

**Written Evidence to the Northern Ireland Committee for Health on the Adult Protection
Bill from the Commissioner for Older People for Northern Ireland (COPNI)**

8th October 2025

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Introduction

1. This document provides Health Committee members with the Commissioner for Older People for Northern Ireland's (COPNI) views on the key objectives, proposals and potential consequences of the Adult Protection Bill.
2. Under the Commissioner for Older People Act (Northern Ireland) 2011,¹ COPNI's principal aim is to "safeguard and promote the interests of older persons" in Northern Ireland. As part of this aim, the Commissioner has a responsibility to advise government when those interests are not being adequately protected. In this context, in 2018, COPNI undertook an investigation into widespread and systemic safeguarding failings at Dunmurry Manor Care Home.
3. Dunmurry Manor is a residential and nursing home in Belfast. In 2016, the Regulation, Quality, and Improvement Authority (RQIA) issued three Failure to Comply notices. In December of the same year, families contacted COPNI with concerns regarding their relatives' treatment, as well as two members of staff from Dunmurry Manor who noted concerns of alleged poor and unsafe practice within the home. February 2017 saw the Commissioner exercise their discretion to commence a statutory investigation into matters affecting older people at Dunmurry Manor Care Home.
4. The findings and recommendations of the investigation are contained within *Home Truths: A Report on the Commissioner's Investigation into Dunmurry Manor Care Home*.² The findings were deeply concerning and reflected an environment of poor care and treatment, serious safeguarding and medicines management issues, and a failure of responsible bodies to act quickly and comprehensively. COPNI's recommendations thus sought to improve care and bring about significant change within the system, with the intention that the failings found at Dunmurry Manor not be repeated.
5. One of *Home Truths'* recommendations called for the establishment of an "Adult Safeguarding Bill for Northern Ireland" to ensure older people in Northern Ireland "enjoy the same rights and protections as their counterparts in other parts of the United Kingdom".³ COPNI suggested the Bill "clearly define the duties and powers on all statutory, community, voluntary and independent sector representatives working with older people".⁴

¹ [Commissioner for Older People Act \(Northern Ireland\) 2011](#).

² COPNI (2018) '[Home Truths: A Report on the Commissioner's Investigation into Dunmurry Manor Care Home](#)'.

³ COPNI (2018) '[Home Truths: A Report on the Commissioner's Investigation into Dunmurry Manor Care Home](#)', page 30.

⁴ COPNI (2018) '[Home Truths: A Report on the Commissioner's Investigation into Dunmurry Manor Care Home](#)', page 30.

6. Following sustained engagement with the Department of Health's (DoH) Adult Safeguarding Unit over the past number of years, COPNI was pleased that the Adult Protection Bill was introduced to the Assembly in June 2025. The Bill has the potential to provide a much needed legal structure to adult safeguarding in Northern Ireland, supporting a shift from reactive responses to preventive strategies by encouraging earlier identification of risk and more timely support for vulnerable adults.
7. Nonetheless, COPNI has several initial concerns with the Bill as currently drafted. Vulnerable adults must not be treated as passive recipients of care or protection. Rather, the legislation must support intervention with them, not simply on them, by promoting their voice and preferences.

Key Clauses

Principles (Clause 1)

8. COPNI is supportive of the principles-based approach adopted by the Bill. We believe the principles will act as a guide to determine how safeguarding duties are to be carried out.
9. The essential principles of prioritising the adult's best interests, ensuring action is least restrictive to the adult's freedom, as well as ensuring their dignity, participation and safety align the legislation with a broader human-rights based approach. This is particularly important in the context of older people who may be more likely to experience disempowerment, dependency or be overlooked in safeguarding processes.
10. Similarly, the requirement to have regard to the adult's past and present wishes is welcome, representative of an important shift towards an approach underpinned by respect for the adult's autonomy, lived experience and preferences.
11. However, the principles are phrased as matters for the Trust or social worker to "have regard to", rather than binding obligations. Without stronger language or statutory weight, the principles-based approach may be too easily overridden in operational decisions.
12. As an example, the Mental Capacity Act (Northern Ireland) 2016⁵ has binding principles which means any act or decision taken for a person who lacks capacity must be made in accordance with them. By contrast, the Adult Protection Bill, as currently drafted, only requires Trusts to "have regard to" its principles. Given that this Bill authorises intervention even where an adult has capacity, its principles need to be stronger to safeguard against disproportionate interference in the lives of capacitated adults.
13. **COPNI recommends the Bill impose a binding duty to act in accordance with the principles.**

"Adult at Risk" (Clause 2)

14. The definition of "adult at risk" used in the Bill is broad and inclusive, reflecting an understanding that abuse and harm experienced by older people is often complex, unpredictable, varied and hidden.

⁵ [Mental Capacity Act \(Northern Ireland\) 2016](#).

15. The Bill also recognises that vulnerability is not just medical or physical, but also shaped by experiences of poverty, loneliness, social isolation and other socio-economic factors. This mirrors the thinking evident in safeguarding legislation in England⁶ and Scotland.⁷
16. However, the definition does not include a requirement to consider the adult's own perception of risk or whether they feel at risk, which may overlook their voice and experiences.
17. Clause 2(b) requires "the conduct of another person". The focus on harm caused by others excludes forms of self-directed harm or neglect, including hoarding or hazardous living conditions. By contrast, safeguarding legislation in England, Scotland and Wales all recognise self-neglect and self-harm as a safeguarding concern.^{8 9 10} As currently drafted, Northern Ireland's Adult Protection Bill does not recognise self-neglect within its definition of an "adult at risk", creating a gap in protection.
18. The Bill also does not mention how it will interact with the Mental Capacity Act (Northern Ireland) 2016.¹¹

Inquiries (Clauses 3 and 4)

Duty to Make Inquiries

19. The introduction of a statutory duty to make inquiries is one of the most significant changes proposed in the Bill. Trusts will be legally obligated to make inquiries where there is reasonable cause to suspect there is an adult at risk of harm.
20. The Commissioner strongly supports this duty, which represents a shift from discretionary to mandatory safeguarding action. This will be particularly important for older people who may be reluctant or unable to disclose abuse or neglect, and those whose circumstances only come to light through the vigilance of professionals. The duty ensures that safeguarding concerns cannot be overlooked and provides a clear trigger for intervention.
21. Clause 3(2) creates a safeguard to an independent advocate, something that could prove vital for many older people navigating safeguarding procedures. However, it stops short of creating an automatic right to one. By comparison, the Care Act 2014 dictates

⁶ [Care Act 2014](#).

