Law, Policy and Practice with Vulnerable Adults.
Findings from a Rapid Realist Review of the Literature

Dr Sarah Donnelly, Assistant Professor of Social Work, School of Social Policy, Social Work and Social Justice, UCD

IASW National Social Work Conference
11th May 2018 -Dublin

Presentation Overview

- **Background and Methodology**
- **Definitions**
- **Legislation**
- **Organisational Models of Adult Safeguarding**
- **Enablers to Effective Safeguarding**
- **Implications for Social Work Practice**
- **Conclusions**

Background

- Adult safeguarding is increasingly attracting policy and practice interest internationally (Sethi et al., 2011).

- The investigation of, and interventions on, the alleged abuse of vulnerable adults has become an important feature of social work and other professional practice in Ireland (Donnelly and O'Loughlin, 2015).

- This implies important organisational challenges in ensuring that adult safeguarding responsibilities are delivered in ways that ensure positive outcomes for all stakeholders (Graham et al., 2016).

HSE Safeguarding Policy Review

ADULT
SAFEGUARDING
LEGISLATION
AND POLICY
RAPID REALIST
LITERATURE
REVIEW

Adult Safeguarding Legislation and

Policy Rapid Realist Literature Review

Commissioned by the HSE National Safeguarding Office and Trigraph

Limited (May 2017)

Authors:

Dr Sarah Donnelly, Principal Investigator, School of Social Policy, Social Work and Social Justice, UCD

Dr Marita O'Brien, Independent Researcher and Health Policy Analyst

Ms Judy Walsh, School of Social Policy, Social Work and Social Justice, UCD

Ms Joanne Mc Inerney, Research Assistant

Prof Jim Campbell, School of Social Policy, Social Work and Social Justice, UCD

Dr Naonori Kodate, School of Social Policy, Social Work and Social Justice, UCD

Methodological Approach to Literature Review

◇ A rapid realist review (RRR) methodological approach was employed to review the national and international literature in this field (Windle et al.2014).

◇ In the systematic review, the basic evaluative question is: 'what works?', whereas in realist reviews, the question changes to: 'what is it about this programme that works, for whom, and in what circumstances?' (Pawson, 2005:22).

Mechanism

Context

Outcome

Adult Safeguarding Legislation,
Policy and Practice
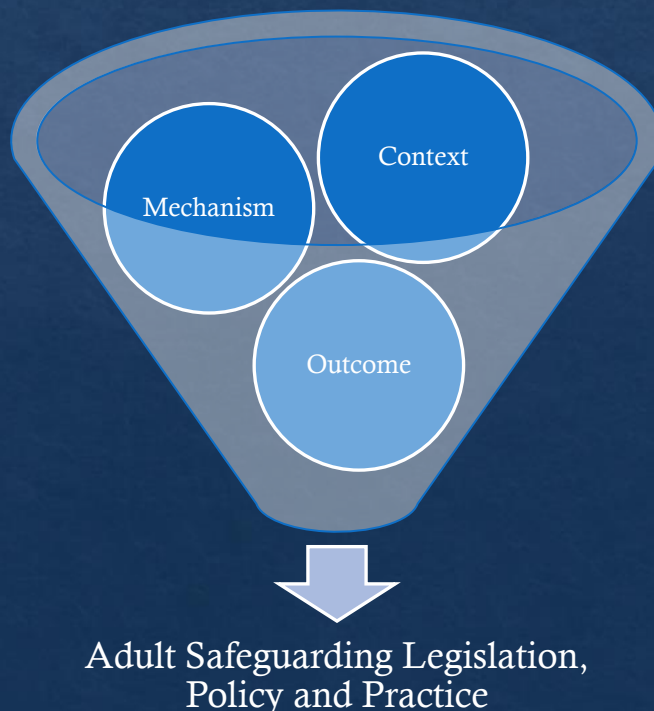
RRR International Adult Safeguarding Experts

