



An Roinn Sláinte
Department of Health

Discussion Paper: **Underlying Principles** National Policy on Adult Safeguarding for the Health Sector



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Introduction: Underlying Principles for the development of a national adult safeguarding policy for the health sector

Defining the underlying principles guiding the development of a policy is essential in determining the initial direction a policy will take and also provides ongoing guidance for those tasked with policy-making throughout the process. When the policy is published, and at consultation stages, these principles are an important platform which demonstrate to stakeholders the foundation on which the policy development process was founded. Principles also provide an important point of referral for those tasked with implementing policy and legislation in discerning the intended meaning of and basis for the policy

To this end, recognising the importance of the underlying principles which will guide policy development, as part of a stakeholder consultation (in Q4 2018) to assist in identifying themes to structure policy development, the Department developed a set of principles which were assigned priority by stakeholders and welcomed feedback regarding principles from stakeholders (see 1).

The Department's development of draft principles has been informed by the principles underlying the HSE's current (2014) Safeguarding Vulnerable Persons at Risk of Abuse policy (see 2, below).

Safeguarding principles in the international context are described and discussed at 3, below.

The Department's initial proposals on appropriate underlying principles to include in the policy for discussion by the Steering Group, are set out at 4, below.

1. Principles considered in Stakeholder Consultation

As part of a stakeholder consultation exercise by the Department of Health to assist in the identification of key themes to structure policy development, the following draft principles were presented, asking the respondents to assign them priority (high, medium, lower, or no priority).

Almost universally, these principles were deemed of "High" or "Medium" priority by circa-50 respondents. Quantitative data and qualitative responses received, including suggestions and comments regarding the principles included or deemed missing, are set out in Appendix 1.



“Q. What principles should underpin the health sector policy? How important are the following as underlying principles for a national policy on adult safeguarding in the health sector?”

“The national health sector policy and legislation on adult safeguarding should: ...”

- ... cover the entire health sector i.e. public, private and voluntary (including social care services for which the health sector has statutory responsibility)
- ... be rights-based, respecting individuals’ rights to independence, dignity, equality, privacy and choice
- ... be person-centred, respecting individuals’ rights to autonomy (including the right to make “unwise” decisions) and empowering them to understand abuse, minimise risk, make their own decisions and remain in control of their lives
- ... be consistent with the Assisted Decision Making (Capacity) Act
- ... include clearly defined lines of accountability, roles, responsibilities, duties and protocols
- ... recognise the importance of prevention to reduce the likelihood of opportunities for abuse occurring
- ... be proportionate, favouring least intrusive responses appropriate to risks, in line with individuals’ will and preference and rooted in evidence-based practice and partnership working
- ... foster a partnership approach between individuals, professionals and agencies
- ... recognise the need for good collaboration, including appropriate information-sharing, with other sectors and within the health sector and clearly defined referral pathways to other sectors
- ... recognise the importance of education, training, awareness and cultural change
- ... recognise that safeguarding is “everybody’s business”
- ... value advocacy as a key support for adults who may be at risk
- ...include an assessment of the resource and cost implications of its policy and legislation proposals



- ... be developed so that it can integrate with other sectors and that other sectors can integrate with it

2. Principles of HSE's 2014 Safeguarding Policy

The development of the HSE's 2014 Adult Safeguarding Policy was guided by the following principles:

- Human Rights
- Person Centeredness
- Advocacy
- Confidentiality
- Empowerment
- Collaboration

See in Appendix 2 extract from the HSE's published 2014 adult safeguarding policy, which discusses these principles in more detail.

3. Safeguarding principles in the international context

In the international context a number of common fundamental principles underlying safeguarding policy and legislation have been identified by the Department in relevant jurisdictions. It is worth noting that many principles in the various policies and legislation identified overlap with each other and some individual principles include what has been developed in more than one concept in other policy and legislation.

A more detailed list of legislation and policy mentioned, including relevant extracts can be seen in Appendix 3.

Self-determination / Empowerment

Self-determination as a principle means recognising the right of the person concerned to participate as fully as possible in decisions which affect their lives, insofar as that is practicable.

This may include seeking the assistance and views of relevant others (e.g. trusted loved ones, friends, carers etc.), and providing assistance in making the person's wishes known. This includes an assumption of the ability of the person concerned to give or withhold consent and make informed decisions about their lives. Empowerment overlaps with and includes this, and



supports the person to take positive risks, give or withhold consent, take informed decisions and to self-safeguard.