⁷ [Adult Support and Protection \(Scotland\) Act 2007](#).

⁸ [Care Act 2014](#).

⁹ [Adult Support and Protection \(Scotland\) Act 2007](#).

¹⁰ [Social Services and Well-being \(Wales\) Act 2014](#).

¹¹ [Mental Capacity Act \(Northern Ireland\) 2016](#).

that an independent advocate must be appointed “to represent and support the individual for the purpose of facilitating the individual's involvement”.¹²

22. **COPNI recommends the Bill be amended to ensure the appointment of independent advocacy for all facing safeguarding processes.**

Duty to Report and Co-operate in Inquiries

23. This provision addresses a gap in adult safeguarding where the absence of a clear legal duty to report safeguarding failings has, at times, led to a reluctance or failure to share information, particularly crucial for older people who may be harmed in complex and hidden ways. By placing this duty on the Trusts, police, the Public Health Agency (PHA), RQIA, the Probation Board, the Housing Executive, and providers of health and social care,¹³ it will prevent claims that such bodies did not know it was their duty to report and will break down silo working.
24. Clause 4(3) adds a further duty for these bodies to cooperate with the Trust in making an inquiry into an adult at risk. This will help build a multi-agency picture of risk and reduce delays caused by poor inter-agency communication. It ensures professionals remain actively involved in the inquiry and reduces the possibility of them disengaging without fulfilling their safeguarding responsibilities.
25. However, **COPNI notes that the Bill lacks clarity on the consequences for these bodies of non-compliance with their statutory duty**, which may limit its impact in practice. Without clear enforcement mechanisms, there is a risk the duty will be seen as aspirational rather than binding.
26. Moreover, the Bill does not make it clear whether the adult concerned will be informed that a report has been made or that an inquiry is being undertaken. Failing to do so would undermine the adult's right to be informed and involved in matters affecting them. This may impact their right to respect for private and family life, Article 8 of the European Convention on Human Rights (ECHR).¹⁴

Powers of Investigation (Clauses 5 – 9)

27. The Bill confers significant statutory investigatory powers on Trusts and designated social workers, marking a considerable expansion of authorities' power. These investigatory powers have important implications for the rights and protections of older

¹² [Care Act 2014, Independent Advocacy Support](#).

¹³ Clause 4(1) of the Adult Protection Bill states that this duty applies to “HSC trusts; members of the police force and of any Harbour or Airport Police; the Regional Agency for Public Health and Social Well-being; RQIA; the Probation Board for Northern Ireland; the Northern Ireland Housing Executive; persons providing primary medical services under Part 6 of the Health and Personal Social Services (Northern Ireland) Order 1972 or in accordance with arrangements made under Article 15B of that Order; independent providers commissioned or contracted to provide health care or social care”.

¹⁴ [European Convention on Human Rights](#).

people as they engage a number of human rights¹⁵ and also intersect with the United Nations Principles for Older Persons.¹⁶

28. If used without appropriate safeguards, the powers could amount to unjustified interference in the lives of the adults concerned and, in our view, particularly older people.

Visits by Social Worker

29. Clause 5 permits a social worker to enter any premises for the purpose of enabling or assisting a Trust conducting inquiries under Clause 3. The purpose of such a visit is limited to deciding whether the person is an adult at risk and, if so, whether intervention is needed. Clause 18 sets out the procedural requirements for visits, including that the social worker must state the object of the visit, produce evidence of their authorisation, and may not use force to gain entry.
30. Where entry is refused, or where refusal is reasonably anticipated, Clause 19 provides that a Trust may apply to a magistrates' court for a warrant authorising entry. A warrant may be granted if the court is satisfied on evidence that there is a reasonable cause to suspect an adult is at risk and that entry is reasonably required.
31. COPNI recognises that there may be circumstances in which it is necessary for a Trust to seek a warrant in order to protect an adult at risk. However, refusal of entry by a capacitated adult engages important Article 8 ECHR considerations. **COPNI suggests that the Bill should provide clearer criteria to ensure that applications for warrants are demonstrably necessary and proportionate, and that reasons are recorded to enable appropriate oversight. COPNI also recommends that adults should have access to independent advocacy where a warrant is sought**, to ensure their rights and views are properly represented.

Interviews

32. Clause 6 of the Bill allows social workers, and any accompanying persons, to undertake interviews in private with any adult on the premises in which they visit.
33. While Clause 3(2) requires Trusts to have regard to the importance of the provision of an independent advocate, there is no requirement that an advocate be assigned when an interview under Clause 6 is proposed. Without such provision, the adult may struggle to understand the process and make informed decisions, where possible. **COPNI recommends that an independent advocate be mandatorily assigned in all cases where an interview is proposed.**

¹⁵ [European Convention on Human Rights](#).

¹⁶ [United Nations Principles for Older Persons](#).

Medical Examinations

34. Clause 7 allows health professionals, who have accompanied the social worker to visits, to carry out a private medical examination if they believe the adult is an adult at risk.
35. Many older people view health professionals as authority figures. Because the Bill allows such professionals to conduct a private medical examination on an adult they believe is an adult at risk, COPNI is concerned that the dynamics of power and trust may lead older people to comply when they do not truly consent to the examination.
36. While Clause 7(2) requires that an adult be informed of their right to refuse a medical examination, the Bill does not require that such consent be recorded or independently verified. COPNI is concerned that, without stronger safeguards, there is a risk that older people's autonomy may be undermined particularly where capacity is an issue. **COPNI therefore recommends that consent should be formally documented and, where practicable, witnessed by an independent advocate** to provide assurance that the adult's wishes are respected.

