EXECUTIVE SUMMARY

AIMS

In 2017 the Government approved the Department of Health's (DOH) development of a national policy on adult safeguarding in the health sector, together with such legislation as may be required to underpin it. This policy will apply to the health and social care sector at large, including all public, voluntary and private healthcare or social care settings in Ireland.

In 2019, in the context of its work to give effect to the Government Decision to approve the development of a health sector policy on adult safeguarding, the Department of Health commissioned Mazars, supported by an academic research team of Prof. Amanda Phelan (School of Nursing and Midwifery, Trinity College Dublin (TCD)), Dr Deirdre O'Donnell (School of Nursing, Midwifery and Health Systems, University College Dublin (UCD)) and Diarmuid Stokes (UCD Health Sciences' Library) for the preparation of an evidence review on adult safeguarding.

The DOH required research to consolidate available evidence into a primary and definitive evidence document for the purposes of informing the Department's development of a national policy on adult safeguarding in the health and social care sector. This is to ensure that the development of the policy is underpinned by suitable and up to date evidence.

BACKGROUND

Adult Safeguarding means putting measures in place to reduce the risk of harm (i.e. an action or omission causing harm) to adults at risk, promote and protect adults at risk's human rights and their health and wellbeing, and empowering people to protect themselves. An adult at risk (formerly known as a vulnerable adult) is a person who is aged 18 or over who needs help to protect themselves or their interests at a particular point in time, whether due to personal characteristics or circumstances, and is at risk of experiencing harm (i.e. the action or omission causing harm) by another party. It is recognised that there are certain risk factors that may increase an

adult's likelihood of being abused by another person, i.e. dependency status, disability status, health status, situational factors etc.

There have been improvements in policy and procedures in relation to the protection of adults at risk (e.g. adults who may be more at risk from abuse by a third party due to limited decision-making capacity, physical impairment, dependency status, for situational reasons etc.). A significant development in the context of the Irish health and social care system was the creation of the national adult safeguarding operational policy and procedures by the Health Service Executive (HSE) in 2014 – "Safeguarding Vulnerable Persons at Risk of Abuse National Policy", alongside the formation of a HSE adult safeguarding service for the social care sector (which incorporated a HSE elder abuse service which had been in place since 2007). The service includes 9 social work-led Safeguarding and Protection Teams and a National Safeguarding Office to develop and coordinate HSE's operational adult safeguarding policy and procedures for both the disability and older people sectors on a national level.

At a high-level, all sectors have some responsibility in safeguarding individuals according to broad pieces of legislation like the Equal Status Acts, which prevent discrimination against all individuals, including adults at risk. Key pieces of legislation have been enacted which provide for the justice and equality sector to play a more significant role in adult safeguarding. For example, the Assisted Decision-Making (Capacity) Act 2015, the National Vetting Bureau (Children and Vulnerable Persons) Act 2012 to 2016, the Criminal Justice (Victims of Crime) Act 2017 and the Domestic Violence Act 2018, each provide a statutory basis to support and protect individuals requiring safeguarding. The financial sector has a duty of care under the Consumer Protection Code to protect vulnerable customers. The Department of Employment Affairs and Social Protection (DEASP) and banking sector have powers to act in response to financial abuse and welfare fraud.

More recently, the Joint National Standards for Adult Safeguarding were formally approved by the Minister for Health in September 2019 and subsequently published. The approved Standards (HIQA and MHC, 2019) for health and social care services recognise the complexity of adult at risk situations, and the fact that any adult may

be at risk due to experiences, health or context and that this risk can fluctuate and be temporary or permanent.

METHODOLOGY

This document provides the results of a review of adult safeguarding in nine jurisdictions: Ireland, Northern Ireland, Scotland, England, Wales, Canada, Australia, Norway and Japan. Firstly, a systematic review was performed on the literature (database and grey literature searches) from 2017-2019, building on the Donnelly et al. (2017) and Health Information and Quality Authority (HIQA) and Mental Health Commission (MHC) (2018) reports. Secondly, a systematic review was performed on the literature (database and grey literature searches) for Norway and Japan for the period 2009-2019. For Norway and Japan (where most publications were not in English), regional experts assisted in this process. Thirdly, a snowball review approach was adopted to the literature, wherein literature not identified in the database or grey literature was supplemented by literature relevant to the review focus and which was cited in the identified papers or reports.

The methods used to undertake this work followed the principles and practice of a literature review, including searching, screening, applying inclusion/exclusion criteria, data extraction, quality appraisal and synthesis, and these are presented in the methods section where a detailed account of each step is provided.