England

Statutory guidance (most recently updated in October 2017) for the English Care Act (2014) as one of its six principle for safeguarding adults includes

“Empowerment- presumption of person led decisions and consent: People being supported and encouraged to make their own decisions and informed consent.”.

For the service users this is described as meaning: “I am asked what I want as the outcomes from the safeguarding process and these directly inform what happens.”

Northern Ireland

The contents of this single principles are mirrored in three of Northern Ireland’s 5 Key Principles for their 2015 Adult Safeguarding Prevention and Protection in Partnership Policy:

1. “An Empowering Approach” which is conceptualised as “To empower adults to make informed choices about their lives, to maximise their opportunities to participate in wider society, to keep themselves safe and free from harm and enabled to manage their own decisions in respect of exposure to risk”,
2. “A Person-Centered Approach” conceptualised as “promoting and facilitating full participation of adults in all decisions affecting their lives taking full account of their views, wishes and feelings and, where appropriate, the views of others who have an interest in his or her safety and well-being.” and
3. “A consent driven approach” conceptualised as “to make a presumption that the adult has the ability to give or withhold consent; to make informed choices; to help inform choice through the provision of information, and the identification of options and alternatives...”

British Columbia, Canada

Under the Adult Guardianship Act 1996, British Columbia, Canada the act provides as one of its guiding principles “ (a) all adults are entitled to live in the manner they wish and to accept or refuse support, assistance or protection as long as they do not harm others and they are capable of making decisions about those matters;”



Scotland

In Scotland, Under Scottish Government Adult Support and Protection Code of Practice providing guidance on the Adult Support and Protection Act 2007, amongst the principles guiding public bodies and office holders in performing their duties in relation to safeguarding include needing to have regard to:

“the wishes of the adult - any public body or office holder performing a function or making a decision must have regard to the present and past wishes and feelings of the adult, where they are relevant to the exercise of the function, and in so far as they can be ascertained...”

and

“the importance of the adult participating as fully as possible the adult should participate as fully as possible in any decisions being made...”.

Proportionality / Least intrusive response

Proportionality and the principle of least intrusive response necessary as principles have in the main, been associated together in the international context.

Proportionality / least intrusive response, as a principle, means considering which is the least disruptive response or intervention for the person concerned whilst adequately meeting the needs of the situation. In the main, there is a recognition that the most intrusive interventions should only be used in situations in which there is a demonstratable need, and in which a less intrusive intervention will not provide an adequate outcome. This principle may naturally overlap with other principles which recognise the rights of the person concerned, as well as their right to self-determination.

England

In England, one of the six principle for safeguarding adults includes “Proportionality and least intrusive response appropriate to the risk presented.” Described as “The least intrusive response appropriate to the risk presented.” For the service user this is described as “I am sure that the professionals will work in my interest, as I see them and they will only get involved as much as needed.”



Scotland

Scottish principles require “that any intervention in an adult's affairs.....should:

- provide **benefit** to the adult which could not reasonably be provided without intervening in the adult's affairs; and
- be the option that is **least restrictive** to the adult's freedom.”

Nova Scotia, Canada

The Adult Protection Act 1989 Nova Scotia provides that “In all Adult Protection interventions, the least intrusive method must always be primarily considered. Court action must be considered the last resort and when this is deemed the appropriate course of action, the detention of the person should only be of a prescribed duration.”

British Columbia, Canada

The British Columbia legislation provides that:

- (b) all adults should receive the most effective, but the least restrictive and intrusive, form of support, assistance or protection when they are unable to care for themselves or their financial affairs;
- (c) the court should not be asked to appoint, and should not appoint, guardians unless alternatives, such as the provision of support and assistance, have been tried or carefully considered.”

Equality / Rights-basis

Rights-basis as a principle means recognising and protecting those rights which are afforded to the person concerned. Although a rights (or human-rights) basis as a principle is not included in all of the policy or legislation which were looked at, it may be contended that human rights instruments form the primary basis for all principles which underpin the majority of comprehensive policy in the area.

Scotland

The Scottish legislation requires that regard be given to:

- the adult is not treated less favourably - there is a need to ensure that the adult is not treated, without justification, any less favourably than the way in which a person who is not an "adult at risk" would be treated in a comparable situation.



Adult's abilities, background and characteristics - including the adult's age, sex, sexual orientation, religious persuasion, racial origin, ethnic group, and cultural and linguistic heritage

Northern Ireland

Northern Ireland's policy includes as a principle:

"A **Rights-Based** Approach: To promote and respect an adult's right to be safe and secure; to freedom from harm and coercion; to equality of treatment; to the protection of the law; to privacy; to confidentiality; and freedom from discrimination."

