



**Community and Wellbeing Scrutiny
Committee**

11 June 2019

**Report from the Independent Chair of
Brent Safeguarding Adults Board**

**Adult B Safeguarding Adult Review (SAR): Update on
Action Plan and Progress with Recommendations**

Wards Affected:	All
Key or Non-Key Decision:	Non-key
Open or Part/Fully Exempt:	Open
No. of Appendices:	1
Background Papers:	0
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1.0 Purpose of the Report

- 1.1 This report will place the process of commissioning, conducting, publishing and disseminating the findings of the Adult B SAR within the national legal and policy context.
- 1.2 This report will also outline local arrangements for commissioning, contract monitoring and quality assurance of care and support arrangements, for collaboration between the local authority, CCG and service providers, and for adult safeguarding.
- 1.3 The report will also provide an update on the Adult B SAR itself, with specific reference to how the recommendations have been taken forward and how Adult B herself has been safeguarded.

2.0 Recommendation(s)

- 2.1 Members of the scrutiny committee are recommended to note the contents of this report.

3.0 Detail

National Context

- 3.1 Section 44 of the Care Act 2014 outlines, for the first time in primary legislation, when a Safeguarding Adult Review (SAR) must be commissioned and when a Safeguarding Adults Board (SAB) may commission a review. In the case of Adult B, Brent SAB concluded that the mandatory criteria for commissioning a SAR had been met, namely that Adult B had care and support needs, that she had experienced abuse and/or neglect and that there was concern about how agencies had worked together to safeguarding and promote her wellbeing.
- 3.2 The purpose of a SAR is to learn lessons. The purpose is not to apportion blame or to hold agencies accountable, for which there are other mechanisms.
- 3.3 The Department of Health and Social Care has published statutory guidance, which SABs must follow, on the implementation of Care Act 2014 duties. Brent SAB is required to agree terms of reference for any commissioned review, which should be outlined in its annual report. Brent SAB must appoint an independent reviewer and partner agencies are under a statutory duty to cooperate (sections 6 and 7, Care Act 2014) and to provide information (section 45). Brent SAB must seek to involve the person and the individual's family in the review process. Brent SAB has discretion when determining whether the SAR should be published in full or in summary form or not at all. However, Brent SAB must include details of the SAR's findings and recommendations in its annual report.
- 3.4 Until recently there was no national library or repository for SARs and this made difficult dissemination nationally of findings. However, a national repository has now been established and Brent SAB has deposited the Adult B SAR with the library. The findings have also been disseminated amongst London Region SAB Independent Chairs and at national workshops on commissioning, contract management and care provision.
- 3.5 The Care Quality Commission (CQC) is responsible for the regulation and inspection of residential and nursing care providers (and some other forms of provision) (Health and Social Care Act 2008). Brent Adult Social Care maintains a close relationship with CQC in relation to regulated provision, which includes CQC staff attending the local authority's establishment concerns meetings.
- 3.6 The Care Act 2014 requires a local authority to conduct an assessment (section 9) where it appears that a person may have needs for care and support. Based on that assessment the local authority must decide whether an individual has eligible needs (section 13) and, in that event, must arrange a care and support plan (section 18). Care and support plans must be reviewed at least annually and where circumstances change significantly.
- 3.7 The Care Act 2014 also requires that the local authority conduct an adult safeguarding enquiry (section 42) where it appears that a person has care and support needs, has experienced abuse and/or neglect and, as a result of those

care and support needs, is unable to protect themselves against that abuse and/or neglect. A section 42 enquiry was conducted in the case of Adult B and informed both the decision to commission the SAR and to make alternative arrangements for Adult B's care and support.

