

Bradford Safeguarding Adults Board

Newsletter Issue 7 – July 2008



Corporate Manslaughter & Corporate Homicide Act 2007

The 2007 Act came into force on 6 April 2008, it sets out a new offence for convicting an organisation where a gross failure in the way activities were managed or organised results in a person's death



and amounts to a gross breach of a relevant duty of care owed by the organisation to the deceased. In England, Wales and Northern Ireland the new offence is called corporate manslaughter and in Scotland it is called corporate homicide.

This will apply to a wide range of organisations across the public and private sectors. Under this new approach, courts will look at management systems and practices across the organisation, providing a more effective means for

prosecuting the worst corporate failures to manage health and safety properly.

This is an opportunity for employers to think again about how risks are managed. The offence does not require organisations to comply with new regulatory standards. But organisations should ensure they are taking proper steps to meet current legal duties. In summary the Act will mean that those who ignore the safety of others at work, with fatal consequences, are more vulnerable to very serious criminal charges. NB. This is likely to include not taking adequate steps to safeguard clients/patients from abuse.

Find out more on: www.justice.gov.uk



Inside this issue:

'No secrets' review	2
CSCI's report on rights, risks and restraints	4
CHRE's new guidance on clear sexual boundaries	4
NMC's new board-like structure	4
CPS's Crimes against the older person policy	5
Hate Crime Good Practice guide	5
Consultation on Survivors Network for victims of abuse	5
Another big inquiry & a landmark judgement	6
OPG's contact information for vulnerable adult concerns	7
Conferences	8

Human Rights Update

British Institute of Human Rights (BIHR) was delighted to announce that hundreds of thousands of vulnerable older and disabled people in care homes across the country will soon be protected against human rights violations – including abuse, neglect, and unfair evictions – following a Government amendment to the Health and Social Care Bill, passed on Thursday 22 May 2008.

This amendment – which BIHR lobbied for – closed a legal 'loophole' which meant that care homes run by private or voluntary sector



organisations, but contracted by public authorities, were not covered by the Human Rights Act 1998.

BIHR has been at the forefront of efforts to close this 'loophole', working closely with a variety of other organisations. Since early 2007, they have convened a group of age, disability and human rights organisations to explore legislative solutions, and place pressure on the Government to tackle this issue.

Find out more on: www.bihhr.org

Review of *No secrets*

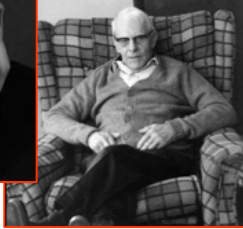
Background

'No Secrets' guidance in relation to Adult Protection was issued by the Department of Health and Home Office in **March 2000**.

It was successful because it brought together a large number of stakeholders – including the police, the NHS Confederation, Association of Directors of Social Services and key voluntary organisations - in defining a consensus around the protection of vulnerable adults. It laid down for the first time a framework for responding to the abuse of vulnerable adults in all settings. Eight years on, much has been learned from the experience of operating the No Secrets guidance. Some is positive, some is not - as the Cornwall and the Sutton & Merton reports.

In **June 2007**, the announcement was made to review the No Secrets guidance. The Department of Health stated the following:

1. There would be a refresh of the *No Secrets* guidance on safeguarding vulnerable adults, with particular reference to the legislation underpinning adult protection policy;
2. They expected the review to highlight areas of good practice and that the Review would build on the learning of the last seven years and use it to strengthen and refresh the guidance;
3. Major changes in legislation, such as the Safeguarding Vulnerable Groups Act 2006 and the Mental Capacity Act 2006, needed to be reflected in the guidance;
4. The last few years had seen a vigorous debate about the legislative basis of adult protection policy. Some argued that adult protection should be similarly legislatively based as child protection. Others argued that legislation was less important than how the policy was implemented. The Minister wanted to take views from all parties before coming to a view himself;



Photographs courtesy of Action on Elder Abuse

5. They wanted as many older and other vulnerable people to take part in the review as possible, as well as relatives,

service providers, regulators, stakeholders and adult protection teams.

