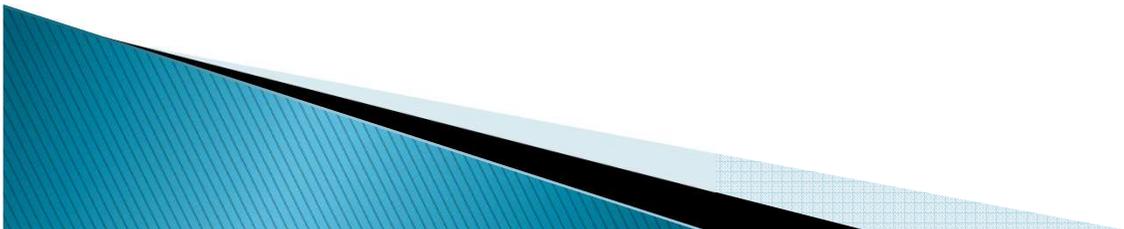
Section 1 – Principles

- ▶ Duty on LA to promote well-being of adults in need of care & support, and carers by having regard to wishes and feelings, avoiding delay and stereotypes, maximising participation, minimising restrictions on rights and freedoms
- ▶ Well-being includes dignity, physical & mental health, emotional well-being, protection from abuse & neglect, relationships, living accommodation, social & economic well-being
- ▶ Establish what being safe means for the individual – making it person-led and outcome-focused
- ▶ Target duty



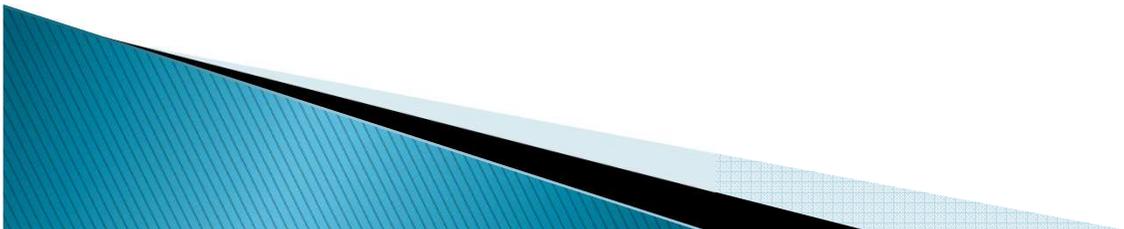
Sections 6 & 7 – Co-operation

- ▶ Section 6 – strategic duty on public bodies to co-operate
- ▶ Section 7 – new (because agency whose help is requested must comply) specific duty on public bodies to co-operate when LA requests this (mirrors section 27, Children Act 1989)
- ▶ Extends to SABs and partner involvement therein; and to modern slavery, self-neglect, organisational abuse, discriminatory abuse
- ▶ SAB must establish effective links with Health & Wellbeing Board, LSCB, and Safer Lewisham Partnership to share and co-ordinate work plans, to prevent abuse and neglect



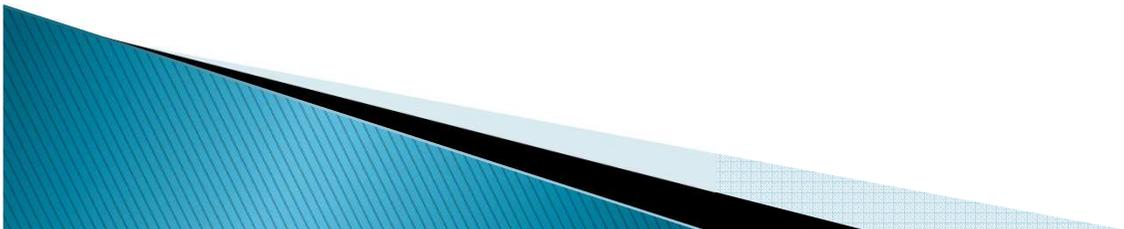
Limitations of the legal rules

- ▶ Cannot command resources to guarantee capacity
- ▶ Cannot command multi-agency collaboration
- ▶ Partnership working still a challenge – how do you engage the disengaged?
- ▶ Complexity of legal rules for information-sharing
- ▶ How really independent can SABs be?
- ▶ Have we learned the lessons from LSCBs here?
- ▶ Importance of communication, relationships & partnership working at strategic & operational levels