Local Context

- 3.8 The local authority is responsible for making arrangements to meet learning disabled people's social care needs. Where an individual has continuing healthcare needs, it is the CCG's responsibility to provide and keep under review appropriate arrangements. Arrangements for Adult B were the responsibility of the local authority. Her care and support plan was reviewed by social workers within the learning disability team.
- 3.9 Section 5 of the Care Act 2014 requires the local authority to ensure the effective operation of the market for provision of services to meet people's care and support needs, and to ensure the quality of service provision. The local authority, CCG, service providers and CQC meet routinely to review the adequacy of the market with respect to actual and envisaged demand, and to monitor the quality of provided services. Quality monitoring is informed additionally by CQC unannounced inspections of service providers and by reviews by Adult Social Care of commissioned services for care and support.
- 3.10 Brent Adult Social Care department is committed to commissioning according to the principles of co-production whenever possible and relevant, and all new services commissioned for people with a learning disability are commissioned via a co-production approach, meaning that people with a learning disability help shape and design future services.
- 3.11 The local authority and CCG additionally have a duty to deliver the aims of Transforming Care, a national policy that came about as a result of the Winterbourne View scandal, and that requires local agencies to work together both to ensure that there is a sufficiently developed market to commission care for people with a learning disability and autism and that agencies work together to move people with learning disabilities and autism currently supported in long stay hospital settings to a community setting. A paper giving more detailed information regarding the TCP programme is also being presented to the Overview and Scrutiny Committee for consideration this evening.
- 3.12 One of the key workstreams within the TCP programme is to create a joint and integrated learning disability service. In Brent, this service 'went live' in October 2018, and is now functioning well as an integrated service to holistically support people with a learning disability in Brent.
- 3.13 In addition to the Integrated Learning Disability Service, Brent Council has also developed a market focussed commissioning structure. This means that there is a Residential and Nursing Home Commissioning Team that are dedicated to working with providers, understanding the capacity and capability of providers and carrying out both contract monitoring and individual placement reviews of individuals placed in residential and nursing care settings. The new

commissioning structure has at its core teams focussed on building relationships with providers and clients through allocations based around services rather than individuals so that reviews are holistic and focussed on an establishment/provider as a whole as well as individuals, which enables much greater oversight of quality.

- 3.14 The team take a proactively and holistic view, focussed on building relationships with providers and clients through reviews being based around services as well as individuals. This enables a much greater oversight of quality. Issues are quickly picked up and addressed in provider visits; a positive outcome of establishing strong oversight and working relationships between review officer and provider. There is also a close working relationship and collaboration between the Residential and Nursing Commissioning Team and the Integrated health and social care Learning Disability Service which enables ready access to health care advice and support and enables a focus on support and where necessary training for providers, ensuring the health and medical needs of clients are understood and met and any concerns are identified and addressed.
- 3.15 The Health Action Group, a subgroup of the Learning Disability Partnership Board, is very active in advocating for the needs of people with a learning disability and provide regular challenge at the Learning Disability Partnership Board. The Learning Disability Partnership Board also provides oversight and challenge to progress against the Transforming Care programme and the Brent joint Learning Disability Strategy, including monitoring progress against both agendas on a quarterly basis. The Board is co-chaired by a service user with a learning disability, and has a number of members who also have a learning disability. The Board both contributed to identifying priorities for service improvement, now reflected in the Learning Disability Strategy, and also acts as the final sign off for the strategy. Both strategies are attached as appendices to this report.
- 3.16 Brent Healthwatch have a number of 'experts by experience' that undertake provider monitoring visits to review the quality of support for people with a learning disability, which provides invaluable feedback. In recognition of the unique and valuable perspective this provides to service provision Adult Social Care are in the process of developing a number of 'experts by experience' posts to be part of commissioning team to assist with provider monitoring. This will specifically include people with a learning disability, who will work alongside Brent Council Placement Relationship Officers to undertake monitoring visits to learning disability provision.
- 3.16 All individuals known to the Integrated Learning Disability Service and Residential and Nursing Commissioning Teams have a support plan which identifies holistic goals with clearly defined outcomes. At the point of review there is a requirement within Mosaic to capture whether outcomes have been met, partially met or not met and a quarterly report has been devised which enables monitoring of how well providers are achieving outcomes for people. The quality of support is central to all reviews and whilst value for money is also

considered it should be noted that Adult B's current placement costs less than the placement she moved from but is providing much better quality support.

