



Irish Association of Social Workers Position Paper on Adult Safeguarding Legislation, Policy and Practice

Introduction

While all health and social care staff have responsibility in identifying and responding to adult safeguarding concerns, the social work profession has been tasked with the primary responsibility for the protection and safeguarding of adults at risk of abuse and neglect in Ireland. **As the only registered health and social care profession with professional expertise in supporting human rights and challenging systemic social injustice, social work has a vital contribution to make to the development of adult safeguarding policy and legislation.**

Social work recognises that 'adult safeguarding means putting measures in place to promote and protect people's human rights, their health and wellbeing, and empowering people to protect themselves'.¹ This holistic understanding of what it means to be safe and protected in adulthood is evidence of core social work values and principles in action. This includes social work's commitment to a human rights approach, to promoting each individual's right to self-determination and building trusting relationships which support individuals to make informed decisions about their own lives. Social workers also support those who cannot voice their perspective to exercise their human rights and live safe and happy lives.

¹ Donnelly and O'Brien (2019). *Falling Through the Cracks: The Case for Change, Key Developments and Next Steps for Adult Safeguarding in Ireland*. UCD press

The Irish State has an appalling record of failing to safeguard adults who are at risk of abuse and neglect within its own institutions and in wider Irish society. Existing policy and legislation hinders the ability of social workers to provide safeguarding and support to adults at risk of abuse and neglect. This paper highlights the current challenges experienced in the frontline of social work safeguarding practice and sets out clear recommendations to optimise the ability of social workers to support and protect adults who are vulnerable to harm.

Purpose of Paper

Informed by evidence and frontline practice experience, this position paper:

- 1) Provides a brief background to adult safeguarding in the Irish context;
- 2) Identifies the limitations and risks posed by the current adult safeguarding legislative and policy framework in Ireland;
- 3) Highlights the challenges associated with unsafe organisational culture and governance in agencies tasked with adult safeguarding responsibilities;
- 4) Provides clear recommendations to address these limitations, risks, and challenges.

1) Background

In 2007, the HSE established a Social Work Elder Abuse Service, to manage allegations of abuse and neglect of those aged 65 and over. In December 2014, an RTE 'Prime Time Investigates' programme shone a light on abusive practices within Áras Attracta, a HSE run residential setting for adults with intellectual disabilities² resulting in a national outcry and a call for increased protections for adults vulnerable to harm. This led to the establishment of a HSE National Safeguarding Office and a Safeguarding and Protection Social Work Service was set up to support the implementation of Safeguarding Vulnerable Persons at Risk of Abuse, National Policy and Procedures (2014)³. It also led to the establishment of designated officer roles within older persons

² <https://www.rte.ie/news/player/prime-time-web/2014/1209/>

³ <https://www.hse.ie/eng/services/publications/corporate/personsatriskofabuse.pdf>

and disability services, envisioning that organisations would manage safeguarding concerns with oversight support from the new Safeguarding and Protection social work services.

The remit of the 2014 policy included all adults aged 18 and over at risk of abuse and neglect. However, the policy's operational scope was limited to the HSE Social Care Division and Social Care funded services and to adults living in the community who are not linked to any formal service. It did not extend to adults using other services such as mental health, acute settings, primary care settings, private nursing homes etc.

A commitment was given to investigate the circumstances of Áras Attracta and to review and revise the 2014 policy within a two-year time frame. At the time of writing, the internal HSE investigation on Áras Attracta has not yet reached any conclusion.

In 2017, a cross divisional working group was convened to review the policy and broaden the scope to include all HSE and HSE funded services. The resulting HSE draft 2019 policy identifies new roles and responsibilities *without any commitment on staffing and resources* with the expectation that as 'safeguarding is everybody's business', all HSE staff are expected therefore to manage safeguarding concerns which arise during the course of their work. The HSE has further proposed that in future, safeguarding social work teams will have a 'quality assurance' oversight function only, and will no longer work directly with adults who have experienced neglect or abuse. It is also proposed that they will be moved from the HSE Social Care Division and will be governed under a new Department of Quality and Professional Development due to be set up in January 2021.

Meanwhile, a parallel process has taken place within the Department of Health. The Minister for Health has obtained Government approval to develop a national adult safeguarding policy for the health sector, together with such legislation as may be required to underpin that policy⁴. Progress to date includes:

⁴ Donnelly and O'Brien (2019). *Falling Through the Cracks: The Case for Change, Key Developments and Next Steps for Adult Safeguarding in Ireland*. UCD press

- The establishment of a high-level Steering Group to assist the Department of Health (DOH) in its development of the policy.
- Focus group consultation research was undertaken by the Institute of Public Health with most directly affected service users. This work is currently awaiting publication.
- An independent evidence review project, to inform the policy was completed by Mazars. This work is currently awaiting publication.

The DOH have advised they will be moving on over the coming months to formal public consultation, options appraisal and costing study phases with a view to finalising and submitting a costed and evidence-based draft health sector policy to Government for approval.

