Law, Policy and Practice with Vulnerable Adults.
Findings from a Rapid Realist Review of the Literature

Presentation to the National Adult Safeguarding
Steering Group Department of Health

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HSE Safeguarding Policy Review

ADULT
SAFEGUARDING
LEGISLATION
AND POLICY
RAPID REALIST
LITERATURE
REVIEW

Adult Safeguarding Legislation and

Policy Rapid Realist Literature Review

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Methodological Approach to Literature Review

◇ A rapid realist review (RRR) methodological approach was employed to review the national and international literature in this field (Windle et al.2014).

◇ In the systematic review, the basic evaluative question is: 'what works?', whereas in realist reviews, the question changes to: 'what is it about this programme that works, for whom, and in what circumstances?' (Pawson, 2005:22).

Mechanism

Context

Outcome

Adult Safeguarding Legislation,
Policy and Practice
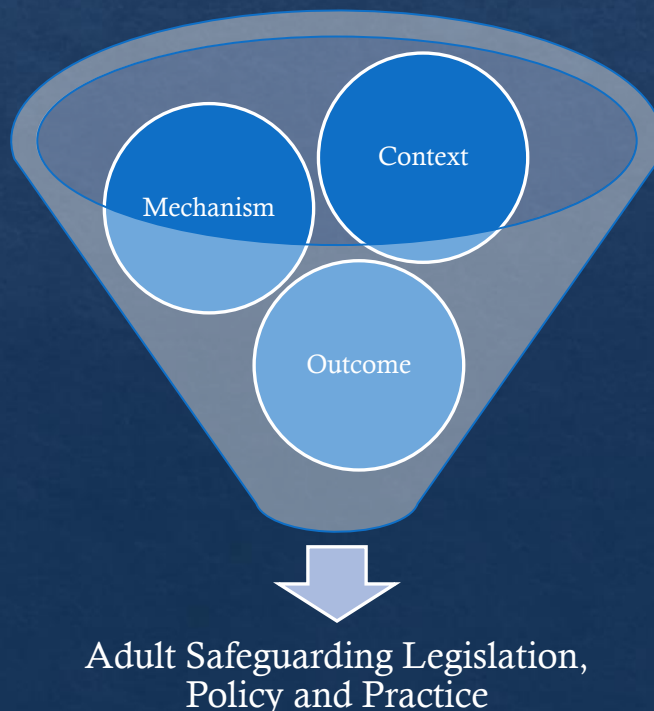
RRR International Expert Panel

◈ Dr Lorna Montgomery, Lecturer in Social Work, Queens University Belfast

◈ Kevin Myles, Department of Health, Safeguarding Unit, Northern Ireland

◈ Lisa Trueman, Department of Health Safeguarding Unit, Northern Ireland

◈ Dr Kathyrn Mackay, Lecturer in Social Work, University of Stirling, Scotland

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◈ Professor Lynn Mc Donald, Factor-Inwentash Faculty of Social Work, Scientific Director, National Initiative for the Care of the Elderly (NICE),Toronto, Canada

◈ Laura Tamblyn Watts, Senior Fellow and Staff Lawyer, Canadian Centre for Elder Law

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◈ Professor Marie Beaulieu, School of Social Work, University of Sherbrooke, Canada

◈ Dr John Chesterman, Director of Strategy, Office of the Public Advocate, Victoria, Australia

Research Questions

◈ What are the contrasting definitions of adult safeguarding?

◈ What legislation has been introduced in the countries concerned and what learning has been gained from Serious Case Reviews carried out in that jurisdiction?

◈ What are the different organisational models of adult safeguarding?

◈ What is the evidence for the efficacy of models of adult safeguarding in terms of outcome for individuals and other stakeholders?

◈ What implications do these findings have for policy and practice in Ireland?

England → Scotland → Northern Ireland → Australia → Canada

Defining Abuse

◈ Concept of abuse and associated language such as 'vulnerable' can stigmatise and disempower and lead to paternalistic interventions.

◈ Scotland concluded that the alternative concept of 'harm' avoided moralizing and stigmatizing effects,and could be applied more broadly.

◈ Harm is understood in the widest possible way, in that "no category of harm is excluded simply because it is not explicitly listed" (Scottish Government, 2014a, p.15).

◈ Abuse often involves the violation of human rights. This is particularly evident in countries which use a human rights- based approach to underpin policy and legislation.

