



RCLST NI Response to Adult Protection Consultation

April 2021

Q1. Do you agree with the title “Adult Protection Bill”?

RCSLT NI welcome an Adult Protection Bill for NI and recognise that this proposed legislation is one element on a continuum of provision spanning adult safeguarding and protection as outlined in 1.8. However, we feel that consideration should be given to the inclusion of the term “support” in the title, in line with the Scottish Adult Support and Protection Bill (2007).

<https://www.gov.scot/publications/adult-support-protection-scotland-act-2007-short-introduction-part-1-act/>

Members who work with adults with learning disability and communication needs feel that the inclusion of the word “support” in title this lends itself to considering communication needs and what supports should be put in place at the point at which adult protection is being considered and/or required.

An adult with a communication disability is more vulnerable to being harmed than adults who are not so affected. Amending the title of the Bill may also perhaps reflect well the idea of a “continuum” of safeguarding which is described in 1.8. Members also noted that from a service user/ family and professional perspective the title of the Bill should include the word support – it identifies more clearly the scope of the Bill & potentially sounds less scary to service users.

- Up to 90% of people with learning disabilities have communication difficulties. As communication difficulties increase, behaviours that are considered challenging typically increase in frequency, intensity or duration. (<https://www.rcslt.org/wp-content/uploads/media/docs/get-involved/rcslt-learning-disabilities-factsheet.pdf>)
- 33% of Stroke survivors and more than 20% of people with brain injury will also experience some level of communication difficulties. (<https://www.rcslt.org/wp-content/uploads/media/Project/RCSLT/rcslt-communication-needs-factsheet.pdf>)

There may also be adults who have not had support for their communication needs prior to requiring protection measures depending on their individual circumstances, the nature of their disability or condition and if they were known to services. Such individuals are particularly at risk of not being able to report what has been happening to them as a result. Provision of communication support for adults who fall under this legislation, to ensure they can participate in the protection process and to express their views, should mirror the approach taken by the Mental Capacity Act (2016) which requires that ‘all practicable help & support should be provided’ in relation to enabling individuals to exercise their capacity.

SLT have contribution to make with both support and protection at risk adults with speech, language and communication needs (SLCN) particularly where individuals experience social isolation which has been exacerbated during COVID. Currently adults at risk of harm are likely to be less visible to others able to detect signs and demands of caring are all the greater on care givers with many reporting serious strain on their own mental health.

Speech and language therapists are experts in inclusive communication, removing barriers to communication and advising and training others to do so. This includes encouraging people to adapt their communication styles to meet people's individual needs and supporting individuals to communicate in whichever way suits them. This can involve the use of supported and Augmentative and Alternative Communication – using writing, gestures, signing, symbols and pictures, word boards, communication boards, and other forms of technology to support or replace spoken communication.

Q2. What are your views on a definition of “adult at risk and in need of protection”?

In defining an ‘adult at risk’ RCLST NI prefer the Scottish definition as it is broader, and members have expressed some concerns that the adopting a definition based on thresholds may lead to under reporting. The **Definition of Abuse** used in Wales is also more detailed with less open for interpretation.

We note that the Department would welcome views on whether the threshold for adult protection should be ‘serious harm’? Again, there is some concern that this definition risks under reporting – we are aware that harm may come to light as significant or serious when investigated as a result of a combination of factors rather than a specific action or actions. Any intervention must be reasonable and proportionate, there must be clarity of roles and responsibility in adult support and protection – communication support can help to achieve this by ensuring that the person involved is supported and the lead professionals – ASW and PSNI – are aware of the requirement to seek communication support where they have concerns an individual may need it.

Q3. Do you agree with the list of principles proposed? If no, what would you suggest as an alternative approach?

The list of principles is well defined and the right approach. In particular we welcome the recognition within the consent-based principle of the needs of those who require communication support. The [5 Good Communication standards](#) need to underpin all the principles, this needs to run throughout as a common theme.

It is vital that this legislation dovetails with the approach taken in the Mental Capacity Act 2016 (MCA). As outlined above, in relation to an appropriate title, this legislation should offer the same consideration around the right to communication support to make view known as per the MCA as discussed above. It is our members experience that the requirement for ‘all practicable help & support’ under MCA has already had an impact in some cases with people now doing their best to ensure a person understands and is given every opportunity to communicate.

Q4. What are your views on principles being set out on the face of legislation or in Statutory Guidance?

RCSLT NI support the principles being set out on the face of the legislation and recommend that the face of the legislation should also include a provision to consider and provide communication support where required – potentially in much the same way as MCA by enshrining the need to provide ‘all practicable help and support’. This approach to the legislation would support and uphold the principles in practice, indeed members have cited examples of how communication support is being provided in situations where it may not have been in the past in relation to mental capacity. Another option may be to include ‘inclusive’ within the principles given the increased risk of serious harm to those with communication, sensory or learning disabilities and acknowledge that for many people falling under this legislation reasonable adjustments should be considered from the outset.

