



COIMISIÚN UM  
ATHCHÓIRIÚ AN DLÍ  
LAW REFORM  
COMMISSION

REPORT

A REGULATORY  
FRAMEWORK FOR ADULT  
SAFEGUARDING

VOLUME 4

(LRC 128 - 2024 Vol. 4)



## **Report**

# **A Regulatory Framework for Adult Safeguarding**

(LRC 128 - 2024)

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## **NOTES**

1. Our website uses ReachDeck which helps to improve the accessibility, readability and reach of our publications. If you have any difficulty in reading this Report, please contact us and we will do our best to assist. There are plain English and easy-to-read summaries and versions of this Report available on our website ([www.lawreform.ie](http://www.lawreform.ie)).

2. Please note that all hyperlinks in this Report were checked for accuracy at the time of final draft.



## About the Law Reform Commission

### Law Reform

Our purpose is to review Irish law and make proposals for reform. We also work on modernising the law to make it easier to access and understand. Our proposals are developed in a process which starts with a Consultation Paper. Consultation Papers examine the law and set out questions on possible changes to the law. Once a Consultation Paper is published, we invite submissions on possible changes to the law. We consult widely, consider the submissions we have received and then publish a Report setting out the Commission's analysis and recommendations.

Many of the Commission's proposals have led to changes in Irish law.

### Our mandate is provided for by law

The Law Reform Commission was established by the Law Reform Commission Act 1975 to keep the law under independent, objective and expert review.

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We make legislation more accessible to the public. We do this by offering three resources:

- **The Legislation Directory** is an online directory of amendments to primary and secondary legislation and important related information.
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In addition, we are engaged in a continuation of the Statute Law Revision Programme which aims to identify obsolete legislation for repeal.

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## Glossary

Term	Definition
Abuse	A single or repeated act or failure to act that has a negative impact on a person. Abuse can involve physical abuse, emotional abuse, sexual abuse or financial abuse. This is not an exhaustive list of the forms of abuse.
Adult at risk of harm/at-risk adult	A person who is not a child, and by reason of their physical or mental condition or other particular personal characteristics or family or life circumstance (whether permanent or otherwise) needs support to protect themselves from harm at a particular time.
Adult safeguarding	Measures that are, or may be, put in place to promote the health, safety and welfare of at-risk adults, minimise the risk of harm to at-risk adults, and support at-risk adults to protect themselves from harm.
Adult Safeguarding Review	A learning review to identify ways to improve the safety, quality and standards of adult safeguarding services in response to very serious adult safeguarding incidents that meet a high threshold. In Chapter 17, the Commission recommends that Adult Safeguarding Reviews should be established on a statutory basis in Ireland (i.e. contained in Irish legislation).
Adult safeguarding statement	A written statement prepared by a provider of a relevant service which outlines the policy, procedures and measures that the provider has in place to minimise the risk of harm to adults availing of the service including adults who are, may be, or may become at-risk adults. In Chapter 7, the Commission recommends the components of an adult safeguarding statement.
Approved centre	A service regulated by the Mental Health Commission under the Mental Health Act 2001 to provide in-patient treatment to people experiencing mental illness or mental disorders.
At-risk customer	An at-risk adult who is a customer of a regulated financial service provider.
Authorised officer	A person appointed by the Safeguarding Body to carry out functions of the Safeguarding Body under the Commission's Adult Safeguarding Bill 2024.
Autonomy	The right to make decisions and take actions that are in line with one's beliefs and values.
Barred lists	Databases containing details of individuals who are banned from working or volunteering with children or at-risk adults

	due to past behaviours (which may have fallen below the threshold for a certain criminal offence to have been committed) or because they have committed certain criminal offences. Barred lists are in place in other jurisdictions but are not currently in place in Ireland.
Capacity	Decision-making capacity as defined in the Assisted Decision-Making (Capacity) Act 2015. A person's ability to make decisions for themselves. This is based on the person's ability to make a specific decision about something, at a specific time.
Care plan	A plan that outlines the health, personal and social care needs of an adult availing of a service and how a service intends to meet those needs in line with the adult's preferences. This is usually developed between the service and the adult concerned following an assessment of care and support needs.
Care setting	The place where a person receives care, for example, a person's home, a hospital, a nursing home, a residential centre, or a day service.
Coercive control	A pattern of controlling and threatening behaviour. This is a criminal offence under section 39 of the Domestic Violence Act 2018 which criminalises a person knowingly and persistently engaging in behaviour that is controlling or coercive, has a serious effect on a person, and which a reasonable person would expect to have a serious effect on a person. In Chapter 19, the Commission recommends the creation of an offence of coercive control of a relevant person that extends to a broader category of relationships that the existing offence under the Domestic Violence Act 2018.
Coercive exploitation	A new criminal offence proposed by the Commission in Chapter 19. This proposed offence would criminalise a person who, without a reasonable excuse, controls or coerces a "relevant person" so as to get control or be able to exercise control over their property or financial resources to gain a benefit or advantage for themselves or another person.
Committee of the Person / Committee of the Estate	In the past, if a person was unable to make certain decisions because of capacity difficulties, they might have been made a ward of court. When a person was made a ward of court, a Committee was appointed to control their assets and make decisions about their affairs. This has changed since most of the provisions of the Assisted Decision-Making (Capacity) Act 2015 came into force in April 2023.

Community Organisations	Health	Nine HSE structures providing primary care, social care, mental health, and health and wellbeing services across Ireland. Community Health Organisations are currently being replaced by six health regions as part of the restructuring of the HSE.
Cooperation		A range of bodies working together for a common purpose. It involves the sharing of information, shared decision-making and responsibility, the pooling of resources, and the sharing of expertise and best practice. In Chapter 15, the Commission recommends that the Safeguarding Body, certain public service bodies and certain service providers should have a duty to cooperate with one another to address adult safeguarding concerns.
CORU		The Health and Social Care Professionals Council, otherwise known as CORU, protects the public by promoting high standards of professional conduct, education, training and competence through statutory registration of health and social care professionals in Ireland. It regulates multiple health and social care professions including social workers, occupational therapists, physiotherapists and speech and language therapists.
Cross-sectoral legislation		Legislation that applies to a variety of sectors, instead of one specific sector.
Cuckooing		A practice where a person or many people take over an at-risk adult's home and use the property for anti-social behaviour or criminal activity.
Day services		Services provided to adults with disabilities and older adults in day centres where they participate in activities such as recreational, social, leisure and rehabilitation activities. These services are usually provided in the community and are non-residential.
Decision Support Service		A service established under the Assisted Decision-Making (Capacity) Act 2015 to support people who face difficulties and need support exercising their decision-making capacity. It is a part of the Mental Health Commission, but it has a separate role. The Decision Support Service promotes awareness of the 2015 Act, regulates and registers decision support arrangements, and supervises the actions of decision supporters.
Designated centre		A service or centre within the meaning of section 2 of the Health Act 2007 that is regulated by HIQA. These services or centres are inspected and monitored by the Chief Inspector of Social Services. It includes residential centres for older people and residential centres for adults with disabilities.