◈ Dr Lorna Montgomery, Lecturer in Social Work, Queens University Belfast

◈ Kevin Myles, Department of Health, Safeguarding Unit, Northern Ireland

◈ Lisa Trueman, Department of Health Safeguarding Unit, Northern Ireland

◈ Kathyrn Mackay, Lecturer in Social Work, University of Stirling, Scotland

◈ Dr Fiona Sherwood-Johnston, Lecturer in Social Work, University of Stirling, Scotland

◈ Professor Lynn Mc Donald, Factor-Inwentash Faculty of Social Work, Scientific Director, National Initiative for the Care of the Elderly (NICE),Toronto, Canada

◈ Laura Tamblyn Watts, Senior Fellow and Staff Lawyer, Canadian Centre for Elder Law

◈ Krista James, National Director of the Canadian Centre for Elder Law

◈ Professor Marie Beaulieu, School of Social Work, University of Sherbrooke, Canada

◈ Dr John Chesterman, Director of Strategy, Office of the Public Advocate, Victoria, Australia

Research Questions

◈ What are the contrasting definitions of adult safeguarding?

◈ What legislation has been introduced in the countries concerned and what learning has been gained from Serious Case Reviews carried out in that jurisdiction?

◈ What are the different organisational models of adult safeguarding?

◈ What is the evidence for the efficacy of models of adult safeguarding in terms of outcome for clients and other stakeholders?

◈ What implications do these findings have for policy and practice in Ireland?

England → **Scotland** → **Northern Ireland** → **Australia** → **Canada**

What are the contrasting definitions of adult safeguarding?

◈ Shift in terminology from **'Elder Abuse' to 'Adult Safeguarding'.**

◈ **'Vulnerable Adults'** vs **'Adult at risk of harm'**

◈ **Australia**- the term elder abuse is frequently used

◈ **Scotland**- focus is on harm and the protection of all adults perceived as being at risk.

◈ **Canada**-the remit of the organisation or agency will determine whether the focus is on 'elder abuse', or 'abuse of vulnerable adults' (James, 2015).

◈ **England** and **Northern Ireland** -use the term 'safeguarding' with a clear focus on 'adults at risk'.

Defining Abuse

⬥ Concept of abuse and associated language such as 'vulnerable' can stigmatise and disempower and lead to paternalistic interventions.

⬥ Scotland concluded that the alternative concept of 'harm' avoided moralizing and stigmatizing effects, and could be applied more broadly.

⬥ Harm is understood in the widest possible way, in that "no category of harm is excluded simply because it is not explicitly listed" (Scottish Government, 2014a, p.15).

⬥ Abuse often involves the violation of human rights. This is particularly evident in countries which use a human rights- based approach to underpin policy and legislation in relation to safeguarding.

⬥ In a number of jurisdictions, the alternative concept of exploitation is emerging as a theme that links the different types of abuse commonly referenced (DOH UK , 2017).

Adult Safeguarding vs Adult Protection

Safeguarding -Macro Level

- A range of mechanisms including legislation and policy are used to promote overall safeguarding of adults, including challenging societal attitudes and social inequalities.

Safeguarding-Micro Level

- Policies, procedures and interventions ranging from minimum interventions such as the provision of home care support to compulsory measures such as the detention of individual in hospital without consent under mental health legislation (Stewart, 2016).

- Protection tends to focus on the needs of individuals who are experiencing harm and/or abuse or at risk.

- Achieved through the development of frameworks for intervention, often underpinned by a statutory mechanism to enable the provision of support.

Complexity of Vulnerability

◇ Canadian Vanguard Project: isolation, lack of education, poverty, lack of information, addiction, homelessness, disability or mental health illness, which do not remain static, but change with the person and their social circumstances.

◇ Definitions used in Scotland, England, and Northern Ireland recognise that vulnerability is not inherent, but it is the coming together of different factors that creates the context for abuse to occur.

◇ Wider definitions are based on thresholds, the meeting of certain criteria, which are open to interpretation as to when an individual becomes 'in need of protection', hence the importance of professional judgement.

