

Addendum to:
Leeds Safeguarding Adults Partnership Procedures



Contesting Safeguarding Decisions Procedure

This procedure relates to the rights of victims (or alleged victims), perpetrators (or alleged perpetrators), or a service provider (where the decision relates to the actions of their employees or volunteers), to contest decisions reached within safeguarding adult procedures as to the occurrence of abuse and/or its type.

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Please Note:

Concerns or disagreements regarding:

- The decision as to whether or not to investigate a referral under safeguarding adult procedures
- The type of investigation decided upon
- The performance of an individual or their agency
- The provision or non-provision of services

should be raised with the relevant person/agency in the first instance and where the issue remains unresolved, should be addressed within the internal complaints procedure of that agency.

Where a concern or disagreement relates to protection plan arrangements, the relevant agency and (if different) the safeguarding coordinator should be consulted, enabling the plan to be reviewed as required.

The Leeds Safeguarding Adult Partnership Multi-Agency procedures provide for both Strategy Review Meetings and Case Conference Review meetings to be convened in relation to Type 3 and Type 4 investigations, enabling multi-agency protection plans to be reviewed where required. For more information refer to (www.leedssafeguardingadults.org.uk).

1. Decisions as to the occurrence and type of abuse

The Leeds Safeguarding Adult Partnership Multi-Agency procedures include four types of investigation. Depending on the type of investigation undertaken, the decision as to the occurrence of abuse and its type will be made either by the Safeguarding Coordinator or a Case Conference, on the “balance of probabilities”.

In the case of a Type 1 or Type 2 investigation the Safeguarding Coordinator will decide, based on the investigation and its recommendations, whether abuse has occurred and its type.

In the case of a Type 3 or a Type 4 investigation the decision as to the occurrence of abuse and its type will be made by a Case Conference, based upon the findings of the investigation, its recommendations, and the contributions of participants to the Case Conference.

The case conclusion will be recorded as one of the following:

- Substantiated
- Partly Substantiated
- Not Substantiated
- Inconclusive

The type of abuse (if any) will be one or more of the following:

- Physical
- Sexual
- Psychological/Emotional
- Financial
- Neglect or acts of omission
- Discriminatory
- Institutional

If the person wishing to contest a safeguarding decision is unsure what kind of investigation has taken place, they should ask the investigator or safeguarding coordinator. However, if a Case Conference has been held, then a Type 3 or Type 4 Investigation was carried out.

The Types of Investigations and the Types of Abuse are described in full within the Leeds Safeguarding Adult Partnership Procedures (www.leedssafeguardingadults.org.uk).

2. Representation and support in contesting safeguarding decisions

Any persons raising concerns or wishing to contest the decision as to the occurrence of abuse and/or its type is entitled to be supported by a friend, family member, advocate or other representative to support them within these procedures.

Where a person is without Mental Capacity in relation to these actions, these procedures allow for an appropriate representative to act on the person’s behalf in their best interests. An appropriate representative might be a family member, friend or informal carer, an advocate or an Independent Mental Capacity Advocate (IMCA). It may also be a person with relevant formal decision making authority under the Mental Capacity Act, such as a court

appointed deputy or person holding a Lasting Power of Attorney for relevant personal welfare decisions.

3. Contesting Decisions made by a Safeguarding Coordinator – Type 1 and Type 2 Investigations

These procedures apply only in relation to:

- Decisions as to the occurrence or not of abuse;
- Decisions as to the type of abuse that has occurred.

In Type 1 and Type 2 Investigations the Safeguarding Coordinator will determine, based on the investigation and its recommendations, whether abuse has occurred and its type.

Where a victim (alleged) or perpetrator (alleged) or representative as described in Section 2, or a service provider (where the decision relates to the actions of their employees or volunteers) disagrees with the decisions made, they should direct their concerns to the safeguarding coordinator in first instance and if necessary the Line Manager of the safeguarding coordinator.

Any person deciding to contest the decision, should clearly explain why they believe it to be incorrect. In such circumstances the Safeguarding Coordinator should:

- Review the investigation report
- Consider the need for additional investigative activities
- Review their decision making process
- Consult with their line manager

The Safeguarding Coordinator should record the concerns or objections raised and their response. If the person disagreeing with the decision remains dissatisfied with the response received, they should be enabled to make a complaint under the internal complaints process of the Safeguarding Coordinator's agency.

