

Duty to apply powers under s45 of the care act Protocol

1. Introduction

Sharing of information as part of day to day safeguarding practices is addressed in primary legislation:

- Common Law Duty of Confidentiality
- Data Protection Act 2018 (DPA)
- General Data Protection Regulation (GDPR)
- Human Rights Act 1998
- Crime & Disorder Act 1998

There are only a limited number of circumstances where it would be acceptable not to share information pertinent to safeguarding with relevant safeguarding partners.

Safeguarding adults boards (SAB) are required to set out a clear protocol for dealing with conflict on information-sharing. This document sets out the West of Berkshire Safeguarding Adults Partnership Boards protocol.

2. S45 Care Act 2014

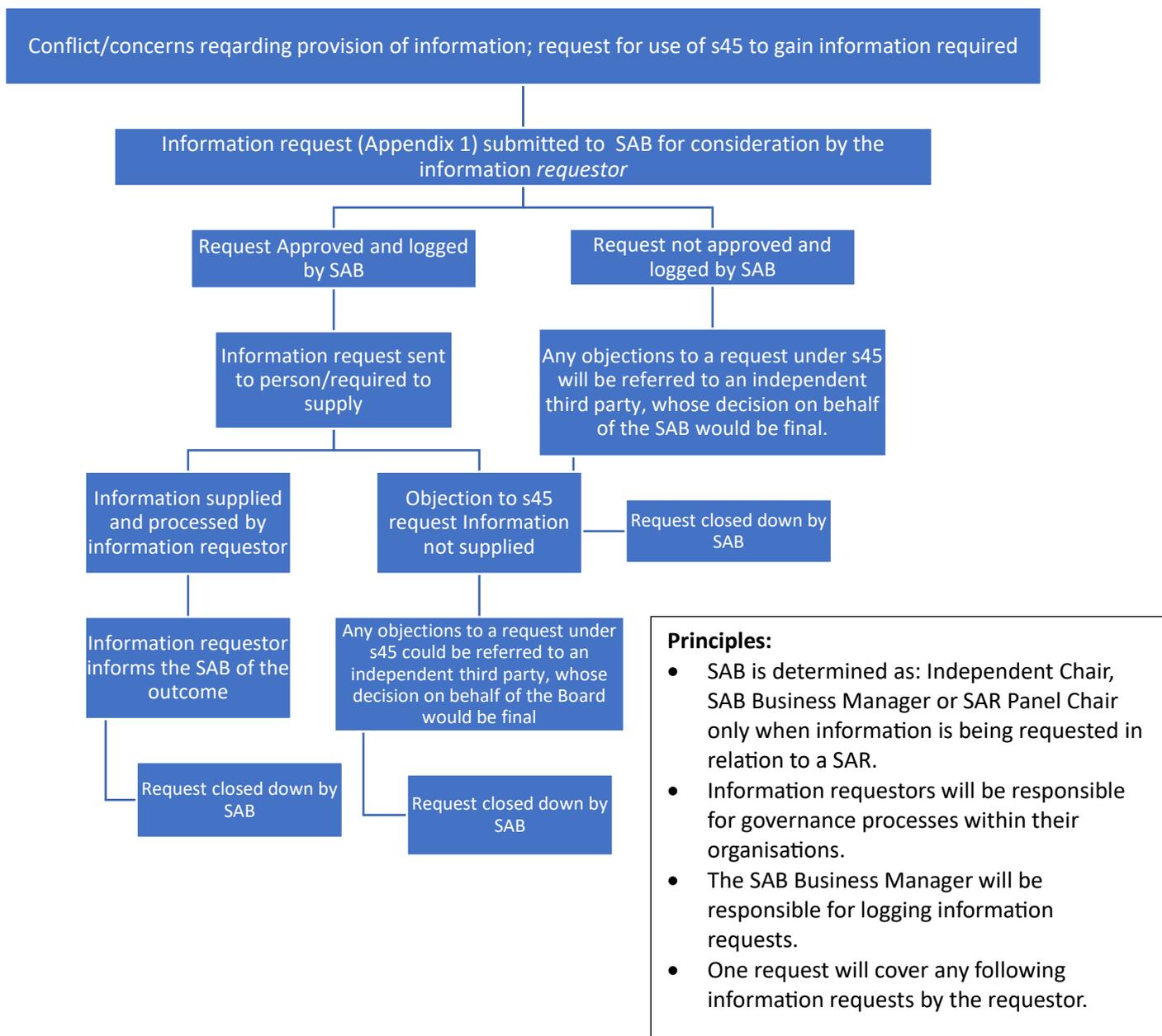
Section 45 of the Care Act 'the supply of information' covers the responsibility of others to comply with any request for information from the SAB for the purposes of its function. If there is continued reluctance from one partner to share information on a safeguarding concern, which cannot be resolved, the matter should be referred to the SAB. The SAB will then consider whether the concern warrants a request, under Clause 45 of the Care Act, for the 'supply of information'. Then the reluctant party would only have grounds for refusal if it would be 'incompatible with their own duties or have an adverse effect on the exercise of their functions'.

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3. Process escalating to the SAB under s45

The [Care Act 2014 s45 Supply of Information](#), means that a person must supply information on request by the SAB if they are 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 SAB that has the power to request disclosure under s45 and the following procedure outlines how the SAB will manage requests under s45. [Berkshire Safeguarding Adult Boards' Information Sharing Protocol](#) must also be followed when managing requests under s45.



Version 1

Approved by West of Berkshire Safeguarding Adults Board – July 2024

Review Due – July 2026

Appendix 1

 <p>West of Berkshire Safeguarding Adults Board Reading, West Berkshire & Wokingham</p>	<p>Permission to request information from organisation using s45 of the Care Act Please consult the follow document before completing and submitting this form: West of Berkshire Safeguarding Adults Board (SAB) Duty to apply powers under s45 of the care act Protocol</p>
<p>To be completed by the information requestor</p>	
<p>Name of information requestor:</p>	
<p>Organisation of information requestor:</p>	
<p>Do you have the authority within your organisation to raise this request?</p>	
<p>Details of the individual you require information about:</p>	
<p>What actions has your organisation taken to resolve the dispute around sharing of this information?</p>	
<p>Why is this information being sought via s45?</p>	
<p>Please submit this form to:</p>	<p>SAB Business Manager, SAB Independent Chair SAR Panel Chair (only if information is being requested for consideration of a SAR).</p>
<p>To be completed by the SAB</p>	
<p>Date request received:</p>	
<p>Authorisation given request information under s45?</p>	
<p>Rationale for decision:</p>	
<p>Date decision shared with information requestor:</p>	
<p>Any other comments (to be used if there are any conflicts around information sharing):</p>	