

Hampshire Safeguarding Adults Board

Policy and Practice Update June 2014

This bulletin provides a summary of recent national policy news, publications, consultations and articles relating specifically to adult safeguarding. A brief summary and link to the original webpage document is provided for each item.

Care Act 2014	<u>What the Care Act 2014 will mean for adult safeguarding</u>
Published By: Community Care	
<p>Summary: In this article, Belinda Schwehr examines how the legislation will affect safeguarding investigations, governance and information sharing.</p> <p>Date of Publication: 3rd March 2014</p>	

Mental Capacity Act	<u>Report on the House of Lords Select Committee report on MCA implementation</u>
Published By: House of Lords	
<p>Summary: This report outlines the findings of the House of Lords select committee inquiry into the implementation of the Mental Capacity Act 2005. The report highlights ‘risk averse’ and ‘paternalistic’ health and social care practice which has prevented the Mental Capacity Act 2005 from achieving its objective of empowering vulnerable adults to take decisions for themselves. Drawing on written evidence from 206 organisations and 15 oral evidence sessions with policymakers, practitioners and experts, the committee concluded that the monitoring of the Act required a fundamental overhaul to ensure that it was properly implemented. The report found widespread non-compliance among social care and health professionals with the five principles of the Act.</p> <p>Date of Publication: 13th March 2014</p>	

DOLS	<u>Cheshire West DOLS Ruling</u>
Published By: The Supreme Court	
<p>Summary: The Supreme Court has published a Ruling regarding the cases of P v Cheshire West and Chester Council and P&Q v Surrey County Council which overturns previous judgements that had defined deprivation of liberty more restrictively. The Court has now ruled that all people who lack the capacity to make decisions about their care and residence and, under the responsibility of the state, are subject to continuous supervision and control and lack the option to leave their care setting are deprived of their liberty. The person’s compliance or lack of objection to their placement, the purpose of it or the extent to which it enables them to live a relatively normal life for someone with their level of disability are all irrelevant to whether they were deprived of their liberty, ruled the court. This means that many people are likely to have been deprived of their liberty unlawfully and without safeguards in settings including care homes and supported living placements. Proper application of the judgement is likely to see a significant increase in DOLS applications regarding care home placements, and also applications to the Court of Protection to authorise deprivations of liberty in supported living.</p>	
Date of Publication: 19th March 2014	

Learning Disability	<u>NHS England figures on moves into community based care</u>
Published By: NHS England	
<p>Summary: Care Minister Norman Lamb has stated that the lack of action on moving people with learning disabilities or autism out of hospitals into community-based care cannot continue, after NHS England figures exposed the lack of progress. Despite a government target to move all patients placed inappropriately in hospitals into community settings by 1 June 2014, as part of its response to Winterbourne View, just 7% were due to move before this date, according to NHS England. Data submitted by 169 of the 211 clinical commissioning groups and the ten NHS England specialised commissioning teams identified 2,577 relevant patients with learning disabilities or autism and additional mental health problem, in hospitals as of 31 December 2013. Of these, 260 were due to transfer out of inpatient care, and 172 had a transfer date before 1 June. Of the others, 1932 did not have a transfer date and, for the remaining 385, an inexact response was provided by commissioners to NHS England about their transfer plans. The biggest reason for the lack of a transfer date – in 1108 cases – was a clinical decision.</p>	
Date of Publication: 20th March 2014	

Care Sector Regulation	<u>Consultation on provisions to bar 'unfit' directors</u>
Published By: Department of Health	
<p>Summary: The government has launched a consultation on provisions to enable the Care Quality Commission to bar 'unfit' directors from running social care organisations. From October, the CQC would be able to prevent providers from registering or sanction registered organisations if they employed a board member deemed unfit by the regulator, under the plans. The CQC would also keep a record of its decisions so that it would be alerted if a director deemed unfit was appointed to a similar role at another organisation. The proposals – part of the Department of Health's response to the Mid Staffordshire and Winterbourne View scandals – are designed to ensure that people who preside over poor care are prevented from continuing to lead social care or health organisations. The regulations would place registered providers under a legal duty to ensure board members, charitable trustees or their equivalents were of good character, have the necessary skills and qualifications for their role, be capable of undertaking the role after reasonable adjustments and not be prohibited from holding it by company or charity law.</p>	
Date of Publication: 28th March 2014	

