



Adult Protection Bill Consultation Response

1. *Introductory Comments / Overview*

Southern Health and Social Care Trust welcome the publication of the draft Adult Protection Bill and the opportunity to share this with practitioners for their comment and response.

Part 1 – Protection of Adults at Risk of Harm and Part 5 definitions and interpretation

2.1 *Principles & Definitions*

It is the view of Southern Trust that the principles are well defined and balanced, reflecting the values of key professionals involved in the statutory responsibilities in the protection of adults, namely social work.

There is a general anxiety regarding the term “adult at risk” and the potential for confusion in practice. Existing definitions within the Regional Adult Safeguarding: Prevention and Protection in Partnership, 2015 have 2 separate definitions for “adults at risk” and “adults at risk who are also in need of protection”. Following 10 years of applying these thresholds for intervention, the shift to language of “adults at risk” meaning the adult is also in need of protection will require significant change in culture and practice through training and wider education with those reporting concerns and making referrals. This will be particularly pertinent to those making decisions about referral in adult protection teams (ie those who hold Adult Safeguarding Champion / delegated appointed persons roles in the current arrangements)

The Southern Trust understands the legal reasoning behind this language and will support the development of training and education across sectors to effect this change of thinking.

The definition of harm is noted in 2 (3). In existing practice there has been a working definition of **harm** and **serious harm**. It would be helpful, given public expectation and user experience of what constitutes harm, for the definition of harm to be included in more detail to support the management of expectations. Southern Trust also note that the use of the term harm as a result of “abuse” is not included. It would be helpful to have this term referenced.

2.2 Duty to make Enquiries & Duty to Report

Further clarity on what reasonable cause to suspect would be welcome within the statutory guidance.

The provision of an independent advocate during the statutory responsibility for the Trust to make inquiries or other functions of the bill is not clear as to whether this is in every case or where professional judgement determines that this would be in the best interests of the adult. It would be helpful to understand at what point an independent advocate would be appointed ie before initial assessment of the referral or at the point of commencement of investigation/assessment.

There were a few comments from staff in Southern Trust seeking clarity on what professional group(s) within the Trust are responsible for making the inquiry. 3 (1) It is clear that where a visit is required under 5 (1) that a social worker must be present in order to make the decision if the adult is at risk and whether intervention is required. This sits under the subtitle of powers of investigation however the same clarity is not present in the duty to make inquiry.

It would be helpful to set out the expectation in 3 (1) of what professional or group of professionals are required to make the inquiry as the decision rests with the Trust as to whether the thresholds are met as per 3 (1) (a) and (b). At present the decision is a social work responsibility under current policy and procedures. (Designated Adult Protection Officer)

On a point of layout, a suggestion was made that the duty to report should come before the responsibility of the Trust to undertake a duty of inquiry at 3 (1) and (2) following the notification of a report.

The Trust would be of the view that the duty to cooperate should be extended to both the inquiry and any subsequent investigation undertaken.

The legislation is clear in terms of the definitions of an adult at risk and the responsibility for organisations to report. The decision as to whether there is reasonable cause to make inquiry rests with the Trust, however under duty to report (2) there is an expectation that listed organisations would make decisions with reasonable cause to suspect 9a) and (b). This may cause confusion across various sectors specifically in relation to the evidence needed to make a judgement about the “conduct of another person.” 2 (b) It is important that there is clarity that listed organisations do not progress other process relating to conduct of staff / volunteers in order to reach a decision about reasonable cause to suspect. It may be helpful to refer to the adult who may be at risk and where actions may be required to protect them from harm.

2.3 Powers of Investigation

The Trust agrees that a social worker should undertake the initial inquiry to identify the concerns and contribute to the decision if the adult is at risk and if intervention is required.

Clause 6 Power to interview a person

No comments

Clause 7 Medical examinations

No comments

Clause 8 Examination of records

No comments

Does the Bill sufficiently regulate when and how financial records can be accessed?

yes

Clause 9 Application for production orders: procedures

No comments

2.4 Powers: New orders

The Trust anticipates that the statutory guidance would detail the information/evidence required for application to the courts.

As above this would need further clarity. This may be provided within the statutory guidance.

Section 11 2 (a) under removal orders refers to serious harm. There is no definition of serious harm. Can serious harm only be determined in a magistrates court under this Bill or can serious harm be determined in a balance of probability within Trust adult protection led investigations?

The social work role is clear, however, there would be circumstances where support from PSNI in the safe removal of an adult at risk may be required. It would be helpful to have this named within the Bill.

The removal order details the expiry of the order after 7 working days. Is there provision for this period to be extended by the court if there is sufficient evidence to suggest the risk of serious harm has not changed. Are there time limits for orders should the risk remain unchanged?

The legislation refers to the “best interests of the adult” 2 (a) (i). The Trust interprets this to refer to all adults who both have capacity and those who have limited or no capacity to make decisions in relation to specific areas of their care and welfare etc. Further reference relating to fluctuating capacity would be welcome within the statutory guidance.

The Trust welcomes the detail regarding the regulations of the Independent Advocates and the conditions that must be met to be considered.

In reference to the section highlighted under Part 1 section 27 (5): Given the statutory responsibilities within the AHP workforce, the range of professions and the need for professional regulation, it is suggested that it is essential that HCPC registrants are referenced specifically as is medical, nursing and midwifery rather than under ‘any other type of individual prescribed for the purposes of the section by skills, qualifications or experience.

Part 2 – Independent Adult Protection Board

Section 32 under the functions of the Board. (5) refers to the Serious Case Reviews. Further detail

of the functions of SCR's would be useful.

Part 3 – Offences

No comments

Part 4 – Regulation of CCTV systems on certain establishments

No comments

Draft Guidance, Training & Implementation

The Southern Trust understands that statutory guidance will accompany the legislation.

Training requirements, standards, and continuous learning frameworks support consistent, well-informed practice would be welcome in terms of consistency of practice and monitoring of activity and performance. Consistent training at level 1 and 2 across all sectors will be particularly useful.

Impact Assessment & Equality Implications

No comments

Final Reflections / Additional Comments

No comments