

## Hampshire Safeguarding Adults Board

### Policy and Practice Update September 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.

<b>Hate Crime</b>	<a href="#"><u>Law Commission Report on Hate Crime</u></a>
<b>Published By: Law Commission</b>	
<p><b>Summary:</b> The Law Commission has published its report "Hate Crime: Should the current offences be extended?" (Law Commission No. 348). The Law Commission were asked to look into (a) extending the aggravated offences in the Crime and Disorder Act 1998 to include where hostility is demonstrated towards people on the grounds of disability, sexual orientation or transgender identity and (b) the case for extending the stirring up of hatred offences under the Public Order Act 1986 to include stirring up of hatred on the grounds of disability or transgender identity. As part of their work on these questions, the Commission also examined the current sentencing regime applicable to cases where hostility is established.</p>	
<b>Date of Publication: May 2014</b>	

<b>Safeguarding Practice</b>	<a href="#"><u>New offences of ill-treatment or wilful neglect - government response to consultation</u></a>
<b>Published By: Department of Health</b>	
<p><b>Summary:</b> In November 2013, the Government accepted the recommendation of the National Advisory Group on the Safety of Patients in England that a new statutory criminal offence of ill-treatment or wilful neglect of patients should be created. The Government committed to consulting on detailed proposals as soon as possible, with the aim of legislating as soon as Parliamentary time allowed. Since then the Department of Health has been working to develop a set of proposals, on which they began a public consultation on 27<sup>th</sup> February 2014. The consultation document set out the background to the proposals and asked for views on a number of different issues. The consultation period ran until 31<sup>st</sup> March. This document summarises the responses received to each of the questions they asked, and sets out how they will be proceeding on each issue following the consultation. This document talks about "the offences", as, in light of the comments received from respondents to the consultation, the legislation will set out two offences, one relating to individuals, and a separate one relating to organisations.</p>	
<b>Date of Publication: June 2014</b>	

<b>Mental Capacity Act</b>	<b><u>Valuing every voice, respecting every right</u></b>
<b>Published By: Department of Health</b>	
<p><b>Summary:</b> 'Valuing every voice, respecting every right' is the Governments response to the House of Lords Select Committee on the Mental Capacity Act 2005. The response was published June 2014. This document presents the governments response and sets out a system-wide programme of work over the coming year and beyond that they believe will realise a real improvement in implementation of the MCA.</p>	
<b>Date of Publication: June 2014</b>	

<b>Modern Slavery</b>	<b><u>Modern Slavery Bill</u></b>
<b>Published By: Home Office</b>	
<p><b>Summary:</b> This bill designed to help stamp out modern slavery, was published on 10th June 2014 by the Home Secretary Theresa May. It will give law enforcement the tools they need to target today's slave drivers, ensure perpetrators are severely punished and improve support and protection for victims.</p>	
<b>Date of Publication: 10<sup>th</sup> June 2014</b>	

<b>Older People</b>	<b><u>Fit for Frailty</u></b>
<b>Published By: British Geriatrics Society (BGS)</b>	
<p><b>Summary:</b> The BGS has launched the first of a two-part guidance on the recognition and management of older patients with frailty in community and outpatient settings. Called <i>Fit for Frailty</i>, it has been produced in association with the Royal College of General Practitioners (RCGP) and Age UK, and aims to be an invaluable tool for social workers, ambulance crews, carers, GPs, nurses and others working with older people in the community. The guidance will help them to recognise the condition of frailty and to increase understanding of the strategies available for managing it. The guidelines call for all those working with older people to be aware of, and assess for frailty. It dispels the myth that all older people are frail and that frailty is an inevitable part of age. It also highlights the fact that frailty is not static. Like other long term conditions it can fluctuate in severity.</p>	
<b>Date of Publication: June 2014</b>	