Country	Status of definition	Age	Key differences in definitions
Scotland	Legal: Section (S) 3 Adult Support and Protection (Scotland) Act 2007	16	An 'adult at risk' is • Unable to safeguard own well-being property, rights or other interests, and • At risk of harm, and • Because of disability, mental disorder, illness or physical or mental infirmity, are more vulnerable to being harmed than someone not so affected
Canada	No legal basis at federal level		• No specific definition of adult at risk • 'Vulnerable adult' used in guardianship and adult protection statutes in some Provinces
Australia	No legal or policy basis at Commonwealth level		• No specific definition of adult at risk • Vulnerable adult used in some state policies
Northern Ireland	National policy: Adult Safeguarding: Prevention and Protection in Partnership 2015	18	• "Adult at risk of harm": exposure to harm may be increased by personal characteristics and/or life circumstances • "Adult in need of protection": exposure to harm may be increased by personal characteristics and/or life circumstances and the individual is unable to protect themselves from the action or inaction of another person
England	Legal: S 42 The Care Act 2014	18	An 'adult at risk' • Has needs for care and support, and • Is experiencing, or is at risk of, abuse or neglect, and • As a result of those needs, is unable to protect himself or herself

Scottish Definition

3 (1) Adults at risk are adults (aged 16 and above) who;

    a) Are unable to safeguard their own well-being, property, rights or other interests

    b) Are at risk of harm, and

    c) Because they are affected by disability, mental disorder, illness or physical or mental infirmity, are more vulnerable to being harmed that adults who are not so affected

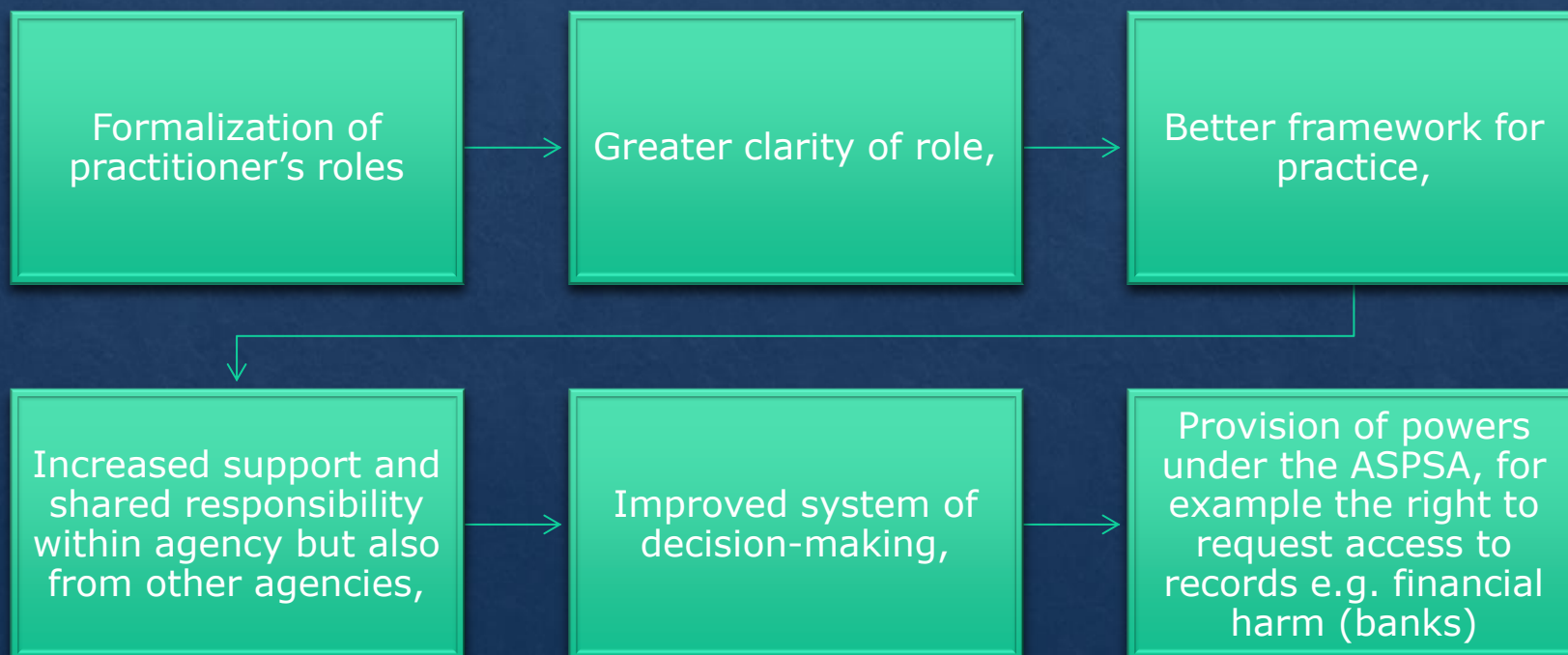3(2) An adult is at risk of harm for the purposes of the subsection (1) if;