◈ In a number of jurisdictions, the alternative concept of exploitation is emerging as a theme that links the different types of abuse commonly referenced (DOH UK , 2017).

Adult Safeguarding vs Adult Protection

Safeguarding -Macro Level

- A range of mechanisms including legislation and policy are used to promote overall safeguarding of adults, including challenging societal attitudes and social inequalities.

Safeguarding-Micro Level

- Policies, procedures and interventions ranging from minimum interventions such as the provision of home care support to compulsory measures such as the detention of individual in hospital without consent under mental health legislation (Stewart, 2016).

- Protection tends to focus on the needs of individuals who are experiencing harm and/or abuse or at risk.

- Achieved through the development of frameworks for intervention, often underpinned by a statutory mechanism to enable the provision of support.

Scottish Definition

3 (1) Adults at risk are adults (aged 16 and above) who;

a) Are unable to safeguard their own well-being, property, rights or other interests

b) Are at risk of harm, and

c) Because they are affected by disability, mental disorder, illness or physical or mental infirmity, are more vulnerable to being harmed that adults who are not so affected

3(2) An adult is at risk of harm for the purposes of the subsection (1) if;

a) Another person's conduct is causing (or is likely to cause) the adults to be harmed or

The adult is engaging (or is likely to engage) in conduct which causes (or is likely to cause) self-harm.

Country	Status of definition	Age	Key differences in definitions
Scotland	Legal: Section (S) 3 Adult Support and Protection (Scotland) Act 2007	16	An 'adult at risk' is • Unable to safeguard own well-being property, rights or other interests, and • At risk of harm, and • Because of disability, mental disorder, illness or physical or mental infirmity, are more vulnerable to being harmed than someone not so affected
Canada	No legal basis at federal level		• No specific definition of adult at risk • 'Vulnerable adult' used in guardianship and adult protection statutes in some Provinces
Australia	No legal or policy basis at Commonwealth level		• No specific definition of adult at risk • Vulnerable adult used in some state policies
Northern Ireland	National policy: Adult Safeguarding: Prevention and Protection in Partnership 2015	18	• "Adult at risk of harm": exposure to harm may be increased by personal characteristics and/or life circumstances • "Adult in need of protection": exposure to harm may be increased by personal characteristics and/or life circumstances and the individual is unable to protect themselves from the action or inaction of another person
England	Legal: S 42 The Care Act 2014	18	An 'adult at risk' • Has needs for care and support, and • Is experiencing, or is at risk of, abuse or neglect, and • As a result of those needs, is unable to protect himself or herself

Critical Considerations

1

Defining those in need of safeguarding as 'vulnerable persons' in terms of restricted capacity due to physical or intellectual impairment, associate vulnerability with inherent factors; discriminatory towards people with a disability(Stewart,2016).

2

Approach is inappropriate "appears to locate the cause of abuse with the victim, rather than placing responsibility with the actions or omissions of others" Lead to paternalistic interventions?

3

Need for a deeper understanding of abuse. Acknowledging that all citizens may find themselves in vulnerable situations at some time in their lives.

Model A	Description	Rationale
Dispersed Generic Model Represented in 5 areas	• Limited or no specialist involvement in response to safeguarding concerns. • Safeguarding is regarded as a core part of social work activity. • Strategic safeguarding team likely to be involved in investigations relating to multiple concerns within a particular setting such as a care home.	• Safeguarding is everybody's business • Maintaining skills throughout social work as a profession • Consistency of worker for the person perceived to beat risk

Model B	Description	Rationale
Dispersed Specialist models Specialist safeguarding social workers are based in operational rather than a central safeguarding team. Represented in 4 areas Two variations of this model were identified.	**B1 – Dispersed specialist - coordination for high risk referrals** -Specialists based in local operational teams manage 'high risk' investigations. -'Low risk' investigations are managed by locality team managers alongside normal duties. -Allocated or duty social workers undertake all investigations alongside normal duties. **B2 – Dispersed specialist coordination for all referrals** Specialists manage all safeguarding investigations. Locality social workers investigate, alongside normal duties	Specialists offer consistency in approach Experts in policies and process Experienced social workers other professionals Strong links with mainstream social work practice Independence and objectivity