<b>DOLS</b>	<b><u><a href="#">Article: Supreme Court ruling triggers sharp rise DOLS notifications</a></u></b>
<b>Published By: Community Care</b>	
<p><b>Summary:</b> The CQC has reported a sharp rise in the number of DOLS notifications reported by care homes and hospitals in the months following the Supreme Court ruling that effectively lowered the threshold for deprivation of liberty in care. Figures show that in May of this year the CQC received notifications that 1,741 applications had been made. This compares to an average of 450 notifications per month between January and March, the month of the Supreme Court ruling in the cases of 'P v Cheshire West' and 'P and Q v Surrey' that introduced a new 'acid test' for what constitutes deprivation of liberty in care.</p>	
<b>Date of Publication: 19<sup>th</sup> June 2014</b>	

<b>Safeguarding Practice</b>	<b><u><a href="#">Government response to ill-treatment and wilful neglect consultation</a></u></b>
<b>Published By: Department of Health</b>	
<p><b>Summary:</b> In a consultation response, the Department of Health said it planned introduce new offences of wilful neglect or ill-treatment of adults in health and social care services as part of the existing Criminal Justice and Courts Bill, which should come into effect in 2015. 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. 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>	
<b>Date of Publication: 11<sup>th</sup> June 2014</b>	

<b>Safeguarding Practice</b>	<a href="#"><u>MP's back the introduction of a negative register for staff working in health and social care</u></a>
<b>Published By: House of Commons Health Committee</b>	
<p><b>Summary:</b> The Commons Health Committee's 2014 review of the HCPC found that introducing a 'negative register' of staff ruled unfit to work in adult social care after investigation would "offer far greater public protection" than the system of voluntary registration of care staff previously mooted by the Department of Health (DH). The committee said it was concerned by "a series of reports of abuse by social care workers". The Law Commission drafted legislation that would have given health and care regulators the power to establish 'negative registers' subject to government approval. However, the anticipated draft bill was not included in this year's Queen's Speech which laid out the government's plans for the final year of this parliament. Care minister Norman Lamb has subsequently said the government will consider making some changes to health and care workers regulation via secondary legislation, but his comments did not refer to a negative register.</p>	
<b>Date of Publication: 18<sup>th</sup> June 2014</b>	

<b>Learning Disability</b>	<a href="#"><u>Three Lives - what we have learned, what we need to do</u></a>
<b>Published By: Challenging Behaviour Foundation and CQC</b>	
<p><b>Summary:</b> This report produced by the Challenging Behaviour Foundation and CQC, highlights the cases of three people treated badly in NHS-funded learning disability services. CQC has announced that the experiences of people who use learning disability services and their families will become the focus of inspections. The report makes a series of recommendations to improve care for people with learning disabilities.</p>	
<b>Date of Publication: 18<sup>th</sup> June 2014</b>	

<b>Mental Health</b>	<a href="#"><u>Government consultations on changes to the Mental Health Act 1983 Code of Practice</u></a>
<b>Published By: Department of Health</b>	
<p><b>Summary:</b> The Department of Health is undertaking a consultation on proposed revisions of the Mental Health Act code of practice. Significant amendments to the code include: a new chapter on the interface between the Mental Capacity Act and Mental Health Act; a revised chapter on how to support children and young people and five new guiding principles for professionals implementing the code. The consultation on the draft code runs until 12 September. The final revised code of practice will be published by April 2015. A consultation document accompanying the draft code also invites feedback on how the DH can provide further guidance to support Approved Mental Health Professionals in cases where they struggle to secure beds for patients in need of admission</p>	
<b>Date of Publication: 9<sup>th</sup> July 2014</b>	

