



Independent Living – Safe as Houses?

As a signatory to the Department of Health's 2012 Concordat and Programme of Action following the exposure of what happened at Winterbourne View, the Housing Learning and Improvement Network is committed to publish information that supports our members to provide good quality care across health, housing and social care.

This viewpoint draws attention to some of the current issues faced by both managers and front line workers when working with the Safeguarding Agenda and the Mental Capacity Act. It also looks at some thorny issues, like the importance of the ability of staff to communicate clearly, and the omnipresent cuts in training budgets. Whilst not seeking to give definitive answers, it is hoped that the topics will provide a starting point for further thought and discussion.

Written for the Housing Learning and Improvement Network by
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Introduction

As a consultant and trainer, I could never end a meeting or session without asking the questions “What next, where to now, what are we going to do with the knowledge we have just acquired?” And that’s surely the attitude that people working in housing support at all levels must have, whether working with a tenant in supporting them to solve a problem, or dealing with a new piece of legislation at local or national level.

The Mental Capacity Act (MCA), Deprivation of Liberty Safeguards (DoLS), Human Rights Act and the Equalities Act are all aimed at making the world a safer and better place for vulnerable adults (or Adults at Risk), people in care. So given that we have all of this legislation, why is it that every time we open the newspapers or turn on the radio, there is another major abuse case staring us in the face? And if you work in any kind of support service, whether at grass roots or management level, you’ll know that it’s only the major ones that reach the press.

Last year, according to Department of Health (DH) statistics, there were 108,000 safeguarding referrals in Great Britain, and 60% of these were about people over 65 years old (DH 2013). About 40% of this abuse took place in people’s own homes – it was the most common location – and I wonder exactly how many of these took place in a supported housing situation?

Issues

In my world, there are two types of safeguarding – the first is what you do to make someone safe once you know that they have been abused. The second, which in the long run saves time, money and most importantly human heartbreak is, of course, what you do to stop it happening in the first place. All the managers I’ve ever spoken to have taken safeguarding seriously – there is no lack of commitment at this level – but is there a lack of knowledge and skill at front line level, where services are being delivered?

Let me ask you a question. The government document published in the year 2000 that has become the cornerstone for Safeguarding practice is called:

- (a) Can you keep a secret?
- (b) Keeping it secret
- (c) No secrets

Well of course, you know the answer, don’t you?¹ On my travels around England, working with many groups of staff delivering front line care, I have frankly been shocked at the number of people who haven’t heard of this document, people who have very often worked in care for quite some time.

The elephant in the room, an issue I hardly ever heard discussed, is the fact that some of the staff that I come across do not have the language and literacy skills to do their jobs properly, let alone write a handover report or report on suspected abuse. And how do I know this? Because they are unable to participate fully in workshops I run, let alone fill in an evaluation form. There seems to be a genuine fear of discussing this last issue. Are we being too right-on, too PC to talk about it? After all, the European directive gives us all freedom to cross international boundaries to find work. I find it interesting that my experience was similarly highlighted by the scientific adviser to the Department of Health, Dr Shereen Hussein, when last month she told BBC Radio Five Live that poor language skills could lead to bad care and abuse.

¹ *No Secrets: guidance on protecting vulnerable adults in care*, www.gov.uk/government/publications/no-secrets

Another issue I come across on a daily basis, is the number of staff who are completely unaware of how the Mental Capacity Act works, and its direct links with the Safeguarding agenda “It’s just a form we have to fill in, because the manager says so” is but one response I have had from otherwise committed and sensible staff.

Nobody is saying that staff development and training is the only answer, but an interview with Helen Usbas, Learning & Development Manager at Essex Cares confirms just how important it is to have a well-trained staff group. I asked her what she thought were the key issues in making sure that service users are supported well to live at home.

