

Opening Statement to the Joint Committee on Health by the Chairperson of the National Safeguarding Committee

4 October 2017

Introduction:

Chairperson, members, on behalf of the National Safeguarding Committee, I wish to thank you for the opportunity to address the Health Committee this morning in relation to adult safeguarding legislation.

The National Safeguarding Committee which was established in December 2015 is a multi-agency forum aimed at promoting awareness of abuse, harm and exploitation of adults who may be vulnerable. The Committee brings together key players in public services, legal and financial services, the health and social care professions, regulatory authorities and NGOs representing older people, people with disabilities and carers.

Abuse is 'a single or repeated act, or lack of appropriate action, occurring within any relationship where there is an expectation of trust, which causes harm or distress to another individual or violates their human or civil rights'.

The list of potential abusers includes a partner, relative or other family member; a person entrusted to act on behalf of the vulnerable adult in some aspect of his or her affairs; a service or care provider; a neighbour; a health or social care worker; or a professional, employer, volunteer or another service user. It may also be perpetrated by those who have no previous connection to the victim and may also be perpetrated by the State.

Data on Abuse:

A Red C poll (December 2016) conducted for the National Safeguarding Committee highlighted that half of all Irish adults say they have experienced the abuse of vulnerable adults either through being abused themselves or seeing somebody close to them abused. 2 in 5 people think vulnerable adults are badly treated and 1 in 3 believes vulnerable adult abuse to be widespread. The research findings indicate a very worrying prevalence of vulnerable adult abuse, uncertainty over what constitutes psychological and financial abuse, and a lack of knowledge of what to do when you become aware of the abuse of vulnerable adults.

Whilst abuse of older people forms only one category of individuals at risk of harm, the National Centre for the Protection of older People (NCPOP) based in UCD has

carried out a number of studies examining the nature and extent of older persons' abuse in Ireland.

Based on international prevalence of abuse figures at 5% and taking the current figure of 637,567 over the age of 65 would suggest a figure of 32,000 over the age of 65 years experienced mistreatment in the previous year.

The NCPOP report also showed that financial abuse was the most common type of abuse reported in relation to older persons.

Moreover, almost 7,900 safeguarding concerns were reported to the HSE Safeguarding and Protection Teams in 2016 with a high level of concerns coming from the disability sector. It is clear from other research that this is likely to be the tip of the iceberg as many safeguarding incidents go unreported. It is also clear from the RedC poll that there is a lack of clarity regarding the point of contact for reporting.

Why we need Adult Safeguarding Legislation:

As we have seen a number of times recently once a person who may be in a very vulnerable situation reaches the age of 18 years there is in fact no **clear obligation** on either the State, state agencies or organisations to prevent harm and to protect adults who may be vulnerable.

Article 16 of the UN Convention on the Rights of Persons with Disabilities (UNCPRD) commits State Parties to take all appropriate legislative, administrative, social, educational and other measures to protect persons with disabilities, both within and outside the home, from all forms of exploitation, violence and abuse. Ireland, on ratifying the Convention, will be required to fulfil this requirement.

The prevalence of adult abuse and exploitation highlights the urgent requirement for adult safeguarding to be placed on a statutory footing in Ireland. The HSE's *Vulnerable Persons at Risk of Abuse Policy* is limited in its scope and has no statutory force to ensure the safety and rights of vulnerable persons.

The aim of adult safeguarding legislation should be to legislate for State agencies' responsibilities to prevent harm and protect adults who may be vulnerable from abuse. Such legislation should clearly set out the State's responsibilities for the prevention of harm and protection from abuse.

Primary responsibility for such legislation would lie with the Department of Health due to the need to focus on the role of statutory health and social care services. In

recognising that safeguarding is everyone's responsibility, the legislation should be developed on a cross-governmental, interagency and societal basis.

The legislation should recognise that people who may be vulnerable frequently come into contact with State and other services and agencies. Specific responsibilities within the legislation would fall under the supervision of the Department of Justice and the Department of Employment Affairs and Social Protection. (Indeed, the latter Department recognising its responsibility recently established a *Working Group on Agent Arrangements and the Protection of Vulnerable Adults* to examine and make recommendations on the adequacy of current procedures and processes with a particular emphasis on financial abuse).

And in recognition of civil society's responsibilities and recognising that the largest prevalence of abuse is in the community, elements of the legislation should outline what safeguarding arrangements and responsibilities fall to the voluntary, community, independent, financial and faith-based organisations, as well as on individual families.

The legislation should be developed in line with the rights provided under the Irish Constitution and the UN Convention on Human Rights. Adult safeguarding legislation should promote zero tolerance for adult abuse across Irish society and beyond.

There are currently huge gaps in our approach to adult safeguarding. Adult safeguarding legislation must be constructed in a way that respects individual rights with an emphasis on prevention as well as protection, such legislation could place a general statutory duty of care to promote an individual's wellbeing and to protect them from abuse and neglect. There must be a statutory requirement to identify need, to identify risk, to identify the route to services to meet those needs, the mechanism for intervening and not simply to wait until an urgent safeguarding issue arises.

The legislation should also provide that vulnerable adults have access to independent advocacy.

The legislation should ensure enhanced awareness of adult harm and abuse and the responsibility on people and society to report suspected cases of adult abuse to the relevant authorities. Article 16.5 of the UNCPRD requires that effective legislation and policies are put in place to ensure instances of exploitation, violence and abuse are identified, investigated and, where appropriate prosecuted.

Many public and private service providers within the community are well placed to identify early indications that an adult may be at risk, for example, in their interactions with banks, legal and property services. Providers of services who are in a position of trust, in particular, general practitioners and providers of primary care services, will have access to information regarding adults which may suggest they are at risk of harm.

Service providers should be aware of the signs of harm to adults within their respective sectors and should have a legal duty to ensure organisational procedures are in place to guide staff when concerns are identified. All those working to provide services to the community generally should also have a legal responsibility to refer concerns to social care services and to co-operate and share information where necessary with any adult safeguarding investigations.

Indeed, a positive statutory obligation for the sharing of information on an intersectoral and interagency basis should be part of adult safeguarding legislation.

Recognising that there is a duty on service providers to ensure organisational procedures are in place, Article 16.3 of the UNCPRD provides that facilities and programmes should be effectively monitored by independent authorities.

The continuum of adult safeguarding outlines the wide range of organisations involved in people's lives, from the small community activity groups through to larger organisations and statutory services.

All organisations should be required in law to ensure that any service they deliver is underpinned by the principles of respect and treating each person with dignity. This is the first and crucial step to ensuring that services are high quality and that the focus is on the individual receiving the service.

Increasing levels of care and support needs and risk among vulnerable people in our society are likely to lead to greater demands for service provision. This in turn requires a heightened awareness of the risk of harm when providing such services and more robust measures to prevent such harm. Time is not on our side and we need to act urgently to introduce adult safeguarding legislation.

Conclusion

I wish to thank the committee for inviting me here this morning. I have provided a brief overview of why adult safeguarding legislation is needed, and I am happy to answer any questions you may have.