Examination of Records

37. In cases where there is a suspected adult at risk, the Bill allows a social worker to request access to an adult's health, financial or other records. Where those records are held by a third party, the individual's consent must normally be obtained. However, if the adult refuses or lacks capacity to consent, the Trust may apply to the magistrates' court for a production order (Clause 9). While this introduces some judicial oversight, the category of "other records" is undefined, creating potential for an overly broad intrusion into the adult's life.
38. **COPNI therefore recommends amending the Bill to clarify the scope of "other records" and to restrict disclosure to those who hold a statutory safeguarding function or where the adult has consented.** This would better safeguard Article 8 rights¹⁷ and ensure compliance with data protection law.¹⁸

Applications for Production Orders

39. Under Clause 25(1), the adult concerned has no right to appeal a production order, which allows the Trust to compel production of records held by a third party. Reliance on judicial review as the sole challenge route is inadequate and risks rendering the safeguard illusory, creating an imbalance that may undermine the adult's right to a fair process and respect for private life.¹⁹ **COPNI suggests that the Bill be amended to ensure adults**

¹⁷ [European Convention on Human Rights.](#)

¹⁸ [Data Protection Act 2018.](#)

¹⁹ [European Convention on Human Rights.](#)

have a statutory route to challenge such decisions, rather than being confined to judicial review.

40. Production orders engage obligations under the Data Protection Act 2018,²⁰ since they authorise disclosure of highly sensitive health and financial records. The Bill should therefore be aligned with data protection law to ensure disclosure is necessary and proportionate.
41. The Bill requires notice and a right to be heard for both the record holder and the adult concerned, and the adult may be accompanied by an independent advocate or other representative. The Court may also appoint a person to safeguard the adult's interests, and legal aid is available for these proceedings. However, there is no automatic guarantee that an advocate will be assigned, and the provision of representation depends on the court's discretion or the adult's ability to access legal aid.
42. **COPNI recommends that, in all cases where a production order is sought, an independent advocate be mandatorily assigned to the adult concerned.** This would ensure that older people receive consistent support in navigating these complex and sensitive proceedings.

Assessment Orders (Clause 10)

43. An assessment order authorises the temporary removal of an adult to a specified place to enable a private interview, a medical examination, or both to be carried out. COPNI recognises that this may be necessary where an adult is isolated, controlled or prevented from receiving help, but the power is highly intrusive. There are clear implications for the adult's autonomy, liberty and right to private and family life.²¹
44. For older people, in particular, assessment orders carry a real threat of trauma or disorientation.
45. An order may be granted if the magistrates' court is satisfied that there is "reasonable cause to suspect" the adult is an adult at risk who is being or is likely to be seriously harmed, and that an assessment is required to establish this. The threshold of "reasonable cause to suspect" is not clearly defined and may lead to inconsistent use of assessment orders across Trusts. **COPNI recommends the Bill be amended to provide a clearer evidential threshold or statutory guidance** to ensure a consistent and proportionate application of this power.
46. Like production orders, Clause 25(1) excludes assessment orders from appeal, meaning there is no route for the adult to challenge their removal from their home in court.

²⁰ [Data Protection Act 2018](#).

²¹ [European Convention on Human Rights](#).

47. While the Bill does extend civil legal aid to assessment order proceedings (Clause 21) to provide legal representation, there is no automatic right to an independent advocate. This is a critical omission, especially for older people, as the adult may be unable or unwilling to speak for themselves. In all cases where an assessment order is sought, **COPNI recommends an independent advocate be mandatorily assigned**, alongside the existing provision for legal aid.
48. As currently drafted, COPNI is concerned that the Bill's provision of assessment orders could lead to disproportionate interference with older people's rights. An order may authorise removal from a person's home for up to 7 working days, yet there is no statutory right of appeal against the court's decision. While Clause 1 requires Trusts and social workers to "have regard to" the principle of using the least restrictive option, this duty does not extend to the magistrates' court when deciding to grant an order.
49. To ensure these powers are used safely and in line with human rights obligations, **COPNI recommends stronger safeguards** to ensure the protection of an adult does not come at the cost of their autonomy and dignity. **In particular, COPNI recommends that the Bill requires magistrates' courts to apply a statutory necessity and proportionality test before granting an assessment order.** This would ensure that removal from a person's home is authorised only where it is the least restrictive option available, consistent with Articles 5 and 8 of the ECHR.²²

Removal Orders (Clause 11)

50. Clause 11 allows a magistrates' court to authorise the short-term removal of an adult from their home where they are believed to be at immediate and serious risk of harm. While this power may be necessary in urgent situations, the protections attached to it are limited, particularly in comparison with other legal frameworks involving removal or deprivation of liberty.
51. The Bill provides a number of procedural safeguards including notice and a right to be heard for the adult concerned, the ability to be accompanied by an independent advocate or other representative, and a power for the court to appoint someone to safeguard the adult's interests. Civil legal aid is also extended to these proceedings. These are important protections for adults facing such significant intervention. However, like the previously discussed court orders, there is no automatic guarantee that an independent advocate will be assigned, which risks leaving some adults unsupported in highly intrusive proceedings. **As before, COPNI would welcome the adult being**

²² [European Convention on Human Rights](#).

automatically given the right to an independent advocate to ensure support throughout the process and during the removal.