“The key is in training the staff, particularly with residents who are quite independent and carrying on with their life as normal, so that safeguarding issues are being picked up as quickly as possible. If you have a really good training programme and a really good process where the staff trust each other at work, take ownership of their work, have trust in their management, then people make disclosures, or alert their managers to safeguarding issues. I think that part of this isn’t just focusing on the normal types of Safeguarding awareness training, but actually linking it to the setting, and thinking about it in a wider context – in terms of human rights and dignity, and what that means in terms of the people in that sheltered accommodation. Get the staff to think about what human rights mean to them, for example in terms of family life and privacy and those things. I think because it’s somebody’s home, and for the member of staff it’s their work place, there’s sometimes a lowering of the line between what is acceptable and what isn’t. It’s things that could seem quite small. I guess when you’re living in that setting, you feel very much that you are in the control of the staff, and you need their support, it’s easier to conform, and say, well ok, I’ll go up and sit in my room instead of finishing watching that TV programme, because that’s what’s on the rota.”

Helen went on to talk about the language issue.

“When it comes to the writing, if staff are not able to write in a clear structured way using grammar and correct spelling, it opens everybody up to safeguarding issues, because mistakes happen. You then find that one care worker has spoken to another who has then written the log, and things get lost in translation. I think the other thing is, there is also an issue that we are doing more and more recording, and people come to work in care because they weren’t academic or very literate, and now we have the added issue of having to write very detailed reports, particularly when you are writing about the Mental Capacity Act. In a record of a conversation, and when things go wrong, and you are presenting, that is a real issue. By the same token, numeracy is sometimes worse than literacy, it could lead to serious issues around medication.”

Quality training, quality results

I first started running workshops and training about 5 years ago. Human rights was my passion, so Safeguarding, the MCA and DoLS were my subjects. There was the luxury then, of spending a whole day on each subject, with the delegates that the various local councils and organisations sent to me. Bit by bit, that luxury (for the delegates, I mean) has been eroded, mostly because of funding cuts. I started getting enquiries for combining say, two subjects in one day – MCA and DoLS, or MCA and Safeguarding. This makes sense, doesn’t it, linked subjects, throw them into one day, and save a bit of money. Then came the half day workshops – “any chance you could do just a brief outline of the really important issues in Safeguarding and the MCA, Paul?” Last week, a local council asked if I could just squeeze in

something on DoLS into an already packed agenda in a Safeguarding for Adults and Children/ MCA training morning – “oh yes, and make sure that everyone understands the Children Act, No Secrets and Keeping Our Children safe, please” Quite a lot for just one morning, I’m sure you’d agree – what will people take away from these sessions, in terms of quality learning that they can use to enhance their working practices, and feel more confident about working within a framework of some quite complex legal issues?

The Care Bill

Some of us have been thinking, for a very long time, about why the rules and regulations around adult safeguarding are not on the same legal level as those around child protection – abuse is abuse, isn’t it, no matter what your age? The Government has recently had a real chance to put Safeguarding, (and it follows, the Mental Capacity Act) on the map as regards housing, in the Care Bill² passed in May this year. However, it has missed a trick, and a very simple one at that.

We know that under the new Care Bill, there is a duty on Local Authorities to establish Safeguarding Adults Boards. Their objective is to help and protect adults at risk of abuse or neglect, and they may do “anything necessary or desirable to achieve this aim”. The NHS and police must nominate members with “required skill and experience”. Unfortunately, housing will not have statutory representation on Local Safeguarding Boards.

In the report of the workshop “Adult Safeguarding and Housing”,³ Imogen Parry and Pete Morgan talk about their regret that this opportunity has been missed, and express it very clearly.

“It was something of a disappointment to the authors that the Care Bill, published in May 2013 and superseding the draft Care and Support Bill, dropped the words ‘and Support’ from its title and didn’t make housing central to Safeguarding Adults Boards (SABs). However, the government did state that ‘We would be most concerned if SABs did not address the role, contribution and responsibilities of housing providers in adult safeguarding. We would also expect SABs to draw on the housing sector for in-put, collaboration and advice’.

The content of the Guidance that will accompany the Bill when it becomes an Act has still to be decided. Hopefully the deliberations that this report contains will influence the thinking that develops and forms the Guidance, and will also inspire and provoke both housing agencies and Safeguarding Adults Boards to better integrate the role of housing into adult safeguarding.”