DSGBV Agency (“Cuan”)	The Domestic, Sexual and Gender-Based Violence Agency, established on 1 January 2024. The legal name for the Domestic, Sexual and Gender-Based Violence Agency is An Ghníomhaireacht um Fhoréigean Baile, Gnéasach agus Inscnebhunaithe. It will be known as Cuan.
Empowerment and person-centredness	This includes the presumption of decision-making capacity; the facilitation of supported decision-making, where requested or required; ensuring informed consent; respecting the right to autonomy and the right to full and effective participation in society; the realisation of the right to independent advocacy; ensuring respect for will and preferences; ensuring respect for the right to have risks and options explained; and ensuring respect for the right to be consulted at every step of an intervention under adult safeguarding legislation.
Financial abuse	Theft, fraud, exploitation or pressure relating to wills, property, inheritance or financial transactions, including: (a) wrongful or unauthorised taking, withholding, appropriation or use of money, assets or property; (b) action or inaction to control, through deception, intimidation or undue influence, money, assets or property; or (c) wrongful interference with or denial of ownership, use, benefit or possession of money, assets or property.
Financial services	Services involving the investment, lending or management of money, assets or property that are provided by banks, post offices or credit unions.
Harm (civil)	Assault, ill-treatment, neglect or self-neglect in a manner that affects or is likely to affect health, safety or welfare of an at-risk adult, sexual abuse of an at-risk adult, or loss of, or damage to, property by theft, fraud deception or coercive exploitation. It may be a single, series or combination of acts, omissions or circumstances.
Harm (criminal)	Harm to body or mind which includes pain and unconsciousness, any injury or impairment of physical, mental, intellectual, emotional health or welfare, or any form of property or financial loss.
Health care assistant	These workers provide direct personal care and assistance with activities and daily living to patients and residents in a variety of health care settings. They work on implementing care plans and practices and work under the supervision of medical, nursing or other health professionals.
Home support services	Services providing care and assistance to older people and people with disabilities to allow them to live at home. This could include assisting older people and people with

	disabilities with their personal hygiene, their nutrition, or helping them take their medication or helping them to exercise.
HSE National Safeguarding Office	A national office established in 2015 in line with the HSE Social Care Division's Safeguarding Vulnerable Persons at Risk of Abuse National Policy and Procedures. The office oversees the implementation, monitoring, review and ongoing evaluation of the National Policy and Procedures. The office supports the work of the HSE's Safeguarding and Protection Teams.
HSE's National Policies and Procedures	The HSE's Safeguarding Vulnerable Persons at Risk of Abuse National Policy and Procedures published in 2014. It applies to HSE managed or funded disability services and older people's services, and to reports or allegations of harm in respect of adults living in the community who have disabilities or are over the age of 65.
Independent advocacy/ independent advocate	Advocacy support that is provided by an organisation or person who is independent from health and social care service providers and the family of the person receiving the advocacy support. An independent advocate can empower a person to express their will and preferences, communicate their perspectives and engage in decision-making processes that affect their lives.
Inherent jurisdiction of the High Court	A set of default powers, not contained in legislation, which arise from Article 34.3.1° of the Constitution. The powers have been used on a case-by-case basis to vindicate the fundamental constitutional rights of children and certain categories of adults.
International protection	Protection granted by the Government to someone who has left another country to escape being harmed or persecuted. This may include refugee status, subsidiary protection, permission to remain or temporary protection.
Issues Paper	The Law Reform Commission's Issues Paper on a Regulatory Framework for Adult Safeguarding (LRC IP 18-2019) which was published in January 2020.
Mandated person	People who are required by legislation to report actual or suspected abuse. The classes of persons (usually specific professions) who are subject to reporting requirements are generally listed in a schedule to legislation. In this report, where a mandated person knows, believes or suspects, that an at-risk adult has been harmed, is being harmed, or is at risk of being harmed, the Commission recommends that they should be under a statutory duty to report that knowledge, belief or suspicion as soon as possible to the

	Safeguarding Body. See the definition of “reportable harm” below.
Mandatory reporting	Requires the reporting of certain types of actual or suspected abuse or neglect or requires reporting of actual or suspected abuse or neglect in particular settings only, for example, a nursing home. It can also require the reporting of actual or suspected abuse by mandated persons.
Neglect	Neglect in a manner likely to cause an adult suffering or injury to their health or to seriously affect their wellbeing means a failure to adequately protect an adult under a person’s care from preventable and foreseeable harm, a failure to provide adequate food, clothing, heating or medical aid, or in circumstances where a person cannot look after an adult under their care, a failure to take steps to have them looked after under relevant legislation.
No-contact order	<p>An order proposed in Chapter 13 to be available under adult safeguarding legislation. If granted by the District Court, the order would prevent a non-intimate and non-cohabitating third party from engaging in one or more of the following behaviours:</p> <ul style="list-style-type: none"> <li>(a) following, watching, pestering or communicating (including by electronic means) with or about an at-risk adult for whose protection the order is made;</li> <li>(b) attending at, or in the vicinity of, or besetting a place where the at-risk adult resides;</li> <li>(c) approaching or coming within a specified distance of the at-risk adult.</li> </ul> <p>In addition to “full” no-contact orders, which may last for up to two years, the Commission recommends that interim and emergency no-contact orders be available in particular cases.</p>
Permissive reporting	Permits people to report actual or suspected abuse or neglect of at-risk adults but does not require them by law to do so.
Personal plan	A plan specific to an adult availing of a service that reflects their needs, wishes, abilities and aspirations. Personal plans typically outline the goals an adult wants to achieve and how the service will support them in their personal development. They are tailored to the individual and developed between the service and the adult concerned.

Policing and Community Safety Authority	A body that will soon be established under the Policing, Security and Community Safety Act 2024. Its legal name will be An tÚdarás Póilíneachta agus Sábháilteachta Pobail.
Power of access to at-risk adults in places including private dwellings	A proposed power to allow authorised officers of the Safeguarding Body or members of the Garda Síochána, or both, to access at-risk adults in places, including private dwellings, to assess their health, safety or welfare. This power is exercisable on foot of a warrant issued by the District Court, which will be valid for three days.
Power of entry to and inspection of relevant premises	A proposed power to allow authorised officers of the Safeguarding Body to enter and inspect relevant premises to assess the health, safety or welfare of at-risk adults. The power is exercisable without a warrant, although a warrant may be obtained if entry and inspection is being obstructed. This would allow for accompaniment by a member of the Garda Síochána.
Power of removal and transfer	A proposed power to allow members of the Garda Síochána, accompanied by authorised officers of the Safeguarding Body, where possible, to remove an at-risk adult from where they currently are, and transfer them to a designated health or social care facility or other suitable place. The power would not allow for detention of an at-risk adult in the facility or suitable place. The power is exercised to assess the at-risk adult's health, safety and welfare, and assess whether any actions are needed to safeguard them, where this cannot be done in the place where the at-risk adult currently is. This power is exercisable on foot of an order issued by the District Court and is valid for three days.
Prevention	Proactive steps are taken to minimise the risk of harm to adults, including adults who are, may be or may become at-risk adults before harm occurs.
Relevant person	The term used to describe a specific category of at-risk adults against whom the Commission's proposed offences in Chapter 19 can be committed. A relevant person means an adult whose ability to guard themselves against violence, exploitation, abuse or neglect by another person is significantly impaired through (a) a physical disability, physical frailty, illness or injury, (b) a disorder of the mind, such as mental illness or dementia, (c) an intellectual disability, (d) autism spectrum disorder.
Regulated financial service provider	A financial service provider whose service is regulated by the Central Bank of Ireland or an authority in a country in the European Union, Iceland, Liechtenstein or Norway whose