52. Again, under Clause 25(1), the adult cannot challenge the removal order in court. Judicial review is not an adequate substitute, being slow and costly, and so **COPNI recommends the Bill be amended to provide a statutory right of appeal**. COPNI would also support a statutory timeframe for appeals (for example, a return hearing within 48-72 hours of the order being made) to balance the need for urgent protection with procedural fairness.
53. Clause 11 also lacks clarity on how it will interact with existing frameworks under the Mental Capacity Act (Northern Ireland) 2016.²³ The Act provides a legal framework for acting in the best interests of people who lack capacity, including deprivation of liberty safeguards. A removal order allows for an adult to be taken from their home and kept elsewhere for several days, which amounts to a deprivation of liberty. As currently drafted, the Bill risks creating a parallel system that bypasses the protection of the mental capacity framework. **COPNI recommends that the Bill be amended to confirm that removal orders cannot be used where the Mental Capacity Act applies.**
54. The Bill requires that the adult be given notice of a removal order application and a right to be heard. However, the magistrates' court may disapply this requirement if it considers that it would risk serious harm to the adult or prejudice the proceedings. Whilst COPNI accepts that such exceptions may be necessary in urgent situations, there is a risk they could dilute procedural fairness. **COPNI therefore recommends that any disapplication be accompanied by robust safeguards such as automatic representation for the adult and an early return hearing**, to ensure independent scrutiny of the order.
55. For older people, the potential for distress and loss of autonomy under this provision is significant. Many may experience disorientation, anxiety or cognitive decline when suddenly removed from familiar settings. Without robust safeguards, the use of removal orders could become routine, heightened by the fact there is no limit on the number of times they can be authorised. **COPNI suggests the introduction of a statutory limit on repeated use of removal orders for the same individual or to require additional judicial scrutiny where multiple orders are sought in respect of the same individual.**
56. In COPNI's experience, many older people live in complex family arrangements that do not necessarily meet safeguarding thresholds, but nonetheless give rise to concerns about neglect, control and undue influence. In such contexts, removal powers must be

²³ [Mental Capacity Act \(Northern Ireland\) 2016](#).

approached with great care. **COPNI recommends that the Bill requires magistrates' courts to apply a statutory necessity and proportionality test before granting a removal order**, ensuring they are authorised only where it is the least restrictive option available, consistent with Articles 5 and 8 of the ECHR.²⁴

Banning Orders (Clauses 12 - 16)

57. COPNI welcomes the provision of banning orders as an alternative to removing an adult at risk from their home (assessment orders and removal orders). A banning order may be less disruptive to the life of the adult, as well as more compliant with their rights as it prohibits a specified person from having contact with, or entering the premises of, an adult at risk.
58. However, as with the other court orders, the Bill does not guarantee the automatic appointment of an independent advocate. While legal aid is extended to banning order proceedings, the lack of a guaranteed independent advocate is a critical omission, especially as banning orders will often be sought in sensitive family or caregiving contexts where the adult's voice may be marginalised. **COPNI recommends that the Bill impose a statutory duty to appoint an independent advocate when a banning order is considered.**
59. Moreover, the Bill does not expressly define the range of persons who may be subject to a banning order. **COPNI recommends clarification to avoid ambiguity**, particularly in sensitive family or caregiving contexts where informal carers may not be formally recognised but may nonetheless exert significant influence over adults at risk.
60. The provision of temporary banning orders is welcome, ensuring urgent protection for the adult concerned pending a full hearing in court. However, the fixed 6-month period of expiry may be too rigid. **COPNI suggests introducing flexibility, combined with a requirement for review hearings**, to ensure orders remain necessary and proportionate, in line with Article 8 of the ECHR.²⁵
61. It is also unclear how the Bill will interact with existing protections under domestic abuse legislation, such as non-molestation and occupation orders.^{26 27}

Consent of Affected Adult (Clause 17)

²⁴ [European Convention on Human Rights.](#)

²⁵ [European Convention on Human Rights.](#)

²⁶ [Family Homes and Domestic Violence \(Northern Ireland\) Order 1998.](#)

²⁷ [Domestic Abuse and Civil Proceedings Act \(Northern Ireland\) 2021.](#)

62. This clause is welcome as it governs the circumstances in which a Trust may apply for a protection order. It establishes a clear legal duty on Trusts to seek the adult's informed consent before making such an application. Doing so ensures court powers are not used unnecessarily where an adult is capable of making their own decisions and acknowledges the lived reality of many adults who may refuse help.
63. In principle, this provision aligns with the right to autonomy and dignity under Article 8 of the ECHR²⁸ and the United Nations Principles for Older Persons.²⁹
64. Consent can only be disregarded where the court reasonably believes either the adult lacks capacity and it is in their best interests, or the adult has been unduly pressurised to refuse and there are no steps that could reasonably be taken with consent to protect them from harm. The Bill provides an example of undue pressure in Clause 17(3). Namely, where refusal stems from misplaced confidence and trust. However, this illustration is narrow and may not capture the full range of coercive circumstances older people can face. **COPNI recommends that the Bill provide a clearer statutory definition of undue pressure, supported by a threshold test and guidance**, to ensure refusals are not too readily disregarded.
65. Where consent is overridden, there are no detailed procedural safeguards to ensure transparency. **COPNI recommends that the Bill require Trusts and courts to record and justify any reliance on the consent override**, so decisions can be scrutinised.
66. The Bill imports the definition of "lacks capacity" from the Mental Capacity Act (Northern Ireland) 2016,³⁰ but it does not explicitly require a formal capacity assessment to be carried out before consent can be disregarded. **COPNI recommends that, where lack of capacity is relied upon, a formal assessment under that Act should be mandatory** to ensure consistency and compliance with existing statutory safeguards.
67. Like other provisions in the Bill, there is no requirement for an independent advocate to be assigned to the adult concerned. While civil legal aid is extended to protection order proceedings, there remains no statutory trigger for independent advocacy at this stage. **COPNI maintains that the Bill should introduce mandatory independent advocacy** to ensure consistency with Article 8 of the ECHR.³¹
68. Whilst this clause sets an important tone in the Bill, recognising the importance of the adult's consent, COPNI believes it needs to be tightened to ensure Trusts cannot override an older person's autonomy without robust evidence, process and support. **COPNI recommends that there should be a duty to record and justify any reliance**

²⁸ [European Convention on Human Rights.](#)

²⁹ [United Nations Principles for Older Persons.](#)

³⁰ [Mental Capacity Act \(Northern Ireland\) 2016.](#)

³¹ [European Convention on Human Rights.](#)

on this clause in application documentation to ensure full transparency and accountability.