Communication support needs to be paramount and considered prior to commencing any investigations to ensure the correct level of support is given at the optimum time. As such statutory guidance should also enshrine the need for promoting the safety of adults with speech, language and communication difficulties via the [5 Good Communication Standards](#). Communication support has a role to play from the prevention of harm - “can help adults keep themselves safe, to minimise risk and to exercise their rights to live full active and independent lives”- through to ensuring that individuals can disclose what has happened to them and express their views.

SLTs’ expertise in supporting communication is a key skill, both directly with the victim in a situation of disclosure, but also in supporting other professionals communicate appropriately with victims of abuse or witnesses of abuse who have SLCN.

Q5. Do you agree with mandatory reporting? Should there be a new duty to report to the HSC Trust where there is a reasonable cause to suspect that an “adult is at risk and in need of protection”?

Yes, and RCSLT NI support the Commissioner for Older People recommendations in “Home Truth”. SLTs already have a statutory duty, under HCPC, to report safeguarding concerns, follow up concerns and work across agencies promoting the welfare of children and adults at risk. RCSLT provide guidance for the profession on safeguarding: <https://www.rcslt.org/members/delivering-quality-services/safeguarding/safeguarding-guidance/>. In addition, SLTs working in Health and Social Care Trusts have a duty to report any concerns. Any new duty created under this legislation should consider existing duties and ensure that thresholds are clearly defined. It is also vital that this new duty is relevant to and supported for external staff, voluntary agencies, carers, families and others.

The [Care Quality Commission](#) detail safeguarding adults as protecting the rights of adults to live in safety, free from abuse and neglect and that people and organisations working together to prevent and stop both the risks and experience of abuse or neglect.

https://www.cqc.org.uk/sites/default/files/20150710_CQC_New_Safeguarding_Statement.pdf

Q6. Should a new duty be placed on HSC Trusts to make follow up enquiries?

Enquires would need to be treated with respect and the professionals supported to use their judgement on how to progress. Making a decision not to act should be considered as taking a decision, therefore by making a follow up a new duty may provide a safety net to ensure that individuals do not fall through the cracks. However, we are mindful of capacity and respecting human rights. We feel this needs further consideration of when and how in practice this would be implemented.

Equally important is to ensure that individuals who may be at risk of harm, or where there may have been some concerns not to act, receive as much preventative support as possible. Whilst this may be outside of the scope of the Bill itself, statutory guidance should ensure that follow up considers the need for awareness sessions in accessible/ inclusive formats to raise awareness for service users of what abuse is and how, and to whom they should report. There are useful resources available. Within SHSCT we have compiled an accessible awareness programme for adults with learning disability re keeping safe – this was successfully run on 2 occasions by SLT & ASW – the intention is to roll this out: There should be a requirement to ensure service users with communication support needs are equipped to identify & have a way of reporting. Easy Read booklets produced & available to support service users who have experienced abuse – need accessible resources available to support pre, during & post.

Q7. What are your views on a new power of entry to allow an HSC professional access to interview an adult in private? Do you think any additional powers should be available on entry?

A new power of entry for an interview in private may have merit however RCLT are concerned that additional support for those adults with communication needs may not be met. In addition, we note that the document indicates that this power is rarely used in Scotland.

However we agree that there is a need for some interviews to take place in private especially if alleged perpetrator is within the environment but reasonable adjustments must be made for service users with learning disability, dementia, bilingualism and communication support needs who may require a familiar person (similar considerations should be made as those during mental capacity assessments). Clear guidelines would help to ensure an appropriate person who is equipped to communicate with the vulnerable person is involved and also elaborate on what training would be expected so as to facilitate work with those with communication problems or learning disability. This would involve the communication support needs of the person being identified prior to the interview situation with the correct staff member – with relevant skills & knowledge carrying out interview and correct visual supports for the person needs.

It would also be helpful for those involved in discharging these functions to be aware of the role of speech and language therapists in supporting those with communication needs. Speech and language therapists work with local authorities and clear guidelines specifying the nature of speech and language therapy involvement and expertise would be beneficial in supporting and safeguarding vulnerable people from harm.

8. How many times in the last 12 months, have you been aware of a situation where, had a power of entry existed, it would have been appropriate to use it? What were the circumstances?

RCST NI are unable to comment on this directly. However to the best of our understanding it is our members experience when working as registered intermediaries supporting vulnerable adults and children as part of that scheme, the person involved has been brought to a safe, neutral venue to talk and would usually return to a safe, neutral venue until investigation has been concluded. Care must be taken therefore that power of entry is used only when necessary and if / when possible, an amenable arrangement for an interview should be arranged.