An opportunity missed, indeed, to really firm up essential partnerships in the Safeguarding agenda. I am aware, however, that the Housing LIN has been working closely with the DH and sector representatives on the forthcoming guidance.

To quote Imogen Parry once again, “Adult safeguarding is a relatively new activity when compared to child protection; and is very new for most housing staff.”⁴

² Factsheet 7 The Care Bill – protecting adults from abuse or neglect, Department of Health (2013). Available from: www.gov.uk/government/uploads/system/uploads/attachment_data/file/198104/9520-2900986-TSO-Factsheet07-

³ Report of a workshop, Adult safeguarding and Housing, PASAUK (Practitioner Alliance for Safeguarding Adults) (2013), Pete Morgan & Imogen Parry

⁴ CIH adult safeguarding chapter, Imogen Parry. www.cih.org/resources/PDF/Policy%20free%20download%20pdfs/Learning%20today%20leading%20tomorrow/05%20Adult%20safeguarding%20Parry.pdf

And if that's not enough, there's another major issue in relation to the Care Bill - that of the failure to include a specific Power of Entry, despite significant lobbying for its inclusion. In the last 12 months, there have been 33 cases where Social Workers have needed entry to premises, in order to talk directly to alleged victims of abuse. For various legal reasons ("the system"?), they were denied access in 26 of these. Case law tells us that it is not enough to have "concern for welfare", and the Criminal Evidence Act talks about the police gaining entry "to save life or limb, or prevent serious damage". To sum up, as Tim Spencer-Lane, a lawyer with the public law team of the Law Commission would put it, "There is no new power of entry to speak to a person at risk of abuse and neglect". So how do we get a Social Worker to go in, when we know something bad is going on, to speak to a resident or tenant, and find out?

What do the staff say?

At a workshop recently, I asked a group of workers at a well-known housing association what they thought were the key issues in the safeguarding arena, and they were very forthcoming and open. Here is a short-list of what they said:

- Abuse - sexual, financial and physical, verbal and psychological
- Recruitment and retention of enough trained staff
- Dealing with abuse between tenants – e.g. bullying
- Mental Capacity issues and self-neglect
- Where does duty of care start and finish?
- Drugs and alcohol
- Denial of rights
- Ignorance on the part of tenants of their rights and the law

This very committed staff group were crying out for firm guidance in all of the above areas, issues that they dealt with every day, in a demanding service user group; they made full use of a very busy staff development session. In reviewing the day's work, however, I found myself questioning why these staff felt that they couldn't go to their managers with these issues, but did feel that they could share them with a relative stranger in the shape of a trainer. I talked earlier in this piece about managers taking safeguarding seriously – so what could possibly bridge this gap? Every manager will have their own answer, pertinent to their own team; but in my experience of working with teams one thing is clear – if you don't involve the team members in the set-up of the local system, don't ask for their views on a regular basis, and don't ask them how the job is going, you don't get their ownership, buy in, and sense of responsibility. There are real issues in how we equip our teams to work well with all of our tenants and residents, but even further, we have to build healthy teams, where staff feel able to talk, discuss and share information both with each other and with managers or team leaders.

Safeguarding and the Mental Capacity Act – what's the link?

The DH's Lucy Banerjee gave us some excellent ideas at a recent Action on Elder Abuse conference in London, on how to move both the Safeguarding agenda and the Mental Capacity Act forward in one go, certainly at least part of an answer to the question, "Where to now?" She suggests that the Mental Capacity Act is recognised in all job descriptions, and is at least thought about in supervision and appraisals; that everyone involved knows how to put the right to liberty and the right to family life into care plans, and does this automatically.

Housing and the Mental Capacity Act – what’s the link?

The Department of Health defines Safeguarding as “The process of protecting adults with care and support needs from abuse or neglect”.⁵

Mental Capacity is right at the centre of the Safeguarding agenda – it has to be, because if a tenant or resident can’t make a fundamental decision, then they are in the hands of others, and are therefore vulnerable, and at risk of being abused. You just have to hope that the “others”, whether family, friends or paid staff, have their best interests at heart.

