International Adult Safeguarding Conference 2023

Trinity College Dublin

Legislative Gaps in Adult Safeguarding

Patricia T Rickard-Clarke

26 October 2023
Overview

• Safeguarding Ireland
• Data
• Some specific issues
  • Data collection and Data Sharing
  • Psychological abuse/Coercive Control
  • Deprivation of Liberty – Place of Care
• Safeguarding Legislation
• Conclusion
Safeguarding Ireland

• Main object –
  ✓ To promote safeguarding of adults who may be vulnerable, protect them from all forms of abuse by persons, organisations and institutions and develop a national plan for promoting their welfare.

• Strategic Plan 2022 to 2025 -
  ✓ One of the main objectives of the Strategic Plan is the pursuit of the introduction and enactment of Adult Safeguarding legislation and the establishment of an independent National Adult Safeguarding Authority.
Some Data
SI Awareness Research Findings 2017-2022

• Irish public believes abuse of vulnerable adults is widespread

• 2017 – Research
  • 50% say they have experienced the abuse of vulnerable adults either through being abused themselves or seeing somebody else close to them

• 2020 – Research
  • 12% reported having experienced abuse in the previous 6 months and one third of adults reported ever having experienced abuse.
  • Almost one in four do not know who to report adult abuse to.

• 2022 – Research
  • 44% of people have personally experienced adult abuse (41%/9%/50%)
  • 66% know someone who has experienced abuse

• Public seeks dedicated 24 hour helpline for adult abuse
# HSE National Safeguarding Office Report 2022

**Table 1: Profile of safeguarding concerns by CHO 2016 – 2022**

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<td>1</td>
<td>711</td>
<td>768</td>
<td>878</td>
<td>879</td>
<td>828</td>
<td>791</td>
<td>993</td>
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<td>687</td>
<td>704</td>
<td>755</td>
<td>649</td>
<td>646</td>
<td>665</td>
<td>721</td>
<td>4,827</td>
<td>+8%</td>
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<td>886</td>
<td>697</td>
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<td>953</td>
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<td>4</td>
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<td>1,189</td>
<td>1,628</td>
<td>1,730</td>
<td>1,342</td>
<td>1,583</td>
<td>1,880</td>
<td>10,412</td>
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<td>1,310</td>
<td>1,567</td>
<td>1,476</td>
<td>1,493</td>
<td>1,398</td>
<td>1,435</td>
<td>1,687</td>
<td>10,366</td>
<td>+18%</td>
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<td>6</td>
<td>478</td>
<td>850</td>
<td>916</td>
<td>1,001</td>
<td>955</td>
<td>1,081</td>
<td>1,166</td>
<td>6,447</td>
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<td>7</td>
<td>1,018</td>
<td>1,772</td>
<td>2,575</td>
<td>1,976</td>
<td>1,760*</td>
<td>2,137</td>
<td>2,411</td>
<td>13,649</td>
<td>+13%</td>
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<td>8</td>
<td>1,158</td>
<td>1,454</td>
<td>1,507</td>
<td>1,338</td>
<td>1,547</td>
<td>1,627</td>
<td>1,828</td>
<td>10,459</td>
<td>+12%</td>
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<tr>
<td>9</td>
<td>976</td>
<td>1,049</td>
<td>935</td>
<td>1,263</td>
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<td>1,456</td>
<td>2,061</td>
<td>9,141</td>
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<td>Total</td>
<td>8,033</td>
<td>10,280</td>
<td>11,780</td>
<td>11,215</td>
<td>10,574</td>
<td>11,640</td>
<td>13,700</td>
<td>77,222</td>
<td>+18%</td>
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# Table 9: Abuse types (all cases) by age of adult at risk of abuse 2022

