

Belfast Health and Social Care Trust (BHSCT) feedback in relation to the Northern Ireland Adult Safeguarding Bill

Background to the persons providing evidence

1. This is a collective response from representatives from the office of the Executive Director of Social Work, Divisional Social Workers, Adult Safeguarding Leads, Nursing via Central Nursing, Divisional Nurses, and the Adult Safeguarding Link System within the BHSCT.

Feedback context

2. The Adult Safeguarding Bill will have a direct impact on BHSCT in terms of workforce implications, financial considerations, training requirements, and operational changes directly affecting Adult Safeguarding frontline staff.
3. The Trust continues to have concerns in relation to the implementation of the Bill or a phased introduction of the Bill without the necessary financial resource to enable the Trust to meet the requirements under the Bill.

Specific feedback

PART 1 PROTECTION OF ADULTS AT RISK OF HARM

- **Paragraph 2 (“Adult at risk”)**
 - Subsection (1) doesn’t specify over 18 however Paragraph 49 does specify an adult as being over 18.
 - Part 2 subset a and b (line 10) – should this include **OR** (can be either) i.e. A’s personal circumstances include, in particular (a) any illness... **OR** (b) A’s living conditions...
 - It would be helpful to have a definition of Harmful conduct (line 12)
 - Clarity whether other types of abuse should be explicitly referenced under paragraph 2 e.g. sexual abuse, institutional abuse, human trafficking, domestic abuse, Hate crime etc.
 - Just checking if this is compatible with Joint protocol as no reference to ‘position of trust’ included?
- **Paragraph 3, (“Duty to make inquiries”)**
 - The sentence @line 27-29/pg 2 (2) *‘the trust must have regard to the importance of the provision of an independent advocate to the adult concerned’* is unclear.
 - Queries raised in respect of this include - It would be helpful to have a definition of what an independent advocate is? Where will the funding come from for the independent advocate? Whose responsibility is it to appoint an independent advocate? Clarity regarding who they are

independent from? e.g. if the Trust fund them- are they truly independent? What is the training or supervision expectations re Advocates? Can carers/ service users appoint anyone as an independent advocate?

- This should not negate from the core Social Work role of advocacy on behalf of their clients – as advocacy from ‘*within the system*’ is crucial.
- **Paragraph 4 (“duty to report and co-operate in inquiries”)**
 - Line 30/pg 2 – this duty to report and co operate in inquiries could possibly be strengthened by adding responsibility to share information.
 - There was a query whether this should include the general public.
 - There was also a query whether prison service, independent and private providers including Community and Voluntary providers should be included. Should it also extend to fire service, community groups, council services etc?
 - (3) Line 12 page 3 – it would be helpful if clarity can be given to what failure to report, share information and co-operate to a degree that it hinders an inquiry entail? It would also be helpful to understand what the sanctions would be if they do not comply.
 - Is this an opportunity to make it clearer regarding how information is requested and shared e.g. completion of Form 81 from PSNI
- **Paragraph 5 (“Powers of investigation- Visits by a Social worker”)**
 - 5(1)- can this be extended to state Social worker, and any suitably trained Adult Protection officer accompanying the social worker or person nominated by the SW such as an Investigating Officer (i.e. Investigating Officer could be a SW or potentially a nurse who is suitability qualified in adult safeguarding and who would be actively involved in adult safeguarding case work)
 - Subsection (2) could also be linked to section 19
- **Paragraph 6 (“Interviews”)**
 - Should this section also be linked to the power to remove
 - Clarity would be helpful regarding any emergency provisions?
- **Paragraph 7 (“medical examinations”)**
 - Is an assessment of capacity and consent included
 - Again would be helpful to understand any emergency provisions?
- **Paragraph 8 (“Examination of records”)**
 - Subsection 4 (line 28/pg4), part b does this include getting information from banks & solicitors
 - What does this include, whilst in the home, are we allowed to look at things [property etc] allowed to remove it from the home. [for example

bank statements, or any other records] – relating to the person alleged-incriminating evidence for example

- Should timeframes be included- there are current delays with Office of Care & Protection. Again should there be reference to emergency situations?
- 4(b)- states records given to SW – can this also be extended to someone nominated by a SW to collect the records i.e. investigating officer who could be a nurse.