NB. Where a person is dissatisfied with the way the investigation has been conducted in a Type 1 investigation, they should be referred to the service provider's internal complaints process. If a revised investigation report is subsequently submitted, the safeguarding coordinator will need to review their decision in the light of the amendments.

4. Contesting Decisions made by a Case Conference – Type 3 and Type 4 Investigations

These procedures apply only in relation to:

- Decisions as to the occurrence or not of abuse;
- Decisions as to the type of abuse that has occurred.

Case Conference decisions are made by its participants rather than any single individual or agency. Case Conference decisions in relation to the occurrence of abuse and or its type can only be changed by a Case Conference Appeal Meeting.

Eligibility To Use This Procedure

An Application for a Case Conference Appeal Meeting would need to be made by a victim (alleged) or perpetrator (alleged) or representative as described in Section 2. An application for a Case Conference Appeal Meeting could also be made by a service provider, where it relates to the actions of their employees or volunteers.

An Application for a Case Conference Appeal Meeting should clearly explain why the person believes that the decision reached was incorrect.

Criteria for a Case Conference Appeal Meeting:

An Application for a Case Conference Appeal Meeting will result in a review of the case against the following criteria:

- The decision making process was in some way unfair or not objective, or
 - The decision reached was made in the absence of information or without due consideration of information available
- and
- This potentially has materially impacted on the decision made.

Outcomes of a Case Conference Appeal Application

Applications for a Case Conference Appeal Meeting can only result in two outcomes;

1. Case Conference Appeal Meeting Criteria has not been met. The application for a Case Conference Appeal meeting has been declined.
2. Case Conference Appeal Meeting Criteria has been met. A Case Conference Appeal Meeting is to be arranged.

These outcomes may be accompanied by recommendations, including:

- Learning points for any specific agency or agencies
- Additional investigative activities required prior to the Case Conference Appeal meeting being held.
- The scope and boundaries of the Case Conference Appeal Meeting
- Specific arrangements or considerations for that meeting.

The decisions in relation to the occurrence of abuse and its type will remain in place during any appeal process, until confirmed or amended at a Case Conference Appeal Meeting. In exceptional circumstances the Chair of the Safeguarding Adult Board (Stage 1 Appeal Application) or Director of Adults Social Services (Stage 2 Appeal Application) can 'set aside' this decision pending the Case Conference Appeal meeting. Decisions should only be 'set aside' where there is evidence that the decisions reached are clearly and significantly flawed. The protection plan should remain in place during any appeal process unless or until it is evidenced that it is not required.

A written notification detailing the outcome, any recommendations and an explanation of decision should be sent to the person making the appeal. Where a case conference has

been held, the Chair of the original Case Conference meeting will ordinarily be provided with a copy of both the Application and the written response.

Where a Case Conference Appeal Meeting is held, the written response will ordinarily be attached to invitations to the Case Conference Appeal Meeting, enabling participants to be clear of the reasons for the meeting being convened and the issues to be considered.

Stage 1: How to Apply for an Case Conference Appeal Meeting

An Application for a Case Conference Appeal should be made in writing to the Chair of the Safeguarding Adult Board (see address at the end of this section) within 1 week of the Case Conference minutes being distributed (or if the person is not on the distribution list for the Case Conference Minutes, 1 week of the person being notified). Assistance should be provided by any relevant professional, where required, to help with the application for an appeal.

Applications for appeals meetings made outside the 1 week time limit, in exceptional circumstances and at the discretion of the Chair of the Safeguarding Adult Partnership Board, may be accepted.

The Chair of the Safeguarding Adult Partnership Board will acknowledge the application for an appeal meeting in writing within 1 week; a decision in relation to an application will be communicated in writing within 1 month.

The Application for a Case Conference Appeal Meeting will be considered by the Chair of the Safeguarding Adult Partnership Board. However where there is benefit to the decision making process the Chair to the Safeguarding Adult Partnership Board has the discretion to convene a panel of at least two other members of the Safeguarding Adult Partnership Board, where upon decisions will be made on a majority basis. Any such panel members must not have any previous or present direct line management responsibility for the case in question.

The Chair of the Safeguarding Adult Partnership Board (and panel where convened) will consider:

- Strategy Meeting minutes
- Case Conference minutes
- Investigation Report
- Any relevant internal or multi-agency procedures
- Any other relevant documentation
- The Application for a Case Conference Appeal Meeting.

