

Overview and Scrutiny Committee

(to be held jointly with Health & Adult Care Scrutiny Sub-Committee)

Wednesday February 4 2009
6.00 pm

Membership

Councillor Fiona Colley (Chair)
Councillor Jane Salmon (Vice-Chair)
Councillor Toby Eckersley
Councillor John Friary
Councillor Barrie Hargrove
Councillor Adedokun Lasaki
Councillor Veronica Ward
Councillor Lorraine Zuleta

Reserves

Councillor James Barber
Councillor Richard Livingstone
Councillor Martin Seaton
Councillor Nick Vineall

Education representatives

Reverend Nicholas Elder, Church of England Diocese
Colin Elliott, Parent Governor
Jane Hole, Parent Governor

INFORMATION FOR MEMBERS OF THE PUBLIC

Access to information

You have the right to request to inspect copies of minutes and reports on this agenda as well as the background documents used in the preparation of these reports.

Access

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Contact

Peter Roberts on 020 7525 4350 or email: peter.roberts@southwark.gov.uk

Members of the committee are summoned to attend this meeting

Annie Shepperd

Chief Executive

Date: January 27 2008



Overview and Scrutiny Committee

Wednesday February 4 2009
6.00 pm

Order of Business

Item No.	Title	Page No.
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PART A - OPEN BUSINESS

APOLOGIES

NOTIFICATION OF ANY ITEMS OF BUSINESS WHICH THE CHAIR DEEMS URGENT

In special circumstances, an item of business may be added to an agenda within five clear working days of the meeting.

DISCLOSURE OF INTERESTS AND DISPENSATIONS

Members to declare any personal interests and dispensation in respect of any item of business to be considered at this meeting.

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|----|--|-------|
| 1. | ASSESSMENT OF THE CIRCUMSTANCES SURROUNDING THE
DEATH OF MRS E. LAMBERT | 1 - 4 |
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DISCUSSION OF ANY OTHER OPEN ITEMS AS NOTIFIED AT THE START OF THE MEETING.

PART B - CLOSED BUSINESS

DISCUSSION OF ANY OTHER CLOSED ITEMS AS NOTIFIED AT THE START OF THE MEETING AND ACCEPTED BY THE CHAIR AS URGENT.

Date: January 27 2009

Item No.	Classification: Open	Date: 04/02/09	Meeting Name: Joint meeting of Overview & Scrutiny Committee and Health & Adult Care Scrutiny Sub-Committee
Report title:		Assessment into the circumstances surrounding the death of Mrs E. Lambert	
Ward(s) or groups affected:		All	
From:		Chief Executive	

RECOMMENDATION

1. That the joint meeting receive the independent report into the circumstances surrounding the death of Mrs E. Lambert.

BACKGROUND INFORMATION

2. Mrs Engelina Lambert, West Lane, Bermondsey, was found dead in her home on 30 July 2008. A post-mortem examination recorded the cause of death as unascertained. This resulted in the case being considered at an inquest at the Southwark Coroner's Court on 17 November.
3. Following the inquest, the Coroner (London, Inner South) exercised the provisions of Rule 43 which is pursuant to The Coroners (Amendment) Rules 2008, which provides for the Coroner to make a report following an inquest and require the local authority to respond.
4. On the 25 November, the Chief Executive agreed with the Coroner that an assessment into the circumstances surrounding the death of Mrs. E. Lambert should be carried out, and agreed with him that an independent person should be appointed to carry out the assessment on her behalf. The Chief Executive remains accountable to the Coroner for the assessment and the report to the Coroner is the Chief Executive's report.
5. The Chief Executive consulted with relevant stakeholders about the criteria for the appointment of an independent person and, on 19 December, confirmed the appointment of Prof. Derek Gardiner as someone who met the criteria.
6. The Chief Executive's report, as prepared by an independent person, is provided in Appendix 1.
7. The criteria for appointment and terms of reference for this work is provided in Appendix 2.
8. In agreement with Prof. Gardiner, it was determined to present the report to a joint session of Overview and Scrutiny and Adult Health Committee on the 4 February and to the Executive on the 10 February.
9. The independent report will be submitted to the Southwark Coroner.