<b>Care Act 2014</b>	<b><u>Public Accounts Committee review of adult social care</u></b>
<b>Published By: Public Accounts Committee</b>	
<p><b>Summary:</b> The public accounts committee’s review of adult social care has questioned the feasibility of the government’s expectation that councils make “measurable progress” on implementing the Act from April 2015. The review found that a more realistic timetable should be set that recognises the sector’s “limited capacity” to meet the extra demands that the Act will bring alongside spending cuts. The Care Act will introduce a series of new duties on councils, including a duty to assess carers’ needs and provide support. The latest annual budget survey by the Association of Directors of Adults Social Services found councils in England have had to make cuts of 26% in their social care budgets, or £3.5bn, between 2010 and 2014 once inflation and demographic pressures are taken into account. The committee’s review found that the Department of Health and the Department for Communities and Local Government had little understanding of the scale of the challenges facing local authorities or the costs of implementing the Act.</p>	
<b>Date of Publication: 10<sup>th</sup> July 2014</b>	

<b>Mental Health</b>	<b><u>National confidential inquiry into suicide and homicide by people with mental illness</u></b>
<b>Published By: Manchester University</b>	
<p><b>Summary:</b> A study has found that mental health patients are at the highest risk of taking their own lives in the first two weeks after being discharged from hospital. An analysis of suicides in the UK between 2002 and 2012 found that the first three months after discharge was a time of “particularly high” suicide risk with the risk especially acute in the first two weeks,. There were 3,225 suicides in the UK by mental health patients in the post-discharge period; 18% of all patient suicides. Researchers called for suicides within three days of discharge to be added to the list of NHS ‘never events’ in England and Wales and the list of ‘serious adverse events’ used by health services in Scotland and Northern Ireland. Providers must investigate all ‘never events’ and report on them publically in annual reports.</p>	
<b>Date of Publication: 16<sup>th</sup> July 2014</b>	

<b>Quality of Care</b>	<b><u>CQC special measures</u></b>
<b>Published By: Care Quality Commission</b>	
<p><b>Summary:</b> Failing care services will be tackled through the same special measures being used to improve poor-performing hospitals. The system of special measures, introduced in 11 NHS Trusts following the Mid-Staffordshire Hospital scandal, will now be extended to care homes and home care agencies. The scheme will cover 25,000 services and is expected to be rolled out from April 2015, following the introduction of a new social care ratings system this Autumn. CQC’s new ratings system will give health and social care services a rating of outstanding, good, requires improvement or inadequate, in order to highlight where improvements are needed. Any services rated as inadequate face being put into special measures and given a limited time to make improvements. If they fail to improve, the CQC will be able to close them down.</p>	
<b>Date of Publication: 16<sup>th</sup> July 2014</b>	

<b>Safeguarding Practice</b>	<b><u><a href="#">Guide to female genital mutilation</a></u></b>
<b>Published By:</b>	
<p><b>Summary:</b> Social workers will join teachers and doctors in receiving extra training to identify and help girls who might be at risk of becoming victims of female genital mutilation. The measures are part of a wider action plan to tackle the cultural practice , which has been illegal in the UK since 1985 and has seen 137,000 women and girls in England and Wales be mutilated</p>	
<b>Date of Publication: 22<sup>nd</sup> July 2014</b>	

<b>Serious Case Review</b>	<b><u><a href="#">Solar Centre SCR Report</a></u></b>
<b>Published By: Doncaster Safeguarding Adults Board</b>	
<p><b>Summary:</b> A report into the abuse of 19 people with severe disabilities at a Doncaster day centre has criticised the delay in investigating the incidents and highlighted a “gap in regulation” of the facilities. Last year two people were jailed for assaulting service users at the Solar Centre between 2005 and 2007. The serious case review, which was commissioned in July 2013 and published last week, found agencies had “lost sight” of the victims. The review also highlighted the fact that day centres are not currently regulated by care inspectorate the Care Quality Commission. It recommended that Doncaster Safeguarding Adults Partnership Board (DSAPB) should write to the Department of Health and the CQC highlighting this lack of oversight.</p>	
<b>Date of Publication: 23<sup>rd</sup> July 2014</b>	