	functions are comparable to the functions of the Central Bank of Ireland.
Regulated profession	A profession where access to, or the practice of, the profession is restricted to those who meet professional qualifications required by law.
Relevant premises	Certain premises in which adults, who may be at-risk adults, are likely to be residing in, and in receipt of care or services. This includes “designated centres”, “approved centres”, hospitals and residential centres for adults in the international protection process. The full list of premises is set out in Chapter 10.
Relevant service	Any work or activity provided by a person or organisation, a necessary and regular part of which consists mainly of a person or organisation having access to, or contact with adults, or adults who are, may be, or may become at-risk adults.
Reportable harm	Assault, ill-treatment or neglect in a manner that seriously affects, or is likely to seriously affect, health, safety or welfare, sexual abuse, or serious loss of, or damage to, property by theft, fraud, deception or coercive exploitation. This harm can be caused by a single act, omission or circumstances, or a series or combination of acts, omissions or circumstances. It excludes self-neglect where the person has capacity or is believed to have capacity to make personal care or welfare decisions.
Residential care settings	Where an adult who is, may be, or may become an at-risk adult is living in residential care, such as a public or private nursing home or a residential centre for people with disabilities, including a centre providing temporary residential respite care.
Rights-based approach	Ensuring that the rights of at-risk adults are respected, including their rights to autonomy, respect, dignity, bodily integrity, privacy, control over financial affairs and property, non-discrimination, equal treatment in respect of access to basic goods and services, and respect for their beliefs and values.
Risk assessment	A process to identify any risks arising in the provision of services to adults or adults who are, may be, or may become at-risk adults.
Safeguarding and Protection Teams	Teams of social workers established within the HSE, with responsibility for assessing and managing reports or concerns regarding abuse or neglect in HSE managed and



	<p>funded services for older people and people with disabilities, and safeguarding referrals arising in the community.</p> <p>The teams support services in investigating reports, and directly assess complex cases. They also provide quality assurance, oversight and advisory support to HSE managed and funded services for older people and people with disabilities, provide training regarding adult safeguarding, and collate and publish data.</p>
Safeguarding plan	<p>A plan that is prepared where there is an adult safeguarding concern in relation to an adult availing of a service. It outlines the planned actions that have been identified to address the adult's needs and minimise the risk of harm to that adult or other adults within the service. It may be incorporated into a care plan or personal plan.</p>
Self-neglect	<p>Inability, unwillingness or failure of an adult to meet their basic physical, emotional, social or psychological needs, which is likely to seriously affect their wellbeing.</p>
Serious harm	<p>Injury which creates a substantial risk of death, is of a psychological nature which has a significant impact or causes permanent disfigurement or loss or impairment of the mobility of a body as a whole or of the function of any particular member or organ.</p>
Social care	<p>The planning and provision of services and supports to individuals who need them. This may include, for example, the provision of "Meals on Wheels", personal assistance, home care and home support, nursing care or residential services.</p> <p>It also encompasses delivery mechanisms and processes such as eligibility assessments and personal budgets.</p>
Summary power of access to at-risk adults in places including private dwellings	<p>A proposed power to allow members of the Garda Síochána to access at-risk adults in places including private dwellings, where the member reasonably believes there is a risk to the life and limb of the at-risk adult.</p> <p>This power is exercisable without a warrant, and is to be used when there is insufficient time to make an application for a warrant for access to the District Court. This summary power reflects the existing position under the common law, but adds clarity and strengthens the applicable safeguards.</p>
Transitional care arrangements	<p>Arrangements for young people as they move from the care of the State to aftercare, independent living, supported living or residential care. They can also be put in place when</p>

	young people move from children’s social care services to adult social care services.
Undue Influence	Exploitation of a position of power to cause a person to act, or not act, in a way that is detrimental to their best interests and which confers, or intends to confer, a benefit or advantage on another person.
United Nations Convention on the Rights of Persons with Disabilities (“UNCRPD”)	An international agreement which aims to protect the human rights and fundamental freedoms of people with disabilities.
Universal mandatory reporting	Requires everyone to report actual or suspected abuse or neglect of at-risk adults, irrespective of the setting or profession.
Vetting	Enquires and examinations conducted by the National Vetting Bureau of the Garda Síochána, employers recruiting employees or bodies recruiting volunteers to determine whether or not a person applying for work or activity, a necessary and regular part of which consists mainly of the person having access to, or contact with, children or “vulnerable persons”, has a criminal history or criminal convictions. This is required by Irish vetting legislation for some professions and volunteer groups.
Ward of Court	In the past, if a person was unable to make certain decisions because of capacity difficulties, they might have been made a Ward of Court to protect them and their property. When a person was made a Ward of Court, a Committee was appointed to control their property and finances and make decisions about their affairs, including their welfare. This has changed since most of the provisions of the Assisted Decision-Making (Capacity) Act 2015 came into force in April 2023.
Wardship	The legal practice of a person being made a Ward of Court. The purpose of wardship was to protect the person and their property and finances when they lacked the capacity to do so themselves. The arrangements under the Assisted Decision Making (Capacity) Act 2015 are now replacing wardship, and all existing Wards of Court are being gradually discharged from wardship.
Warrant	An order granted by a court, usually allowing named individuals (such as members of the Garda Síochána) to enter a particular place and search it. The Commission discusses warrants for access in the adult safeguarding context in Chapters 10 and 11.

The following abbreviations are used throughout this Report:

<b>Abbreviation</b>	<b>Definition</b>
ALRC	Australian Law Reform Commission
APC	Adult Protection Committee
ASPP	Adult Support and Protection Partnership
ASU	Adult Safeguarding Unit (South Australia)
CBI	Central Bank of Ireland
CCPC	Competition and Consumer Protection Commission
CEO	Chief Executive Officer
CFA	Child and Family Agency
CHO	Community Health Organisation
CIB	Citizen's Information Board
CIS	Care Inspectorate Scotland
CIW	Care Inspectorate Wales
CO	Chief Officer of the HSE Community Health Organisation
COG	Chief Officer Group in the HSE
CORU	Health and Social Care Professionals Council
CPC	Consumer Protection Code
CQC	Care Quality Commission
DBS	Disclosure and Barring Service
DHSSPS	Department of Health, Social Services and Public Safety in Northern Ireland
DPA	Data Protection Act
DPC	Data Protection Commission
DPO	Data Protection Officer
DSGBV	Domestic, Sexual and Gender Based Violence
DSS	Decision Support Service
ECB	European Central Bank
ECHR	European Convention on Human Rights
ECtHR	European Court of Human Rights
EDPB	European Data Protection Board
EEA	European Economic Area
EU	European Union
GDPR	General Data Protection Regulation (EU) 2016/679
HCA	Health Care Assistant
HCCI	Home and Community Care Ireland
HCSA	Health Care Support Assistant
HETAC	Higher Education and Training Awards Council
HIQA	Health Information and Quality Authority
HIS	Healthcare Improvement Scotland
HMICS	His Majesty's Inspectorate of Constabulary in Scotland