Obstruction (Clause 23)

69. COPNI welcomes this provision as an essential safeguard. It creates a strong deterrent against obstruction of safeguarding investigations or non-cooperation with court orders, underlining the seriousness of safeguarding work and helping to ensure professionals can carry out their duties effectively.
70. COPNI recognises that safeguarding investigations often take place in informal or family settings, where carers or relatives may be present. While the adult at risk must remain the primary focus, acting out of fear, confusion or protective instincts, could inadvertently obstruct an investigation. The Bill does provide a defence of “reasonable excuse”, but without further clarification there may be uncertainty about how this defence applies in everyday circumstances.
71. **COPNI therefore believes there is scope to consider adding a statutory clause or guidance clarifying what amounts to a reasonable excuse**, particularly for carers and supporters acting in good faith. This would help ensure that well intentioned actions are not inadvertently criminalised, while keeping the offence effective against deliberate obstruction.
72. **COPNI also recommends that statutory guidance requires Trusts and professionals to communicate the nature of their powers before resorting to enforcement**, supported by training for staff and information for families. This would help prevent misunderstandings and support collective engagement, while maintaining the priority of protecting the adult at risk.

Offences by Bodies Corporate, etc. (Clause 24)

73. This is a vital part of the Bill’s enforcement and accountability framework. The Bill provides for personal liability where a corporate body commits an offence, and it can be shown that this occurred with the consent, connivance or neglect of an individual in a position of authority within an organisation.
74. It is a significant step towards ensuring those in leadership positions cannot rely on the protection of the corporate structure. It allows for directors and senior staff to be held accountable for harm resulting from their actions or failures, while also sending a strong message to corporate providers that adult safeguarding is not optional.

75. This clause is particularly key for older people living in care homes, supported housing or community care settings. It targets organisational or systemic neglect, as well as institutional abuse, where culture, resource decisions and leadership can have a direct impact on the safety and wellbeing of older people.
76. However, the Bill does not identify any role for Trusts, RQIA or any other body to investigate or refer such offences, and proceedings may be brought only by, or with the consent of, the Director of Public Prosecutions (DPP). Without clear pathways, Clause 24 risks being underutilised in practice. **COPNI recommends that the Bill clarify which agency has responsibility for gathering evidence and referring cases to the DPP.**
77. The Bill also dictates a high evidential bar for establishing liability under this clause. “Consent”, “connivance” and “neglect” are not defined in statute and may imply intent or wilful disregard for safeguarding which COPNI believes may be difficult to prove. **COPNI recommends that the Bill provide statutory definitions or guidance on what constitutes “consent”, “connivance” or “neglect” in a safeguarding context**, to avoid evidential uncertainty and inconsistent application.
78. Clause 24 does not explicitly link liability to failure to comply with statutory safeguarding standards, staff training obligations or duty of candour requirements. **COPNI believes this is a missed opportunity to integrate broader corporate safeguarding duties and may limit the Bill’s relevance as a tool for driving better governance and prevention.** By embedding these duties, Clause 24 could operate not just as a punitive measure after harm occurs, but as a driver of preventative safeguarding culture. In turn, this would encourage providers to prioritise compliance before harm arises.

Appeals (Clause 25)

79. This is an important mechanism introduced by the Bill to challenge only certain decisions (banning orders and temporary banning orders) made by magistrates’ courts. It shows a recognition that decisions made under the legislation can have implications for a person’s rights, liberty and autonomy.
80. However, Clause 25 expressly excludes appeals from magistrates’ decisions on production orders, assessments orders, removal orders and warrants for entry, despite their significant intrusiveness.
81. This absence raises significant concerns about procedural fairness and may give rise to issues under Article 6 of the ECHR, right to a fair trial.³² Judicial review is not an adequate substitute for a statutory right of appeal as it is slow, costly and largely

³² [European Convention on Human Rights](#).

inaccessible for most older people. **COPNI urges consideration be given to introducing an appeal route for production, assessment, removal and entry orders.**

82. Clause 25 also dictates that appeals against temporary banning orders require leave. Given that temporary banning orders are likely to be used in urgent or contested cases, requiring leave may present a barrier to timely justice.
83. COPNI also notes that there is no automatic return hearing provided in cases where temporary banning orders are granted ex parte. The absence of this provision may be viewed as a gap in procedural safeguards, particularly when compared to protections in some domestic abuse frameworks. To ensure early scrutiny, **COPNI suggests including a requirement whereby automatic return hearings are held within 7 days for temporary banning orders made ex parte.** This safeguard would align with best practice in domestic abuse frameworks.³³

Independent Advocates (Clause 26)

84. Throughout this document, COPNI has discussed the importance of independent advocacy, especially for older people. This clause is therefore one of the most vital rights-protecting provisions in the Bill. It establishes access to independent advocacy on a statutory footing, recognising advocacy as essential to ensuring that adults at risk have their voice heard, can participate fully, and can challenge decisions made about them.
85. However, the Bill does not include an absolute right to an independent advocate. Trusts are only required to “make arrangements” for advocacy to be available, but assignment occurs only in circumstances set out in regulations. This risks significant inconsistency across Trusts and leaves open the possibility that older people will face safeguarding processes without support. **COPNI recommends that the Bill create mandatory statutory triggers for advocacy in all cases where intrusive protection orders are sought** (production, assessment, removal, and banning orders). A lack of such triggers risks advocacy being rationed or discretionary, rather than a core safeguard.
86. While the Bill defines an “independent advocate” as a person assigned under Trust arrangements, it does not expressly guarantee independence from the Trust itself or from any care provider involved in the adult’s support. In the context of adult

³³ In Northern Ireland, domestic abuse frameworks include non-molestation orders and occupation orders under the Family Homes and Domestic Violence (Northern Ireland) Order 1998. These orders are very similar in nature to banning orders under the Adult Protection Bill, because they restrict a person from entering or remaining in certain places to protect someone at risk. In those domestic abuse frameworks, if a non-molestation or occupation order is made ex parte (without the other party being present), the law provides for an automatic return hearing within a short timeframe (usually within 7 days), ensuring the person affected has an opportunity to be heard quickly, preserving procedural fairness. See: [Family Homes and Domestic Violence \(Northern Ireland\) Order 1998](#).

safeguarding where decisions may be taken about a person's safety, liberty or care arrangements, it is essential that the advocate is not aligned with the bodies responsible for delivering or commissioning services. Therefore, **COPNI recommends that the Bill explicitly require advocates to be independent of both the Trust and any care provider involved in the adult's support** to guarantee impartiality and build trust in the safeguarding process.