    a) Another person's conduct is causing (or is likely to cause) the adults to be harmed or

The adult is engaging (or is likely to engage) in conduct which causes (or is likely to cause) self-harm[1]

Benefits of Legislation- Practitioner's Perspective
(Scottish experience- Mackay et al.2012)

Formalization of practitioner's roles	→	Greater clarity of role,	→	Better framework for practice,

Increased support and shared responsibility within agency but also from other agencies,	→	Improved system of decision-making,	→	Provision of powers under the ASPSA, for example the right to request access to records e.g. financial harm (banks)

Critical Considerations

1 ⟩ **2** ⟩ **3**

Defining those in need of safeguarding as 'vulnerable persons' in terms of restricted capacity due to physical or intellectual impairment, associates vulnerability with inherent factors; a position that can be viewed to be discriminatory towards people with a disability(Stewart,2016).

This approach is inappropriate since it "appears to locate the cause of abuse with the victim, rather than placing responsibility with the actions or omissions of others" (Law Commission, 2011, 9:21) often leading to types of professional care, and paternalistic interventions that can limit the individual.

There is a need for a deeper understanding of abuse, acknowledging that all citizens may find themselves in vulnerable situations at some time in their lives.

Overview of Adult Safeguarding Models
England- Multi-agency, single disciplinary model with variations in responder (Graham et al,2016)

Model A	Description	Rationale
Dispersed Generic Model Represented in 5 areas	• Limited or no specialist involvement in response to safeguarding concerns. • Safeguarding is regarded as a core part of social work activity. • Strategic safeguarding team likely to be involved in investigations relating to multiple concerns within a particular setting such as a care home.	• Safeguarding is everybody's business • Maintaining skills throughout social work as a profession • Consistency of worker for the person perceived to beat risk

Model B	Description	Rationale
<u>Dispersed Specialist models</u> Specialist safeguarding social workers are based in operational rather than a central safeguarding team. Represented in 4 areas Two variations of this model were identified.	**<u>B1 – Dispersed specialist - coordination for high risk referrals</u>** -Specialists based in local operational teams manage 'high risk' investigations. -'Low risk' investigations are managed by locality team managers alongside normal duties. -Allocated or duty social workers undertake all investigations alongside normal duties. **<u>B2 – Dispersed specialist coordination for all referrals</u>** Specialists manage all safeguarding referrals. Locality social workers investigate, alongside normal duties	Specialists offer consistency in approach Experts in policies and process Experienced social workers and other professionals involved Strong links with mainstream social work practice Independence and objectivity

Model C	Description	Rationale
Centralised Specialist model

Three types of centralised models were prominent.

 In these sites, centralised specialist teams took varying roles in coordinating and investigating safeguarding concerns.