HSE	Health Service Executive
HSENI	Health and Safety Executive for Northern Ireland
IASW	Irish Association of Social Workers
ICO	Information Commissioner's Office
IFSAT	Irish Financial Services Appeal Tribunal
IHA	Integrated Health Area
IPAS	International Protection Accommodation Service
ISCO	International Standard Classification of Occupations
LCDC	Local Community Development Committee
LCSP	Local Community Safety Partnership
LED	Law Enforcement Directive (EU) 2016/680
MABS	Money Advice and Budgeting Service
MHC	Mental Health Commission
NAS	National Advocacy Service for People with Disabilities
NDA	National Disability Authority
NGO	Non-governmental organisation
NHS	National Health Service
NISCC	Northern Ireland Social Care Council
NIRP	National Independent Review Panel
NMBI	Nursing and Midwifery Board of Ireland
NPHE	National Public Health Emergency Team
NMBI	Nursing and Midwifery Board of Ireland
NSO	National Safeguarding Office
OECD	Organisation for Economic Co-operation and Development
OPCAT	United Nations Optional Protocol to the Convention against Torture
PAS	Patient Advocacy Service
PHA	Public Health Agency
PSNI	Police Service of Northern Ireland
QQI	Quality and Qualifications Ireland
RFSP	Regulated Financial Service Provider
RQIA	Regulation and Quality Improvement Authority (Northern Ireland)
SAB	Safeguarding Adults Board
SAI	Serious Adverse Incident
SALRI	South Australia Law Reform Institute
SAO	Senior Accountable Officer according to HSE Incident Management Framework
SAR	Safeguarding Adult Review
SCR	Serious Case Review
SEC	Securities and Exchange Commission
SPT	Safeguarding and Protection Team

SPPG	Strategic Planning and Performance Group in Northern Ireland
SRE	Serious Reportable Event
SSSC	Scottish Social Services Council
SUSR	Single Unified Safeguarding Review (Wales)
UNCRPD	United Nations Convention on the Rights of Persons with Disabilities
VCPR	Voluntary Care Professional Register
WHO	World Health Organisation



# APPENDIX A

## SUMMARY OF RECOMMENDATIONS

[A.1] This appendix contains a summary of all of the recommendations made by the Commission in this Report.

### Chapter 1: The Need for a Regulatory Framework for Adult Safeguarding

- R. 1.1 The Commission recommends that** adult safeguarding legislation should be introduced in Ireland.
- R. 1.2 The Commission recommends that** the Government should consider whether it would be appropriate to introduce a comprehensive statutory framework for social care.

### Chapter 2: Defining Key Statutory Terms in Adult Safeguarding Legislation

- R. 2.1 The Commission recommends that** the term “adult at risk of harm” should be used in adult safeguarding legislation.
- R. 2.2 The Commission recommends that** “adult at risk of harm” should be defined in adult safeguarding legislation as:

“Adult at risk of harm” means an adult who by reason of their physical or mental condition or other particular personal characteristics or family or life circumstance (whether permanent or otherwise) needs support to protect himself or herself from harm at a particular time.

- R. 2.3 The Commission recommends that** “safeguarding” should be defined in adult safeguarding legislation as:

“Safeguarding” means measures that are, or may be, put in place to promote the health, safety and welfare of adults at risk of harm including to—

- (a) minimise the risk of harm to adults at risk of harm, and
- (b) support adults at risk of harm to protect themselves from harm at a particular time.

- R. 2.4 The Commission recommends that** “safeguarding plan” should be defined in adult safeguarding legislation as:

“Safeguarding plan” means a documentary record of the planned actions that have been identified to promote the health, safety and welfare of an adult at risk of harm, including to—

- (a) minimise the risk of harm to an adult at risk of harm, and
- (b) support an adult at risk of harm to protect himself or herself from harm at a particular time.

**R. 2.5 The Commission recommends that “capacity”** should be defined in adult safeguarding legislation as:

“Capacity” has the same meaning as it has in the Assisted Decision-Making (Capacity) Act 2015.

**R. 2.6 The Commission recommends that “harm”** should be defined in civil adult safeguarding legislation as:

“Harm” means—

- (a) assault, ill-treatment or neglect in a manner that affects, or is likely to affect, health, safety or welfare,
- (b) sexual abuse, or
- (c) loss of, or damage to, property by theft, fraud, deception or coercive exploitation,

whether caused by a single act, omission or circumstance or a series or combination of acts, omissions or circumstances, or otherwise.

**R. 2.7 The Commission recommends that “reportable harm”** should be defined in adult safeguarding legislation as:

“Reportable harm” means—

- (a) assault, ill-treatment or neglect in a manner that seriously affects, or is likely to seriously affect, health, safety or welfare,
- (b) sexual abuse, or
- (c) serious loss of, or damage to, property by theft, fraud, deception or coercive exploitation,

whether caused by a single act, omission or circumstance or a series or combination of acts, omissions or circumstances, or otherwise.

**R. 2.8 The Commission recommends that “reportable harm”** should be construed in adult safeguarding legislation as excluding “self-neglect” other than where a mandated person has—



- (a) assessed an adult who is reasonably believed to be an adult at risk of harm as lacking capacity, or
- (b) a belief, based on reasonable grounds, that the adult who is reasonably believed to be an adult at risk of harm lacks capacity,

to make personal care or welfare decisions at the particular point in time when the mandated person knows, believes or has reasonable grounds to suspect that the adult is self-neglecting.

**R. 2.9 The Commission recommends that “harm” should be defined in criminal adult safeguarding legislation as:**

“Harm” means—

- (a) harm to body or mind and includes pain and unconsciousness,
- (b) any injury or impairment of physical, mental, intellectual, emotional health or welfare, or
- (c) any form of property or financial loss.

**R. 2.10 The Commission recommends that “serious harm” should be defined in criminal adult safeguarding legislation as:**

“Serious harm” means injury which—

- (a) creates a substantial risk of death,
- (b) is of a psychological nature which has a significant impact, or
- (c) causes permanent disfigurement or loss or impairment of the mobility of the body as a whole or of the function of any particular member or organ.

**R. 2.11 The Commission recommends that “neglect” should be defined in criminal adult safeguarding legislation as:**

“Neglect”, in a manner likely to cause suffering or injury to health, or to seriously affect wellbeing, means—

- (a) a failure to adequately protect a relevant person<sup>1</sup> under a person’s care from preventable and foreseeable harm,

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<sup>1</sup> The Commission’s Criminal Law (Adult Safeguarding) Bill 2024 defines a “relevant person” as “a person, other than a child, whose ability to guard himself or herself against violence,

(b) a failure to provide adequate food, clothing, heating or medical aid for a relevant person under a person’s care, or

(c) in the case a person being unable to provide such—

(i) protection from harm, or

(ii) food, clothing, heating or medical aid,

to a relevant person under his or her care, a failure to take steps to have each provided under the enactments relating to health, social welfare or housing.

**R. 2.12 The Commission recommends that “neglect” should be defined in civil adult safeguarding legislation as:**

“Neglect”, in a manner likely to cause suffering or injury to health, or to seriously affect wellbeing, means—

(a) a failure to adequately protect an adult under a person’s care from preventable and foreseeable harm,

(b) a failure to provide adequate food, clothing, heating or medical aid for an adult under a person’s care, or

(c) in the case of a person being unable to provide such—

(i) protection from harm, or

(ii) food, clothing, heating or medical aid,

to an adult under his or her care, fails to take steps to have it provided under the enactments relating to health, social welfare or housing.

**R. 2.13 The Commission recommends that “self-neglect” should be defined in adult safeguarding legislation as:**

“Self-neglect” means the inability, unwillingness or failure of an adult to meet his or her basic physical, emotional, social or psychological needs, which is likely to seriously affect his or her wellbeing.

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exploitation or abuse, whether physical, sexual or emotional, or neglect, by another person is significantly impaired through one, or more, of the following: (a) a physical disability, a physical frailty, an illness or an injury; (b) a disorder of the mind, whether as a result of mental illness or dementia; (c) an intellectual disability; (d) autism spectrum disorder”. The Commission’s Criminal Law (Adult Safeguarding) Bill 2024 defines a “child” as “a person who has not attained the age of 18 years”.