<b>DOLS</b>	<b><u><a href="#">Law Commission to draft a new legal framework for DOLS</a></u></b>
<b>Published By: Law Commission</b>	
<p><b>Summary:</b> The Law Commission will draft a new legal framework to allow for best interests deprivation of liberty in settings other than hospitals and care homes by 2017. The government has asked the commission to draft a new framework for deprivation of liberty in settings not covered by the Deprivation of Liberty Safeguards notably supported living. Currently, DOLS only apply to hospitals and care home settings. Applications for deprivation of liberty in supported living must currently be made directly to the Court of Protection. A draft bill, report and recommendations to government will be published in summer 2017.</p>	
<b>Date of Publication: 25<sup>th</sup> July 2014</b>	

<b>Safeguarding Practice</b>	<b><u>MASH Report</u></b>
<b>Published By: Home Office</b>	
<p><b>Summary:</b> A government report has highlighted that multi-agency safeguarding hubs (MASH) have led to an improved standard of child safeguarding practice, according to the government's final report into the multi-agency working and information sharing project. The report highlighted four perceived outcomes of MASH: more accurate assessment of risk and need as safeguarding decisions are based on coordinated, sufficient, accurate and timely intelligence; more thorough and driven management of cases; better understanding between professions and greater efficiencies in processes and resources. The findings were based on interviews with 37 local authorities using MASHs (or the same process under a different name), expert panels and questionnaires with professionals.</p>	
<b>Date of Publication: 30<sup>th</sup> July 2014</b>	

<b>Older People</b>	<b><u>HSIC Report on Dementia</u></b>
<b>Published By: Health and Social Care Information Centre (HSIC)</b>	
<p><b>Summary:</b> A report from the HSIC has highlighted that the number of people in England diagnosed with dementia has risen by 62% over seven years. In 2013-14, 344,000 people received a diagnosis - up from 213,000 in 2006-07, when statistics were first collected. The provisional figures also suggest an 8% rise in the number of recorded dementia cases since 2012-13. The HSIC suggests the rise could be due to a number of factors, including an ageing population and improved diagnosis. The Alzheimer's Society believes that half of people living with dementia are still not registered as having the condition.</p>	
<b>Date of Publication: 30<sup>th</sup> July 2014</b>	

<b>Residential Care</b>	<b><u>Market Stability Report</u></b>
<b>Published By: Institute of Public Care</b>	
<p><b>Summary:</b> A report published for the Care Quality Commission has found that the older people's care home market in England is fragile and a Southern Cross-style collapse of a major provider cannot be ruled out. The report, by the Institute of Public Care at Oxford Brookes University, identified a number of conditions in the market that could lead to another big provider failing, in the way that Southern Cross did in 2011. It noted that "very few of the providers and financial advisors we interviewed ruled out the possibility of another Southern Cross-style crisis". The study, <i>The Stability of the Care Market and Market Oversight in England</i>, was commissioned to inform the CQC's preparation for its new role of market oversight over the social care sector in England, from April 2015. This is designed to help prevent a market destabilising failure by enabling the CQC to monitor the financial position of large or specialist providers.</p>	
<b>Date of Publication: 1<sup>st</sup> August 2014</b>	

<b>Residential Care</b>	<b><u><a href="#">Article: Should care homes follow hospitals in setting safe staffing guidelines</a></u></b>
<b>Published By: Community Care</b>	
<p><b>Summary:</b> The introduction of minimum staffing levels for care homes was a key recommendation of a Comic Relief-funded study published last year, which looked at preventing the abuse and neglect of older people. But six months on there are still no plans for a review on social care staffing, despite guidance on safe nurse staffing levels in hospitals being published last month by the National Institute for Health and Care Excellence. The Comic Relief study, the Prevention of Abuse and Neglect in the Institutional Care of Older Adults (PANICOA), was undertaken over a five-year period and published its findings in December 2013. The report called for the UK Government to ensure health and social care regulators set and monitor standards for minimum staffing levels in care homes. Although all registered providers must currently ensure there are “enough members of staff to keep people safe”, a minimum standard is not clearly defined.</p>	
<p><b>Date of Publication: 4<sup>th</sup> August 2014</b></p>	

