



FACTSHEET 7

The Care Act – Protecting adults from abuse or neglect

"The existing legal framework for adult protection is neither systematic nor co-ordinated, reflecting sporadic development of safeguarding policy over the last 25 years" (Commission for Social Care Inspection)

This factsheet is about how the Act will, for the first time, set out a clear legal framework for how local authorities and other parts of the health and care system should protect adults at risk of abuse or neglect.

What is "safeguarding"?

"Adult safeguarding" is the process of protecting adults with care and support needs from abuse or neglect. It is an important part of what many public services do, and a key responsibility of local authorities.

Safeguarding is mainly aimed at people with care and support needs who may be in vulnerable circumstances and at risk of abuse or neglect by others. In these cases, local services must work together to spot those at risk and take steps to protect them.

Why do we need to change the law?

Although local authorities have been responsible for safeguarding for many years, there has never been a clear set of laws behind it. As a result, it has often been very unclear who is responsible for what, in practice.

The Act aims to put this right by creating a legal framework so key organisations and individuals with responsibilities for adult safeguarding can agree on how they must work together and what roles they must play to keep adults at risk safe.

What does the Act do?

Safeguarding Adults Boards

Safeguarding is everyone's business, and it is important that organisations work together to protect people who need help and support. Yet one of the biggest challenges is how to bring together the huge number of teams and organisations involved in keeping people safe.

That's why the Act requires local authorities to set up a Safeguarding Adults Board (SAB) in their area, giving these boards a clear basis in law for the first time.

The Act says that the SAB must:

- include the local authority, the NHS and the police, who should meet regularly to discuss and act upon local safeguarding issues;
- develop shared plans for safeguarding, working with local people to decide how best to protect adults in vulnerable situations;
- publish this safeguarding plan and report to the public annually on its progress, so that different organisations can make sure they are working together in the best way.

Safeguarding enquiries by local authorities

The Act also requires local authorities to make enquiries, or ask others to make enquiries, when they think an adult with care and support needs may be at risk of abuse or neglect in their area and to find out what, if any, action may be needed. This applies whether or not the authority is actually providing any care and support services to that adult.

The enquiry may lead to a number of outcomes, depending on the circumstances, including to prosecution if abuse or neglect is proven. In other cases, the risk of abuse may be tackled, but the adult may have other care and support needs which require different services, and may lead to a needs assessment or review of an existing care and support plan.

Safeguarding Adult Reviews

When there is any failure in safeguarding, the results can be severe and tragic and therefore demand a strong response.

That is why the Act says that SABs must arrange a Safeguarding Adults Review in some circumstances – for instance, if an adult with care and support needs dies as a result of abuse or neglect and there is concern about how one of the members of the SAB acted.

The Reviews are about learning lessons for the future. They will make sure SABs get the full picture of what went wrong, so that all organisations involved can improve as a result.

Independent advocacy

The local authority will arrange for an independent advocate to represent and support a person who is the subject of a Safeguarding Enquiry or a Safeguarding Adult Review, if they need help to understand and take part in the enquiry or review and to express their views, wishes, or feelings.

Supply of information

It is important that organisations share information related to abuse or neglect with SABs. Not doing so could prevent them from being able to tackle problems quickly and learn lessons to prevent them happening again.

The Act is therefore clear that if an SAB requests information from an organisation or individual who is likely to have information which is relevant to SAB's functions, they must share what they know with the SAB. This is so any problems can be tackled quickly, and lessons can be learnt to prevent them happening again in the future.

Powers of access

What the Act does not do though is give local authorities any new powers to enter a person's property. The Government did consult on whether there should be a specific power of entry. However, opinions were split on the issue and there was no strong evidence put forward in favour of a new law.

The Police already have a range of powers available to enter property if a person is at risk of harm, and local authorities have other powers which can be used in safeguarding situations. Separate guidance is being developed to help support practice in this area.

How do I comment on the proposals?

We have published guidance for local authorities that sets out how they should carry out their responsibilities under the Care Act. This guidance is open for discussion and we want to receive your comments to make it right.

More information, including how to comment, is available at: www.careandsupportregs.dh.gov.uk