Collaboration / Partnership

Collaboration as a principle acknowledges the importance of co-ordinated responses to safeguarding concerns and issues between differing public body agencies, communities and stakeholders in a spirit of partnership. For public sector bodies this can mean inter-agency working and protocols, collaboration and appropriate information sharing.

England

In England, one of the six principle for safeguarding adults includes:

"Partnership: Local solutions through services working with their communities. Communities have a part to play in preventing, detecting and reporting neglect and abuse.

For the service user this is described as "I know that staff treat any personal and sensitive information in confidence, only sharing what is helpful and necessary. I am confident that professionals will work together and with me to get the best result for me."

Northern Ireland

Northern Ireland's policy includes as a principle:

"A **Collaborative** Approach: To acknowledge that adult safeguarding will be most effective when it has the full support of the wider public and of safeguarding partners across the statutory, voluntary, community, independent and faith sectors working together and is delivered in a way where roles, responsibilities and lines of accountability are clearly defined and understood. Working in partnership and a person-centred approach will work hand-in-hand."



Scotland

The Scottish legislation provides that in discharging duties:

“...decision-making should while taking into account the principles do so on a multi-agency basis. This is to enable full and complete discussion of potential protective actions and the application of the principles set out above. Professionals have to balance the rights of the adult with their own legislative duties.”

DRAFT SUBJECT TO A DELIBERATIVE PROCESS



4. Proposed Underlying Principles for a National Health Sector Policy on Adult Safeguarding for Steering Group discussion

Taking account of feedback received from stakeholders and having reviewed principles adopted in Irish and international contexts, the following underlying policy principles are proposed, with commentary, as guiding principles for the national policy:

Proposed Principle	Commentary
Human rights The national health sector policy and legislation on adult safeguarding should be rights-based, respecting individuals' rights to independence, dignity, equality, privacy and choice	This principle is common to many safeguarding frameworks in Ireland and internationally (e.g. HSE, HIQA/MHC, NI, Scotland, Nova Scotia). Near-unanimous endorsement in stakeholder feedback to DOH. <ul style="list-style-type: none">• <i>Stakeholder comments included: "How might the policy be rights based when responsibility is not mentioned. Rights and Responsibility just happen to be the two sides of the one coin."</i>
Person-centredness / empowerment The national health sector policy and legislation on adult safeguarding should be person-centred, respecting individuals' rights to autonomy (including the right to make "unwise" decisions) and empowering them to understand abuse, minimise risk, make their own decisions and remain in control of their lives	This principle is common to many safeguarding frameworks in Ireland and internationally (e.g. HSE, HIQA/MHC, NI, UK). Near-unanimous endorsement in stakeholder feedback to DOH. <ul style="list-style-type: none">• <i>Consider including "Advocacy" under this heading – as a service facilitating empowerment rather than as a principle in itself?</i>
Advocacy The national health sector policy and legislation on adult safeguarding should value advocacy as a key support for adults who may be at risk.	Clearly endorsed in stakeholder feedback to DOH. Included in HSE safeguarding policy principles. <ul style="list-style-type: none">• <i>Consider including this under "Person-centredness / empowerment" heading – as a service facilitating empowerment rather than as a principle in itself?</i>



Proposed Principle	Commentary
<p>Comprehensiveness</p> <p>The national health sector policy and legislation on adult safeguarding should cover the entire health sector i.e. public, private and voluntary (including social care services for which the health sector has statutory responsibility)</p>	<p>The most strongly endorsed principle in stakeholder feedback to DOH. (<i>Over 95% rated it “High priority”; 100% “High or Medium”</i>).</p>
<p>Consistency</p> <p>The national health sector policy and legislation on adult safeguarding should be consistent with the Assisted Decision Making (Capacity) Act</p>	<p>Very strongly endorsed in stakeholder feedback to DOH.</p> <p>Some international models include presumption of capacity (e.g. Nova Scotia, British Columbia).</p>
<p>Prevention</p> <p>The national health sector policy and legislation on adult safeguarding should recognise the importance of prevention to reduce the likelihood of opportunities for abuse occurring</p>	<p>Very strongly endorsed in stakeholder feedback to DOH.</p> <p>A feature of UK policy. Also included in HIQA/MHC draft standards (public consultation version).</p> <ul style="list-style-type: none"> • <i>Identified in one or more stakeholder comments as fitting better under “Aims” than “Principles”.</i>
<p>Proportionality / minimal intrusiveness</p> <p>The national health sector policy and legislation on adult safeguarding should be proportionate, favouring least intrusive responses appropriate to risks, in line with individuals’ will and preference and rooted in evidence-based practice and partnership working</p>	<p>Widely adopted as a key principle of safeguarding frameworks internationally and in Ireland (e.g. HIQA/MHC, Scotland, UK, Nova Scotia, British Columbia)</p> <p>Strongly endorsed in stakeholder feedback to DOH.</p> <ul style="list-style-type: none"> • <i>However, stakeholder comments included: “I would query the least intrusive response, what does that mean. Any indication of abuse should be treated with the utmost seriousness.”</i>
<p>Partnership</p> <p>The national health sector policy and legislation on adult safeguarding should foster a partnership approach between individuals, professionals and agencies</p>	<p>Principles of partnership and collaboration are common to many safeguarding frameworks internationally and in Ireland (e.g. HSE, HIQA/MHC, NI, Nova Scotia)</p> <p>Strongly endorsed in stakeholder feedback to DOH.</p> <p><i>Combine with “Collaboration”?</i></p>