**R. 2.14 The Commission recommends that** statutory guidance should be provided in relation to the definition of “self-neglect” in adult safeguarding legislation, which should include guidance on:

- (a) safeguarding adults at risk of harm who are self-neglecting; and
- (b) engaging with, and offering optional supports to, adults who are self-neglecting and who have capacity to choose to self-neglect.

## Chapter 3: Guiding Principles Underpinning Adult Safeguarding Legislation

**R. 3.1 The Commission recommends that** the following principles should be adopted as the guiding principles to underpin adult safeguarding legislation in Ireland:

1. **A rights-based approach:** this means ensuring that the rights of at-risk adults are respected, including their rights to autonomy, respect, dignity, bodily integrity, privacy, control over financial affairs and property, non-discrimination, equal treatment in respect of access to basic goods and services, and respect for their beliefs and values.
2. **Empowerment and person-centredness:** this means:
  - (a) the presumption of decision-making capacity;
  - (b) the facilitation of supported decision-making, where requested or required;
  - (c) ensuring informed consent;
  - (d) respecting the right to autonomy and the right to full and effective participation in society;
  - (e) the realisation of the right to independent advocacy;
  - (f) ensuring respect for will and preferences;
  - (g) ensuring respect for the right to have risks and options explained; and
  - (h) ensuring respect for the right to be consulted at every step of an action or intervention under adult safeguarding legislation.
3. **Protection:** this means:

- (a) responding effectively to actual or suspected abuse or safeguarding concerns in relation to at-risk adults;
- (b) protective steps are taken to ensure that safeguarding actions or interventions are taken to protect at-risk adults from harm;
- (c) support is provided to protect the safety and dignity of at-risk adults and to protect the physical, mental and emotional wellbeing of at-risk adults; and
- (d) protective measures are taken in relation to adult safeguarding legislation, including to ensure that:
  - (i) the Safeguarding Body and its authorised officers are provided with training regarding the legislation and the exercise of functions under the legislation;
  - (ii) the Safeguarding Body and its authorised officers who are engaged in exercising functions under the legislation to protect at-risk adults from harm are obliged and facilitated to complete training on these principles, as well as training on their specific roles, before exercising any functions under the legislation; and
  - (iii) adequate mentoring and supervision of authorised officers is provided.

4. **Prevention:** this means:

- (a) proactive steps are taken to ensure that safeguarding actions or interventions are taken to prevent harm to at-risk adults;
- (b) support is provided to ensure the safety and dignity of at-risk adults and to promote the physical, mental and emotional wellbeing of at-risk adults; and
- (c) proactive measures are taken in relation to adult safeguarding legislation, including to ensure that:
  - (i) the Safeguarding Body and its authorised officers are provided with training regarding the legislation and the exercise of functions under the legislation;
  - (ii) the Safeguarding Body and its authorised officers who are engaged in exercising functions under the legislation to

prevent harm to at-risk adults are obliged and facilitated to complete training on these principles, as well as training on their specific roles, before exercising any functions under the legislation; and

(iii) adequate mentoring and supervision of authorised officers is provided.

5. **Proportionality:** this means ensuring that actions or interventions under adult safeguarding legislation:

- (a) are necessary, having regard to the circumstances of each at-risk adult;
- (b) are, insofar as possible, the least intrusive and restrictive of the freedom of an at-risk adult;
- (c) are proportionate to the level of risk presented to an at-risk adult;
- (d) are limited to the necessary duration;
- (e) adopt a trauma-informed approach; and
- (f) are monitored and evaluated regularly, in accordance with international best practice.

6. **Integration and cooperation:** this means that:

- (a) coordinated and cohesive responses should be taken, in accordance with adult safeguarding legislation, to recognise the potential for harm and to prevent harm to at-risk adults;
- (b) services should be integrated and coordinated, multidisciplinary responses to prevent and address adult safeguarding concerns should be taken in accordance with adult safeguarding legislation; and
- (c) national sectoral policies should be aligned with adult safeguarding legislation to ensure the consistency of practice, policy and legislation across sectors.

7. **Accountability:** this means ensuring:

- (a) accountability and transparency in adult safeguarding;

- (b) that the Safeguarding Body and its authorised officers who take actions or interventions under adult safeguarding legislation are accountable and answerable for their actions or interventions;
- (c) that services are transparent and it is clear how the providers of relevant services to at-risk adults respond to safeguarding concerns under adult safeguarding legislation; and
- (d) that proper procedures are implemented for risk management, ownership, information sharing and reporting.

## Chapter 4: A Rights-Based Adult Safeguarding Framework

**R. 4.1 The Commission recommends that** in deciding whether to grant any safeguarding order, whether a warrant for access to a relevant premises, a warrant for access to a place including a private dwelling, a removal and transfer order or any form of no-contact order, the legislation should provide that the court must adopt the least intrusive means possible to meet the objective of safeguarding and protecting the health, safety and welfare of the at-risk adult in the particular circumstances.

## Chapter 5: A Safeguarding Body: Functions, Duties and Powers

**R. 5.1 The Commission recommends that** adult safeguarding legislation should provide for the establishment of a Safeguarding Body with a primary statutory function to promote the health, safety and welfare of adults who need support to protect themselves from harm at a particular time.

**R. 5.2 The Commission recommends that** the proposed adult safeguarding legislation should provide for a duty on the Safeguarding Body to receive reports from persons who know, believe or suspect that an adult at risk of harm has been harmed, is being harmed or is at risk of being harmed.

**R. 5.3 The Commission recommends that** the proposed adult safeguarding legislation should provide for a duty on the Safeguarding Body to take whatever action it deems necessary to safeguard an at-risk adult where it believes, based on reasonable grounds, that there is a risk to the health, safety or welfare of the at-risk adult. Such actions may include one or more of the following—

- (a) an intervention under Part 6 of the Adult Safeguarding Bill 2024 where the relevant criteria, as set out in that Part, are met;

- (b) making a report to a professional regulatory body where a member of the relevant profession is a person believed to pose a risk to the health, safety or welfare of an at-risk adult;
- (c) making a report to the Director of the Decision Support Service in accordance with the functions of the Director under the Assisted Decision-Making (Capacity) Act 2015;
- (d) making an application to the Circuit Court under Part 5 of the Assisted Decision-Making (Capacity) Act 2015;
- (e) preparing a safeguarding plan in respect of a particular at-risk adult in specific circumstances;
- (f) cooperating with other agencies to develop a safeguarding plan or take any other actions which the Safeguarding Body considers appropriate, to safeguard an at-risk adult; or
- (g) sharing information with another relevant body pursuant to Part 11 of the Adult Safeguarding Bill 2024.

**R. 5.4 The Commission recommends that** adult safeguarding legislation should provide for the Safeguarding Body to have all such powers as are necessary or expedient for, or incidental to, the performance of its functions, which may include the making of such enquiries as it considers appropriate. This would allow the Safeguarding Body to make enquiries for the purposes of exercising its primary function to promote the health, safety and welfare of at-risk adults.

**R. 5.5 The Commission recommends that** adult safeguarding legislation should provide for a statutory power of the Safeguarding Body to prepare a safeguarding plan or cooperate with other agencies in the preparation of a safeguarding plan where the Safeguarding Body: (a) believes that the development of such a plan is necessary; and (b) determines that it would not be more appropriate for a provider of a relevant service to independently prepare a safeguarding plan.