- 6 Nothing was to be ruled out. As a first step, they intended to consult other government departments and key stakeholders to consider the changes that could or should be made, their application to local authorities, the NHS and others and the extent of the review process.

- 7 When this is complete, they anticipated holding a number of stakeholder events and meetings with stakeholders, patients and service users. The work was to inform the publication of a public consultation document, followed by a programme to support implementation.

- 8 At this stage, they suggested the onus should be on strengthening existing processes and improving efforts to overcome the barriers which can hamper effective partnership working. The review would therefore address the issue of making the guidance binding on all parties

The Review

Lucy Bonnerjea is the Policy Lead on the No Secrets review in the Department of Health. Leo Quigley is the Service Manager for Safeguarding Adults at Sheffield Council and has been Seconded to work part-time on the No Secrets review. The review was formally launched on **20 February 2008**. Fundamental questions were raised about what parts of the safeguarding system needed to be strengthened and how to do it.

The following questions were raised:

- Whether the responsibility for safeguarding should remain with Social Services, or whether it should become a wider local government role?

Continued on page 3



No secrets continued...



Photographs courtesy of Action on Elder Abuse

- Do housing departments, leisure services and transport all play a part in effective safeguarding? And what is the role of neighbourhood policing, housing officers and public health staff?
- How do we really keep our more vulnerable citizens safe on our estates and in our communities?
- The role of social workers were questioned: some participants at the launch event thought the new emphasis on direct payments and individualised budgets needed to be brought together with a new look at safeguarding.
- Are Social Workers and Care Managers being supported to look at this new balance? Is there enough training in risk management?
- How do we weigh up a higher quality of life for example enabling vulnerable people to make choices, some of which will be unwise choices – with the need to help them make safe choices?
- Other questions focus on how we protect as well as prevent. Does the present system focus on "protecting" individuals who have already suffered abuse, at the expense of "enabling" and early intervention approaches involving a wider range of local partners in preventing abuse?
- Is there a need to integrate the systems we already have for keeping people safe? Or do we need new systems?
- Would legislation ensure people are not abused or is it improved policies and practices that really matter?
- Finally there are big questions about definitions. We need to establish whether we have Vulnerable adults or adults who are in

vulnerable situations. Is vulnerability part of the characteristics of an individual with, for example, learning disabilities? Or is it the context, the setting, or the place which makes someone with a learning disability vulnerable?

After the review

These are difficult and challenging questions. It may be far harder today to reach consensus about the role of safeguarding in modern society than it was when No Secrets was written. The review will proceed in stages. First, there will be a review of current practice and strategic arrangements, identifying key areas for improvement and putting forward options for change. A framework document consulting on key choices and options will be published in the summer.

After the consultation is completed, a number of options will be taken forward. This may take the form of further guidance, or other policy and practice initiatives or even legislation.

Care Services Minister Ivan Lewis made it clear at the launch event that he wishes to make safeguarding adults everyone's business. This is ambitious, but without it the review would be at risk of tackling superficial details while ignoring structural flaws.

The reviewers welcome contributions by everyone interested in and involved with social care. How do we make the present system better? And how do we do this in the context of greater personalisation and greater choices for service users? What changes would you make?

Source: 27 March, Community Care "Whose job is it to protect?" and The consultation on key points relating to the review of No Secrets and In Safe Hands by Action on Elder Abuse. For further information go onto: www.dh.gov.uk



Reports, guidance & structures



Rights, risks and restraints

A group of social care providers, commissioners and government officials met with CSCI to discuss how to maintain people's dignity when using restraint.

Restraint, while often intended to keep people safe, can compromise their rights to take risks and their freedom. This issue and others discussed at the meeting are explored in a new report, called Rights, risks and restraints.

The report says that clear guidelines and well-resourced services are needed to ensure dignity of care for people who use services. It looks at the issues and dilemmas around restraint, particularly the tensions between respecting people's rights to freedom and to make choices, while at the same time ensuring people's safety.

Download your copy of the report from: www.csci.org.uk



New guidance on 'Clear sexual boundaries between healthcare professionals and patients: responsibilities of healthcare professionals.'

Issued by CHRE in January 2008, commissioned by the Department of Health due to the occurrence of several serious breaches of trust by healthcare professionals.