Safeguarding Practice	<u>Positive and Proactive Care- reducing the need for restrictive interventions</u>
Published By: Department of Health	
<p>Summary: This guidance forms a key part of the Government's commitment set out in Closing the Gap: essential priorities for change on mental health to end the use of restrictive interventions across all health and adult social care. 'Positive and Safe' is a new initiative to drive this forward and this recognises that therapeutic environments are most effective for promoting both physical and emotional wellness and that restrictive interventions should only be used in modern compassionate health and social care services where there is a real possibility of harm to the person or to staff, the public or others. The purpose of this guidance is to provide a framework to support the development of service cultures and ways of delivering care and support which better meet people's needs and which enhance their quality of life. It provides guidance on the delivery of services together with key actions that will ensure that people's quality of life is enhanced and that their needs are better met, which will reduce the need for restrictive interventions and promote recovery.</p>	
Date of Publication: April 2014	

Mental Health	<u>Joint Review of the use of sections 135 and 136 of the Mental Health Act 1983</u>
Published By: Department of Health	
<p>Summary: The government has launched a review of the powers granted to police under the Mental Health Act in a bid to determine whether the legislation ‘is fit for purpose’. The joint Department of Health and Home Office review will examine the operation of sections 135 and 136 of the Mental Health Act 1983 – the powers available to police officers to detain someone to a “place of safety”. The project will focus on how the legislation works in practice, particularly in crisis care situations, and how it fits with the Mental Health Act Code of Practice and guidance issued by professional bodies. The review will analyse existing evidence and consult with police officers, health professionals and members of the public. A report with the review findings and recommendations for change will be published later this year.</p>	
<p>Date of Publication: 1st April 2014</p>	

Mental Capacity Act	<u>Revised COP3 form</u>
Published By: Office of the Public Guardian	
<p>Summary: The Court of Protection has made it clear that social workers are among those who can submit evidence of assessments of people’s mental capacity under the Mental Capacity Act 2005. The change is reflected in the revised version of the COP3 form, which states, for the first time, that the court will accept evidence of social workers. The previous version of the form stated that the court would only accept capacity assessments as evidence when carried out by listed medical practitioners, psychologists and certain therapists, such as occupational therapists. In practice, judges allowed social workers to submit assessments but this was discretionary.</p>	
<p>Date of Publication: 4th April 2014</p>	

Safeguarding Practice	<u>Report on the MSP Programme in 2013-14</u>
Published By: ADASS and Local Government Association	
<p>Summary: A joint report published by ADASS and the LGA states that safeguarding procedure timetables should be revised to enable social workers to put adults at risk at the heart of the process and focus on improving outcomes for them. This was the message from councils who have tested the Making Safeguarding Personal (MSP) approach to protecting adults, designed to involve the person in the process, enable them to articulate what they want from it and assess whether these outcomes had been achieved. Findings from 43 of the 53 councils to test MSP in 2013-14 found that all believed that it had made adults at risk feel more empowered, enabling some people to take action to protect themselves, and that it had improved social work practice.</p> <p>Date of Publication: 7th April 2014</p>	

Mental Health	<u>The Role of Social Workers in Adult Mental Health Services</u>
Published By: Royal College of Social Work	
<p>Summary: The Royal College of Social Work has published a report highlighting the ‘critical’ role social workers play in shifting the focus of mental health services from an overly medicalised approach to care to one that supports broader recovery. The report states there is a need for services to “move away” from a model of mental health care focused on medical treatment to one that focused on supporting people to return to “a good life”.</p> <p>Date of Publication: 9th April 2014</p>	