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<tr>
<th>Abuse Types Alleged</th>
<th>18-64 Years</th>
<th>65-79 Years</th>
<th>80+ Years</th>
<th>Total Years</th>
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<tr>
<td></td>
<td>No.</td>
<td>%</td>
<td>No.</td>
<td>%</td>
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<tr>
<td>Physical</td>
<td>3896</td>
<td>37%</td>
<td>708</td>
<td>27%</td>
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<tr>
<td>Sexual</td>
<td>507</td>
<td>5%</td>
<td>72</td>
<td>3%</td>
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<tr>
<td>Psychological</td>
<td>4672</td>
<td>44%</td>
<td>1038</td>
<td>39%</td>
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<tr>
<td>Financial</td>
<td>619</td>
<td>6%</td>
<td>401</td>
<td>15%</td>
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<td>Neglect</td>
<td>636</td>
<td>6%</td>
<td>284</td>
<td>11%</td>
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<tr>
<td>Discriminatory</td>
<td>18</td>
<td>0%</td>
<td>6</td>
<td>0%</td>
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<tr>
<td>Institutional</td>
<td>116</td>
<td>1%</td>
<td>28</td>
<td>1%</td>
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<tr>
<td>Self Neglect</td>
<td>113</td>
<td>1%</td>
<td>133</td>
<td>5%</td>
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<tr>
<td><strong>Total</strong></td>
<td>10577</td>
<td>100%</td>
<td>2670</td>
<td>100%</td>
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</table>
Limitation of data collection

- Data collection by the HSE is limited and lacks the depth of information necessary to provide a comprehensive assessment of abuse of adults at risk of abuse in Ireland and outcomes.
- The figures predominately represent disability + older persons services

- Lack of a comprehensive IT online system of reporting and collection. (IT system selected end of 2022 (Liquidlogic – roll out date?)

- There are also important sectors outside of health care that do not gather data and as such safeguarding concerns are underreported in a number of areas especially in relation to financial abuse

Examples where there is very limited data in the context of safeguarding:

- Younger people (18 +) falling into a black hole
- Homeless people/people with addiction problems
- People with a mental illness
- Older people – ageism/financial abuse/deprivation of liberty (particularly those living in their own home)
- Persons who are suspects or who have served a term in prison
- Persons subject to human trafficking/modern slavery
Main Reason for Calls to Sage Advocacy Q3 2023

- NOK queries: 4
- Primary Care Services: 9
- Acute Settings: 18
- Patient Advocacy: 19
- Interpersonal: 19
- Home Support Services: 23
- Safeguarding: 26
- Planning Ahead: 31
- Barriers to Supported Decision Making: 32
- Health/Clinical Issues: 34
- Legal: 72
- Housing: 48
- Nursing Home & NHSS: 78
- Financial: 84
- Other: 22
Age Range and Gender of Clients YTD

AGE RANGE OF CLIENTS YTD

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<th>Age Range</th>
<th>Count</th>
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<td>&lt;29</td>
<td>13</td>
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<td>30-39</td>
<td>9</td>
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<td>40-49</td>
<td>32</td>
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<td>50-59</td>
<td>73</td>
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<td>60-69</td>
<td>248</td>
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<td>70-79</td>
<td>500</td>
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<tr>
<td>80-89</td>
<td>526</td>
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<td>90+</td>
<td>174</td>
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</table>

GENDER OF CLIENTS YTD

- Male: 839
- Female: 794
Managing Finances
Supporting adults who may be vulnerable
A Discussion Document