- 3.17 Through the Transforming Care programme specific work is being done to understand the current and future demography of the learning disability and autism population. This information is being utilised to inform the New Accommodation Independent Living (NAIL) project and discussions with the provider market around future needs and skills required within the market.
- 3.18 To date NAIL have delivered 9 new learning disability schemes (offering a total of 50 units of accommodation) providing specialist support specifically tailored to the needs of small groups of people with a learning disability. Work has been undertaken with each new provider to enable them to get to know the people they will be supporting and how they like/need to be supported prior to the schemes opening and has enabled a positive transition for individuals from a residential placement to a supported living placement. Care is now commissioned according to the needs of specific small cohorts and is therefore tailored to the specific needs of those individuals. Rather than the traditional way of commissioning care where individuals are matched to services, services are now built around individuals instead.
- 3.19 In partnership with Skills for Care, Adult Social Care is also undertaking a pilot with a small number of providers centred on delivering Positive Behavioural Support specifically tailored to an individual who presents behaviour that challenges. The training involves the individual, any family members and the team of paid carers providing support and is aimed at understanding that behaviour is a communication, what that communication is and how to provide support in a way that understands and responds to the need such that support can be offered to minimise the need for individuals to display challenges in order to get their needs met.
- 3.20 The Integrated Learning Disability Service are proactively working with GP services and primary care services delivering both training and advice around the health needs of people with a learning disability. This includes providing advice around reasonable adjustments and ensuring individuals access relevant health screening and an annual health check. This support has resulted in 90% of adults in Brent with a learning disability receiving an annual health check as compared to the national average of 49.7%. The team are proactive in ensuring that physical causation is ruled out, particularly for individuals who are referred to the service as presenting with challenging behaviour. Psychiatry liaise directly with GP services to request physical health investigations to rule out ill health causation. The Team Manager is currently working with all disciplines to facilitate better communication with GP's around the challenges that individuals may present when investigations are being undertaken and how GP's can be better supported with investigations, for example blood tests.
- 3.21 The Local Authority, CNWL and CCG in partnership deliver an annual Big Health Check Day for people with a learning disability which provides accessible information and advice around health screening and support and

offers healthy living advice, as well as providing some health checks; these are always extremely well attended.

- 3.22 An acute liaison nurse is employed by the CCG to work with local hospitals providing advice and support around making reasonable adjustments when someone with a learning disability is admitted. This includes advice about communication, accessible information, diagnostic challenges and ensuring that individuals have equitable access to health care and treatment.
- 3.23 Ensuring individuals are able to contribute towards their safety through communication and that those supporting are clear when their actions are disliked/not wanted is broader than an individual being able to say no. An individual communication passport is a much more effective tool that enables both the individual to communicate and those supporting to understand how a person communicates. The Speech and Language Therapy service currently work with individuals referred to them, their families and providers to develop communication passports. As part of the review process the Integrated Learning Disability Service and the Residential and Nursing Commissioning Team check whether providers are developing communication passports and utilising these to improve communication.
- 3.24 Adult safeguarding is everybody's responsibility; however, Brent Council have a dedicated team for Adult Safeguarding which offers oversight to all safeguarding cases and carries out the majority of S42 enquiries. There are a variety of models for the delivery of adult safeguarding enquiries and research has not identified that any particular approach is to be preferred.

Adult B SAR

- 3.11 The purpose and terms of reference for the Adult B SAR are detailed in the review itself, which is an appendix to this report. Put succinctly, the SAR's purpose was to identify good practice and shortcomings in Adult B's care and support provision and to learn lessons about the care and support provided to a person with learning disabilities, protection planning and the use of the Mental Capacity Act 2005.
- 3.12 It is clearly laid out in the SAR that what had been provided to Adult B over a considerable number of years had been very limited. She had been provided with accommodation and her basic needs had been met. However, with reference to the components of wellbeing in section 1 (Care Act 2014), provision had been limited. The SAR therefore challenges all those involved with arrangements for the care and support of learning disabled people with respect to what the vision and ambition is for service provision. If residential care is to be provided to people with learning disabilities, then this needs to be accompanied by other forms of service provision in order to deliver on all aspects of wellbeing. It is questioning whether, in all cases where care and support is being provided, relying just on annual reviews is sufficient to ensure that people's needs continue to be met and their wellbeing enhanced.