<b>DOLS</b>	<b><u><a href="#">COP preliminary judgement</a></u></b>
<b>Published By: Court of Protection</b>	
<p><b>Summary:</b> Sir James Munby, President of the Court of Protection has handed down a preliminary judgement that the Court of Protection’s system for handling deprivation of liberty cases can be ‘streamlined’ so that initial decisions are made on paper evidence alone without the need for an oral hearing. The judgement provides a ‘broad framework’ for a streamlined system that complies with European human rights law. It is designed to help the court cope with the “very significant increase” in deprivation of liberty cases it faces in light of the Supreme Court’s ‘Cheshire West’ ruling in March, which effectively lowered the threshold for what constitutes deprivation of liberty in care. The ‘Cheshire West’ ruling means that many people are likely to have been deprived of their liberty unlawfully in settings, including care homes and supported living placements. Cases involving care homes and hospitals are covered by the deprivation of liberty safeguards and handled outside of the court but deprivations of liberty in other settings, notably Supported Living and shared lives schemes, require an application to the Court of Protection to authorise them.</p>	
<p><b>Date of Publication: 8<sup>th</sup> August 2014</b></p>	

<b>Residential Care</b>	<b><a href="#">Demos Commission Report</a></b>
<b>Published By: The Demos Commission</b>	
<p><b>Summary:</b> The Demos Commission Report outlines a new vision for the future of residential care and follows a year-long inquiry that brought together sector experts, academics and care providers. One of the report's key recommendations is the introduction of a registration system for care workers in England. The commission says this would maintain standards and ensure all care workers receive a minimum level of training before they are able to support people without supervision. The approach recommended would provide a minimum training standard, the certification of which is independently accredited and portable across the sector - in short, a licence to practice. Those not meeting the basic standard would not be able to work in the sector, nor would those struck off for malpractice.</p>	
<b>Date of Publication: 3rd September 2014</b>	

<b>DOLS</b>	<b><a href="#">Article: Changes to the accreditation of Best Interest Assessor training</a></b>
<b>Published By: Community Care</b>	
<p><b>Summary:</b> The Department of Health (DH) will be giving the College of Social Work responsibility for accrediting best interests assessor (BIA) training programmes in order to address a gap in the scrutiny of course standards. The DH has confirmed that it sees a role for TCSW in approving BIA programmes in the long-term. The move comes amid concerns that the current approval process is out-of-date and the quality of courses too inconsistent due to a lack of oversight nationally. BIA courses can currently only be delivered by a list of training providers that were approved by the General Social Care Council (GSCC), the former social care regulator that closed in 2012. Since the GSCC's closure, the DH took on responsibility for approving BIA courses. But three key gaps have emerged: the list of approved providers has remained static; the framework for approval has not been amended in the two years since the GSCC was abolished despite substantial changes in DOLS case law during that period; and concerns have been raised over a lack of scrutiny of the ongoing quality of BIA courses that were approved by the GSCC.</p>	
<b>Date of Publication: 5<sup>th</sup> September 2014</b>	

<b>DOLS</b>	<b><u>Law Commission Review of DOLS</u></b>
<b>Published By: The Law Commission</b>	
<p><b>Summary:</b> The Law Commission has announced that it has been asked by the Department of Health to extend its planned so as to also review the legislation underpinning mental capacity and Deprivation of Liberty Safeguards (DOLS) in their entirety. In July 2014, the Law Commission announced it would be undertaking a project to consider how deprivation of liberty should be authorised and supervised in community settings, alongside the existing DOLS system which applies in hospitals and care homes. However, recent changes in case law, notably the Supreme Court ruling in March that has led to a surge in deprivation of liberty cases has prompted the Department of Health to request that the project be extended to cover the DOLS in its entirety. The Law Commission expects to publish a consultation paper in the summer 2015 and a final report and draft legislation in summer 2017.</p>	
<b>Date of Publication: 8<sup>th</sup> September 2014</b>	

**Bulletin Compiled by Sue Lee, Hampshire Safeguarding Adults Board Manager**

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