Care Sector Regulation	<u>CQC Consultation on inspection of care services</u>
Published By: Care Quality Commission	
<p>Summary: Top-rated care services will be inspected half as frequently as they are now under Care Quality Commission plans to take a more risk-based approach to regulation from October 2014. The commission plans to cease annual inspections and introduce a system under which services judged ‘outstanding’ under the new performance rating system are generally re-inspected within two years and ‘good’ services revisited within 18 months. Services judged to be ‘requiring improvement’ will be seen within a year of their previous inspection and those rated ‘inadequate’ re-inspected within six months. The proposals were set out in a consultation on the CQC’s new regulatory approach.</p> <p>Date of Publication: 11th April 2014</p>	

Older People	<u>The Generation Strain Report</u>
Published By: Institute for Public Policy Research	
<p>Summary: A report has been published by the IPPR highlighting that the number of older people needing care will outstrip the number of family members able to provide care in 2017. The think-tank’s The Generation Strain report argues that the growing ‘family care gap’ requires a rethink of how social care for the elderly is delivered. It recommends a move towards community based services that seek to help people live a “good life” rather than having “a narrow focus on physical and health needs”. It says the UK should copy Germany’s government-funded approach which brings services for people of all ages under one roof to reduce generational divides. The IPPR also recommends older people and their carers should be able to pool their direct payments with those of other local people so they can find collective solutions to their care needs. The report says the number of over 64s without adult children to care for them will almost double before 2030.</p>	
Date of Publication: 24th April 2014	

Learning Disability	<u>2013 Learning Disability Census</u>
Published By: Health and Social Care Information Centre	
<p>Summary: More than half of inpatients with learning disabilities in specialist care were put in seclusion, restrained or came to harm over a three-month period last year, research has found. New analysis of the 2013 Learning Disability Census, published yesterday, found 57% of patients with learning disabilities, autism and/or “challenging behaviour” had experienced at least one “incident” between July and September 2013. “Incidents” included being assaulted, subject to hands-on restraint, having an accident, being put in seclusion or self-harming. Some people may have experienced more than one incident in that time. The census, by the Health and Social Care Information Centre (HSCIC), also found over two-thirds had been given anti-psychotic medication in the 28 days before the survey, with 93% of these people receiving the drugs regularly. Figures in the report suggested that there had been little progress in improving the treatment of people with learning disabilities since the Winterbourne View scandal in 2011, despite a government programme to achieve this aim. The census said use of seclusion, hands-on restraint and self-harm had risen since the last “Count Me In” survey, a similar census carried out in 2010 by the Care Quality Commission. The percentages of patients who had an accident or had been assaulted only fell by a small amount between the surveys.</p>	
Date of Publication: 30th April 2014	

Older People	<u>Guide to achieving better quality of life for older people with high support needs</u>
Published By: SCIE	
<p>Summary: The Joseph Rowntree Foundation (JRF) has identified seven key challenges that need to be met for older people with high support needs, so that they can achieve a better quality of life. A new At a Glance briefing, published by SCIE, summarises each of the seven challenges set out by JRF, along with relevant SCIE resources related to meeting the challenges.</p>	
<p>Date of Publication: May 2014</p>	

Mental Health	<u>Access to mental health beds</u>
Published By: Community Care	
<p>Summary: A joint investigation by Community Care and BBC News has found NHS mental health trusts are sending a growing number of patients to out-of-area hospitals up to 300 miles away from home as demand for hospital care outstrips local bed capacity. It found that on some days the pressure on the mental health crisis care system reached the point that trusts struggled to find beds anywhere in the country, a situation that led to one patient who was not hearing impaired being admitted to a deaf unit. Data obtained under the Freedom of Information Act from 30 of England's 58 NHS mental health trusts revealed that the number of patients sent to out-of-area hospitals rose 33% last year and has more than doubled since April 2011. Acutely unwell patients are being sent up to 300 miles for care, with trusts spending millions buying bed space at private hospitals due to NHS units being full.</p>	
<p>Date of Publication: 6th May 2014</p>	