sageadvocacy.ie
Nothing about you / without you

FACILITATED BY
Community Foundation Ireland

Safeguarding Ireland
Current Research by Safeguarding Ireland

Grant Thornton commissioned to carry out research

Financial Abuse in the context of State payments

Report expected Q1 2024
## District Court: Domestic Violence - Trends*

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<td>2,933</td>
<td>2,987</td>
<td>3,577</td>
<td>3,323</td>
<td>3,343</td>
<td>2,613</td>
<td>2,658</td>
<td>2,638</td>
<td>2,671</td>
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<td>Barring orders</td>
<td>732</td>
<td>810</td>
<td>1,159</td>
<td>1,137</td>
<td>946</td>
<td>822</td>
<td>1,329</td>
<td>859</td>
<td>877</td>
<td>1,167</td>
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<tr>
<td>Protection order</td>
<td>8,719</td>
<td>8,269</td>
<td>7,649</td>
<td>7,049</td>
<td>6,390</td>
<td>5,869</td>
<td>5,365</td>
<td>5,108</td>
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<td>5,515</td>
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<td>4,627</td>
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<tr>
<td>Safety order</td>
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<td>7,280</td>
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<td>6,069</td>
<td>5,626</td>
<td>5,499</td>
<td>5,334</td>
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<td>Safety orders</td>
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<td>2,461</td>
<td>2,467</td>
<td>2,688</td>
<td>2,327</td>
<td>2,255</td>
<td>3,316</td>
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<td>2,029</td>
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<tr>
<td>Interim</td>
<td>1,951</td>
<td>1,917</td>
<td>1,918</td>
<td>1,643</td>
<td>1,270</td>
<td>917</td>
<td>880</td>
<td>731</td>
<td>699</td>
<td>674</td>
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<tr>
<td>Interim</td>
<td>951</td>
<td>1,141</td>
<td>1,251</td>
<td>1,209</td>
<td>982</td>
<td>693</td>
<td>676</td>
<td>563</td>
<td>569</td>
<td>522</td>
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<tr>
<td>Other</td>
<td>616</td>
<td>505</td>
<td>915</td>
<td>418</td>
<td>289</td>
<td>195</td>
<td>255</td>
<td>271</td>
<td>12</td>
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<td>Orders</td>
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<td>291</td>
<td>376</td>
<td>184</td>
<td>147</td>
<td>151</td>
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<td>263</td>
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* Figures do not include applications struck out or withdrawn

**Some interim barring orders were granted on foot of applications for protection orders. Likewise, some protection orders were granted on foot of interim orders.
Current Safeguarding in Ireland falls short of what is required

- The absence of a uniform regulatory framework (legislation, policies, accountability and enforcement) across all settings
- No national database for the collection of adult safeguarding issues of concern leading to critical gaps in information to inform policy and legislation
- No overall regulatory body with responsibility for receiving complaints
- No regulatory body with responsibility for, and powers to, investigate individual cases of abuse reported in residential care settings
- No regulation of homecare or home support services or other community based social services. (LRC Recommendation in 2011)
- Limited obligation to disclose information about certain types of abuse (limited to serious criminal offences)
- Limited powers to enter premises, access information and investigate concerns
- Limited role of the HSE safeguarding service (more limited in practice than policy provides)
- Limited form of protection afforded by regulation of Nursing Homes
- Need to challenge the widely held belief that the family members of persons at risk are entitled to manage and exploit the finances and asset of their kin, in the absence of proper authorisation – (some progress with the commencement of the ADMC Act)
Clear gaps in statutory provisions

• **No** Social care legislation – to provide obligation to have systems to prevent abuse
• **No** Adult Safeguarding legislation - to provide statutory obligation to protect/accountability
• **No** statutory framework for inter-agency co-operation or collaboration
• **No** statutory provisions for data sharing
• **No** statutory obligation to report abuse, violence, exploitation or neglect perpetrated against a person at risk
• **No** statutory provision for offence of coercive control in an non-intimate relationship
• **No** statutory provision on protection of constitutionals right to personal liberty
• **No** statutory provision for independent advocacy
• **No** statutory provision for dealing with self neglect
• **No** statutory provision for legal aid to defend certain constitutional rights
Current Position

Legislation:

• Health Acts – mainly for acute treatment and care**

• Assisted Decision-Making (Capacity) Act 2015 – for persons whose decision-making capacity is at issue. (Enacted 2015, commenced 2023)

Policies:

HSE Safeguarding Vulnerable Persons at Risk of Abuse – limited to social care division. (Review in 2018/2019 not yet published)

X No National Adult Safeguarding Policy

Standards:

National Standards for Adult Safeguarding (HIQA + MHC 2019) (mainly related to health/social care

X No National Standards for Independent Advocacy

**Health Act 2004 - S.7 The object of the Executive is to use the resources available to it in the most beneficial, effective and efficient manner to improve, promote and protect the health and welfare of the public.
Guidance on a Human Rights-based Approach in Health and Social Care Services
Data Sharing
Obligations to share information - legal basis

**National Vetting Bureau (Children and Vulnerable Persons) Act 2012**

- Legal obligation to share information relevant to safeguarding
- HIQA, HSE and MHC to notify specified information
- Limited to sharing only with the NVB