I recently saw Lord Hardie speak – he is chairman of the House of Lords Select Committee on the MCA, who have just published a review of how this piece of legislation is working.⁶ In Lord Hardie’s view, the MCA is an excellent and much needed piece of law-making. There was a massive amount of evidence (2,000 pages), and what they found at rock bottom was that there was some good practice ... but mostly not. The Act has been around for a while now – so why is it so misunderstood?

Here are some of the key points outlined in the review:

- Capacity is not always assumed when it should be – assumptions are often made, there are poor quality assessments, and the process can be challenging and stressful for all involved.
- Support in decision making is not embedded, because of lack of education and resources – this is better where specialist learning disability nurses are employed in hospitals.
- Risk aversion is mentioned by many statutory organisations as going against the Act – there is an atmosphere of paternalism and over-protection.
- Wishes, thoughts and feelings are not regarded – “Best interest” is the most misunderstood phrase; lack of awareness of the Act means that the person in the middle cannot challenge poor practice, and nor can the family.

The report goes on to make key recommendations:

- Low levels of awareness must be addressed, among those affected, their families and carers, professionals and the wider public.
- That overall responsibility for implementation of the Mental Capacity Act be given to a single independent body. This would locate within a single independent body the responsibility for oversight, co-ordination and monitoring of implementation activity across sectors, which is currently lacking.
- That the standards against which the Care Quality Commission inspects should explicitly incorporate compliance with the Mental Capacity Act, as a core requirement that must be met by all health and care providers.
- Training for medical professionals should highlight the Mental Capacity Act as part of their professional training.

⁵ *Factsheet 7 The Care Bill – protecting adults from abuse or neglect*, Department of Health (2013). Available from: www.gov.uk/government/uploads/system/uploads/attachment_data/file/198104/9520-2900986-TSO-Factsheet07-

⁶ *Mental Capacity Act 2005: post-legislative scrutiny*. www.publications.parliament.uk/pa/ld201314/ldselect/ldmentalcap/139/139.pdf

Having worked with many groups of staff on MCA issues, with backgrounds ranging from day centre or care home front line workers to managers and psychiatrists, I can safely say that if the basic issues are clearly explained, everybody gets it. Everyone wants their service users, residents and tenants to have freedom, and be more autonomous. So what goes wrong in the implementation? Is it the amount of time in which we are allowed to deliver care? Is it our attitude – that we, as trained and experienced professionals “always know best”? Leadership? Confusion over “best interest”? Or simply lack of training? Probably a mixture of all of these, but in the best organisations there is time to go through full and proper assessments, the staff are properly trained from top to bottom (and yes, it does all start at the top), and as a colleague of mine from a supported housing organisation points out – “how do you know how you are doing unless you monitor the process?”. I am very rarely asked about this last issue, wherever I am working. However, there are several tools available for free on the internet, several of which are listed on the SCIE website.⁷ She is also a great believer in involving as many people as possible in the lives of residents and tenants, both professionals and family, where they are seen to be vulnerable adults.

An old colleague of mine, a former head of training and development in a supported housing organisation, sees the MCA very much in terms of location and expectation; employed staff are going to their workplace, tenants and residents are living in their own home. “For me, when we delivered training for supported housing and sheltered housing staff, it was very much about linking it to Human Rights. We all have the right to family life, so, for example, it’s your place of work but it’s somebody’s home. So, if they have visitors, is it right for you to just go barging in, and say “It’s my time to clean”? ... well no, it’s not. This applies equally to the right to worship or just being allowed to sit with a group of people without being shoved along. Things like property: “I might want my things in a particular place, I might want my cupboard really messy – it’s my home, and just because you’re coming in to support me, it doesn’t give you the right to start moving things around, or start reading my post, or empty my fridge because there are things in there that offend you! Past their sell by date. So really you should be asking me about those things before you go ahead and remove them.”