The Chair (or panel member) may also interview, in person or by other means as appropriate:

- The person who has made the Application for a Case Conference Appeal Meeting, to enable them to explain their reasons verbally for making the application and to make further representations they so wish.
- The Case Conference Chair in order to clarify the multi-agency decision making process and any other relevant issues.
- Any other person it decides is appropriate in order to consider the application.

The Chair of the Safeguarding Adult Partnership Board (or panel where convened) cannot reverse the decision of the Case Conference. The purpose of the review is to establish whether the case conference appeal meeting criteria have been met, and where they have, to request a Case Conference Appeal Meeting be held to reconsider previous decisions.

Requests for a Stage 1: Application for a Case Conference Appeal Meeting should be sent, marked **private and confidential** to the following address:

Chair of the Safeguarding Adult Partnership Board
Safeguarding Adults Partnership Support Unit,
4th Floor East
Merrion House
110 Merrion Centre
Leeds
LS2 8QB

Stage 2: How to Apply for an Case Conference Appeal Meeting

In the event that the party making an application for a case conference appeal meeting is dissatisfied with the response from the Chair of the Safeguarding Adult Partnership Board they can apply to the Director of Adult Social Services.

Persons or agencies wishing to apply to the Director of Adult Social Services for a Case Conference Appeal Meeting, should make their application in writing within 1 week of receiving the Chair of the Safeguarding Adult Partnership Board's notification of decision.

Appeals made outside the 1 week time limit, in exceptional circumstances and at the discretion of the Director of Adult Social Services, may be accepted.

The Director of Adult Social Services will acknowledge the appeal request in writing within 1 week; the decision will be communicated in writing within 1 month.

The Application for a Case Conference Appeal meeting at Stage 2 will be decided upon by the Director of Adult Social Services. However where there is a benefit to the decision making process the Director can convene a panel of two or more members of the safeguarding board where upon decision will be made on a majority basis. Any panel members selected must not have been involved at Stage 1 or have any previous or present direct line management responsibility for the case in question.

The Director of Adult Social Services (or panel where convened) will be provided with all the reports considered at Stage 1, and may wish to consult or interview any other persons or obtain any further reports or documentation that are pertinent to a decision.

The Director of Adult Social Services (or panel where convened) cannot reverse the decision of the Case Conference. The purpose of the review is to establish whether the case conference appeal meeting criteria have been met, and where they have, to request a Case Conference Appeal Meeting be held to reconsider previous decisions.

Requests for a Stage 2: Application for a Case Conference Appeal should be sent, marked **private and confidential** to the following address:

Director of Adult Social Services
Merrion House
110 Merrion Centre
Leeds
LS2 8QB

Further Challenge:

If any party is dissatisfied with the Stage 2 response to the Application for a Case Conference Appeal Meeting or the conclusion of any Case Conference Appeal Meeting arranged, there are no further rights of appeal through these procedures. Any such party may wish to pursue their grievance via the Local Government Ombudsman or seek legal advice about other legal remedies such as Judicial Review.

Case Conference Appeal Meeting

The Case Conference Appeal Meeting will be convened by the Case Conference Chair using the Case Conference Appeal Agenda (SA11a) and Case Conference Appeal Minutes (SA11b) documentation. The focus of the meeting will be guided by the Chair of the Safeguarding Adults Partnership Board/Director of Adult Social Services decisions and recommendations.

Invitations to the Case Conference Appeal meeting should include all those invited to the original case conference and any persons recommended by the Chair of the Safeguarding Adult Partnership Board/Director of Adult Social Services.

The Case Conference Chair may also need to consider alternative agency representatives where an original attendee is not available to attend and or consider extending the invitations to additional persons so as to ensure the meeting is able to fully consider the issues being raised.

No person should seek to attend without the prior agreement of the Case Conference Chair.

The Case Conference Chair will be responsible for the management of the meeting, taking into the account the following considerations:

- Victims (alleged) or perpetrators (alleged) of abuse may both need to absent themselves for periods of the meeting, to enable the other to participate.
- This first consideration notwithstanding, the individual or agency making the appeal is entitled to be present throughout the meeting,
- A victim (alleged) or perpetrator (alleged) of abuse can be represented at the meeting by another person as detailed in Section 2.

Minutes of the Case Conference Appeal Meeting will be distributed within 2 weeks of the meeting. Amendments or comments in relation to the minutes will need to be submitted to the Case Conference Chair within 1 week of the minutes being distributed. Any amendment made to the minutes will be made and redistributed within 1 further week.