**R. 5.6 The Commission recommends that** the Safeguarding Body should have a statutory function to provide training, information and guidance to publicly and privately funded providers of relevant services and their staff, mandated persons and any other appropriate persons, as determined by the Safeguarding Body or designated by a relevant Minister.

**R. 5.7 The Commission recommends that** the Safeguarding Body should have a statutory function to provide information to the public in relation to its primary

function to promote the health, safety and welfare of adults who need support to protect themselves from harm.

**R. 5.8 The Commission recommends that** the Safeguarding Body should have statutory functions to

(a) collect, evaluate and publish data; and

(b) undertake or commission research or collaborate in research

related to its primary statutory function to promote the health, safety and welfare of at-risk adults who need support to protect themselves from harm.

## **Chapter 6: Organisational and Regulatory Structures: A Safeguarding Body and Powers of Various Regulatory Bodies**

**R. 6.1 The Commission recommends that** a designated Safeguarding Body should be established, as a statutory social work-led adult safeguarding body with the statutory functions and duties recommended in Chapter 5.

**R. 6.2 The Commission recommends that** the functions, duties and powers of the Safeguarding Body proposed in Chapter 5 and recommendations applying to Safeguarding Body in this Report should apply regardless of whether the Government decides to establish the Safeguarding Body as a new independent statutory adult safeguarding body or as a statutory adult safeguarding office within an existing agency. Any recommendations in this Report which apply to the Safeguarding Body shall apply to it regardless of its organisational structure.

**R. 6.3 The Commission recommends that** if the Government decides that it cannot, or should not, make a decision regarding the appropriate organisational structure in the short term, the Safeguarding Body should be established as a statutory office within the HSE on an interim basis - unless the Government decides that it should be so established on a permanent basis. If established, the statutory National Adult Safeguarding Office, should be conferred with the statutory powers and functions recommended in this Report until the Government determines whether the Safeguarding Body should be established as a new independent organisation or within an existing organisation, and if so, which organisation.

**R. 6.4 The Commission recommends that** if established, the Safeguarding Body as the National Adult Safeguarding Office within the HSE should, insofar as is practicable, operate independently from the HSE Social Care Division in the performance of its functions.



**R. 6.5 The Commission recommends that** an existing regulator or a joint inspection model comprised of multiple existing regulators should have functions to regulate social work-led adult safeguarding services provided by the Safeguarding Body. The Commission believes that should be achieved by:

- (a) extending the existing functions of HIQA in relation to setting standards and inspecting compliance with standards to include the regulation of social work-led adult safeguarding services; or
- (b) the conferring of relevant functions on multiple regulatory bodies to be designated and/or established by the Government to form a joint inspection model, which could be led by one regulator such as HIQA in recognition of HIQA's experience in inspecting child social care services.

## **Chapter 7: Imposing Safeguarding Duties on Certain Service Providers**

**R. 7.1 The Commission recommends that** all the safeguarding duties proposed in this Chapter should apply to providers of a "relevant service" and that a relevant service should be defined as "any work or activity which is carried out by a person or organisation, a necessary and regular part of which consists mainly of a person or organisation having access to, or contact with, adults, or adults who are, may be or may become adults at risk of harm".

**R. 7.2 The Commission recommends that** relevant services should include:

- (a) a "designated centre" within the meaning of section 2(1) of the Health Act 2007, insofar as it relates to an institution where residential services are provided to older people or to adults with disabilities;
- (b) a service that provides care to adults in private dwellings;
- (c) a service that provides day services to adults with disabilities;
- (d) a service that provides day services to older people;
- (e) a service that provides personal assistance to adults with disabilities;
- (f) a hospital, hospice, health care centre or other centre which receives, treats or otherwise provides physical services to adults;

- (g) a service that receives, treats or provides mental health services to adults including approved centres under the Mental Health Act 2001;
- (h) a reception or accommodation centre which provides residential accommodation services to adults in the international protection process managed by, or under contract to the Department of Children, Equality, Disability, Integration and Youth;
- (i) a centre which provides refuge accommodation services for victims of domestic, sexual or gender-based violence;
- (j) a centre which provides residential accommodation services for the purposes of providing substance misuse services;
- (k) a centre which provides residential accommodation services to adults experiencing homelessness;
- (l) a service that provides treatment (including assessment which may lead to treatment), therapy or counselling to an adult;
- (m) any work or activity as a driver of, or as an assistant to the driver, or as a conductor, or as a supervisor of adults using a vehicle which is being hired or used only for the purpose of conveying adults to or from day services or respite services and related activities of such services;
- (n) any work or activity which is carried out by a member of the Garda Síochána, a necessary and regular part of which consists mainly of the person having access to, or contact with, adults who may be at risk of harm or “vulnerable persons” within the meaning of section 2 of the National Vetting Bureau (Children and Vulnerable Persons) Act 2012.

**R. 7.3 The Commission recommends that** the list of relevant services outlined in recommendation 7.2 above should be prescribed in a schedule to adult safeguarding legislation, as some of the duties proposed in this Chapter will be provided for in adult safeguarding legislation.

**R. 7.4 The Commission recommends that** adult safeguarding legislation should also enable the relevant Minister to prescribe additional services as “relevant services” for the purposes of the safeguarding duties in adult safeguarding legislation.

**R. 7.5 The Commission recommends that** the Government should carefully consider whether relevant services, which are not currently subject to statutory regulatory regimes including statutory inspections, should be brought within such regulatory regimes.

**R. 7.6 The Commission recommends that** adult safeguarding legislation should introduce a duty on a provider of a relevant service to ensure, as far as reasonably practicable, that its services are organised, managed and provided in such a way as to prevent harm to any adult who is, may be or may become, an at-risk adult while availing of the service.

**R. 7.7 The Commission recommends that** a duty on providers of relevant services to undertake and document a risk assessment and to prepare an adult safeguarding statement should be introduced in adult safeguarding legislation. These should take the form of:

- (a) a documented general risk assessment of the relevant service to identify any risks arising in the provision of the service to adults, or adults who are, may be or may become at-risk adults;
- (b) a general adult safeguarding statement that identifies the policies, procedures and measures in place to minimise the risks identified and prevent harm to all adults availing of services.

**R. 7.8 The Commission recommends that** a person or entity engaged in the provision of relevant services immediately prior to the commencement of the provision of the proposed adult safeguarding legislation should be required to undertake a documented risk assessment and prepare an adult safeguarding statement no later than 3 months from the date of commencement of the relevant provisions of the proposed legislation. Where a person or entity proposes to operate as a provider of relevant services, the person or entity should be required, within 3 months of the commencement of the relevant service, to carry out a documented risk assessment and prepare an adult safeguarding statement.

**R. 7.9 The Commission recommends that** an adult safeguarding statement should specify the policies, procedures and measures that the provider of a relevant service has in place:

- (a) to manage any risk identified as a result of the risk assessment;
- (b) to set out how to proceed where a member of staff is the subject of an investigation (however described) in respect of any act, omission or circumstances in respect of an adult availing of the relevant service;
- (c) for the selection or recruitment of any person as a member of staff of the provider of a relevant service with regard to that person's suitability to work with adults who may be at-risk adults or who may be "vulnerable persons" within the meaning of section 2 of the National Vetting Bureau (Children and Vulnerable Persons) Act 2012;

- (d) for the provision of information and, where necessary, instruction and training, to members of staff of the provider of a relevant service in relation to the identification of the occurrence of harm;
- (e) for reviewing and updating care plans or personal plans including updating existing plans to include safeguarding plans, where there are concerns that an adult is at risk of harm while availing of the relevant service;
- (f) for preparing and reviewing safeguarding plans, where there are concerns that an adult is at risk of harm while availing of the relevant service;
- (g) for reporting to the Safeguarding Body by the provider of a relevant service or a member of staff of the provider (whether a mandated person or otherwise) in accordance with the proposed adult safeguarding legislation including any guidelines issued by the Minister;
- (h) for maintaining a list of the persons (if any) in the relevant service who are mandated persons in accordance with the proposed reporting requirement in adult safeguarding legislation; and
- (i) for appointing a relevant person (an adult safeguarding officer) to be the first point of contact in respect of the provider of a relevant service's duty to undertake and document a risk assessment and prepare an adult safeguarding statement.