**Criminal Justice (Withholding of Information on Offences against Children and Vulnerable Persons) Act 2012**

- Legal obligation to share information relevant to safeguarding
- A person will be guilty of an offence if he/she does not disclose relevant information to An Garda Síochána in relation to specified offences
  - Limitations of this Act not understood
  - Awareness of implications of non-disclosure not understood/documentated

- **Criminal Justice Act 2011**
  - Legal obligation to share information that might be of material assistance in preventing, prosecuting or convicting the commission of offences relating to financial crime, company law offences and theft and fraud offences

- **Assisted Decision-Making (Capacity) Act 2015 (as amended) Section 95A**
  - Provides for Regulations – disclosure by the Director of the DSS of information lawfully obtained…to a public authority or a public body….to protect the vital interests…..
  - Regulations for the sharing of special categories of personal data…substantial public interest…
Data Protection Legislation

• General Data Protection Regulation – GDPR
• *Data Protection Act 2018* (gives further effect to GDPR)
• *Data Sharing and Governance Act 2019* – sharing between public bodies (does not include sensitive personal data)

GDPR / DP Legislation is not a barrier to sharing information.

It provides a framework to ensure that personal information about living persons is shared appropriately.

**Legal Basis for sharing: (Safeguarding lens required)**

• Consent
• Contractual necessity
• Compliance with a legal obligation – may be set out in primary or secondary legislation or court decision
  • ADMC Act obligation to get information….DSS v An Garda Síochána
• Vital interests – can be relied on directly
• Task carried out in the public interest /substantial public interest – requires ministerial regulation
• Legitimate Interest – can be relied on directly (Art 6(1)
Data Sharing

ENGLAND
• Data Protection Act 2018 - Statutory Code for Data Sharing in relation Children + Vulnerable adults
• Data Sharing: Code of Practice (Information Commissioner’s Office)
• Safeguarding Adults (Data Sharing) (NHS England)
• Safeguarding Adults: sharing information (Social Care Institute for Excellence)

IRELAND
• Legislation to provide a positive obligation to share data when necessary and appropriately is required
• Ministerial Regulations as provided for in the Data Protection Act 2018 are required
• Data sharing Guidance from Data Protection Commission urgently required
  • Data Protection Commissioner has committed to preparing a Data Sharing Guidance Document

Multi-agency and multi-disciplinary approach to safeguarding is essential (across both public and private organisations) and the sharing of data is essential for this purpose
Psychological Abuse
Coercive Control
Safeguarding Ireland Survey RedC (Oct.2020)
Incidence of Abuse in Ireland

Coercive Control – most common form of abuse both before and during COVID 19 pandemic

• Emotional Abuse
  • Anytime in the last 6 months 25%
  • More than 6 months ago (before COVID-19) 58%

• Psychological Abuse (threatening/coercive control/undue influence)
  • Anytime in the last 6 months 17%
  • More than 6 months ago (before COVID-19) 51%
In 14% of cases there are more than one abuse type alleged. As outlined in table 11 regardless of age, psychological abuse is the most likely to be associated with another abuse type, most commonly physical.
Coercive Control

Domestic Violence Act 2018 – Section 39

(1) A person commits an offence where he or she knowingly and persistently engages in behaviour that—

(a) is controlling or coercive,

(b) has a serious effect on a relevant person, and

(c) a reasonable person would consider likely to have a serious effect on a relevant person.

(2) For the purposes of subsection (1), a person’s behaviour has a serious effect on a relevant person if the behaviour causes the relevant person—

(a) to fear that violence will be used against him or her, or

(b) serious alarm or distress that has a substantial adverse impact on his or her usual day-to-day activities.

• A relevant person is defined as a spouse or civil partner of that other person, or is not the spouse or civil partner of that other person … but is or was in an intimate relationship with that other person.