The guidance clearly defines the sexual boundaries that should exist between healthcare professionals and patients. The main principles are outlined below:

- Healthcare professionals are advised that they must never act on feelings of sexual attraction towards patients or their carers. They are advised to seek advice and if appropriate, transfer that patient's care.
- Sexualised behaviour can be defined as acts, words and behaviour designed or intended to arouse or gratify sexual impulses or desires. Breaches of sexual boundaries can include criminal sexual acts, sexual relationships, sexual humour and inappropriate comments.

- The onus will always be on the healthcare professional, *not* the service-user, to show they acted professionally.
- Healthcare professionals have the duty to report any suspicions they may have regarding fellow staff members.

Download the new guidance from CHRE's website:

www.chre.org.uk



The Nursing and Midwifery Council's (NMC) new board-like structure.

NMC have agreed to move to a new board-like structure, whereby nurses, midwives, specialist community public

health nurses and lay people apply for positions based on transferable skills and qualities, as opposed to being elected.

These changes will bring the NMC into compliance with the new White Paper, Trust, Assurance and Safety - The regulation of health professionals in the 21st century, produced by the Department of Health, published in February 2007. This paper sets out the Government's strategy to reform and modernise the system of professional regulation. All healthcare regulators will have smaller governing boards, with equal numbers of lay and registrant members, and all members to be appointed rather than elected.

The NMC Governance Committee has recommended a board of 14 members comprising:

- One registrant member from each of the four UK countries
- One lay member from each of the four UK countries
- One registrant member from each of the 3 parts of the register
- Three additional lay members

The appointment process will begin in early Autumn 2008, and although not yet confirmed, the new board is set to come into effect in April 2009. *For further information go onto to:* www.dh.gov.uk



Policy, guides & consultation



Policy on Crimes against the Older Person In October 2007 the CPS issued a draft public policy statement, *Crimes against the older person* for a 3-month public consultation.

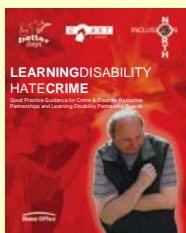
The type of crimes focused on includes:

- abuse or neglect where there is an expectation of trust, whether by family members, friends or paid workers, or where the older person is living either temporarily or permanently in an institution
- crimes which are specifically targeted at older people because they are perceived as vulnerable or potentially easy to steal from, such as muggings, doorstep theft or rogue traders
- crimes against older people which are in part or wholly motivated by hostility based on age

The consultation period ended on 31 January. The CPS received 41 responses from a range of sources including CPS staff, individuals, safeguarding adult partnerships, police, support services and care standards inspectorates. CPS also held two focus groups, one involving 12 older people mainly from the London area and a second involving 11 older people from Black and minority ethnic communities from around the country. The final version of the public policy Statement will be launched on 15 July, 2008.

Find out more on:

http://www.cps.gov.uk/consultations/cop_response_index.html



Hate Crime Good Practice Guide is the new guidance funded by The Home Office.

The guide is for all people who work with people with learning disabilities who are the victim of hate crime. It places increasing

emphasis on agencies to make sure hate crime action includes disability hate crime and actively working together to tackle it.

Download your copy from:

<http://valuingpeople.gov.uk/dynamic/valuingpeople124.jsp>

Action
on elder abuse

AGE
Concern

Consultation on Survivors Network for victims of abuse

Action On Elder Abuse and Age Concern England launch a Consultation on Survivors Network for victims of abuse.

The consultation is part of a Comic Relief funded project looking at the possibilities of developing a survivor lead network for the victims of elder abuse and their families.

This follows a year of research work talking to older people and professionals about what a Survivors Network should look like.

Commenting on the consultation Gary Fitzgerald Chief Executive of AEA said "We are delighted to launch the Consultation document. So far we have attempted to understand abuse through definitions and categories, quantify it through prevalence studies and intervene through guidance, policies and procedures. As useful as these are, what has been missing has been the voice of victims and their families" Fitzgerald continues " this comes at a time when Government has announced a National Dignity Tour, a new prevalence study into abuse, neglect and loss of dignity in institutional settings as well as a review of the No Secrets guidance. Providing a voice for victims of abuse could not be more timely or warranted. We applaud Comic Relief for funding such innovative and difficult work."