87. The Bill itself contains no provision for minimum standards, training or approval criteria for advocates. It is delegated to regulation. **We therefore recommend that the regulations set clear professional standards, competence requirements, and monitoring arrangements.** Doing so will ensure consistency and quality across Trusts.
88. Embedding these safeguards is not simply desirable policy. Rather, it is necessary to ensure compliance with the Human Rights Act 1998³⁴ and Articles 6 and 8 of the ECHR.³⁵ Without mandatory advocacy there is a risk that the adult will be sidelined in decisions that interfere with their liberty, private life and dignity.

Adult Protection Board for Northern Ireland (Clauses 30 – 35)

89. COPNI welcomes the establishment of an Adult Protection Board for Northern Ireland. Placing it on statutory footing gives the Board legal authority and permanence, which the existing Northern Ireland Adult Safeguarding Partnership (NIASP) lacks.³⁶
90. The objective of the Board is to co-ordinate and ensure the effectiveness of adult safeguarding across all relevant agencies. Despite this, the Bill gives DoH power to issue binding directions to the Board and, subsequently, the Board has a statutory obligation to comply with such directions. Thus, there is an absence of legal protection of the Board's operational or strategic independence. **COPNI recommends the Bill be amended to include a statutory duty for the Board to operate independently of the Department in its scrutiny and oversight role.**
91. The Board's duty to produce a strategic plan and an annual report each year creates an important lever for transparency and progress monitoring in the sector. Nevertheless, **COPNI would welcome an additional duty to include safeguarding trends, systemic risks and agency performance** to ensure essential public accountability.
92. The Board's statutory duty to oversee, monitor and hold to account safeguarding performance and promote best practice will drive cultural and operational changes. However, the Bill stops short of allowing the Board to have a formal sanctioning power

³⁴ [Human Rights Act 1998](#).

³⁵ [European Convention on Human Rights](#).

³⁶ DHSSPS and DoJ (2015) '[Adult Safeguarding, Prevention and Protection in Partnership](#)', page 16.

if the persons or bodies represented on the Board³⁷ are non-compliant with their safeguarding responsibilities. **COPNI suggests the Bill be amended to create a statutory pathway for the Board to escalate concerns to the Minister, the Assembly or an independent regulator.**

93. COPNI welcomes the inclusion of lay members on the Board, recognising that doing so offers scope for lived experience, public interest and older person advocacy for adults at risk. However, the Bill does not create a statutory requirement for older people or their carers to be represented. This omission risks undermining inclusive, person-centred safeguarding governance. Older people and carers bring a vital perspective to discussions and a Board that lacks their direct insight could become disconnected from the realities on the ground. **COPNI recommends the inclusion of a requirement to appoint at least one lay member with lived experience, as well as a requirement for the Board to engage with older people and carers as part of Clause 32(6).**
94. The Bill also places Serious Case Reviews on a legal footing, which ensures reviews happen consistently and lessons learned are systematised, rather than discretionary. However, the Bill does not have an express duty to publish Serious Case Reviews. Transparency may be lost unless regulations or guidance require publication and open learning. **COPNI recommends the Bill be amended to set out clear statutory triggers for Serious Case Reviews and to require public access to Serious Case Reviews**, redacted as necessary for privacy.

Offences Involving Ill-Treatment or Wilful Neglect (Clauses 38 and 39)

Ill-Treatment or Neglect: Care Worker Offence

95. This provision introduces a clear criminal sanction for the ill-treatment or wilful neglect of an adult by a care worker. It captures both ill treatment and wilful neglect.
96. Whilst this is a welcome provision, COPNI is concerned by the absence of a statutory definition of wilful neglect. This ambiguity could lead to inconsistencies across Trusts and providers. **COPNI would welcome the development of statutory guidance on wilful neglect thresholds** to ensure understanding among staff and prevent an inconsistent application.
97. Clause 38 covers a range of staff, including volunteers and supervisory staff. In doing so, it recognises the role of unpaid individuals in care delivery, particularly in community and third-sector contexts. However, it excludes those whose provision of health or social

³⁷ Clauses 30(2) and 30(3) of the Adult Protection Bill sets out the persons or bodies represented on the Board.

care is considered “merely incidental” to their main role. Such individuals may still exert control or have access to vulnerable adults, which could lead to a safeguarding gap.

98. While Clause 38 addresses individual care workers, supervisors and volunteers, and Clause 39 separately establishes organisational liability, there is no explicit link between the two offences or with Clause 24. This risks a fragmented approach to accountability, where individuals are prosecuted but systemic failings in organisational culture, staffing or governance are not addressed in a joined-up way. **COPNI recommends the Bill provide clearer connections between these provisions** to ensure both individual and organisational responsibility are consistently enforced.
99. There is similarly no parallel duty requiring professionals to report witnessing the ill-treatment or neglect of an adult by a care worker. This weakens the safeguarding response, unless paired with Clause 4 of the Bill. **COPNI encourages the inclusion of a requirement for training, monitoring and whistleblowing protection** to ensure the offence operates as a preventive measure, rather than a reactive sanction.