2) Limitations and Risks posed by Current Policy/Legislative Framework

- ***Lack of national progress on adult safeguarding legislation/policy*** The IASW contends that the lack of progress both locally, in terms of a full, transparent and timely Áras Attracta investigation, and nationally in terms of the development of a comprehensive policy and legislative framework is **reflective of a consistent lack of organisational and political will to safeguard adults in Ireland**. The IASW questions the rationale of conducting two parallel and possibly contradictory adult safeguarding processes in the DOH and the HSE with the significant resource implications of both. There is a sense that six years on from Aras Attracta, progress on adult safeguarding continues to be 'kicked on down the road' at a political and organisational level.
- **The IASW has repeatedly stated that social workers are unable to safeguard and support the well-being of all adults at risk of harm under the current framework** Put simply people who are most vulnerable in our society are 'falling through the cracks' and are experiencing harm and abuse

because of gaps in our current systems.⁵ The IASW suggests that Safeguarding and Protection teams have been given an impossible task, carrying responsibility to protect and expose institutional abuse within their own organisation, the HSE, as well as services funded by the HSE. Yet they have no legal authority to even enter private homes or nursing homes within our current legislative framework. Adults who are most vulnerable and may either require institutional care or cannot leave their home independently, are exceptionally difficult and sometimes impossible to reach under the current framework. This perpetuates a reliance on the archaic Ward of Court system and the *1871 Lunacy Act*.

- ***Unequal Access to Social Work Expertise*** The current policy essentially enshrines unequal access to the Safeguarding and Protection Social Work Teams, as access to the service is dependent on an individual's involvement with an existing service or their postcode. While a person living in a community, without links to other formal services has direct access to the considerable expertise of the Safeguarding and Protection teams, other adults, linked with any organisation working within the framework of the 2014 policy can only access the local (and variable) expertise and knowledge within that organisation and have no direct access to the Safeguarding and Protection Social Work teams. Residents in private and public nursing homes have variable levels of direct access to safeguarding and protection social work teams.
- ***Failure to Resource Current Policy*** Safeguarding and Protection teams remain inconsistently resourced and many hold significant waiting lists. Furthermore, social workers in other services have been expected to absorb the complexity and considerable time demand associated within adult safeguarding work without additional investment or resources. The IASW contend, based on consistent reports from our members, that these teams are unable to carry out

⁵ Ibid.

their essential duties due to chronic under resourcing⁶. This has resulted in social work services (outside of formal safeguarding and protection teams) being unable to comply with the requirements of the 2014 policy, given their inability to absorb the workload requirements associated with the policy⁷.

- **Concerns re Proposed HSE Policy** While the IASW agrees that it is essential that all health and social care professionals can identify risk and abuse, it is also vital that adults experiencing abuse and harm have direct access to the expertise of frontline safeguarding social work professionals. The current and proposed policy does not recognise either the complexity of adult safeguarding work or the expertise and resource requirements needed to address this complexity. Akin to the expertise of social workers working in child protection, Safeguarding and Protection social workers have expert knowledge in the patterns and complex dynamics of abusive behaviours, including domestic violence across the lifespan, institutional abuse, coercive control, perpetrator grooming of professionals behaviour, and barriers to safety for those experiencing abuse and neglect. Safeguarding social workers are experts in co-working with an Garda Síochana, financial institutions and within the complexities of the Irish legal system, frequently appearing on behalf of clients and to represent the HSE in the High Court. The proposal to diminish this role and remove direct access to social work expertise for adults vulnerable to abuse and neglect further increases their vulnerability. Current expertise is based on professional knowledge and direct practice experience. It is unclear under the current proposals how the HSE expect to retain and build safeguarding expertise over time and meet the needs of adults in need of care and protection.
- **Impact of Covid-19:** The Covid19 pandemic, and the associated impact on communities and residential settings, has served to amplify existing concerns

⁶ Waiting list for CHOs

⁷ BASW NI / IASW / Northern Ireland Social Care Council / Coru (2020). Shaping Social Workers' Identity: An All-Ireland Study. Belfast

about the protection and human rights of vulnerable adults in Ireland. Similar to social work colleagues in Tusla, Safeguarding and Protection Social Workers have noted a decrease in reports of concerns of abuse from funded services and community due to closure of services and redeployment of staff normally tasked with the reporting role. Safeguarding and Protection Teams have reported increases in safeguarding concerns for public and private care home residents due to the lack of access and visitation for families. These visits act as both safeguarding and quality assurance measures and their absence is notable and worrying. During Covid-19, despite the known, increased risks posed by cocooning and social restrictions on adults who are at risk of harm within their home or care settings, no additional investment has been provided to social work teams. In direct response to these concerns, social workers, through the IASW, developed a national Social Work Liaison model for practice. This model provided psychosocial assessment, family liaison, communication care and bereavement support to people in a number of residential settings nationally during peak restrictions⁸.

3) Challenges associated with Unsafe Organisational Culture and Governance

- **Governance structures of Safeguarding and Protection Social Work teams:** There is a lack of standardisation in practice and the absence of a collective voice in terms of service and policy development due largely to the provision of Operational line management at individual CHO level rather than centrally by the National Safeguarding Office.
- **Current Strategy Devalues Social Work Expertise:** The policy direction of the National Safeguarding Office does not support or value the existing work of the Safeguarding and Protection Social Work teams, as evidenced by the proposal to minimise the future role of these teams to quality assurance only.