KEY FINDINGS

The 138 electronic articles selected for review included 69 empirical studies and 69 non-empirical descriptive studies. Empirical studies included qualitative studies (n=37), cross-sectional papers (n=23), case studies (n=2), intervention trials (n=1) and systematic reviews (n=6). The Critical Appraisal Skills Programme (CASP) (CASP, 2018) Appraisal Checklists used to appraise the qualitative studies, case studies, intervention trials and systematic reviews rated each paper as being of high or medium quality (Appendix 2). The Appraisal Tool for Cross-Sectional Studies (AXIS) used to appraise the 23 cross-sectional papers identified for this study (Downes et al., 2016) rated each paper as being of high or medium quality. The appraisal of the quantitative papers (n=32) involved assessment of validity, reliability and replicability and each paper was rated as being of high or medium quality. The 69 non-empirical descriptive studies, which included literature reviews, opinion pieces and newspaper articles, were not subject to a critical appraisal and were automatically classified as low-quality evidence. A total of 39 grey literature publications were included in the review. Appraisal using the AACODS (Authority-Accuracy-Coverage-Objectivity-Date-Significance) appraisal tool (Tyndall, 2010) rated each publication as being of high quality. In addition, over 300 additional articles/papers/references were included in this review as a result of a snowball literature review process (see Section 1.2.3). The key findings of the literature review are presented as follows.

Evolution of Adult Safeguarding Systems

Historically, safeguarding was a concept that primarily focused on vulnerable children, older people and people with disabilities, but the concept of adult safeguarding has received an increased focus in all the targeted jurisdictions in recent years. Approaches to adult safeguarding have differed in and between jurisdictions, which in this research team's opinion appears to originate from safeguarding practices developing in an ad hoc fashion and being designed to fit into each jurisdiction's current systems rather than purposefully designing a complete adult safeguarding system at the outset. Gaps in adult safeguarding practice and policy can trigger scandals where harm is caused to an adult at risk. While adult

safeguarding approaches evolved in jurisdictions, it is clear that where safeguarding scandals occurred, they frequently act as a catalyst for new safeguarding developments or reforms to correct the issues which led to the scandal; many of these scandals are clearly drawn out and evidenced in this review. While Ireland, Norway and Japan have a nationwide legislative, policy and practice approach, the other jurisdictions studied are, or are made up of, autonomous states, provinces or territories and have a more patchwork approach which is determined by each such state, province or territory.

Terminology and Definitions

Traditional terminology focused on using terms such as 'vulnerable' and 'abuse'. The literature suggests that a number of jurisdictions are moving towards alternatives to these terms on the basis (among other reasons) of perceptions of stigma associated with the term "vulnerable" and of the concept of "abuse' lending itself to connotations that "abuse victims" have no choice or self-determination.

Within the Irish system, the National Vetting Bureau (Children and Vulnerable Persons) Act 2012, uses the terms "vulnerable persons" and "harm" and the Criminal Justice (Withholding of Information on Offences against Children and Vulnerable Persons) Act 2012 uses the term "vulnerable person. The Joint National Standards for Adult Safeguarding (HIQA & MHC, 2019), approved by the Minister for Health in September 2019, use terms including inter alia, "adult at risk", "abuse" and "harm". The DOH proposes using the same terminology in its draft "Discussion Paper: Primary Definitions – National Policy on Adult Safeguarding for the Health Sector" albeit with slightly different definitions. This demonstrates variation in approach between Irish government departments and Irish statutory agencies in terminology and definitions.

There are examples in this review where other jurisdictions have moved away from using "vulnerable" and "abuse". Some examples include, inter alia, "Adult at risk" in England, Scotland and Wales, "adult at risk of harm" in Northern Ireland, and "adult who has been abused or neglected" in the Canadian provinces of British Columbia and Yukon.

This research team has not identified published evidence to suggest certain terms work better than others. Each jurisdiction developed the terminology to fit its needs. It is this research team's opinion that clarity on the selected terminology and the underlying definitions is crucial; and if possible, it should be consistently used across legislation, policy, regulatory and practice discourses.

A Turn to Rights-Based Approaches

In recent years, there has been a concerted effort to position safeguarding within a human rights-based approach which complies with the United Nations Universal Declaration on Human Rights (UN, 1948), Convention on the Rights of Persons with Disabilities (UN, 2006a) (ratified by Ireland in 2018), and the Istanbul Convention on preventing and combating violence against women and domestic violence (Council of Europe, 2011) (ratified by Ireland in 2019). The United Nations (UN) Conventions promote, protect and ensure the full and equal enjoyment of all human rights and provisions detailed within specific human rights or anti-discrimination legislation (Ireland, United Kingdom, Canada, Japan) or even in constitutions (Ireland, Norway, Australia, Canada for example).

Balance between Autonomy Rights and Protection

Each jurisdiction within the scope of this review states that an individual has a right to make their own choices with the caveat that they must demonstrate functional decision-making capability. HIQA and the MHC promote a person-centred perspective in developing adult safeguarding standards (HIQA & MHC, 2018a). A functional approach to capacity assessment is embedded in concepts of the presumption of capacity, self-determination, consent, least interventive approach, proportionality, empowerment and autonomy within legislative, policy and practice principles (Department of Health and Social Care (England), 2014; HIQA & MHC, 2018a; LRC, 2019a). All jurisdictions in this evidence review propose that adults who demonstrate functional capacity ability are entitled to make risky choices, although it is noted by Cave (2017) that the doctrine of necessity should be applied in medical decisions if the risk relates to serious harm, death or it appears the choice is under undue influence.