**R. 7.10 The Commission recommends that** a provider of a relevant service should be required to:

- (a) make records of its risk assessment and a copy of its adult safeguarding statement available to adults availing of the service and members of staff of the relevant service and, on request, to:
  - (i) HIQA, the Mental Health Commission or any other relevant regulatory body; and
  - (ii) any other person.
- (b) display the adult safeguarding statement or an updated adult safeguarding statement (which should be required to be undertaken at intervals of not less than once every 24 months) in a prominent position within the relevant service where it is clearly visible.

**R. 7.11 The Commission recommends that** HIQA should oversee compliance with the proposed duties to undertake and document a risk assessment and to prepare an adult safeguarding statement by a "designated centre" within the meaning of

section 2 of the Health Act 2007, in so far as it relates to an institution wherein residential services are provided to older people or to adults with disabilities.

- R. 7.12 The Commission recommends that** HIQA should oversee compliance with the proposed duties to undertake and document a risk assessment and to prepare an adult safeguarding statement by services providing permanent residential accommodation services to people in the international protection process managed by, or under contract to, the Department of Children, Equality, Disability, Integration and Youth.
- R. 7.13 The Commission recommends that** the Mental Health Commission should oversee compliance with the proposed duties to undertake and document a risk assessment and to prepare an adult safeguarding statement in respect of services regulated under the Mental Health Act 2001.
- R. 7.14 The Commission recommends that** any expansion of HIQA's remit to include the regulation of home support providers should include monitoring compliance with the duty to undertake and document a risk assessment and to prepare an adult safeguarding statement.
- R. 7.15 The Commission recommends that** compliance by the Garda Síochána with the proposed duties to undertake and document a risk assessment and to prepare an adult safeguarding statement should be overseen by the Policing and Community Safety Authority, when established.
- R. 7.16 The Commission recommends that** compliance by refuge accommodation services for victims of domestic, sexual or gender-based violence with the proposed duties to undertake and document a risk assessment and to prepare an adult safeguarding statement should be overseen by the Domestic, Sexual and Gender-Based Violence Agency (Cuan).
- R. 7.17 The Commission recommends that** a 2-stage procedure involving a warning notice and a non-compliance notice should be introduced in adult safeguarding legislation to address failures by a provider of a relevant service to furnish the relevant authority with records of the provider's risk assessment or a copy of the provider's adult safeguarding statement.
- R. 7.18 The Commission recommends that** where, pursuant to a request by HIQA, the Mental Health Commission, the Policing and Community Safety Authority, the Domestic, Sexual and Gender-Based Violence Agency ("Cuan") (which are considered "relevant authorities"), a provider of a relevant service fails to furnish the relevant authority with records of its risk assessment or a copy of its adult safeguarding statement, the relevant authority should be empowered to take relevant measures to address non-compliance. These measures should include the serving of a warning notice in writing on a provider to—

- (a) inform the provider of a failure to furnish records of a risk assessment or an adult safeguarding statement;
- (b) require the provider, within such period as may be specified in the notice, to furnish the relevant authority with records of its risk assessment or a copy of its adult safeguarding statement; and
- (c) inform the provider that failure to furnish the relevant authority with the records of its risk assessment or its adult safeguarding statement within the time specified in the notice may result in the provider being served with a non-compliance notice.

**R. 7.19 The Commission recommends that** a provider of a relevant service who is served with a warning notice may, within 14 days of the receipt of the notice, make representations in writing to the relevant authority in respect of the proposed non-compliance notice. The relevant authority should then have regard to any representations made to it in assessing whether to proceed with the service of the non-compliance notice.

**R. 7.20 The Commission recommends that** a legislative provision should be introduced to provide for a relevant authority to serve a non-compliance notice on a provider of a relevant service who fails to furnish the relevant authority with records of its risk assessment and a copy of its an adult safeguarding statement within the period specified in the warning notice.

**R. 7.21 The Commission recommends that** the non-compliance notice should inform the provider of a relevant service of the date on which the non-compliance notice comes into effect (which should be 21 days from the date of service of the non-compliance notice unless an appeal is brought by the provider) and the option for the provider of a relevant service to appeal the non-compliance notice to the District Court within 21 days of the date of service of the non-compliance notice.

**R. 7.22 The Commission recommends that** the proposed adult safeguarding legislation should include the following provision to provide for the conferral of jurisdiction on the District Court:

“The jurisdiction conferred on the District Court under this section shall be exercised by a judge of the District Court for the time being assigned to the District Court district in which the person on whom the non-compliance notice is served ordinarily resides or carries on any profession, business or occupation.”

**R. 7.23 The Commission recommends that** each relevant authority should establish and maintain a register of non-compliance notices (a “register of non-compliance”) in respect of the relevant services it monitors and oversees. It should enter the particulars of a non-compliance notice on

the register of non-compliance as soon as the non-compliance notice in respect of a particular provider of a relevant service comes into effect.

**R. 7.24 The Commission recommends that** the relevant authority should be permitted to remove an entry on the non-compliance register once it receives the records of the provider's risk assessment or a copy of the provider's adult safeguarding statement to which the entry relates, or it is satisfied that a risk assessment or an adult-safeguarding statement is no longer required.

**R. 7.25 The Commission recommends that** the provider of the relevant service in respect of whom an entry onto the non-compliance register was made should be permitted to apply to the relevant authority to have the entry removed at any time.

**R. 7.26 The Commission recommends that** the introduction of the proposed duties on providers of relevant services to undertake and document a risk assessment and to prepare an adult safeguarding statement shall not be taken to confer on any natural or legal person a right in law that such person would not otherwise have to require a provider of a relevant service to take any steps referred to in the relevant provisions of the adult safeguarding legislation or to seek damages for any failure or delay by the provider of the relevant service to take such steps.

**R. 7.27 The Commission recommends that** the Health Act 2007 (Care and Welfare of Residents in Designated Centres for Older People) Regulations 2013 (SI No 415 of 2013), the Health Act 2007 (Care and Support of Residents in Designated Centres for Persons (Children and Adults) with Disabilities) Regulations 2013 (SI No 367 of 2013) and the Mental Health Act 2001 (Approved Centres) Regulations 2006 (SI No 551 of 2006) should be amended to include a requirement to update a care plan or personal plan to incorporate a safeguarding plan, where a resident is identified as being at risk of harm. The amendments to the regulations should also provide that where a safeguarding plan has been incorporated into a care plan or personal plan, providers of a relevant service are required to undertake an initial review no later than six months, and a subsequent review no later than twelve months, from the date of the update of the care plan or personal plan to assess whether progress has been made to adequately safeguard the resident.

**R. 7.28 The Commission recommends that** personal support plans for service users availing of home support services (or any other equivalent plan that may be identified in future regulations) should incorporate a safeguarding plan where an adult is identified as being at risk of harm.