Model C	Description	Rationale
Centralised Specialist model Three types of centralised models were prominent. In these sites, centralised specialist teams took varying roles in coordinating and investigating safeguarding concerns Represented in 14 sites	**C1 – Semi-centralised** Central specialist safeguarding team manage all 'high risk' referrals. Senior practitioners or team managers manage 'low risk' referrals. Allocated or duty social workers investigate all referrals alongside their normal duties. **C2 – Semi-centralised (6 sites)** 'High risk' referrals are managed and investigated by the central specialist safeguarding team. 'Low risk' referrals managed by team managers/senior practitioners and investigated by social workers alongside normal duties. **C3 – Centralised (3 sites)** All safeguarding alerts managed + investigated by	Consistent approach to decision-making Effective multi-agency working Development of expertise Objectivity

Australia	Canada	Northern Ireland	Scotland
Interagency model with various responders	**Single agency, single disciplinary model with dedicated responder**	**Collaborative Partnership Approach**	**Interagency model with dedicated responder**
Example Victoria- elder abuse response integrated into Primary Care Partnerships framework, ensuring that allegations of abuse were treated as "core business" when providing services to older people	**Example-BC** Social Worker-Adult Protection acts as the designated responder coordinator (DRC) across the services. where the adult is known. -Criminal cases are reported to the police. -Community Response Networks are also an integral.	Northern Ireland Adult Safeguarding Partnership (NIASP) and five Local Adult Safeguarding Partnerships (LASPs) were established -Adult Protection Gateway Services: single point of contact for referrals in each HSC Trust. -Designated Adult Protection Officers (DAPOs) in both Adult Protection Gateway Service, and within core service teams	ASPSA(2007) requires Adult Protection Committee (APC) in each local authority. Ensures Interagency cooperation. Must have an independent chair, be a multi-agency committee with representations from Council, Police, GPs and Health Boards plus other agencies.

Which Safeguarding Model works best?

Specialist Model

⬥ Importance of maintaining safeguarding specialism. Some evidence of productive outcomes when this occurs (Cambridge, Beadle-Brown et al., 2011).

⬥ Specialism is important in terms of quality assuring processes through; independent chairs (Manthorpe & Jones, 2002); a clear lead in investigations (Parsons, 2006; Cambridge & Parkes, 2006a); and centralised decision-making.

⬥ Specialist social workers undertaking safeguarding work can facilitate the maintenance of good relationships between mainstream social workers and social care or other providers (Fyson & Kitson, 2012).

⬥ Creation of specialist teams has also been viewed as sometimes problematic in organisational terms and in terms of survivor experiences (Cambridge and Parkes (2006b); Parsons 2006).

Mainstream Model

⬥ Continuity has been highlighted as an important feature of social work practice for survivors of abuse, especially in times of crisis (Fyson & Kitson, 2012).

⬥ Specialist model may lack continuity, which may in turn negatively impact upon the survivor (Parsons, 2006).

⬥ Concerns about the workload implications of a mainstream model; safeguarding work is unpredictable and may pose challenges to those in teams holding long-term caseloads by diverting them from their other work (Fyson & Kitson,2012; Parsons, 2006).

⬥ If not properly resourced, a mainstream model can increase workloads and also stress levels. (Preston-Shoot & Wigley, 2002).