KEY ISSUES FOR CONSIDERATION

10. The following are the matters which the Coroner identified following the Inquest at the Southwark Coroner's Court on 17 November, and which Prof. Gardiner was directed to address in his independent report.
 - i) further training on what the eligibility criteria mean and where the gap is between 'critical' and 'life-threatening' circumstances including clearer examples of what circumstances meet the criteria in each level and a clearer indication that such lists are neither exhaustive nor definitive
 - ii) better communication of the objective means by which a decision is reached - a recommendation made on the basis that the decision-maker was not available to give evidence before me but the person who did give evidence was not able to discern why certain decisions had been made
 - iii) better investigation and enquiry into circumstances where information is lacking - one of the key characteristics of this case was that Mrs. Lambert had not been seen for some days and therefore crucial information as to the extent of any risk was not there and was not sought
 - iv) clearer investigation into and responses to issues raised by external agencies or individuals
 - v) a clearer distinction between medical decisions and social work responses. It appears both from the criteria and the actions in Mrs. Lambert's case that, despite providing services that are quite distinct from those provided by the medical profession some of the criteria for care are based on medical needs and, in this particular case, a decision was made to contact Mrs. Lambert's GP rather than to visit her. This suggests a reliance on clinicians to deal with social needs or using clinical needs to define social care needs. The two are distinctly different and, whilst one might inform the other, they cannot be confused as a means of assessing any individual's need for social care.

SUPPLEMENTARY ADVICE

Strategic Director for Legal and Democratic Services

11. The Coroner has a statutory power to order an organisation or local authority, such as in this case, to respond to any concerns outlined in the Rule 43 report.
12. The law states that a response must be received by the Coroner within 56 days of receiving the report. However, it is possible to request an extension of that deadline as long as there are adequate reasons for making such an application.
13. Although Southwark is obliged to respond to the issues raised by the Coroner, there is no duty to act on comments or recommendations made by the Coroner. However, any decision not to take action must be clearly stated and supported with reasons.

14. The response to the Coroner under Rule 43 is the responsibility of the Chief Executive. The Chief Executive determined to appoint an independent person to assist in responding to the Coroner. This is not a legal requirement and it does not change the accountability of the Chief Executive for the final response to the Coroner.
15. There is no formal constitutional role for members in relation to this. However, it would constitute good governance of this process to involve members, and the Chief Executive agreed with Prof. Gardiner to present his report at a joint meeting of Overview and Scrutiny and Adult Health Committee and Executive.
16. In their meetings, elected members would be commenting directly to the Chief Executive. It is the decision of the Chief Executive as to whether to include any of those comments.
17. This relates to the process for agreeing and sending the response to the Coroner. There may well be follow-up matters from the report where there is a more traditional role for Executive and Scrutiny.

Finance Director

18. Any costs arising from the implementation of the recommendations within the report to the Coroner will be subject to the usual budget and business planning processes.

APPENDICES

No.	Title
Appendix 1	Independent report
Appendix 2	The criteria for appointment and terms of reference for the independent person

AUDIT TRAIL

This section must be included in all reports.

Lead Officer	Annie Shepperd, Chief Executive	
Report Author	James Postgate, Principal Policy Assistant to the Chief Executive	
Version	V2.1	
Dated	28.01.09	
Key Decision?	No	
CONSULTATION WITH OTHER OFFICERS / DIRECTORATES / EXECUTIVE MEMBER		
Officer Title	Comments Sought	Comments included
Strategic Director for Legal and Democratic Services	Yes	Yes
Finance Director	Yes	Yes
List other officers here		

Executive Member	No	No
Date final report sent to Constitutional/Community Council/Scrutiny Team		30 th January 2009