The project consultation ends 1st August 2008.

For more information go onto: www.elderabuse.org.uk



Another big inquiry

Murder of Steven Hoskin a man with a Learning Disability



Social Care failures exposed

Steven Hoskin's body was found on 6 July 2006 at the base of the St Austell railway viaduct. In addition to the catastrophic injuries associated with falling 30 metres, a post-mortem examination found that Steven's body bore evidence of torture: cigarette burns, neck bruises from the dog collar and leash he had been dragged around in, a lethal dose of paracetamol tablets and alcohol, and footprints on his hands which finally caused him to fall to his death.

Steven was a vulnerable adult, whose needs were well known to the local NHS, council adult care services and housing services.

The report, carried out by the Commission for Social Care Inspection (CSCI), released stated: "We found some examples of recent poor practice in the management of adult safeguarding investigations. These included some warning signs and concerns that had not been adequately identified and addressed." The report pointed, in particular, to a lack of support for people with learning disabilities who live with frail or elderly carers and said they did not receive the level of monitoring that was needed.

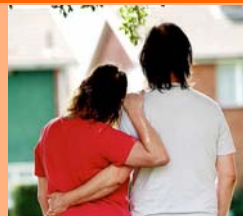
An investigation into Mr Hoskin's death revealed authorities missed more than 40 chances to intervene – action which could have saved him from abuse.

Margaret Flynn, Senior Lecturer in Mental Health and Learning Disabilities conducted an official inquiry into the death of Steven Hoskin.

To read more on this inquiry go onto: www.hsj.co.uk

'Landmark' Judgement

Vulnerable couple tortured in their own home



The couple: "We begged for help but no-one did anything"

52-year-old man and his 46-year-old wife, who both have learning difficulties were imprisoned and tortured by a gang of youths in their own home. They have been awarded £97,000 in damages after a judge ruled that their local council failed to protect them.

The teenagers had befriended the couple, and then used their flat to take drugs, have sex and store stolen goods. The couple begged to be re-housed but nothing was done and their ordeal culminated in a weekend of terror, during which the youths sprayed cleaning liquid, pepper and curry powder into their eyes. They attacked the family's dog and cat and made the couple perform humiliating acts in front of the woman's 8 and 11 years old daughters.

The youths appeared at the Old Bailey in 2001.

Judge Michael Coombe described the assault as 'degrading, disgusting and wicked'.

The couple have since pursued a seven-year battle to prove **their local authority should have protected them** by re-housing them before the 'weekend of horror'. Lawyers for the couple argued that Hounslow was negligent and should have foreseen that they were in imminent danger. The council denied owing the couple any duty of care, and argued that no local authority had previously been held responsible for protecting vulnerable adults from abuse. In the ruling, it was said it was 'clearly foreseeable' that X or Y, or both, would suffer a serious attack. 'Self-evidently, had the claimants left their flat before the relevant weekend, the assault of which they complain would not have happened.'

For the full story go onto: <http://www.dailymail.co.uk/news/article-1023194/97000-payout-vulnerable-couple-tortured-evil-gang-home.html>



CONTACT INFORMATION FOR VULNERABLE ADULT CONCERNS

Office of the Public Guardian

The Office of the Public Guardian (OPG), established in October 2007, supports the Public Guardian in registering Enduring Powers of Attorney (EPA), Lasting Powers of Attorney (LPA) and supervising Court of Protection (COP) appointed Deputies.

The OPG helps and supports Attorneys and Deputies in carrying out their duties and protects people who lack the mental capacity to make decisions for themselves.

The OPG have now put together contact information for vulnerable adult concerns. Which incorporates three main stages:

The Public Guardian does not have statutory authority to conduct investigations into Attorneys acting under an unregistered EPA, persons acting under a Court of Protection Short Order or persons acting as appointee under the DWP appointeeship scheme. In these scenarios, the OPG will usually advise the Adult Protection Officer to invoke their own procedures and/or to make an application to the Court of Protection. The Court has the authority pursuant to S49(2) of the Mental Capacity Act 2005 (MCA) to direct the Public Guardian (or another party) to investigate and report into these types of case.