Represented in 14 sites | **C1 – Semi-centralised** Central specialist safeguarding team coordinate all 'high risk' referrals. Senior practitioners or team managers coordinate 'low risk' referrals. Allocated or duty social workers **investigate all referrals** alongside their normal duties. **C2 – Semi-centralised (6 sites)** 'High risk' referrals are coordinated and investigated by the central specialist safeguarding team. 'Low risk' referrals coordinated by team managers/senior practitioners + investigated by social workers alongside normal duties **C3 – Centralised (3 sites)** All safeguarding alerts investigated by central safeguarding team | Consistent approach to decision-making

 Effective multi-agency working

Development of experti

Objectivity |

Australia	Canada	Northern Ireland	Scotland
Interagency model with various responders **Example Victoria-** elder abuse response integrated into Primary Care Partnerships framework, ensuring that allegations of abuse were treated as "core business" when providing services to older people	**Single agency, single disciplinary model with dedicated responder** **Example-BC** Social Worker-Adult Protection acts as the designated responder coordinator (DRC) across the services. where the adult is known. Criminal cases are reported to the police Community Response Networks are also an integral.	**Collaborative Partnership Approach** Northern Ireland Adult Safeguarding Partnership (NIASP) and five Local Adult Safeguarding Partnerships (LASPs) were established Adult Protection Gateway Services: single point of contact for referrals in each HSC Trust. Designated Adult Protection Officers (DAPOs) in both Adult Protection Gateway Service, and within core service teams.	**Interagency model with dedicated responder** ASPSA(2007) requires Adult Protection Committee (APC) in each local authority. Ensures Interagency cooperation. Must have an independent chair, be a multi- agency committee with representations from Council, Police, GPs and Health Boards plus other agencies

Which Safeguarding Model works best?

Specialist Model

- Importance of maintaining safeguarding specialism and there is some evidence of productive outcomes when this occurs (Cambridge, Beadle-Brown et al., 2011).

- Specialism is important in terms of quality assuring processes through: independent chairs (Manthorpe & Jones, 2002); a clear lead in investigations (Parsons, 2006; Cambridge & Parkes, 2006a); and centralised decision-making.

- Specialist social workers undertaking safeguarding work can facilitate the maintenance of good relationships between mainstream social workers and social care or other providers (Fyson & Kitson, 2012).

- Creation of specialist teams has also been viewed as sometimes problematic in organisational terms and in terms of survivor experiences (Cambridge and Parkes (2006b); Parsons 2006).

Mainstream Model

- Continuity has been highlighted as an important feature of social work practice for survivors of abuse, especially in times of crisis (Fyson & Kitson, 2012).

- Specialist model may lack continuity, which may in turn negatively impact upon the survivor (Parsons, 2006).

- Concerns about the workload implications of a mainstream model; safeguarding work is unpredictable and may pose challenges to those in teams holding long-term caseloads by diverting them from their other work (Fyson & Kitson,2012; Parsons, 2006).

- If not properly resourced, a mainstream model can increase workloads and also stress levels. (Preston-Shoot & Wigley, 2002).

Adult Safeguarding Models Conclusions

Supportive Structures include:

↓

Steering or overview committees such as Adult Protection Committee in Scotland, the Safeguarding Boards in England and the Steering Committee for the Prevention of Abuse of Older People NSW

↓

The inter-agency make-up of these committees or boards

↓

The putting in place of a lead agency who is responsible for referrals,

↓

Whilst professionals identifying and responding in the first instance to suspected harm or abuse can vary, in the majority of models, social workers take the lead in investigating.

↓

Where boundaries between health and social care are very clear, with local authorities having responsibility for social care, safeguarding functions are embedded within these structures. Where the lines are more blurred, health and social care are located within one state department.