- **Paragraph 9 (“Applications for production orders: procedure”)**

- Some clarity here about emergency situations would be helpful

- **Paragraph 10 (“Assessment orders”)**

- 3 (a) and (b)- A definition of serious harm would be useful (line 26/pg6)?
- How quickly can these be brought to the court- does this include emergency situations?
- Can the assessment order be extended?

- **Paragraph 11 (“Removal orders”)**

- Can extensions be sought for the assessment/ removal orders?
- Clarity would be helpful in relation to where the person is taken to for assessment. Current places of safety include a hospital and PSNI station etc which are not always the best places to remove a service user to
- Same points as in Para 10

- **Paragraph 12 (“Banning orders”)**

- What about due consideration of the person who is banned? (who may also be “vulnerable”) who is responsible to meet their needs?
- How do these interact with non-molestation orders?
- Who serves the order on the person?
- What if it is breached?

- **Paragraph 17 (“consent of an adult”)**

- It would be helpful to clarify if there is a need for a formal assessment of capacity? If so who does this? (Does this require a formal assessment of capacity? In some cases e.g. OCP and or Judges require F5s only to be completed by Consultant Psychiatrists – these take time to obtain; there are difficulties accessing Psychiatrists to undertake this role; there is additional costs attached to these assessments). In an emergency or urgent situation these would be difficult to access. In these circumstances who completes the capacity

assessment? If there is a dispute regarding this again this could delay in the process.

- 1b-‘A person must not take any action for the purposes of carrying out or enforcing a protection order unless the person reasonably believes that the affected adult has given consent to the action’ – in case the service user lacks capacity and family members are the person alleged, will that then involve working with an advocate to ascertain the wishes? – how would that work in emergency situations and for removal orders as in paragraph 11?
- 2(b) what decision making tool would be used to assess this “*Unduly pressurised*”: - we assume training and guidance in relation to this will be included in the statutory guidance accompanying the AP Bill

- **Paragraph 18 (“visits: supplementary”)**

- Part 1 (b) what evidence is required? Trust badge / ID / warrant?
- Part 2 (b) (ii) (line 27-30) is very broad

- **Paragraph 19 (“warrants for entry”)**

- (line 10/pg12) 4(b) should it specify “PSNI officer” rather than “constable”

- **Paragraph 20 (“applications: procedure”)**

- Part 6 (line 2/pg13) – clarity what type of person would be appointed -is this possibly the official solicitor or guardian?

- **Paragraph 24 (“offences by bodies corporate”)**

- It would be helpful to have examples and a greater understanding of before being able to fully comment on this paragraph
- Queries include- What is the definition of an offence? Will this include institutional abuse offence? Will lack of candour become a statutory offence for professionals as well as organisations?
- There are concerns also raised in respect of difficulties providing services due to lack of resources and funding especially when this has already been escalated as unmet need or non compliance- would this constitute an offence? What defines a body corporate? Can a body not cooperating fully with an adult protection investigation, such as withholding information, constitute an offence?
- Has “relationship of trust” been removed?

- **Paragraph 26 – Independent Advocates (Pg15 & pg16)**

- It is important that advocates are independent and therefore their ability to challenge and advocate is not curtailed because of who employs or pays for their service. It may be better to have independent advocacy service funded independently by the Department for Health.
- See paragraph 3 comments above

- **Paragraph 30**
 - Assuming a TOR will outline steps to be taken if the chair is absent due to sickness etc.
- **Paragraph 32**
 - Subset 3(c) – we assume it will be later clarified in statutory guidance where will this training be sourced from?
 - Clarity would be helpful in relation to the links between the Board and SPPG. Also what will be the oversight of adult safeguarding in relation to cases not meeting threshold for adult protection investigations but still require an alternative response. This aspect of work is very resource intensive within the Trust- we assume this will be clarified in statutory guidance.
- **Paragraph 35**
 - Would be helpful to understand if this will this be an additional annual report required from organisations, in addition to existing reporting, or will it be an annual report by the Board outlining how often it has met key achievements etc?