Involving residents and tenants

Another answer comes directly from the CEO of a progressive housing and care organisation in South East London, who work with a wide range of tenants, most of whom have learning disabilities and mental health issues. They have two service users on the trustees’ board of the organisation, who are primed before the board meetings on which “Safeguarding issues” are a standing agenda item. The minutes are now all simplified, a by-product of which is that everyone involved now understands the sometimes complex issues of the board’s business. The way she sees it, what is really important is “Involving as many people as possible in the lives of residents who might be vulnerable adults, so that you minimise the chances of any kind of abuse by one person or service, who might threaten the client or keep any kind of abuse or bad practice a secret.”

⁷ MCA audit tools, Social care Institute for Excellence. www.scie.org.uk/publications/mca/audits/list.asp

Where to go for the right facts and information...?

Of course, the Housing Learning and Improvement Network has a range of extremely useful resources on their dedicated housing and safeguarding webpages at www.housinglin.org.uk/Topics/browse/HousingOlderPeople/Safeguarding/. I understand they are also currently updating their factsheets on the MCA and housing (due later this year).

In addition, whilst writing this viewpoint, SCIE have just published an excellent new online guide on safeguarding and housing.⁸ It starts with an introduction that I could easily have lifted for the start of this article:

“Housing staff have a key safeguarding role to play, alongside their colleagues in social care, health and the police, in keeping people safe. They are well placed to identify people with care and support needs, share information and work in partnership to coordinate responses.”

It is freely available on the internet and as a download, and comes thoroughly recommended as a base-line resource for Safeguarding in just about any sector, although designed specifically for housing. It contains literally everything staff members involved in any kind of housing would need to know, and probably a bit more. It is a timely document, given the changes nationally in our outlook on safeguarding, the Care Bill, and the need for staff in general to have more awareness of key safeguarding issues like the MCA.

The new Guide contains sections ranging from identifying tenants with care and support needs, identifying signs and reporting safeguarding concerns through to sharing information, joint working and communication, and understanding the Mental Capacity Act. The guide provides comprehensive information for staff at different levels in clear language, and signposts to many other important websites and resources. Any manager or trainer could use it as foundation learning for their teams or delegates. Especially welcome are the clearly written sections on some very tricky subjects, like tenants who self-neglect – this issue is a major one in the Safeguarding world in the USA and Australia, but isn't really talked about over here as much as the typical “seven types of abuse” we all know about.

Damned if you do...!

To tell the truth, it's really hard to say (or prove) what *does* work in terms of Safeguarding or preventing abuse. How do you know when something *doesn't* happen? And how do you tease out the figures – referrals up by 11% last year, but surely not because there are 11% more abuse cases actually happening. In a literature review on Prevention of Abuse in The Journal of Adult Protection⁹ Alison Faulkner highlights Empowerment and Choice as one of the key recurring issues. There is a massive throwback here, to the old cherry of wanting the tenants and residents to think for themselves, speak for themselves, and ultimately make their own decisions – but wanting also to cover our backs in terms of “allowing” them to take risks. (Actually, you don't “allow” someone with mental capacity to take risks at all). As my colleague, Stuart Sorensen, an ex-mental health nurse would say, “you're damned if you do, damned if you don't!” I originally, like many others, got into this kind of work because I desperately wanted to see the people we now call ‘Adults at Risk’ grow, flourish, and live their own lives, long before the MCA or DoLS were ever thought of. To quote Alison, who really says it all:

⁸ *New guide on safeguarding and housing*, SCIE. www.scie.org.uk/publications/guides/guide53/

⁹ *Prevention of Abuse: a brief overview of the literature*, Alison Faulkner, The Journal of Adult Protection, Volume 14 no.1 p.35

“It is vital to ensure that adults at risk of abuse are empowered to make decisions for themselves about the risks they may face, and that they have the opportunity to make choices (e.g. about the care they receive and where and how they receive it). Empowerment and choice need to be at the core of Safeguarding policy and practice. This means ... taking a risk-enabling approach within services, and ensuring that service users have genuine choice both of and within services.”