Proposed Principle	Commentary
<p>Collaboration</p> <p>The national health sector policy and legislation on adult safeguarding should recognise the need for good collaboration, including appropriate information-sharing, with other sectors and within the health sector and clearly defined referral pathways to other sectors</p>	<p>Principles of partnership and collaboration are common to many safeguarding frameworks internationally and in Ireland (e.g. HSE, HIQA/MHC, NI, Nova Scotia)</p> <p>Strongly endorsed in stakeholder feedback to DOH.</p> <p><i>Combine with “Partnership”?</i></p>
<p>Awareness</p> <p>The national health sector policy and legislation on adult safeguarding should recognise the importance of education, training, awareness and cultural change</p>	<p>Strongly endorsed in stakeholder feedback to DOH.</p>
<p>Everybody’s business</p> <p>The national health sector policy and legislation on adult safeguarding should recognise that safeguarding is “everybody’s business”</p>	<p>Strongly endorsed in stakeholder feedback to DOH.</p>

Consideration might be given to whether the following would more appropriately be described as objectives rather than principles:

“Objectives” rather than “principles”?	Commentary
<p>Accountability</p> <p>The national health sector policy and legislation on adult safeguarding should include clearly defined lines of accountability, roles, responsibilities, duties and protocols</p>	<p>Very strongly endorsed in stakeholder feedback to DOH.</p> <p>Included in HIQA/MHC, UK approaches.</p> <ul style="list-style-type: none"> • <i>Identified in one or more stakeholder comments as fitting better under “Aims” than “Principles”.</i> • <i>A stakeholder commented: “...very detailed ... would it be appropriate to include “clearly defined lines of accountability, roles, responsibilities, duties and protocols” in a policy? Would it be</i>



“Objectives” rather than “principles”?	Commentary
	<p><i>more appropriate for the policy to recommend that a health agency should develop a code of practice or operational plan to include some of the more operational-type principles listed above?”</i></p>
<p>Inter-sectoral integration The national health sector policy and legislation on adult safeguarding should be developed so that it can integrate with other sectors and that other sectors can integrate with it</p>	<p>Weakest level of endorsement in stakeholder feedback to DOH, though still clear endorsement (over 70% “High Priority” / over 90% “High or Medium”).</p> <ul style="list-style-type: none"> • <i>Identified in one or more stakeholder comments as fitting better under “Aims” than “Principles”</i>
<p>Resource implications assessment The national health sector policy and legislation on adult safeguarding should include an assessment of the resource and cost implications of its policy and legislation proposals</p>	<p>Although this principle was clearly endorsed in the stakeholder feedback, DOH agrees with stakeholders who view resource assessment as a necessary / important part of the policy formulation process but not an underlying safeguarding principle.</p> <ul style="list-style-type: none"> • <i>Identified in one or more stakeholder comments as fitting better under “Aims” than “Principles”.</i>

Finally, consideration could be given to whether the following principles proposed by stakeholders might be included as principles in the national policy or incorporated within existing principles:

Possible addition (or incorporation / reflection within other principles)	Stakeholder comments
<p>Fair procedure and justice</p>	<p>“Important that all parties are treated in accordance with fair procedures and natural justice, including those against whom allegations are made. This would also encompass complaint management and appeal.”</p>
<p>Respect positive risk taking</p>	<p>“Positive risk taking ... is widely misunderstood as a concept, whereby supporting positive risk taking for the person is often overridden by a need to minimise</p>



Possible addition (or incorporation / reflection within other principles)	Stakeholder comments
	risk for the service itself"

DRAFT SUBJECT TO A DELIBERATIVE PROCESS