How to strike the balance between autonomy of the individual and the use of interventions to protect them is a key challenge for policy-makers. Evaluations comparing adult safeguarding protective measures which are preventative or interventionist or a combination of both, are absent from this review. However, some evidence from Stewart (2016) and Donnelly (2017) indicates that whichever system is chosen, successful implementation depends on service providers clearly understanding the approach; as a lack of clarity was found to inhibit effective policy implementation (Stewart, 2016; Donnelly et al., 2017).

If functional capacity is not demonstrated, all jurisdictions in this evidence review have guardianship legislation which provides for supported decision-making. Again, it is underpinned by a human-rights ethos, with the appointed guardian, either through assisting or representing the adult, mapping decisions to the will, preference, values and beliefs of the individual.

It is noted that there has been a shift in the principles of guardianship from substitute decision maker (as articulated in Irish wardship), to supported and assisted decision-making underpinned by the assumption of capacity unless proven otherwise as provided for in Ireland's Assisted Decision-Making (Capacity) Act 2015.

Variety of Adult Safeguarding Approaches Across Jurisdictions

Each jurisdiction's system has evolved differently, including in relation to the development of legislation relevant to safeguarding adults. For example, in some jurisdictions, such as Ireland, Northern Ireland, Japan and Norway, alleged abuse perpetrations can be pursued though generic laws which relate to the specific offence committed. Other jurisdictions (Scotland, Wales, England and various territories in Canada and Australia) have enacted what we describe as "dedicated" adult safeguarding legislation in more recent years. Within this review, references to "dedicated" adult safeguarding legislation mean legislation which would "place an obligation on state bodies to ascertain if adults are at risk of harm, and to intervene when necessary to protect adults at risk" (drawing on the meaning assigned to "specific" legislation in the HIQA and MHC Background Document referred to at Section 1.2 (HIQA & MHC, 2018: 11)). Some jurisdictions are described in this review as having or not having dedicated adult safeguarding legislation, in this

sense. As discussed later in the review, adult safeguarding may be managed in some jurisdictions through a combination of legislative and non-legislative policy instruments (e.g. more generic primary or secondary legislation provisions which address aspects of adult safeguarding; national standards, guidelines and guidance; national and agency-level strategies and policies; professional regulatory frameworks and codes of practice; formal and informal inter-agency agreements and partnerships; standard operating procedures; and other initiatives including training, awareness, educational and professional development programmes and campaigns).

Whether it be an approach to adult safeguarding based on generic or dedicated legislation, as discussed throughout this review, each jurisdiction's legislation is supported by statutory approaches/policies/standards/guidance/etc. and is implemented by statutory or non-statutory organisations or agencies. To date, there is no comparative evidence currently available to state definitively which method works best, or if generic legislation, good management, governance, public policy, standards, guidance, inter-agency agreements or other measures could be sufficient to safeguard adults without the need for dedicated legislation.

Interagency and Intersectoral Approaches

The models of safeguarding which developed in each jurisdiction were, and are influenced by the provisions made in legislation and/or policy. These describe the roles and responsibilities of the different sectors involved in adult safeguarding. It is clear from the evidence available that approaches to addressing adult safeguarding may require multiple systems collaborating within sectors, across sectors, or both. For instance, the Irish health and social care sector, comprises a milieu of sub-sectors with interlocking or complementary roles. This includes inter alia, acute care, mental health, community services, primary care, residential social care services, day care, home supports, ambulance service, out-patient services, therapy and other therapeutic professional services, palliative care, rehabilitation, in addition to the public-voluntary-private spectrum which may be required to collaborate to address safeguarding within the health and social care sector, and where appropriate with agencies in other sectors. Sub-sectoral interlocking or complementary roles may

also be relevant in other sectors, settings or activities e.g. policing, social welfare, social inclusion, financial services, work environments, leisure activities, volunteering, community activities, sport etc. The research team found that where the evidence is lacking, is in quantifying which models of safeguarding perform better than others.

Key Evidence Gaps

There is a lack of relevant available evidence about a number of topics of potential value to policy-makers. For instance, the resource requirements associated with adult safeguarding activities are poorly understood and little or no published evidence on economic evaluations was identified within the scope of this review. Evaluations comparing education and training systems for adult safeguarding are absent from this review. Even empirical evidence for measuring the effectiveness of adult safeguarding interventions are scarce. Evidence may have been excluded by the search parameters of the systematic review, but more generally, these types of appraisals of services do not appear to be undertaken, or if undertaken, do not appear to be published and publicly available.

There is a need for studies with agreed standardised variables and measures that would examine adequately sized representative samples of safeguarding service providers and users to try to determine the effect the presence or absence of “dedicated” adult safeguarding legislation has on how sectors and services perform safeguarding activities. Similarly, studies on adult safeguarding education systems, training systems, resource requirements and interventions are required. These kinds of studies require measurement from the broadest possible perspective, incorporating a range of investigative parameters (including financial, physical, human, temporal and natural resource requirements for each) in ways that illuminate the relationship between each adult safeguarding system or provision and their impacts.