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A decade of safeguarding: A response to the LGA publication ‘The Care Act 2014: Ten Years on From Royal Assent’

Introduction

It has now been a decade since the passing of the [Care Act 2014](#) in England which placed adult safeguarding on a statutory footing for the first time. Previously *No Secrets* (DH, 2000), published nearly a quarter of a century ago, helped establish the context and laid the groundwork for a multi-agency response to adult abuse which was picked up within Part 1 of the Care Act 2014 (Sections 42-47). To mark the tenth anniversary of the Care Act a recent document and series of articles [published by the Local Government Association \(LGA\)](#) considered the successes and challenges of the legislation (LGA, 2024). Our purpose in writing this blog is to respond to the LGA (2024) publication and to consider what their conclusions and recommendations might mean for adult safeguarding.

An overview of the Care Act 2014

The Care Act 2014 sets out provisions for adult social care and support in England and how it is funded. The Care Act 2014 outlines that local authorities must promote wellbeing when undertaking any care and support functions and outlines their duties in respect of needs assessments, carer support, information and advice, paying for care, and adult safeguarding.

“Local authorities must promote wellbeing”

The Care Act 2014 is underpinned by a set of key principles:

- empowerment,
- prevention,
- proportionality,
- protection,
- Partnership, and
- accountability.

Under the Care Act 2014 local authorities have certain legal duties regarding the abuse and neglect of 'adults at risk'. These include:

- making enquiries where there is reasonable suspicion that an adult at risk is subject to or at risk of abuse and/or neglect,
- establishing Safeguarding Adults Boards (multi-agency boards which operate to help and protect adults in its area),
- cooperating with partners, and
- undertaking Safeguarding Adults Reviews (undertaken to support learning and improve practice following the death of an adult at risk in a case where partner agencies did not, or it is suspected that they did not, work effectively to safeguard the adult).

"local authorities must make enquiries when there is a reasonable suspicion of abuse or neglect"

Under the accompanying statutory guidance there is an emphasis on developing a culture of safeguarding which is outcomes focused and promotes a person-centred approach. This has been operationalised under an initiative known as Making Safeguarding Personal (MSP).

Main messages from the LGA (2024) publication

The publication reflects on the "extent to which the aims of the legislation have been achieved" and sets out what changes might be needed in areas where more work is needed to deliver these aims. The overall conclusion is that the Care Act 2014 is a "valuable legal framework", is fit for purpose, and that there is no need for radical legislative reform in this area. There are, however, significant shortcomings in its implementation. These are, inevitably, linked to funding but also to other systematic issues, not least negative messaging about the whole sphere of adult social care which impacts on expectations, recruitment, retention and, ultimately, outcomes.

More work is needed on prevention as well as an ongoing commitment to co-developing services and ensuring that the views, wishes, and needs of people who draw on care and

support are at the forefront of the development of adult social care. A key message from the publication is the emphasis on the value and importance of adult social care and the need to ensure that it can be fully realised, alongside the need to promote and raise awareness of the value of adult social care amongst the public.

Adult safeguarding: Ten years of legislation

A notable feature of the LGA evaluation of a decade of the Care Act 2014 is an almost complete absence of any specific consideration of adult safeguarding and its implementation. Safeguarding is mentioned in the context of a “tangible” change that has been realised with the implementation of the Care Act 2014, but there is virtually no explicit analysis of safeguarding itself. There is, however, some in-depth discussion of guiding principles with direct relevance to adult safeguarding, such as prevention and partnership.

Prevention

A focus on prevention is an aspect of the Care Act 2014 which the LGA documents comment on as being a key ambition that is yet to be fully realised. In relation to safeguarding this is certainly an area where more can and should be done. Adult safeguarding has developed in a reactive manner and much more needs to be done to work with people to identify potential issues so that steps can be taken and support provided early on to prevent abuse and neglect from occurring. Eligibility criteria can impact on this as well; defining eligibility under the Care Act 2014 can often be challenging. For example, for individuals experiencing difficulties with addictions and homelessness. If a person is eligible under the Care Act 2014 and meets s42 criteria, safeguarding that person can be difficult in practice due to their life choices and the perceived risky situations within which they may be connected. Establishing if life choices are made via capacitated decisions raises further questions around what action can be taken. Difficulties around routes to support and interventions for these people can arise and there is a need to ensure that any action taken does not conflict with the Human Rights Act 1998 and other legislation. These issues do not appear to be adequately resolved under the framework provided by the Care Act 2014 and again a focus on prevention needs to underpin work in this area.

“more work around prevention is needed”

The pressing need to invest in the adult social care system and fund it properly, as well as the associated need to address issues with pay and working conditions for the care workforce are also a core part of the prevention agenda.

Partnership

Partnership and user participation are seen as crucial to successful adult social care and the report itself takes time to include articles that convey the voices of service users. Promotion of this element is, of course, vital for the approach of Making Safeguarding Personal (MSP) and attempts to ensure genuine partnership at all stages will potentially reduce the incidence of abuse and facilitate its open reporting. In one of the few direct allusions to safeguarding, an article by Tricia Nicoll reflects that social workers often feel overwhelmed by safeguarding, suggesting that safeguarding is inhibitory rather than facilitative to good social care. Indeed, Nicoll goes on to observe “concepts like ‘strengths based’ have become distorted”. This is not explicitly a criticism of MSP but does raise the question of whether conflicts are perceived by users or practitioners between effective delivery of social care and effective safeguarding.