Limitation – does not cover non-intimate relationships or intergenerational control,

• 2019: SI recommended redefinition of a relevant person, a person is a “relevant person” in respect of another person if he or she is subject to the behaviour as set out in subsection (1).
Legislation for offence of Coercive Control

• *Domestic Violence Act 2018* – restrictive in scope
• *Non-Fatal Offences Against the Person Act 1997* – Coercion
  • A person who, with a view to compel another to abstain from doing or to do any act which that other has a lawful right to do or to abstain from doing, wrongfully and without lawful authority -
    • Uses violence, damages property, persistently follows…..
  • Elements of the offence entirely different
  • More difficult to establish
  • There is a higher threshold to meet the mental element than under Sec.39 DVAct
  • Does not deal with behaviour that is controlling and coercive
  • Does not deal with the impact the conduct has on the victim

• *Criminal Law (Miscellaneous Provisions) Act 2023*
  • Suggested amendment in the Seanad by Senator Frances Black
  • An offence of *Non-Intimate partner coercive control*
    • Definition of ‘abusive behaviour’
    • Commitment by the Minister for Justice to start the process. *Need further engagement with Garda, DPP and organisations.*

• Time lines – First raised by Safeguarding Ireland in 2019
Deprivation of Liberty
Constitutional and Convention Right

Constitution – Article 40.4.1
• No citizen shall be deprived of his personal liberty save in accordance with law

European Convention on Human Rights – Article 5
• Everyone has the right to liberty and security of person. No one shall be deprived of his liberty save in accordance with a procedure prescribed by law – exceptions (Article 5.1)

• Everyone who is deprived of his liberty by arrest or detention shall be entitled to take proceedings by which the lawfulness of his detention shall be decided speedily by a court ...(Article 5.4)

UNCRPD – Article 14
• State Parties shall ensure that persons with disabilities on and equal basis with others
  • (a) Enjoy the right to liberty and security of person
  • (b) Are not deprived of their liberty unlawfully or arbitrarily, and that any deprivation of liberty, is in conformity with the law, and that the existence of a disability shall in no case justify a deprivation of liberty
Deprivation of Liberty

• No Protection of Liberty Safeguards legislation
  o To comply with Constitutional rights requirements or international human rights obligations - ECHR right and UNCRPD right

• Deprivation of Liberty – abusive practices imbedded in culture and practice
  o Greatest impact on older people
  o Disregard for the rights of persons who lack capacity

• Abusive practices
  o Will and preference of person not ascertained
  o Decision made, person not consulted even when person has capacity
  o Associated with financial abuse/coercive control
  o Wards of Court has been used inappropriately
AC v Cork UH and HSE [2018] IECA

• Application Article 40.4.1 and 40.4.2 of the Constitution
  • **Raises legal and constitutional issues of far reaching importance** regarding the personal liberty…not least in so far as the care and welfare of the infirm and elderly are concerned
  • Right under the Constitution-cannot be swept away by Victorian wardship legislation
  • **Legal issue not a medical one** – (Art 40.4.1 provides that all detention must be in accordance with law. The reasons and motives of the detainer are not relevant to any consideration of this issue of law).

• Whether detention lawful?
  • The power [to detain] claimed by the hospital amounts to a **paternalistic entitlement to act in the best interests** of the patients whose capacity is impaired and, in effect, to restrain their personal liberty and freedom of movement and if necessary, to do at the expense of close family members. But ever, before the Constitution the common law has always rejected the claim that personal liberty could be compromised on such a basis.

• Legislation required
  • Those who contend that it would be appropriate that those caring for the elderly should have this power [depriving a person of his/her personal liberty] should not come to this Court requesting that we should create it, …..If the law is considered to be unsatisfactory, then any changes is exclusively a matter for the Oireachtas to determine.
• deprivation of liberty must in all cases be in accordance with law.

• To hold that persons cannot be found to be ‘detained’ if they are not capable of making a valid decision to leave for themselves, or if they are not aware of or able to object to their situation, would not simply permit restrictions on their freedom of movement for their own protection. It would also have far-reaching consequences of denying to vulnerable persons...the benefit of the constitutional guarantee that they will not be deprived of their liberty otherwise in accordance with law. It is possible for a person of full capacity to be detained without necessarily being conscious of that situation, and, equally, it is possible in the case of a person with impaired capacity. Both are entitled to legal protection. (Para 334)
DoLs Roadmap to date