Care Sector	<u>Cavendish Review</u>
Published By: Department of Health	
<p>Summary: New care workers will have to earn a training certificate within 12 weeks of starting a job. The scheme comes in from March 2015 in England for staff including assistants in hospitals, care homes and those who look after people in their own homes. Topics will include infection control, dementia care and patient dignity. This follows an independent review, in the wake of the Stafford Hospital Inquiry, which highlighted inconsistencies in training. Care minister Norman Lamb said it was essential that we drive up standards and he confirmed the responsibility for the certificate would rest with employers. Across England, there are more than a million care workers, many of whom look after vulnerable and elderly people in their own homes or in residential care.</p>	
<p>Date of Publication: 3rd May 2014</p>	

Serious Case Review	<u>CPS role in serious case reviews</u>
Published By: Crown Prosecution Service	
Summary: This guidance document outlines the role of the CPS in the serious case review process.	
Date of Publication: 19th May 2014	

Fire Safety	<u>London Fire Brigade report on fire deaths</u>
Published By: Community Care	
Summary: One in three people who died in accidental fires in London last year were in receipt of social care services, research published today by the London Fire Brigade (LFB) has revealed. Eight of the 31 victims of accidental fires had a home care package and a further two died in care home fires, the research found. The LFB said social care and fire professionals must work together more closely in order to cut fire deaths among vulnerable elderly people. LFB wants to see more joint working in order to identify and safeguard people most at risk from fire. The LFB also wants residential care homes to be fitted with sprinkler systems. There is concern that the issue could worsen unless action is taken, as the UK's population ages and the proportion of people living with mobility problems and dementia rises. LFB figures show that more than half of people killed in fires in the capital are over 60. Alongside risk factors such as smoking and living alone, many of them have restricted physical mobility or cognitive impairments. Data published last year by the Office for National Statistics predicted that the number of people aged 80 and above in the UK would more than double to six million by 2037.	
Date of Publication: 22nd May 2014	

Safeguarding Practice	<u>Consultation on the Care Act 2014 Guidance</u>
Published By: Department of Health	
<p>Summary: Guidance on how the Care Act 2014 will reshape assessment, support planning, personal budgets and safeguarding has been issued for consultation. The Department of Health published today draft regulations and statutory guidance on how the legislation should be implemented by local authorities and their staff from April 2015. The regulations and guidance cover most of the Act’s changes to adult social care law, including changes to assessments and eligibility, the introduction of legal provisions around safeguarding and the new duties on councils to promote wellbeing and commission preventive services. Changes to care funding – notably the introduction of a ‘cap’ on people’s liability for care and the extension of means-tested residential care support to more people – are not covered, as these will not be introduced until April 2016. Draft guidance and regulations on these provisions will be issued for consultation in November. The consultation process will run until 15 August 2014.</p> <p>“Date of Publication: 6th June 2014</p>	

Safeguarding Practice	<u>Ill-treatment or wilful neglect consultation response</u>
Published By: Department of Health	
<p>Summary: The government has announced that the wilful neglect or ill-treatment of adults in health and social care services could become criminal offences from next year. Plans to introduce the new offences as part of the existing Criminal Justice and Courts Bill (which should come into effect in 2015) are outlined in a DOH consultation response published on 10th June. The DOH says the offences would also apply to services where children receive healthcare, including young offenders’ institutions, but not to schools, children’s homes, residential family centres and childcare services. The legislation will not apply to children’s social care. The new measures will protect adults receiving domiciliary care but not those cared for informally, such as by a friend or family member. The new offences would allow the prosecution of both health and social care staff and organisations. The DH says penalties for individual offenders would be similar to those for committing similar crimes under the Mental Capacity Act 2005, which are imprisonment for up to five years and/or fines. Penalties for organisations will be similar to those for corporate manslaughter, such as fines, and/or “naming and shaming” through publicity orders and remedial orders to require the company to address the failing that led to the offence. The threshold for the new legislation will focus on the conduct of the person accused rather than the level of harm to the victim.</p> <p>Date of Publication: 10th June 2014</p>	