Furthermore, many of the individuals who meet the safeguarding criteria are assessed as lacking capacity to consent to an enquiry taking place. Often in practice if an individual is assessed as lacking capacity to make this decision a best interest decision is taken. This omits the second principle of the Mental Capacity Act (2005); if MSP is truly embedded then adherence to the *2nd* principle is required. The individual needs to be able to be supported to make that decision through all practicable steps; only when this is undertaken should best interests be considered.

The Partnership principle is also reflected in the statement of “safeguarding is everybody’s business”, but again more work is needed to ensure that people understand what this means in practice. For example, there may still be notions that adult safeguarding teams (and social workers generally) are responsible for adult safeguarding, and concerns may be passed on without the person concerned being spoken to about them. More work is needed to embed MSP in practice and to ensure that the cultural changes it promotes are realised and not interpreted and applied through a narrow lens and tick box approach. The LGA document makes a strong statement about partnership working in adult social care more broadly; “people who draw on care [...] know best what works for them and what the barriers are to more person-centred care” and this emphasis must also be applied in adult safeguarding.

Resources and funding

One area of concern that has come to light on numerous occasions in enquiry reports is the requirements for a person to potentially have care and support needs to be eligible for safeguarding, regardless of whether those needs are being met at the time of the safeguarding referral. This has resulted in people slipping through the safeguarding net as, despite contact with agencies, they were not deemed to meet the threshold for social care support. This barrier, whether on purpose or by design, is underpinned by the application of the eligibility criteria under section 13. While theoretically all-encompassing the criteria have a definite focus on physical health needs. It is not surprising that these needs, the basic requirements to keep people alive, are prioritised but as budgets are increasingly squeezed other elements of the eligibility criteria that may be more pertinent for people with mental, emotional and psychological challenges are not as adequately met, if at all. This can be exacerbated further if a person is misusing alcohol or other illicit substances and is deemed to be making lifestyle choices that put themselves at risk of neglect, abuse or exploitation. Flexible interpretation and application of the Care Act is therefore essential to ensure people are not inadvertently left at risk and vulnerable to harm. While agencies grapple with diminishing budgets, workers can be overwhelmed with work and are sometimes left feeling they do not have the time to really engage and work with people to provide the social care and safeguarding response they would like. Further difficulties can arise even if support needs are identified but services are not available. This lack of services may be due to funding but can also be due to a lack of diversity of services or options available to meet the needs of individuals. This deficit is primarily driven by the marketisation of care driven by neoliberal political ideologies and agendas since the 1970's (arguments well articulated elsewhere). With the best will in the world the Care Act could not address those problems and nor was it designed to. It has to be acknowledged, however, that creative /flexible options for people experiencing support needs or whether safeguarding is an issue or not can significantly impact on outcomes for individuals, their carers, and family.

The biggest challenge to safeguarding does seem to be linked to resources and funding. The LGA also identify recruitment, retention and staff shortages generally as undermining implementation of person-centred care, choice and control. Such shortages of staff are likely to have implications for safeguarding, as noted in the article by Hiba Sameen and Lucinda Allen. Shortages of staff are perhaps also linked with cultural issues which persist, despite explicit efforts in the Care Act to move away from old power structures.

Anna Severwright's article for the LGA report observes:

To enable the changes above, both in communities and for individuals, will require a culture change. We still have a system where those working in it are seen as the professionals (and by implication experts) and they hold the power. Instead, power should be shared, trusting people and families as the experts in their own lives. We also need to co-production at all levels of the system, national and local, so that services are designed in ways that work for people and communities.

Ultimately, as LGA (2024) noted, adequate funding of adult social care is needed to realise all the ambitions of the Care Act 2014, including undertaking adult safeguarding in line with all the key principles.

Conclusion

Implementation of the Care Act seems, then, to have ongoing difficulties and needs to be situated within the broader social and political context within which there are challenges for effective safeguarding. Indeed, to some extent it seems that safeguarding could present a barrier to meeting needs. On a more positive note, an article by Ian McCreath in the LGA collection considers various challenges and barriers and within these there appears to be an opportunity to strengthen safeguarding to allow growth. McCreath highlights risk aversion as one potential barrier to meeting needs and suggests a culture of risk taking:

Embracing a culture that encourages calculated risk-taking is crucial for innovation to thrive. Decision-makers need to be open to trying new approaches and learning from both successes and failures. This shift in attitude toward risk is essential for fostering innovation at all levels.

From a safeguarding perspective, this presents considerable opportunities. Robust, imaginative and effective safeguarding approaches will help to provide a secure base upon which leadership and practitioners can take risks secure in the knowledge that service users are safe.

About the authors: Dr Sarah Lonbay, Dr Keith Chappell, Dr Carole Southall and Jamie Scorer are part of a wider research team exploring adult safeguarding. The project is funded by the National Institute for Health and Care Research (NIHR) under its Research for Patient Benefit (RfPB) Programme (Grant Reference Number NIHR205704). The views expressed are those of the authors and not necessarily those of the NIHR or the Department of Health and Social Care.

For the latest update on the research project you can follow the Principal Investigator, Dr Sarah Lonbay on X (Twitter): @SarahLonbay

LGA (2024). The Care Act 2014: Ten years on from Royal Assent. Available at: <https://www.local.gov.uk/publications/care-act-2014-ten-years-royal-assent#summary-of-lead-members-survey>. Accessed 22/5/24.