- 3.13 Concerns about provision for learning disabled people are not unique to Brent. There have been other SARs that have highlighted shortcomings, of which Winterbourne View (South Gloucestershire SAB) and Mendip House (Somerset SAB) are particularly noteworthy.
- 3.14 In relation to the recommendations, detailed advice was taken by Adult Social Care in relation to the other residents in the care home and that advice has been acted on, with plans implemented to ensure their health and wellbeing. The first recommendation has, therefore, been completed although work obviously is on-going with respect to monitoring the quality of the new arrangements.
- 3.15 Adult B now has an allocated social worker. Adult B and her mother were provided with considerable support in the run-up to her move and this support has continued. Adult B is safe and well, and is making good progress in her new placement. The second recommendation has, therefore, also been completed but work is on-going with respect to monitoring the quality and outcomes of the new arrangements.
- 3.16 The third and fourth recommendations relate to the development of services generally for learning disabled people and the SAB's role in seeking reassurance that the lessons from the Adult B SAR have been embedded. The SAB will receive regular updates from Adult Social Care and the CCG regarding the development of services for learning disabled people, the management of provider concerns, and the provision of primary care healthcare checks. The SAB also receives regular updates of the outcomes locally of reviews of deaths of learning disabled people (the Learning Disability Mortality Review Programme), which means that the case of Adult B is not seen in isolation.
- 3.17 The responsibility for overseeing the outcome of the recommendations rests with the SAB and ultimately myself as Independent Chair. I have facilitated dissemination events and will continue to do so in order to ensure that the lessons from the Adult B SAR, and from other SARs nationally involving learning disabled people, are known and the findings reflected in good practice locally. The last SAB annual conference deliberately included a keynote presentation on SAR findings and another on good practice with learning disabled people. The SABs strategic plan, a statutory requirement from the Care Act 2014, is being updated for 2019/2021 and there will be a strategic priority that focuses on learning disabled people to ensure a focus on service improvement in this field of practice.
- 3.18 Adult B and her mother will continue to receive support from a social worker and GP to ensure that her health and social care needs are met. Adult B's mother was consulted during the SAR process, so that her views were incorporated fully. She was also fully involved in discussions about publication of the SAR and was supportive of publication to ensure that lessons are learned both locally and nationally.

4.0 Financial Implications

4.1 There are no financial implications arising from this report.

5.0 Legal Implications

5.1 This report purposefully seeks to maintain the anonymity of Adult B by ensuring no personal data is contained within it. Article 8 of the European Convention on Human Rights states that *'everyone has the right to respect for his private and family life, his home and his correspondence'*. Whilst Article 8 does not create an absolute right to privacy, but rather 'respect' for it, it does go on to describe the circumstances in which a public authority can interfere with the exercise of this right. These circumstances are:

'as in accordance with the law and is necessary in a democratic society in the interests of national security, public safety or the economic well-being of the country, for the prevention of disorder or crime, for the protection of health or morals, or for the protection of the rights and freedoms of others.'

5.5 Any interference would need to have regard to the fair balance that has to be struck between the competing interests of the individual and the community as a whole and to be in accordance with law, necessary and proportionate and for the protection of health or morals of others.

5.6 When considering the function of the Scrutiny committee and the purpose of this report as set out in 1.0 – 1.3 above, disclosure of Adult B's identity or any specific details about her case that may identify her either within the report or during verbal discussions is not justified or proportionate in the circumstances as it is not central to the purpose of the report and in fact may distract from it.

6.0 Equality Implications

6.1 The role of the SAB is to develop a strategy to protect adults at risk of abuse and neglect. One way in which it does this is to commission reviews under Section 44 of the Care Act 2014. These are called Safeguarding Adults Reviews (SAR's). The SAB makes decisions with regard to publication of a Review on a case by case basis taking into account a range of factors. The decision taken in Adult B's case was that an anonymised report would be published.

6.2 The Safeguarding Adults Board aims to seek assurance that its partners are putting systems in place to protect vulnerable adults in the area for which it is responsible. This includes people with protected characteristics under the Equality Act.

6.3 The report itself does not have Equality implications but examines the standard of care provided by one care provider in the London Borough of Brent. Subsequent discussions or changes made as a result of the learning may require further consideration to be given in relation to Equalities.

7.0 Consultation with Ward Members and Stakeholders

- 7.1 Ward members who are members of the Community and Wellbeing Scrutiny Committee will be involved in scrutinising this report at committee.

REPORT SIGN-OFF

Michael Preston-Shoot

Independent Chair, Brent Safeguarding Adults Board