

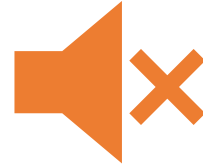
Legal powers
to support
adults at risk
access justice

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BSAB Independent
Chair



Webinar: house keeping



Please put all
microphones on
MUTE



If you would like to
ask a question,
please use the **CHAT**
function



RESPECT the stories you hear
and protect the identity of
adults at risk through
CONFIDENTIALITY



Take care of your
own **WELLBEING**
throughout this
session

The role of BSAB

- BSAB is a partnership, it includes the local authority, clinical commissioning group, police, fire service, housing, health and social care providers and voluntary organisations. The board provides partner agencies opportunities to review practice, provide positive cross-agency challenges to enable accountability and strengthen the culture of continuous improvement.
- S44 Care Act: statutory function to review cases where an adult with care and support needs dies or suffered serious harm as a result of abuse or neglect and there is reasonable cause for concern about how the SAB, members of it or other persons with relevant functions worked together to safeguard the adult.
- One of our key priorities this year is to advance equality of opportunity, including ensuring access to justice for adults at risk



BSAB - Access to Justice have:

- Completed a survey with learning disabled clients regarding their experience of financial abuse, exploring limitations of getting access to justice.
- Received assurance reports from police and mental health colleagues re availability in a timely manner of appropriate adults to support adults at risk in custody.
- Explored Carers Support linked Domestic Abuse
- Looked at Hate Crime especially Disability hate crime linked to Safeguarding
- **The Access to Justice Group are interested in hearing from Practitioners about the blockages faced by victims- how much clarity around support is available?**

Making Safeguarding Personal-

What good looks like

- Explore the likelihood and severity of harm, consider all available option and the adult's view of the impact that each choice may have on their wellbeing. Research warns against overreliance on risk tools, these should complement professional judgement and be a continuous process.
- Work collaboratively on understanding risk and underwriting safety-building trust with adult's social network, recognise protective value of increased choice and develop techniques to detect and obstruct abuse but guard against placing undue confidence on ability of individuals, families or their informal support networks to care effectively.
- Protect against unintended collusion with perpetrator- findings from DHR/SAR provide examples where victims are seen as lacking creditability due to the extreme/unbelievable nature of the abuse they report, an inability to give logical or ordered account or because they present as angry with professionals rather than a 'passive' victim.
- Build contingency into safety plans - ensuring this is a shared responsibility between professionals and the adult! Especially at times of increased risk.
- Do not ignore perpetrators responsibility for harm, stopping the abuser may assist the victim/ other family members to play a protective role.

Responding to abuse, exploitation or neglect

- Legal Literacy is essential for effective safeguarding practice, understanding how legal principles have developed as a means to protect vulnerable groups assists practitioners to tackle ethical and moral dilemmas which arise when practitioners must wrestle seemingly conflicting duties or work with those at high risk of harm, but who display complex and contradictory responses to offers of help and support.
- Whilst a safeguarding plan is not a care and support plan, that too should include steps needed to prevent escalation of need or mitigate risk of abuse/ neglect.
- The principles of lawful best practice should inform plans, so that they comply with MCA and MSP principles, shaped by human rights and strengths-based practice. The focus must be on what steps are necessary to assure the future safety of the adult at risk, including supporting them through any action they wish to take (or is required, e.g. criminal proceedings) to seek justice or redress.

Utilise Investigative powers:

Remember public law principles and protect against unconscious bias.

Local Authorities are entitled to disclosure of reasonable information in order to carry out their safeguarding and assessment functions. If necessary:

- Highlight duty to disclose and LA powers to investigate fraud under RIPA 2000, or recover against 3rd parties under s423 Insolvency Act 1986, but also review information that is available, check previous assessments, case notes, local authority records re Council Tax etc.
- Involve other depts, e.g. Trading Standards, Audit and Investigation and partner agencies with powers to investigate- Police or Office of the Public Guardian
- Consider if partner agencies may have a power of entry to assist in information gathering.
- Set out the basis of your case and offer the adult at risk the opportunity to comment, you may also have a duty to disclose concerns to the person alleged to have caused harm so consider how best to do this.
- Seek legal advice on relevant proceedings. If necessary, as part of the Court proceedings, you can seek further disclosure under the Civil Procedure Rules.