9. What are your views on statutory provision for independent advocacy in the context of adult protection?

We welcome the need for an Independent Advocate provision. SLTs who work in learning disability often work closely with independent advocates regularly and see a very necessary role for them. It is vital that IAs have an awareness level training on how to identify communication needs and appropriate level training on how these can be supported. Ideally this would be advocates who have been communication informed and trained – potentially modelling the Registered Intermediary Scheme <https://www.justice-ni.gov.uk/ri>. However, it is also vital that IAs are aware of and can seek expert advice and support from communication specialised such as SLT or registered intermediaries. Currently within Adult Learning Disability Services in safeguarding cases – often IA & SLT are involved with joint working with the ASW / Investigating officer. We also note that this independent advocacy would need to be provided by specialist organisations that do not provide any other services as per *The Mental Health (Care and Treatment) (Scotland) Act Scotland Brief 2007*

10. Do you agree that an Independent Adult Protection Board should be established and placed on a statutory footing?

RCSLT NI support the creation of an independent adult protection board and recommend that this include an SLT given the high incidence of communication needs among those most at risk. We also recommend the inclusion of a service user, with the necessary support provided to ensure they can participate. Both Muckamore and Dunmurry locations are examples where many of the individuals affected would have had communication needs and hearing the voice of service users could add something very useful to this.

Q11. Do you agree with the introduction of Serious Case Reviews?

RCSLT agree with the introduction of Serious Case Reviews and would ask that SLTs are included in any multi-disciplinary, multi-agency or interagency cooperation involved to ensure communication with any vulnerable adult is facilitated and managed correctly. SLTs could also train fellow professionals in effective communication with vulnerable adults or those with communication difficulties. We would also support the sharing of good practice regionally within an appropriate forum and with any necessary consent considered. Shared learning and resources are necessary to improve situations and reduce risks.

Q12. Do you agree with the proposal to introduce a duty to co-operate? Are there any aspects of the duty that you would change?

RCSLT NI support this duty, although it is important to consider existing statutory duties with HCPC? It is important that relevant information is shared with the relevant people/ organisations as is required – with capacity and consent considered and sought.

Q13. Do you think there should be a new power to access an adult's financial records as part of an adult protection enquiry? If yes, which organisation(s) should be given this power?

RCSLT NI are aware of the much higher incidence of financial harm to adults in Northern Ireland compared to the rest of the UK (<https://www.copni.org/media/1118/financial-abuse-of-older-people-in-ni.pdf>) and welcome the consideration of a new power to access financial records as part of this discussion. Accessing an adult's financial records would require permissions and RCSLT would ask for clear guidelines about the need to consider capacity assessment and consent issues

alongside a clear consideration of best interests with the multidisciplinary team agreement, and also including independent advocates and specialised communication support where required. The organisations provided with this power need to be required to seek the necessary capacity assessments and communication supports to ensure that this power is used in line with a person's human rights.

Q14. Do you agree that new offences of ill treatment and wilful neglect should be introduced?

Yes. Adults with communication difficulties are particularly open to ill treatment and these offences may also be more likely to affect them – we note that this will align with the MCA where it states that it is an offence to engage in 'ill treatment and wilful neglect of someone who lacks capacity'. This will include adults with communication disabilities who may be more likely to become victim of the new offences of ill treatment and wilful neglect. Such difficulties include:

- Difficulty reporting things that have happened results in lack of access to healthcare (Baxter et al, 2006, Sudore et al, 2006)
- Difficulty understanding things that have happened and Professionals failing to recognise the adult's vulnerability (Morgan, 2009)
- Difficulty recognising harmful behaviour leading to caregiver neglect and abuse (Dyer et al, 2000)
- Difficulty making needs and wishes known can lead to a failure of systems to identify sexual abuse of adults (Brown and Turk, 2006)

Q15. Are there any other new offences that should be considered?

N/A

Q16. Finally, are there any other provisions that you would like to see included in the Adult Protection Bill?

As outlined above, RCLST would like to see a specific provision in the Bill made to ensure that 'all practicable help and support@s provided to adults who fall under the powers of this legislation with particular regard to supporting understanding and communication. The RCLST welcomes additional safeguards to support and protect vulnerable people particularly those who have complex communication problems. Our members have highlighted many situations where people with communication problems or a learning disability who have capacity around a decision are still vulnerable in not expressing their own views and are acquiescent, agreeing both passively and actively to the views of other more dominant or powerful people in their life. Aligning this Bill with the MCA will provide a much more robust framework for ensuring that unsupported communication needs do not prevent a person from being safe from harm and exercising their rights and capacity in their own lives.