⁸ Mc Garry et al. (2020). *The Liaison Social Work Role in Nursing Homes and Residential Settings: Guidance for Social Workers*. IASW

- **Inconsistent referral processes for adult safeguarding** has a significant impact on the quality of service received by the adult at risk of neglect and abuse. CHO areas have different initial assessments, as well as differing thresholds for response and interventions
- **Despite published annual reports showing an increase in referrals to safeguarding team's** year on year there has been no corresponding increase in staffing to respond to these, unless there is a high-profile case or crisis in the CHO. This means there is no national lead for the development and oversight of adult safeguarding rather, it is left to individual CHOs to allocate resources from existing budgets. This has led to significant waiting listings in some CHOs.
- **The IASW is aware of the challenge's social workers experience within the culture of their organisation.** Social workers have reported that organisational culture is a significant barrier in their ability to adequately safeguard individuals, advocate for appropriate safeguarding reviews or ensure a quality service is offered, as agency culture prioritises the protection of the agency, rather best safeguarding practice. Social workers have expressed concerns about the lack of understanding and minimisation of cases of abuse at the highest level of HSE and HSE funded management structures. Positioning Safeguarding line management structure under HSE social care does not allow for independence or full objectivity given that on occasion, Safeguarding & Protection Social Work teams are effectively highlighting organisational abuse which reflects poorly on the organisation.
- **Exclusion of Social Work from National Processes:** The IASW has specific academic and professional expertise to bring to national processes but has encountered significant challenges in representing our expertise and concerns related to adult safeguarding at national level, particularly within the HSE and Department of Health. This challenge has been clearly evident during the pandemic. In Northern Ireland the social work profession, led by Chief Social Worker Sean Holland, has held a leadership role throughout the region's

response to the pandemic. He appears regularly in press conferences with the Minister for Health, outlining the social impacts of Covid-19 on the population. The value placed on the knowledge base and expertise of social work is evident in the profession's representation on key consultation bodies, expert advisory groups etc. The contribution of the social work profession has also informed the NI Minister for Health's decision to proceed with adult safeguarding legislation in the last month.

Unfortunately, in the Republic there is a stark difference in the contribution of social work profession at national level. The Minister for Health, the Minister for Older Persons, and relevant officials within the HSE and Department of Health have repeatedly failed to acknowledge or respond to the concerns raised in writing by the IASW. This lack of engagement has resulted in a lack of national focus or commentary on key social issues, including safeguarding.

Our colleagues in medicine, nursing, and NGOs such as Sage Advocacy, the Irish Hospice Foundation and ALONE have had multiple stakeholder meetings/consultations and representation within/ on a variety of DOH and Government. structures over the course of the pandemic. NGOs who have a valuable and vital expertise have been solely relied upon to represent social care, without the input of the registered health and social care professionals who work in our public services. **The social work profession has clinical responsibility (and accountability) for the delivery of adult social care and safeguarding services in Irish public services and provides a distinct and equally important academic and clinical expertise to the knowledge base brought by the NGOs which must inform national discussion, policy and legislation.**

4) Recommendations

It is the opinion of the IASW that only by placing Adult Safeguarding on a statutory footing can we challenge the pervasive organisational culture within HSE and other agencies to protect itself rather than the individual service user. This has been evidenced by the repeated failures to address significant and serious risks to service users such as in the Grace case, Leas Cross and Aras Attracta. The IASW calls for:

- All adults regardless of their address, including those in residential care services should have equal and rights-based access to all primary care health and social care services. This includes access to primary care, palliative care, safeguarding and liaison social work services to ensure that adult well-being is supported and safeguarded.
- The full enactment of the *Adult Safeguarding Bill, 2017* in conjunction with the recommendations of '[Speaking Up Against Harm Report](#)'⁹ in relation to suggested amendments to the Bill as currently drafted.
- The full implementation of the *Assisted Decision-Making (Capacity) Act, 2015* and proper resourcing of the Decision Support Service to ensure that the will and preference of adults at risk is heard and acted on. This also reflects the general recommendations of the HSE's National Independent Review Group which investigate serious failures in disability services¹⁰
- The Government **to legislate and adequately resource an independent statutory social work authority** for all adults at risk of abuse or neglect, including those with a mental health, intellectual or a physical disability. This authority must be available to all adults living in community and residential settings.
- A legislative entitlement to safe home care with the necessary accompanying funding and resources

⁹ Donnelly, S and O'Brien, M (2018). *Speaking Up About Adult Harm: Options for Policy and Practice in the Irish Context*. UCD Press.

¹⁰ HSE National Independent Review Group, *Annual Report 2017 -2018*

- Representation and inclusion of social work expertise within the Department of Health and HSE, including the Department of Health Adult Safeguarding Steering Group to ensure social work expertise informs processes related to the safeguarding and well-being of adults who are at risk of abuse and neglect across health, social care and community services. Government must avoid relying solely on niche NGOS to represent social care.

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