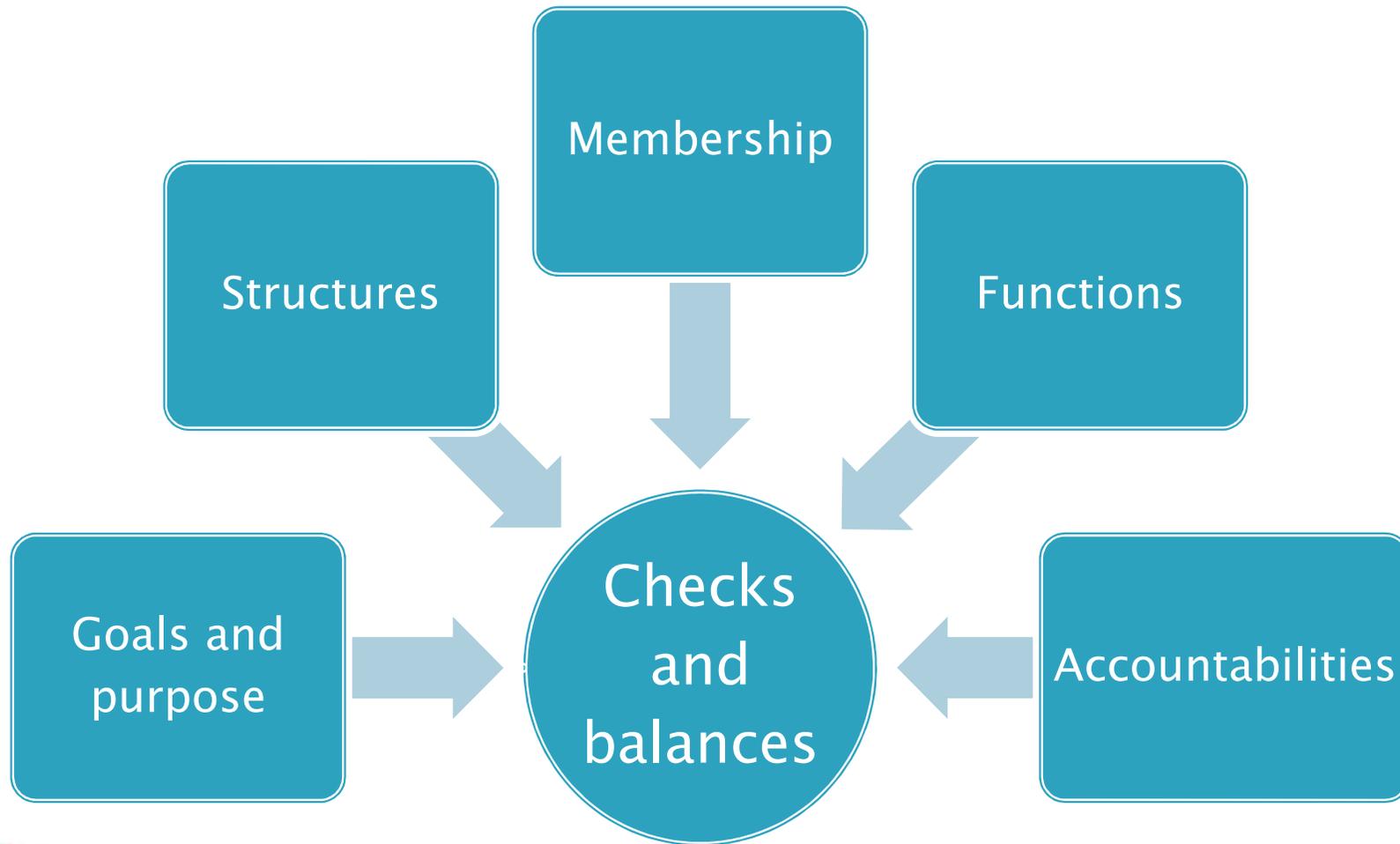


What does a good SAB look like?

- ▶ Senior executive commitment & involvement
- ▶ Independent scrutiny
- ▶ Internal & external challenge
- ▶ Appreciative inquiry & learning culture
- ▶ Commitment to intra and inter-agency audit
- ▶ Acceptance of shared responsibility
- ▶ Evidence of impact
- ▶ Good governance
 - Goals and purpose (clear principles, activity scope, strong leadership)
 - Structures (clear focus and linkages between activities)
 - Membership (resources, clear roles and responsibilities, engagement)
 - Functions (strategic planning, operational oversight, assurance through audit & performance monitoring, improvement agenda)
 - Accountabilities (clear links, clear remit & performance standards)



So what does good practice in governance look like?



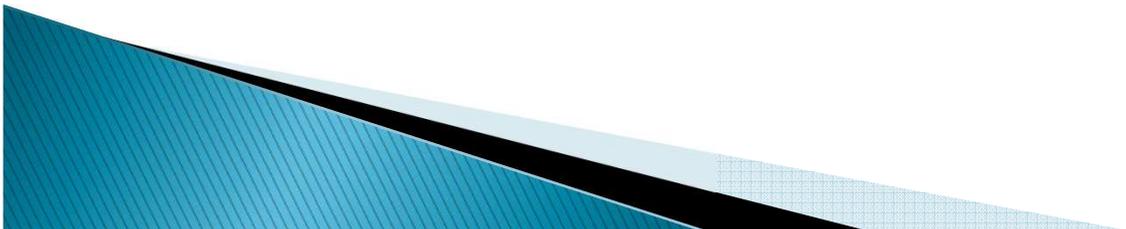
In Lewisham

- ▶ An established SAB & Business Management team, with budget contributions from key partners;
- ▶ Newly established Executive
- ▶ Fully functioning case review group with two SARs underway
- ▶ Development day held, with strategic plan for 2017/2018
- ▶ Learning & service development seminars established
- ▶ Adult safeguarding conference planned



In Lewisham (2)

- ▶ Annual report for 16/17 being prepared
- ▶ SAB membership being reviewed
- ▶ Task and Finish Groups being established to address key “hot topics”, including adults who self-neglect, prevention, transitions, performance reporting and analysis
- ▶ Co-operation established with Lewisham’s Safeguarding Children Board and Safer Partnership



Learning from SCRs and SARs