Making Safeguarding Personal Approach (MSP)

MSP strives to:

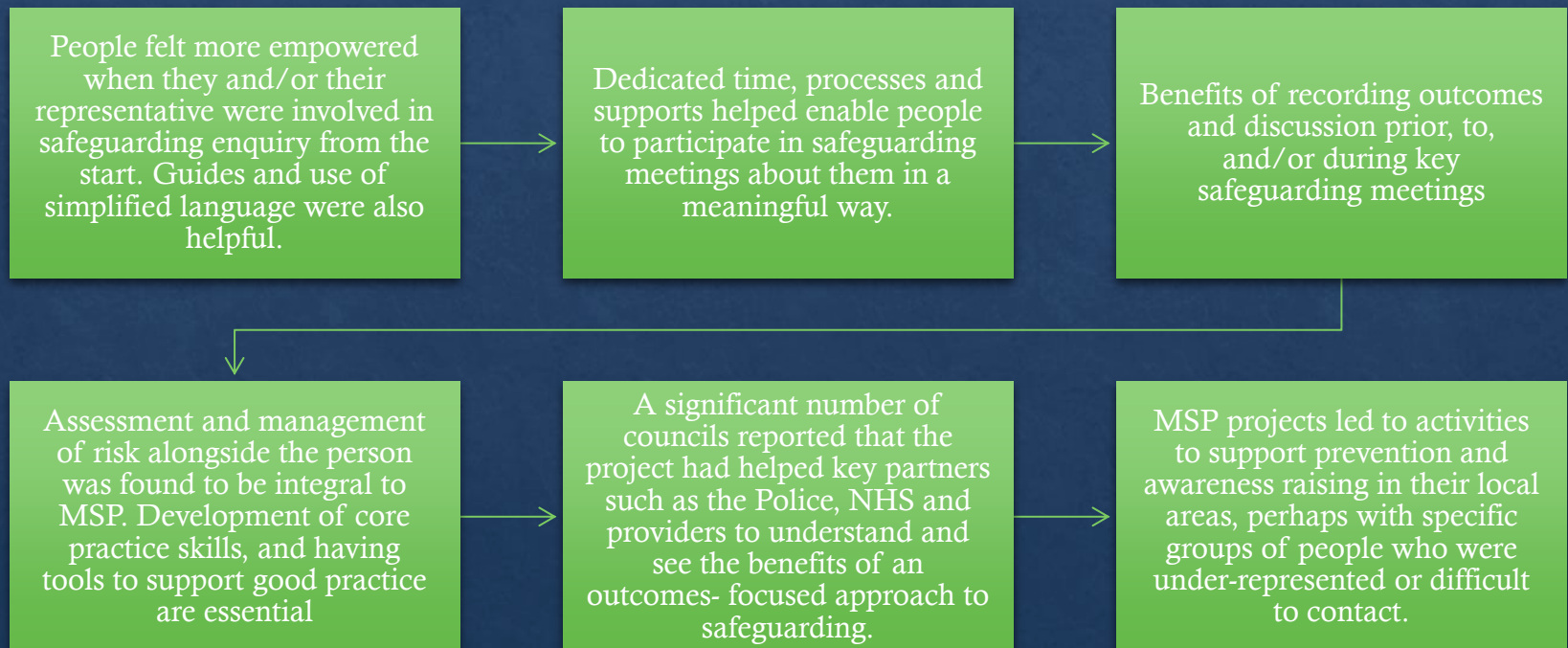- Adopt a personalised approach, enabling safeguarding to be done with, not to, people.
- Safeguarding is not about putting people through a process, investigating and reaching a conclusion, but on using social work skills and practices that achieve meaningful improvement to people's circumstances
- Stakeholders including families, teams and Safeguarding Boards know what difference has been made.

Making Safeguarding Personal Evaluation
(Lawson et al. 2014)

People felt more empowered when they and/or their representative were involved in safeguarding enquiry from the start. Guides and use of simplified language were also helpful.

Dedicated time, processes and supports helped enable people to participate in safeguarding meetings about them in a meaningful way.

Benefits of recording outcomes and discussion prior, to, and/or during key safeguarding meetings

Assessment and management of risk alongside the person was found to be integral to MSP. Development of core practice skills, and having tools to support good practice are essential

A significant number of councils reported that the project had helped key partners such as the Police, NHS and providers to understand and see the benefits of an outcomes- focused approach to safeguarding.