Part 3 – Offences involving Ill-Treatment or Wilful Neglect.

- **Paragraph 38-** - it would be helpful to have clearer definitions of what constitutes wilful neglect and ill treatment.
- Can consideration be given to including students on placement. Under the Mental Health (NI) Order 1986 the offence of 'wilful neglect of a patient', as an element of the offence, requires the prosecution to prove the offender is "an officer on the staff or otherwise employed by the hospital". Material received from the University and from Trusts evidence that a pre-registration nursing student, while on placement at a hospital, is neither employed by the hospital nor a member of hospital staff. Therefore cannot be prosecuted for this offence.
- **Paragraph 40 – Care provider offences: penalties**
 - This seems to be light in comparison to a care worker offence sentence.
 - The publicity order could be an effective protective factor for adults in receipt of care provision services.

Part 4 – Regulation of CCTV

- **Paragraph 43(1)**

- Should consideration also be given to body cameras?
- We also felt consideration should be given to including **‘Supported Living’ services**. These are also regulated facilities and open to inspection by the RQIA. Service-users with high levels of need are likely to have DOLs in place and to be in receipt of care provider services. If it is the consent of the adult (or a best interest decision with those who lack capacity) to allow CCTV to operate and record in parts of their home, then what would be the grounds for the care provider/RQIA to object.
- **Paragraph 44** – ‘Regulation of CCTV systems in establishments’
- Should consideration be given to include that Care Providers (who have CCTV installed on their premises) cannot interfere, withhold, tamper with equipment, delete or otherwise misuse the CCTV footage on their property –would it be an offence to do so?
- We would strongly recommend that Regulations should make provision for who can view the CCTV footage, for what purpose and how this should be regulated for. This includes guidance in relation to families viewing CCTV and using CCTV for in house learning purposes.
- **General comments –**
 - Approved Adult Protection Social Workers- may be a confusing title as it will get mixed up with APSW’s when abbreviated – other posts share this abbreviation such as Assistant Principal Social Workers.
 - What are the measures to be put in place to seek orders with the court?
 - Will there be a dedicated team to liaise directly with DLS and what will be the practicalities. The DLS will need to be commissioned to provide advice re APB as this is not within current contractual arrangements. This will be an additional cost for the Trust
 - How will the APB interface with the Mental Capacity Act?

Comments from a DAPO with experience of working with the Scottish Bill:

- How will BHSCT Legal Services interface with Adult Protection processes when we are considering legal action? Would an appropriate duty solicitor be available every day to attend a strategy discussion where they can provide legal advice about SW meeting the criteria for an order? What support would they need to make that decision (i.e. a case summary etc)?
- How would PSNI interface with SW Adult Protection processes regarding executing an order? Would PSNI attend a strategy discussion so they are able to prepare for a removal order etc?
- The DAPO had a particularly poor experience in Scotland “where we were removing an adult from their home to take them to a place of safety due to neglect caused by their son. This also included a banning order. It was 4pm on a Friday and legal services advised us that if we had decided to do this, we needed to do so immediately rather than wait over the weekend (otherwise

the legal argument for the urgency of the order becomes invalid). However we had great difficulty arrange a time for both SW, Police and Ambulance crew to arrive at the same time (this adult was bed-bound and required ambulance equipment to remove them from their home to a care home). The whole operation took 5 hours to execute and the trust had to privately purchase ambulance support as ambulance services were unavailable". - Will there be a joint process with all services to follow a specific protocol for adult protection removals (freeing up police and ambulance services to immediately do this)?