So, taking into account this wish for autonomy, how do we make sure that residents and tenants are aware of their rights under both the safeguarding Agenda, and the MCA? Well, apart from the usual public awareness campaigns, leaflets in GP surgeries and so on, how about really reaching the people in the middle of it all, by running workshops on these issues for the service users and their carers? This way of working has recently started up in several areas including Norfolk, and the feedback has been very positive indeed. One of the key issues about this type of education, is that it allows our residents and tenants to use the same language that we do, to think along the lines that we do, and thus open up the channels of communication – at the same time promoting knowledge and understanding.

What are we going to do with the knowledge we have acquired.....?

Having looked at some of the difficult issues around housing and safeguarding, and in the full knowledge that there is much to improve, it is useful also to look at some of the achievements that have been made, to remind ourselves of what can be done with the knowledge (and experience) that we have acquired.

A really positive example of a well-structured programme is how the drivers for Passenger Services in the Redbridge Transport team have now all participated in and taken on board their basic Safeguarding training. They have often started the sessions wondering why they are there – but the feedback shows that many of them have stories to tell about safeguarding issues, and that much interest in the subject is generated. It’s stuff they knew already, as family members or citizens, but had never had it put in a framework for them.

Dimensions and the Cameron Trust are but two organisations who seem, to some extent, to have cracked how to get it right in terms of housing. Anyone who reads Learning Disability Today,¹⁰ will be aware of the reports involving these organisations in which, for example, people with Learning Disabilities or disabilities have, through intense personal planning and the right support, found ways of making life choices and of living independently – almost in spite of the restrictive systems around them. The interesting thing about some of these cases is that they involve people who were previously categorised as having difficult or challenging behaviour – an aspect of their life that disappeared once they had their own place to live in, were offered choices in their lives and, of course, had the right people to support them.

As little as two or three years ago, the groups I was working with comprised front-line workers only – care staff from residential homes, day centre workers and so on. I’m very happy to report that the word is spreading – I am now finding on a regular basis that housing workers, dentists and dental nurses, practice managers and receptionists from GP surgeries, even local pharmacists are turning up to my workshops.

In the more enlightened boroughs like Havering, library staff, street staff and sports centre staff are all doing basic Safeguarding training, which includes a short session on the Mental

¹⁰ Keys to the Door, *Learning Disability Today*, Summer Special 2013.

Capacity Act. I am completely touched by the words of Bill Nicol, Head of Adult Safeguarding at Derbyshire Clinical Commissioning Groups. At a recent Safeguarding conference I attended, he talked about the importance of the human touch in care, about how you can still deliver care with warmth and a smile, even though you only have a few minutes to get the job done. He closed with these words, which I now use in every one of my workshops “It’s not enough to care for people any more ... we have to care *about* them.”

And I constantly come across staff whose attitude and knowledge, energy and individuality would provide a model for the perfect support worker, senior or Manager. They put people first, haven’t forgotten to care about their service users, and give our organisations and services the best possible chance of making supported living of all kinds ... as safe as houses.

About the author

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Note

The views expressed in this paper are those of the author, and not necessarily those of the Housing Learning and Improvement Network (LIN).

About the Housing LIN

Previously responsible for managing the Department of Health’s Extra Care Housing Fund, the Housing Learning and Improvement Network (LIN) is the leading ‘learning lab’ for a growing network of housing, health and social care professionals in England involved in planning, commissioning, designing, funding, building and managing housing, care and support services for older people and vulnerable adults with long term conditions.

The Housing LIN is a signatory to the Concordat accompanying the Winterbourne View Review and a member and host of the Housing & Safeguarding Alliance at:

www.housinglin.org.uk/AdultSafeguardingAndHousing

Further information about the Housing LIN’s comprehensive list of online resources can be found at: www.housinglin.org.uk/Topics/browse/HousingOlderPeople/Safeguarding/

In addition, to participate in our shared learning and service improvement opportunities, including ‘look and learn’ site visits and network meetings in your region, visit:

www.housinglin.org.uk

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