STAGE 1

Initial Enquires Stage

At fact-finding stage the first need for contact with the OPG is likely to be a request for a search of the Public Guardian's registers of Deputies and (registered) Attorneys. This facility is free of charge to Local Authorities raising adult protection concerns. Requests should be made to the OPG Contact Centre:-

Tel: 0845 330 2900

Fax: 020 7664 7705

E-Mail: customerservices@publicguardian.gsi.gov.uk

STAGE 3

Application to the Court of Protection

Applications to the Court, for example to remove a Deputy or to revoke an EPA, are governed by the Court of Protection Rules 2007 and the Court's Practice Directions. These are available on the OPG website, together with the application forms at:-

www.publicguardian.gov.uk/forms/all-forms-guidance.htm

Applications can be made to the Court for interim relief pending an investigation or in other urgent situations (Rule 82).

The Court may accept urgent applications by fax but you should firstly telephone the Court Admin Listing and Appeals Team (via the Contact Centre on 0845 330 2900 – stress urgency) to obtain the fax number which can be used for this purpose and also to establish when a judge will be available to determine an urgent application. The out-of-hours telephone number is the Royal Courts of Justice switchboard (020 7947 6000 – ask for Security).

Information regarding out-of-hours applications is available on the OPG website. Practice Direction 10B refers.

For more information go on to:

<http://www.publicguardian.gov.uk/index.htm>

STAGE 2

Investigation Stage

When enquiries have reached a point where the Adult Protection Officer feels that the Public Guardian (PG) should conduct an investigation, contact should be made with the OPG Compliance and Regulation Unit:-

Tel: 0207 664 7274

Fax: 0870 739 5804

E-Mail: OPGComplaints@publicguardian.gsi.gov.uk

The Public Guardian can conduct investigations into representations (and complaints) about the way in which a Deputy or an Attorney (LPA or registered EPA) is exercising their powers. Investigations are conducted by the OPG Compliance and Regulation Unit who report directly to the Public Guardian with recommendations as to what, if any, further action he should take.



Conferences

Vulnerability, Risk and Empowerment Conference

Date: Wednesday 17 September 2008 **Venue:** Edinburgh
Hosted by Action on Elder Abuse will consider a number of key issues contained within the Safeguarding debate in Scotland.

To find out more call: 0208 765 7000 **Visit:** www.elderabuse.org.uk



Safeguarding Vulnerable Adults Developing best practice to prevent abuse

Date: Friday 19 September 2008 **Venue:** London
Community Care Conferences in partnership with adass
Explore strategies to ensure your care services are of the best quality; Find out what you need to do to keep adults safer; Understand how to tackle safeguarding for older adults; Find out how future legislation could improve safeguarding practice; Understand implications for practice of the Deprivation of Liberty Safeguards amendment

To find out more call: 020 7347 3574 **Visit:** www.conferencesandtraining.com/safeguardingadults



Delivering Safer Communities For All: Creating Public Spaces Where People Feel Secure

Date: Wednesday 22nd October 2008 **Venue:** Westminster
Opportunity to consider latest government measures to improve community safety in public spaces and examine likely future policy direction. Delegates will hear of changes in performance frameworks and how these will affect them at the local level.

To find out more, call: 0207096 2922 **Visit:** www.westminster-briefing.com



Ann Craft Trust's annual conference Safeguarding Across the Generations

Date: Wednesday 19 November 2008 **Venue:** Nottingham
Will include the safeguarding of disabled children and vulnerable adults, the implementation of the Safeguarding Vulnerable Groups Act and the Independent Safeguarding Authority, the adult protection legislation debate and lessons learned from child protection.

To find out more, call: 0115 951 5400 **Visit:** www.anncrafttrust.org



Action on Elder Abuse's National Conference 2009

Date: Monday 23 & Tuesday 24 March 2009 **Venue:** East Midlands
To find out more call: 0208 765 7000 **Visit:** www.elderabuse.org.uk



ADULT PROTECTION UNIT THE TEAM...

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MARAC Co-ordinator: **Kate Higgins**
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