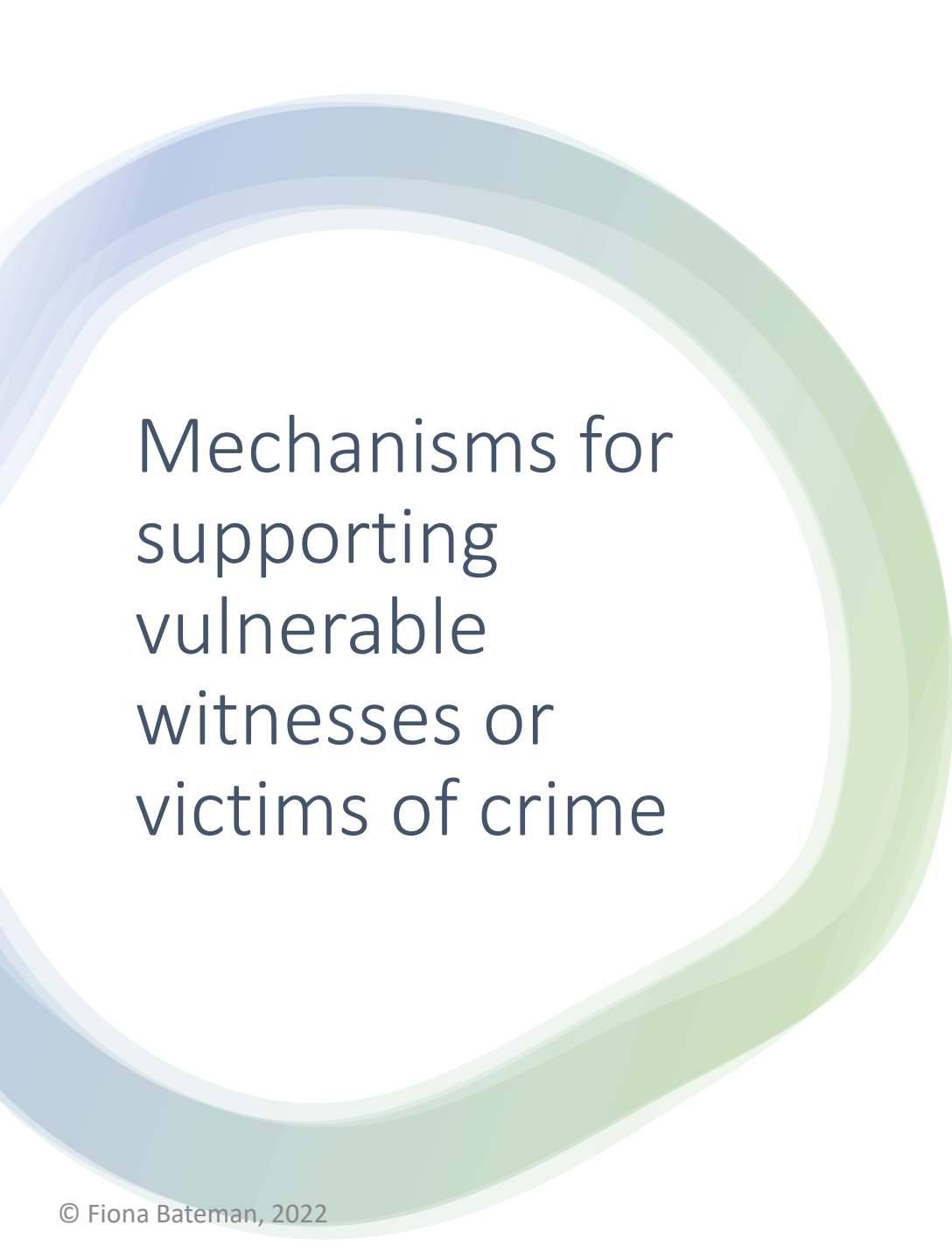
Lawful

Reasonable

Fair

When an adult has experienced abuse, consider:

- the person's capacity to protect themselves: focus on the specific issue and address within the assessment whether the individual "*can comprehend and weigh the salient details relevant to a decision to be made.*" Apply the correct legal test on that issue of capacity, it will not be sufficient to rely on a generic capacity assessments. Consider if they could instruct legal advisors to pursue/ defend proceedings and whether there is a duty to appoint an advocate.
- Consider also if their decision making might be impaired by coercive control, undue influence or duress or if the alleged perpetrator was in a position of trust. If so, ensure any protection plan addresses how to 'achieve best evidence' and refer to the police at the earliest opportunity if a crime is suspected.
- Identify risk correctly: pro-active duty which requires active investigation with relevant partners to obtain pertinent information. You must take into account everything you can reasonably be expected to know and respond appropriately. Be confident, if necessary, use the SAB's information sharing protocol and escalation process!
- Engage the person's established support network: EPA/LPA and deputies have legal authority to make binding decisions so practitioners can't ignore their views based on different opinion of 'best interests'.
- Family/ friends may remain important to the adult at risk, so consideration is needed about how to minimise risk whilst upholding wider duties (including article 8 ECHR duties).



Mechanisms for supporting vulnerable witnesses or victims of crime

The Youth Justice and Criminal Evidence Act 1999 introduced a raft of 'special measures' to support witnesses in criminal trials give their best evidence and to help reduce some of the anxiety adults with care and support needs may feel when attending Court.

There are a range of options, such as use of screens to shield witnesses from alleged perpetrators, use of live-link or recorded evidence-in-chief and the use of an intermediary to help witnesses understand the questions they are being asked and to give their answers accurately.

Adults at risk may also be entitled to advocacy support or may benefit from input from voluntary or charitable sector, such as Victim Support.

Victim commissioners, part of the Offices of Police and Crime Commissioners, may also be a good point of contact to signpost practitioners to resources in the local area and provide details of the local strategy for victim support.

Restorative justice

Restorative justice is a process whereby all the parties with a stake in a particular occurrence of harm or risk of harm come together to resolve collectively how to deal with the aftermath of the harm or risk of harm and its implications for the future in order to safeguard the adults at risk of them. The focus, by contrast to the criminal justice system, is on those who have suffered harm (the victim, family or wider circle of support who have been impacted by abuse or neglect).

The approach is psychotherapeutic which seeks to address, understand, challenge and ultimately change values. Like mediation, this is a voluntary process, but one which could easily lead itself to safeguarding cases.



How to report concerns in Barnet: Adults at risk

Social care direct at Barnet council are the point of first contact

- **Tel 020 8359 5000 text (SMS) 07506 693707**
email socialcaredirect@barnet.Gov.Uk

Police community safety unit in an emergency 999

- **Tel 020 8200 1212 email sxmailbox-tib@met.Pnn.Police.Uk**
- What happens after you report abuse:
<https://www.Barnet.Gov.Uk/sites/default/files/assets/citizenportal/documents/adultsocialcare/whathappensafteryoureportabusebookletmay12.Pdf>
- Your concern should always be taken seriously and acknowledged. Usually, the adult at risk will be consulted and you should always be told if the concern will be investigated.
- Barnet MASH : mash@barnet.gov.uk / 0208 359 4066 / www.thebarnetscp.org.uk
- If you hadn't had this it is ok to ask again!



Further reading



- ‘Safeguarding Adults under the Care Act 2014’, Jessica Kingsley Publishers, 2017
- https://www.local.gov.uk/sites/default/files/documents/25.130%20Making%20Decisions%20on%20the%20duty_06%20WEB.pdf: LGA and ADASS guidance on decision making re s42 enquiries
- https://www.local.gov.uk/sites/default/files/documents/25.143%20Making%20Safeguarding%20Personal_04%20WEB_0.pdf: Case studies for discussion at team meetings!
- <https://www.gov.uk/government/publications/mental-capacity-act-code-of-practice>: MCA Code of Practice
- <https://www.gov.uk/government/publications/care-act-statutory-guidance/care-and-support-statutory-guidance>: Care Act statutory guidance
- <https://www.scie.org.uk/care-act-2014/safeguarding-adults/adult-safeguarding-practice-questions/>: SCIE guidance and <https://www.scie.org.uk/care-act-2014/safeguarding-adults/adult-suspected-at-risk-of-neglect-abuse/> on gaining access to an adult at risk
- http://www.cps.gov.uk/legal/p_to_r/prosecuting_crimes_against_older_people/#mental: Guidance on prosecuting crimes against adults at risk
- https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/118173/local-authority-england-wales.pdf: Guidance on Judicial process for LA powers to investigate or carry out directed surveillance
- https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/419628/Information_sharing_advice_safeguarding_practitioners.pdf: Advice for social care practitioners on duties regarding information sharing and safeguarding