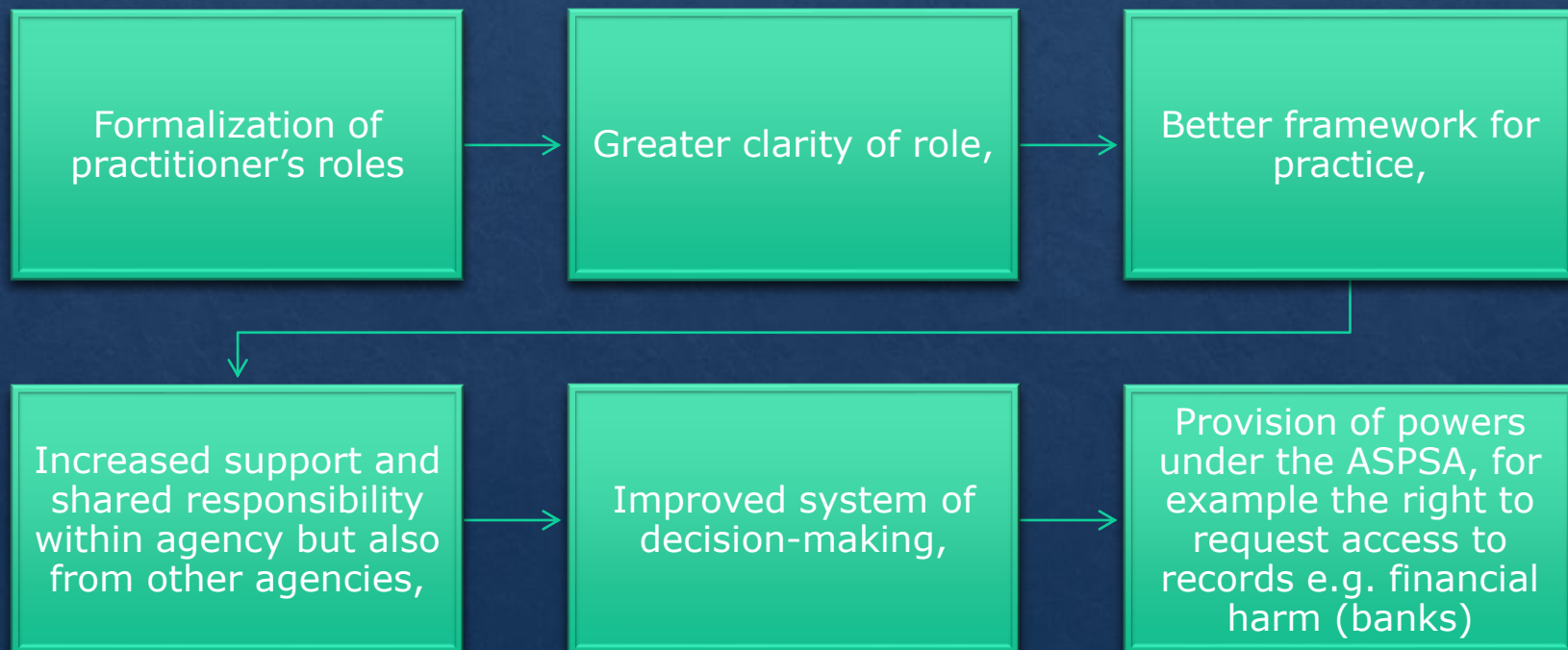| Jurisdiction	Legislation	Reporting Model
Australia-General	Aged Care Act 1997, and Aged Care Amendment (Security and Protection) 2007 sets quality standards for care recipients in residential care and in their homes	• **Mandatory reporting by staff** of allegations or suspicions of **physical** or **sexual assaults** in residential care facilities.
New South Wales	New South Wales Ombudsman Act 1974. Relates to people with disabilities in supported group accommodation	• **Mandatory reporting of specified conduct and incidents:** a) Employee to client incidents, b) Client to client incidents, c) A contravention of an apprehended violence order made for the protection of a person with disability, or d) An unexplained serious injury to a person with disability
Canada-General		• **Permissive reporting** of **financial abuse** by **banks** and **financial institutions**.
Nova Scotia	-Adult Protection Act 1989, amended, 2014. -Orders for protection, entry, assessment, protective and removal can be applied for through the courts. -Protection for Persons in Care Act 2004	• **Universal Mandatory Reporting** every person with information indicating that an adult is in need of Protection must report that information to the Minister, if they fail to do so the person is guilty of an offence. • Includes **Mandatory response** and a **duty to refer** for assistance. • **Permissive reporting** system applies to **general public**. **Mandatory Reporting** for **Service providers**.
British Columbia	Adult Guardianship Act 1996	•**Permissive Reporting by any person** with information about abuse or neglect can make reports to a designated agency. •**Duty to respond.**
England	Care Act 2014	• **Permissive Reporting framed** with a **duty to protect** and **duty to respond** including needs assessment and provision of support. Duty on professionals to cooperate and share information and follow statutory guidance
Northern Ireland	No Legislation has been enacted but policy in place. Adult Safeguarding: Prevention and Protection in Partnership Policy (2015)	• **Permissive reporting system,** with operational policies and procedures directing how safeguarding concerns should be addressed.
Scotland	Adult Support and Protection (Scotland) Act 2007 -Duty on Ministers to prepare a Code of Practice -Includes powers of entry, power to interview and protection orders.	• **Mandatory reporting:** A duty to report on public bodies or office holders who know or believe a person is an adult at risk of harm and that action needs to be taken to protect them. • **Required to make enquiries and duty to cooperate.**

Adult Protection Legislation and Reporting Systems

⬥ The introduction of a framework or specialist law could enhance responses to adult safeguarding.