MSP projects led to activities to support prevention and awareness raising in their local areas, perhaps with specific groups of people who were under-represented or difficult to contact.

Thresholds for Intervention

- Adult protection triggered by different factors.

- Even interventionist models for example, Nova Scotia recognize that a 'zero tolerance' approach in all safeguarding cases can be problematic.

- Whilst proportionality is central to a human rights framework, determining thresholds on the basis of resource and capacity is not.

- Key to the effectiveness of any safeguarding is adequate resourcing.

- In jurisdictions where legislation and/or policy is underpinned by a human rights framework, thresholds were not based on 'best interests' but determined by the 'adult at risk' and their right to accept or refuse assistance and protection if capable of making decisions about those matters .

Northern Ireland Safeguarding Continuum

Figure 4: THE ADULT SAFEGUARDING CONTINUUM - PREVENTION TO PROTECTION
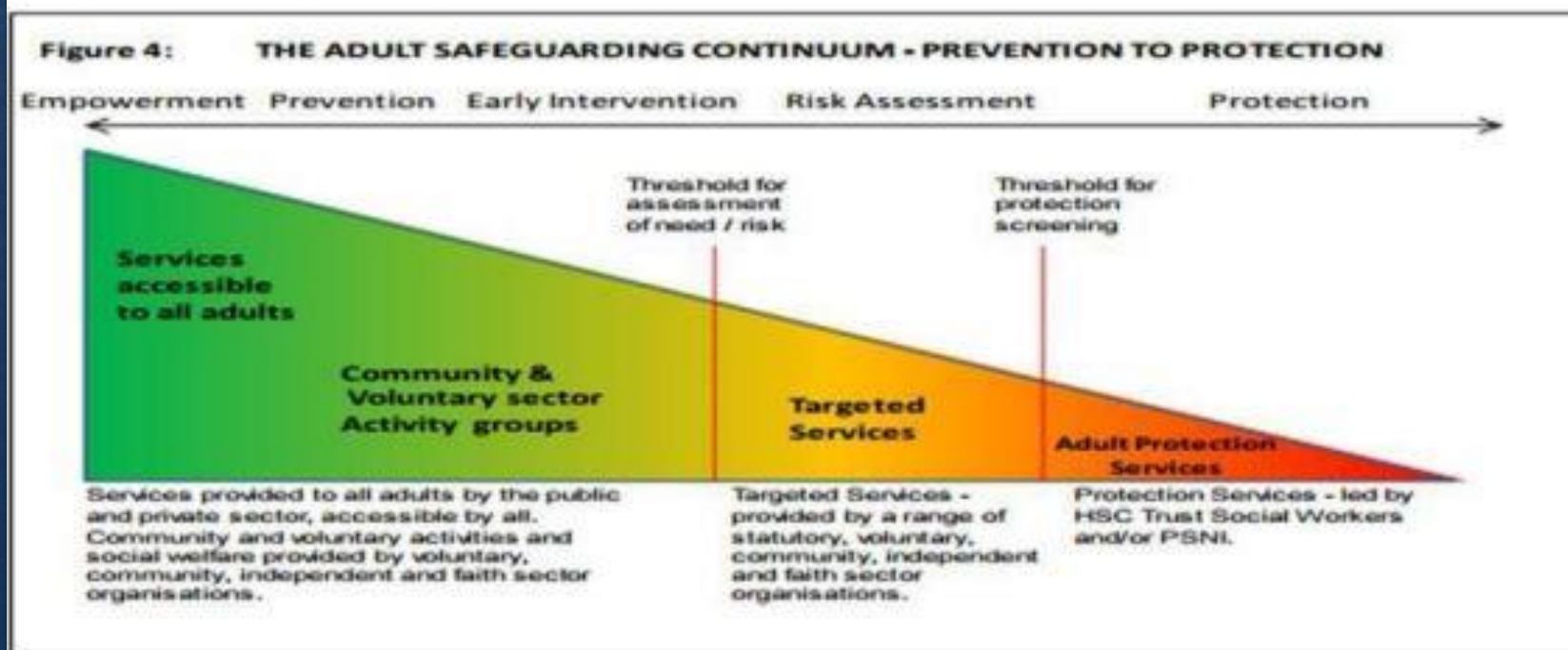
Source: DHSSPS, 2015.