- Draft heads of Bill published in Dec 2017 by Department of Health (DofH)
- Consultation process up to May 2018 (over 50 submissions)
- DofH set up Advisory Group in early 2018 to consider submissions
- Aim was to publish detailed Bill by end 2018 (not achieved)
- AC case Court of Appeal 2018 and Supreme Court 2019
- Supreme Court:
  - Must start with the factual question, did the person wish to leave, was she deprived of her liberty
  - This question should be answered first, before the consequences of any doubts over capacity are considered
  - Analysis must start with the express constitutional provision in Article 40.1 that no person shall be deprived of his or her personal liberty save in accordance with law.
  - It emphasised that the constitutional guarantee of the right to liberty protects persons who lack decision-making capacity to the same extent as everyone else.

- Assisted Decision-Making (Capacity) (Amendment) Act 2022
  - Nothing in this Act shall affect the inherent jurisdiction of the High Court to make orders for the care, treatment or detention of persons who lack capacity.
  - KK [2023] IEHC 565...it is necessary to consider the safeguards that a court is required to put in place when exercising this jurisdiction both by reference to the Constitution and the ECHR
DoLs Roadmap/Timetable

• Legislative gap – legislation required to give jurisdiction to Circuit Court and High Court

• DofH set up further Advisory Group in January 2023 – priority area of work
• Met 7 times to date
• Issues
  • Scope, (acute hospitals, all residential care facilities, homes)
  • Those who lack capacity, those who have capacity (constitutional right to access to the High Court if a person is detained)
  • Using the scaffolds of the ADMC Act and UNCRPD
  • What decisions for detention (care, treatment, detention)?
  • Authorisation process – court, tribunal or other
  • Place of Care Decisions – setting out will and preference in advance
  • Right to legal representation (See para 49 KK [2023] 565 …right to legal representation and wishes and views of person to be heard in court, far from an abstract issue.

• Consultation process before the end of 2023???
• Legislative Programme Autumn 2023 – states that work is underway
Strong support for laws/organisations to protect people from abuse

While support for laws to safeguard people and dedicated Safeguarding/National Authority is strong across all gender/age cohorts, it is particularly strong for middle-age and older women.

% agree (somewhat/strongly) on attitudes to laws / organisations safeguarding people from abuse

Ireland needs stronger laws to safeguard people from abuse or neglect, particularly those who are vulnerable

More urgency is needed to strengthen safeguarding laws and services in Ireland

A dedicated Safeguarding Authority should have enforcement powers to hold people, or institutions to account if they are suspected of abuse or neglect

An overall National Authority is needed to strengthen policies and services which safeguards people, particularly those who are vulnerable

Q3 Do you agree or disagree with the following statements?
Base: All adults aged 18+, n=1,002

Statistically significantly lower / higher than total (95% confidence)
Social Care Legislation

• No Social Care legislation
  • Currently there is no clear obligation on the State, state agencies or organisations to prevent harm or generally to protect adults at risk
  • In developing our legislation, it is necessary to impose a statutory obligation on state bodies and organisations to prevent or reduce the need for care and support and not to be focussed on the management of crises/acute responses
  • Purpose – promote well being and the prevention of abuse, preventing the need for care and support, promoting integration of care and support with health services, providing information and advice, promoting diversity and quality in provision of services
  • There must be accountability and an obligation to uphold a person’s rights

• Critical issues – assessment of needs and assessment of risks
  • Examples
    o Younger people falling into a black hole
    o Homeless people/people with an addiction
    o People with a mental illness
    o Older people – ageism/financial abuse/deprivation of liberty
    o Persons who are Human Trafficked
    o Persons who are suspects or who have served a term in prison (need care too)
Adult Safeguarding Legislation

• Adult Safeguarding Bill 2017
  o Introduced Private Members Bill Seanad February 2017
  o Received all party support
  o Main Provisions
    o National Adult Safeguarding Authority
      o Functions
      o Investigations by Authority
      o Determining if adult needs support and assistance
      o Provision of Independent Advocate
      o Right of entry and inspection
    o Reporting

• Oireachtas Joint Committee on Health 2017
  • There is an urgent need for the enactment of Adult Safeguarding legislation and this legislation is crucial in providing protection to adults at risk
  • There should be no unnecessary delay in implementing adult safeguarding legislation
Towards Adult Safeguarding Legislation

  - Some key issues included –
    - Values and principles underpinning legislation
    - What body or bodies should have responsibility for regulation of Adult Safeguarding
    - Power of Entry and Inspection
    - Safeguarding Investigative Powers
    - Reporting models – ‘permissive, mandatory, hybrid/reportable incident’
    - Independent Advocacy
    - Access to Sensitive Data and Information Sharing
    - Multi-Agency Collaboration
  - LRC Report for publication in 2023???