Residential Care	<u> Serious case review into the Orchid View </u>
Published By: West Sussex Safeguarding Adults Board	
<p>Summary: The report of the Serious Case Review into Orchid View has been published. The review was launched last October after an inquest found that neglect at the West Sussex home had contributed to the deaths of five residents and that a further 14 had received ‘sub-optimal’ care. The report makes more than 30 recommendations including private homes being required to provide they can sustain a skilled workforce. It says that care providers should be required to demonstrate that they have robust plans for recruiting and sustaining a skilled workforce to the Care Quality Commission (CQC). It recommends that West Sussex Adult Safeguarding Board creates a threshold and a system for alerting relatives about safeguarding concerns at homes so that they can make “informed choices” about where to place their loved ones. The review also says the CQC should name homes that lack a registered manager on its website. The serious case review also calls on the CQC to do more to get the views of relatives in its inspections, including providing them with the opportunity for private discussions about any safeguarding concerns they may have.</p>	
Date of Publication: 9th June 2014	

Mental Capacity Act	<u> Ombudsmen finds failings in mental capacity assessment practice </u>
Published By: Community Care	
<p>Summary: A joint investigation by the health service and local government ombudsmen found that a man with a diagnosis of paranoid schizophrenia was left ‘in squalor’ after his care team failed to adequately assess his mental capacity to look after himself at home. Health and care professionals from South Essex Partnership University NHS Foundation Trust and Bedford Borough Council were so focused on supporting the man to live independently that they failed to properly assess his capacity. The ombudsmen found that two capacity assessments of the man were inadequate as neither properly considered his capacity to feed himself or care for himself. Whilst the MCA 2005 states that a person should be presumed to have capacity unless it is established that they lack capacity, the ombudsmen found that there was “sufficient information” for professionals to challenge the presumption that the man had capacity to make certain decisions, including occupational therapy reports that noted he was underweight and there was no food in his flat. The ombudsman also found that there was confusion between the council and the trust over the amount of care the man was receiving.</p>	
Date of Publication: 12th June 2014	

Safeguarding Practice	<u>Article: National Autistic Society Survey</u>
Published By: National Autistic Society	
<p>Summary: A survey from the National Autistic Society (NAS) has found that almost half of adults with autism have been abused by someone they regarded as a friend. The poll of over 1,300 people with autism or their carers showed high levels of abuse, neglect and loneliness suffered by autistic adults. It said over a quarter had money or possessions stolen by someone they thought of as a friend and 37 per cent had been forced or manipulated to do something they did not want to do. Some people with autism find it difficult to interpret other people’s motivations which can leave them vulnerable to abuse, the charity explained. The survey found 70% of respondents who needed prompting in order to eat had missed meals because they did not get this support and 86 % said they had not washed for the same reason. Nearly two thirds of those surveyed needed prompting to help them wash, dress or feed themselves. The survey also found 44 % of respondents stayed at home because they feared abuse or harassment. The level of loneliness amongst the people with autism polled was nearly four times higher than in the population as a whole: 41 % of those surveyed said they often feel lonely compared with 11% of the general population. Two thirds felt depressed because of loneliness and over a third do not leave the house most days. Date of Publication: 16th June 2014</p>	

Safeguarding Practice	<u>New Forced Marriage Offences</u>
Published By: Home Office	
<p>Summary: Forced marriage has become a criminal offence under provisions brought in under the Anti-social Behaviour, Crime and Policing Act 2014. The legislation bans marrying someone who lacks the mental capacity to consent to the marriage, regardless of whether they are pressured to do it; taking someone overseas to force them to marry even if the marriage does not take place; use of violence, threats or coercion to cause someone else to marry, or behaviour that they should reasonably believe may cause the other person to marry without free and full consent. The offences apply if either the perpetrator or victim is in England and Wales, habitually resident there or a UK national. Forcing someone to marry is now punishable by up to seven years in prison. The breaching of forced marriage protection orders will now become a criminal offence resulting in up to five years in prison. Anyone who has been forced to marry or threatened with it can apply for a protection order as can third parties such as the police, relatives and voluntary organisations.</p> <p>Date of Publication: 16th June 2014</p>	

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