The Care Act 2014 & Safeguarding: all change or no change?

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All change and no change

- New in law, policy and practice
- New in law but not in policy or practice
- Consolidating or modernising existing law
- Re-branding
It’s a new dawn - Care Act 2014

• Much stress on asking what do people want (outcomes)
• Involving people in discussions
• Promoting them to be in control of the process
• Offering more advocacy
• Accepting risk
• New term Adult at Risk
A Famous Five

- Sets out Local Authority responsibilities for Adult Safeguarding in primary legislation
- Responsibility to ensure enquiries are made
- Statutory footing SABs and SCR (now SARs)
- Information sharing duties
Also

• Statutory duty (s81 CA) of candour on care providers to own up (also Health & Social Care Act Regs 2014)

• Fit and proper person test for NHS Board Directors (same Regs)

• Criminal offence of providing misleading info eg hospital mortality data (s92 CA)
Key resources

Department of Health’s Care and Support Reform Programme:

• The Local Government Association (LGA),
• Association of Directors & Adult Social Services (ADASS)
• Care Act Guidance 2014
• Funding to SCIE
Safeguarding Adults Board

- Consult on and produce annual strategic plan (actions by all)
- Annual report (providing info re any Safeguarding Adult Reviews and local work)
- Plain English!
Care Act change

• Provider has role to make enquiries (unless conflicted)
• SAB may want to set up a Safeguarding Adults Review if concerns about systems emerge
• SAB may address questions of action/inaction
• LA may focus on & ask about ‘outcomes’ eg investigation ok? voices hear? feel safer?
• BUT no change to MCA + DBS
Example: the enquiry

Mr X is allegedly bullied by a neighbour who steals from him and sexually abuses him.

‘Local authorities must make enquiries, or ensure others do so, if it reasonably suspects an adult who has care and support needs and is, or is at risk of, being abused or neglected and unable to protect themself against the abuse or neglect or risk of it because of those needs.’

(Guidance 2014, para 14.36)
Care Act changes?

- Part of growing emphasis on what Mr X wants
- Potential for advocate (beyond IMCA)
- More emphasis on role of other parts of LA and partners (all need policies & procedures)
- Greater requirement for information sharing
Post enquiry – add to care plan

• Ideas?

steps to assure future safety; provision of any support, treatment/therapy including advocacy (beyond IMCA); any modifications of how services are provided; how best to support person re justice or redress; any on-going risk management strategy.

(Guidance, para. 14.68)
But other legislation on/off horizon

• New offence of wilful neglect and ill-treatment Criminal Justice and Courts Bill 2014 (adds to MCA S44)

• No power of entry (much debated – current provisions summarised by SCIE 2014)
summary

What should be used in assessing the effectiveness of the Care Act around safeguarding?

• Important to consider national & local data and trends
• Systems work at prevention & response
• Greater clarity about balance between over and under-protection?
• Statutory means ‘a must do’
End point

‘What good is it making someone safer if it merely makes them miserable? We must tolerate acceptable risks as the price appropriately to be paid in order to achieve some other good – in particular to achieve the vital good of the elderly or vulnerable person’s happiness.’

Lord Justice Munby, re MM
Thank you for listening

Disclaimer and Acknowledgements

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