⬥ Such laws usually set out the overarching principles and scope of adult safeguarding, and either establish, or clarify, response pathways (Duffy et al. 2015).

⬥ May fill significant legal protection 'gaps' when adults lack capacity, experience or are at risk of abuse (Carter Anand et al. 2014; Kaspiew et al. 2016).

⬥ Unintended outcomes occur, including potentially intrusive government involvement in adults' lives with or without their consent, undermining the rights and autonomy of individuals (Harbison et al. 2012; Keeling, 2017).

Benefits of Legislation- Practitioner's Perspective
(Scottish experience- Mackay et al.2012)

Formalization of practitioner's roles	→	Greater clarity of role,	→	Better framework for practice,

Increased support and shared responsibility within agency but also from other agencies,	→	Improved system of decision-making,	→	Provision of powers under the ASPSA, for example the right to request access to records e.g. financial harm (banks)

Systems to support safeguarding

⬧ Safeguarding legislation alone will not bring about organisational culture change to one of rights-consciousness.

⬧ Making safeguarding 'everybody's business' through awareness raising and educating the wider public and people in receipt of support about their human rights empowers people to challenge organisational norms and take action to safeguard themselves or someone else they know.

⬧ Sustainable resources are also essential to support, prevent and protect adults at risk.

Multi-agency working

- Fyson and Kitson (2012) found a link between **good multi-agency working relationships** and **effective investigations** leading to a positive outcome.

- **Definitional challenge** as one of the primary difficulties in developing effective multi-agency working (McCreadie at al.2008).

Other problems include:

1.**Lack of resources** for **developing partnerships** (Penhale et al., 2007; Cambridge & Parkes, 2006a);

2. **Poor communication** between agencies (Cambridge & Parkes, 2006a; Flynn, 2012; McCreadie et al., 2008);

3. **Little clarity** about different professionals' **roles and responsibilities** (Penhale al., 2007).

- **Duty to cooperate and share information -? Co-location as an enabler?**

Codes of Practice

- Legislation that includes an obligation on the Minister to provide guidance on such roles and responsibilities within a Code of Practice can help support a 'dignity of risk' approach, ensuring freedom of choice, and control on what is important *to the individual*, not what is important *for them.*

- The concept of proportionality is often applied in professional decision-making. Strikes a balance between the protection of the person in their own interest, whilst not interfering excessively with the autonomy, private and family life of the individual.

- The proportionality of response should relate to the evidence about risk and capacity.

Governance and Oversight

- In Ireland, Section 3(1) of the European Convention on Human Rights Act 2003, imposes a statutory duty on every 'organ of the State' to perform its *functions in a manner compatible with the State's obligations under the Convention provisions*.

- The review illustrates the benefit to adults in vulnerable circumstances of legislation that enshrines duties on public bodies to provide services and interagency co-operation.

- At the highest level, legislation and/or policy sets out the overarching principles underpinning safeguarding.

- At the next level, committees or boards (in Scotland the Adult Protection Committees, in England Safeguarding Adult Boards, in Northern Ireland Adult Safeguarding Partnerships) have a remit to oversee the implementation of legislation and/or policy, structure.

- Committees normally have an independent chair and representatives from the relevant NHS Board, police and other organisations who have a role to play in adult protection.

Overall Conclusions

* The promotion of legal and civil rights is best underpinned by a human rights approach to prevent discrimination and abuse, and to ensure social inclusion.

* Legislation can offer jurisdictions the opportunity to consider the introduction of measurable outcomes, reorganisation and comprehensive adult safeguarding provision and an opportunity to reprioritise service provision across the preventative-protection continuum.

* Extensive training is required in conjunction with this.

* Legislation is not a panacea for poorly resourced services and has the potential to restrict actions to that defined by law undermining the autonomy and other rights of adults.

* Making safeguarding 'everybody's business' through awareness raising and educating the wider public and people in receipt of support about their human rights empowers people to challenge organisational norms and take action to safeguard themselves.

Thank You for listening

Questions?