III-Treatment or Neglect: Care Provider Offence

100. This offence, aimed at care providers, brings accountability to the organisational level, recognising that abuse often stems from systemic failures in staffing, training, governance and culture. The provision of publicity orders, for instance, will act as a deterrent and work to drive improvement and accountability.
101. By targeting the corporate responsibility of care providers, the Bill reinforces the message that safeguarding is a leadership obligation and providers must ensure safe, competent and compassionate care environments.
102. However, the clause involves a high evidential threshold. Providing evidence of a gross breach and a causal link between that breach and the harm caused may be difficult.
103. There is also no statutory duty on professionals to report suspected abuse within their organisation, which could weaken early detection of safeguarding failings.
104. While Clause 4 of the Bill creates a statutory duty to report concerns about individual adults at risk to Trusts, there is no corresponding mechanism to ensure that concerns about systemic provider failings which may amount to a Clause 39 offence are escalated for regulatory or criminal investigation. Nor does the Bill assign any explicit role to the RQIA or other bodies in identifying or referring potential Clause 39 breaches. This lack of alignment could weaken early detection of systemic abuse. **COPNI recommends that the Bill be amended to clarify the referral responsibilities and to ensure that reporting mechanisms capture organisational as well as individual ill treatment or wilful neglect.**

105. Clause 39 does not directly attach liability to directors or trustees unless they are charged separately under Clause 24. The Bill needs to ensure that senior staff and directors cannot evade accountability. As drafted, Clause 39 limits its deterrent effect on these individuals.

Regulation of CCTV Systems on Certain Establishments (Clauses 43 – 46)

106. COPNI welcomes the provision in the Bill that allows for future regulations on how and when CCTV systems can be installed and used. One of its key strengths is that it allows targeted use of CCTV where the evidence justifies it. Rather than forcing every care setting to install cameras, the Bill creates this safeguarding tool without the need for a blanket mandate.
107. We also welcome the link between the regulation-making power in the Bill and consent and capacity. However, consent can be illusory in institutional settings. Power imbalances could mean residents feel unable to refuse the use of CCTV, especially where cameras are presented as a condition of admission. **COPNI recommends that consent safeguards are strengthened** to ensure that refusal of CCTV cannot be used to disadvantage or refuse admission to a resident, unless DoH grants an explicit waiver.
108. Issues around consent also present when considering communal places. **COPNI wonders how the regulations will account for some residents giving consent and some not when living in the same setting.** Though, importantly, the Bill aligns itself with Article 8 of the ECHR by banning the use of CCTV in sensitive areas.³⁸
109. Given that RQIA already inspects these settings and their services, COPNI welcomes the clear enforcement structure allowing RQIA to monitor and enforce compliance with CCTV regulations. Doing so avoids creating another regulator.
110. However, COPNI has some recommendations regarding RQIA's enforcement role. While RQIA already inspects relevant settings under existing regulatory frameworks and publishes inspection reports and annual enforcement data, the Bill does not expressly require it to publish statistics on CCTV. **COPNI therefore recommends a clear statutory duty on RQIA to publish statistics on CCTV inspections, breaches and enforcement actions** to ensure transparency and enable DoH and the Adult Protection Board to monitor effectiveness.
111. Clause 44(2)(a) enables the DoH to make regulations requiring providers to carry out assessments before installing or using CCTV systems. **COPNI recommends that this power be used to require providers to complete and lodge an impact assessment**

³⁸ [European Convention on Human Rights](#).

with RQIA before installation of cameras, and to review same annually or in response to a change in circumstances. As drafted, the Bill itself does not impose any immediate duty on providers, meaning safeguards around necessity and proportionality will depend on future regulations. **COPNI would welcome mandatory impact assessments before the installation and use of CCTV.**

112. There is also a lack of any link to independent advocacy. Older residents lacking capacity, for example, may need an advocate to express their views on the use of surveillance. **COPNI maintains that the Bill should be amended to require the appointment of an advocate under Clause 26 when the use of CCTV is being considered** for someone who lacks capacity or feels coerced into giving their consent.
113. **COPNI urges consideration be given to higher fines or civil penalties for corporate breaches, and a clear link between repeated non-compliance with CCTV regulations and existing enforcement powers under the Health and Personal Social Services (Quality, Improvement and Regulation) (NI) Order 2003 which governs care standards.**³⁹ Clause 45 sets the penalty for contravention of regulations at a fine not exceeding level 3 on the scale, while obstruction of RQIA in its enforcement role under Clause 46 can attract a level 4 fine. COPNI remains concerned that, overall, these penalties may not provide a sufficient deterrent for corporate providers if widespread unlawful monitoring occurs.
114. At present, Clause 46(2) expressly disapplies RQIA's usual powers under that Order for the purposes of enforcing CCTV regulations, meaning that CCTV compliance sits outside the wider care standards enforcement framework. In effect, the Bill proposes creating a standalone CCTV enforcement regime, not integrated with the existing care standards framework and as such, the overall effectiveness of these provisions will depend heavily on the content of future regulations. By allowing for this update by regulations made under Clause 44, the Bill offers a degree of flexibility to address risks without amendments being made to primary law.

³⁹ [Health and Personal Social Services \(Quality, Improvement and Regulation\) \(Northern Ireland\) Order 2003.](#)