- Fyson and Kitson (2012) found a link between good multi-agency working relationships and effective investigations leading to a positive outcome.

- Definitional challenge as one of the primary difficulties in developing effective multi-agency working (McCreadie at al.2008).

- Other problems that have been identified are: a lack of resources for developing partnerships (Penhale et al., 2007; Cambridge & Parkes, 2006a); poor communication between agencies (Cambridge & Parkes, 2006a; Flynn, 2012; McCreadie et al., 2008); and little clarity about different professionals' roles and responsibilities (Penhale al., 2007).

- Duty to cooperate and share information.

Multi-agency working

Codes of Practice

- The concept of proportionality is often applied in professional decision-making in order to strike a balance between the protection of the person in their own interest, whilst not interfering excessively with the autonomy, private and family life of the individual.

- The proportionality of response should relate to the evidence about risk and capacity.

- Legislation that includes an obligation on the Minister to provide guidance on such roles and responsibilities within a Code of Practice can help support a 'dignity of risk' approach, ensuring freedom of choice, and control on what is important *to the individual*, not what is important *for them.*

Relationship Based Practice and Decision-Making

Older people have expressed reluctance about divulging possible harm due to fear, anxiety and shame (Mowlam et al.2007). Potential negative outcomes for their partner, or family member, if they spoke out in such situations were also a concern.

Mackay's (2017) analysis of two case studies in Scotland concluded that for both service users who lacked executional decision-making capacity, it was predominantly *the relationship* with others that enables the person to implement their choice and offered them the *opportunity* to do so.

More time to undertake investigations in conjunction with strong supervision which focuses on the uncertainties of an individual's ability to safeguard rather than whether they have cognitive/decision-making capacity (Mackay, 2017).

Practice Frameworks

"Signs of safety and wellbeing" incorporates a well-being principle while providing a guide to delivering safeguarding practice that is both person centred, theoretically rigorous and ethical (Stanley,2016).

K-Knowledge and research that informs my work

V-Values and Ethics that inform my practice

E- Experiential knowledge and the use of self

'What I bring to my practice'

T-Theories and methods for my practice

S- Skills for practice (Stanley,2016).

◆ Adoption of Turnell and Edwards (1999) 'Signs of Safety' practice framework for adult safeguarding processes

Overall Conclusions

- The promotion of legal and civil rights is best underpinned by a human rights approach to adult safeguarding and protection services to prevent discrimination and abuse, and to ensure social inclusion.

- The introduction of legislation can offer jurisdictions the opportunity to consider the introduction of measurable outcomes, reorganisation and comprehensive adult safeguarding provision and an opportunity to reprioritise service provision across the preventative-protection continuum.

- Extensive training is required in conjunction with this to ensure that practitioners have the skills to exercise competent professional decision-making.

- Legislation is not a panacea for poorly resourced services and has the potential to restrict actions to that defined by law undermining the autonomy and other rights of adults.

- Making safeguarding 'everybody's business' through awareness raising and educating the wider public and people in receipt of support about their human rights empowers people to challenge organisational norms and take action to safeguard themselves.

References

◈ All references included in the presentation can be found by accessing the full Rapid Realist Review report at the link below:

Donnelly,S., O'Brien,M., Walsh,J.,Mc Inerney,J., Campbell,J and Kadote,N. (2017) *Adult Safeguarding Legislation and Policy Rapid Realist Literature Review*. UCD/HSENational Safeguarding Office/Trigraph Ltd, Dublin. Available at: http://hdl.handle.net/10197/9183

Thank You for listening!

Questions?