- Department of Health – developing policy with a view to legislation
  - Legislative programme (Autumn 2023) – *Health (Adult Safeguarding Bill)* To underpin a planned national health sector policy on safeguarding vulnerable or at-risk adults in the context of their interactions with the health sector
Identifying RISKS
Sharing RESPONSIBILITIES

The Case for a Comprehensive Approach to Safeguarding Vulnerable Adults

Figure 9.1 Safeguarding adults at risk: nine key components

- Safeguarding adults at risk of abuse
- A rights-based approach
- Safeguarding legislation
- A National Adult Safeguarding Authority
- Inter-agency collaboration
- Development of data sharing strategy for safeguarding
- Regulation of home care
- A public education and awareness programme
- Legislative provision for independent advocacy
- Defining and understanding abuse in all its forms
Required Legal Framework

• National Adult Safeguarding Authority to provide overarching governance to
  ✓ National Safeguarding Service (independent of service provider)
  ✓ Mental Health Commission
  ✓ Decision Support Service
  ✓ National Council for Advocacy (yet to be established)

The National Adult Safeguarding Authority (independent of all services with independent chair) will have multi-agency/multi-disciplinary representation with will include the Policing Authority, legal and financial regulatory bodies, HIQA, HSE, Local Authorities, NGO’s and others

Clear statutory duties and powers
A National Adult Safeguarding Authority

An independent National Adult Safeguarding Authority with overarching responsibility of safeguarding and clear statutory duties and powers is clearly required. Functions would include:

- Promote standards
- Undertake investigations
- Receive reports from mandated persons
- Promote education, training and public awareness regarding matters concerning adults at risk
- Provide information to adults at risk in respect of abuse and harm they may be experiencing
- Supervise compliance with the duties imposed by or under legislation
- Provide information and guidance to service providers, organisations and bodies in the State in relation to their interaction with adults at risk, including the carrying out of risk assessments and safety statements
- Determine if an adult needs support an assistance
- Make provision, where appropriate, for independent advocacy to an adult at risk and specifically if he or she is the subject of an investigation
- Provide overarching governance to a number of bodies who have a ‘safeguarding’ remit....
Possible Structure for a National Framework

An overall national framework is required in order to create a context within which the legislative basis, the development and coordination of safeguarding initiatives can be effectively realised.
Figure 11.2: Integrated National Safeguarding Framework

Scope of proposed legislation

• Legislation must set out principles which place human rights at the core of legislation around wellbeing, care, support and safeguarding
  • Promotes individual well-being
  • Recognises every adult’s right to respect and dignity, honesty, humanity and compassion in every aspect of their life (NI Policy)
  • Empowerment - presumption of decision-making capacity, informed consent and the right to participation
  • Proportionality – take action that is least intrusive response appropriate to risk
  • Prevention – putting measures in place to take action before harm occurs
  • Partnership
  • Accountability

• Duty to assess needs
• Duty to meet needs for care and support
• Access to Independent Advocacy
• Interagency Collaboration: multiagency approaches to ensuring effective safeguarding for all at risk adults.
Conclusion

• Safeguarding is everyone’s responsibility.

• Adult safeguarding legislation is needed to set out principles which place human rights at the core of legislation around wellbeing, care, support and safeguarding.

• There are large gaps in legislation, practices, systems and organisations that are very costly on individual lives and do not respect the dignity of each person as an individual with his or her own rights.

• There is an urgent need for the enactment of Adult Safeguarding legislation.
THANK YOU

Discussion Document:
Identifying RISKS – Sharing RESPONSILILITIES: The Case for a Comprehensive Approach to Safeguarding Vulnerable Adults