Conclusion

115. The Adult Protection Bill has the potential to strengthen protections for vulnerable adults across Northern Ireland. Many of the provisions in the Bill represent positive steps towards a more consistent approach to adult safeguarding.
116. The Bill places clear safeguarding duties on Trusts, the police, RQIA, PHA and other public bodies to act to investigate concerns where an adult may be at risk of harm, allowing for improved inter-agency cooperation. However, questions remain about the practical implementation of these duties.
117. COPNI stresses that without strong enforcement measures, public bodies that do not cooperate with their safeguarding responsibilities risk undermining the very protections the Bill seeks to establish. It is therefore essential that robust accountability mechanisms are embedded into practice to ensure the rights and safety of the adults concerned are never compromised by inaction.
118. While COPNI recognises the Bill will apply to all vulnerable adults, in practice, older people will constitute a large proportion of those impacted. Thus, the way in which the Bill is implemented on the ground must consider the needs, behaviours and vulnerabilities of older people. Many experience physical frailty, cognitive impairment, social isolation or chronic health conditions which can make navigating and participating in safeguarding processes challenging. This is further compounded by the dynamics of how many older people interact with health and social care professionals. Older people frequently view professionals as authority figures and may be reluctant to question or challenge their advice. Such behaviour can lead to compliance rather than true consent.
119. The absence of an automatic right to independent advocacy is therefore especially significant for older people. There is a danger that older people may accept decisions without a full understanding of their implications.
120. Without attention to these realities, older people, in particular, may continue to face barriers to having their voices heard and their rights respected.
121. COPNI is also concerned about the implementation and resourcing of the Bill. The Mental Capacity Act (Northern Ireland) 2016 has only been partially implemented despite being enacted in 2016. Its phased implementation has presented challenges for many health and social care professionals. We cannot afford to have this experience repeated with the implementation of the Adult Protection Bill. COPNI understands the business case has been approved by the Department of Finance (DoF) on the condition that it will not be implemented until the necessary funds are available. The lack of clarity on resourcing is concerning and COPNI reiterates that vulnerable adults cannot afford for this Bill to be delayed any longer.

122. Overall, the Adult Protection Bill represents an important milestone in progressing adult protection. However, refinement and amendments are needed to ensure that it effectively balances safeguarding with respect for autonomy and human rights.

Summary of Recommendations

COPNI recommends that the Adult Protection Bill:

123. imposes a binding duty to act in accordance with the principles.
124. considers the adult's own perception of risk or whether they feel at risk, and forms of self-directed harm or neglect when defining an "adult at risk".
125. ensures access to independent advocacy for all facing safeguarding processes.
126. clarifies the consequences for public bodies of non-compliance with their statutory duty to report and cooperate in inquiries.
127. requires social workers to demonstrate that entry to any premises for the purpose of enabling or assisting a Trust conducting inquiries is necessary and proportionate, and to record their reasons for overriding the adult's refusal.
128. because of power imbalances between older people and health professionals when considering medical examinations, requires health professionals to formally document consent and, where practicable, have consent witnessed by an independent advocate to provide assurance that the adult's wishes are respected.
129. clarifies the scope of "other records" a social worker can request access to and restrict disclosure to those who hold a statutory safeguarding function or where the adult has consented.
130. considers introducing an appeal route for production, assessment, removal and entry orders, or at minimum, allow urgent judicial reviews within a defined period.
131. provides a clearer evidential threshold or statutory guidance for assessment orders, as "reasonable cause to suspect" is not clearly defined.
132. requires magistrates' courts to apply a statutory necessity and proportionality test before granting an assessment or removal order.
133. confirms that removal orders cannot be used where the Mental Capacity Act (Northern Ireland) 2016 applies.
134. introduces a statutory limit on repeated use of removal orders for the same individual or requires additional judicial scrutiny where multiple orders are sought in respect of the same individual.
135. clarifies the range of persons who may be subject to a banning order.
136. introduces flexibility around the 6-month expiry period of temporary banning orders, combined with a requirement for review hearings.
137. includes a requirement whereby automatic return hearings are held within 7 days for temporary banning orders made ex parte, aligning with best practice in domestic abuse frameworks.
138. clarifies how banning orders will sit alongside existing domestic abuse protections.

139. provides a clearer statutory definition of undue pressure, supported by a threshold test and guidance, to ensure refusals of consent are not too readily disregarded.
140. requires Trusts and courts to record and justify any reliance on the consent override, so decisions can be scrutinised.
141. where lack of capacity is relied upon, requires a formal assessment under the Mental Capacity Act (Northern Ireland) 2016.
142. includes a duty to record and justify any reliance on Clause 17 in application documentation.
143. adds a statutory clause or guidance clarifying what amounts to a reasonable excuse for obstruction and require Trusts and professionals to communicate the nature of their powers before resorting to enforcement.
144. clarifies which agency has responsibility for gathering evidence and referring cases of offences by bodies corporate to the DPP.
145. provides statutory definitions or guidance under Clause 24 on what constitutes “consent”, “connivance” or “neglect” in a safeguarding context.
146. under Clause 24, explicitly links liability to failure to comply with statutory safeguarding standards, staff training obligations or duty of candour requirements.
147. includes a statutory duty for the Adult Protection Board to operate independently of the DoH in its scrutiny and oversight role.
148. includes an additional duty for the Board to include safeguarding trends, systemic risks and agency performance in their annual report.
149. creates a statutory pathway for the Board to escalate concerns of non-compliance with safeguarding responsibilities to the Minister, the Assembly or an independent regulator.
150. includes a requirement to appoint at least one lay member with lived experience to the Board, as well as a requirement for the Board to engage with older people and their carers.
151. sets out clear statutory triggers for Serious Case Reviews and allows for public access to Serious Case Reviews, redacted as necessary for privacy.
152. includes statutory guidance on wilful neglect thresholds to ensure understanding among staff and prevent an inconsistent application of Clause 38.
153. includes a requirement for training, monitoring and whistleblowing protection to ensure the care worker offence operates as a preventive measure, rather than a reactive sanction.
154. lowers the evidential threshold under Clause 39, as providing evidence of a gross breach and a causal link between that breach and the harm caused may be difficult.
155. provides clearer connections between Clauses 38, 39 and 24.

156. given that consent can be illusory in care settings, strengthens consent safeguards to ensure that refusal of CCTV cannot be used to disadvantage or refuse admission to a resident, unless DoH grants an explicit waiver.
157. includes a duty to oblige RQIA to publish statistics on CCTV inspections, breaches and enforcement actions.
158. requires providers to complete and lodge an impact assessment with RQIA before installation of cameras, and to review same annually or in response to a change in circumstances.
159. requires the appointment of an independent advocate when CCTV is being considered.
160. considers higher fines or civil penalties for corporate breaches of CCTV regulations.