**R. 7.29 The Commission recommends that** regulation 26 of the Mental Health Act 2001 (Approved Centres) Regulations 2006 (SI No 551 of 2006) should be amended to require that staff of approved centres are provided with adult safeguarding training, including training on how to detect, prevent and respond to abuse.

**R. 7.30 The Commission recommends that** any future regulations that may be introduced for home support services should require that staff providing home support services are provided with adult safeguarding training, including training on how to detect, prevent and respond to abuse.

**R. 7.31 The Commission recommends that** the Taxi Regulation (Small Public Service Vehicle) Regulations 2015 (SI No 33 of 2015) should be amended to introduce a requirement on holders of licences to drive small public vehicles to undertake adult safeguarding training, including training on how to detect, prevent and respond to abuse, which should be provided by the National Transport Authority and the Garda Síochána in cooperation with the Safeguarding Body.

## Chapter 8: Independent Advocacy

**R. 8.1 The Commission recommends that** the Government should adopt a consistent approach to the provision of independent advocacy across all care settings.

**R. 8.2 The Commission recommends that** the Health Act 2007 (Care and Support of Residents in Designated Centres for Persons (Children and Adults) with Disabilities) Regulations 2013 (SI No 367 of 2013) should be amended to require designated centres for adults with disabilities to facilitate access to independent advocacy services for adults residing in those centres.

**R. 8.3 The Commission recommends that** the Mental Health Act 2001 (Approved Centres) Regulations 2006 (SI No 551 of 2006) should be amended to require approved centres to facilitate access to independent advocacy services for adults residing in those centres.

**R. 8.4 The Commissions recommends that** amendments to the Health Act 2007 (Care and Support of Residents in Designated Centres for Persons (Children and Adults) with Disabilities) Regulations 2013 (SI No 367 of 2013) and the Mental Health Act 2001 (Approved Centres) Regulations 2006 (SI No 551 of 2006) should provide that where a resident wishes for an independent advocate to engage with a service provider for the purposes of making a complaint on behalf of the resident, the service provider must engage with the independent advocate.



- R. 8.5 The Commission recommends that** adult safeguarding legislation should introduce a duty on the Safeguarding Body to facilitate, so far as is reasonably practicable, access to independent advocacy services for an adult who is, or is believed to be, an at-risk adult where it engages with such adult directly for the purposes of exercising its functions under adult safeguarding legislation.
- R. 8.6 The Commission recommends that** the proposed duty to facilitate access to independent advocacy services should only apply where the Safeguarding Body is satisfied that, without access to independent advocacy services, an adult who is, or is believed to be, an at-risk adult may experience significant challenges in doing one or more of the following:
- (a) understanding relevant information;
  - (b) retaining that information;
  - (c) using or weighing that information as part of the process of engaging with the Safeguarding Body;
  - (d) communicating their views, wishes, or feelings (whether by talking, using sign language or any other means).
- R. 8.7 The Commission recommends that** the proposed duty should apply only where the Safeguarding Body is satisfied that there is no suitable person who could effectively support the adult who is, or is believed to be, an at-risk adult to enable their engagement with the Safeguarding Body.
- R. 8.8 The Commission recommends that** if the Government considers the introduction of a comprehensive statutory framework for social care, as recommended in Chapter 1, the Government should also consider the introduction of a duty on the Health Service Executive to ensure access to independent advocacy in respect of the provision of social care services.
- R. 8.9 The Commission recommends that** the Government should consider whether a form of regulation of independent advocates or independent advocacy services is required.
- R. 8.10 The Commission recommends that** adult safeguarding legislation should include a provision to allow the Safeguarding Body to publish a code of practice for independent advocates providing support to adults who are, or are believed to be, at-risk adults.

## Chapter 9: Reporting Models

**R. 9.1 The Commission recommends that** universal mandatory reporting in the adult safeguarding context should not be introduced in Ireland.

**R. 9.2 The Commission recommends that** the Criminal Justice (Withholding of Information on Offences against Children and Vulnerable Persons) Act 2012 should be amended in Schedule 2 by the insertion of the following offences:

- (a) the offence of coercion under section 9 of the Non-Fatal Offences against the Person Act 1997;
- (b) the offence of endangerment under section 13 of the Non-Fatal Offences against the Person Act 1997;
- (c) the offence of intentional or reckless abuse, neglect or ill-treatment of a relevant person, as proposed by the Commission in the Criminal Law (Adult Safeguarding) Bill 2024;
- (d) the offence of exposure of a relevant person to a risk of serious harm or sexual abuse, as proposed by the Commission in the Criminal Law (Adult Safeguarding) Bill 2024;
- (e) the offence of coercive control of a relevant person, as proposed by the Commission in the Criminal Law (Adult Safeguarding) Bill 2024; and
- (f) the offence of coercive exploitation of a relevant person, as proposed by the Commission in the Criminal Law (Adult Safeguarding) Bill 2024.

**R. 9.3 The Commission recommends that** the following regulations should be amended to extend the list of notifiable incidents to include financial coercion, patterns of neglect, and psychological or emotional abuse:

- (a) the Health Act 2007 (Care and Welfare of Residents in Designated Centres for Older People) Regulations 2013 (SI No 415 of 2013), regulation 31 and schedule 4, paragraph 7; and
- (b) the Health Act 2007 (Care and Support of Residents in Designated Centres for Persons (Children and Adults) with Disabilities) Regulations 2013 (SI No 367 of 2013), regulation 31 and schedule 4, paragraph 10.

**R. 9.4 The Commission recommends that** the Mental Health Act 2001 (Approved Centres) Regulations 2006 (SI No 551 of 2006) should be amended to require the following incidents to be notified to the Inspector of Mental Health Services:

- (a) the unexpected death of any resident;
- (b) any serious injury to a resident that requires immediate medical or hospital treatment;
- (c) any unexplained absence of a resident from an approved centre;
- (d) any allegation of misconduct by the registered proprietor or a member of staff;
- (e) any occasion where the registered proprietor became aware that a member of staff is the subject of a review by a professional body;
- (f) any allegation of financial coercion by the registered proprietor or a member of staff;
- (g) any allegation of patterns of neglect of a resident by the registered proprietor or a member of staff; and
- (h) any allegation of psychological or emotional abuse of a resident by the registered proprietor or a member of staff.

**R. 9.5 The Commission recommends that** where a person listed in Schedule 2 (Mandated Persons) to the Adult Safeguarding Bill 2024 knows, believes or has reasonable grounds to suspect, on the basis of information that they have received, acquired or become aware of in the course of their employment or profession as a mandated person, that an at-risk adult has been harmed, is being harmed or is at risk of being harmed, they should be under a statutory duty to report, as soon as practicable, that knowledge, belief or suspicion, as the case may be, to the Safeguarding Body.

**R. 9.6 The Commission recommends that** the appropriate body for the receipt and assessment of reports is the Safeguarding Body.

**R. 9.7 The Commission recommends that** the following threshold should apply to the proposed requirement to report in adult safeguarding legislation:

Where a mandated person knows, believes or has reasonable grounds to suspect, on the basis of information that he or she has received, acquired or becomes aware of in the course of his or her employment or profession as a mandated person, that an adult at risk of harm:

- (a) has been harmed;
- (b) is being harmed; or

(c) is at risk of being harmed,

he or she shall, as soon as practicable, report that knowledge, belief or suspicion, as the case may be, to the Safeguarding Body.

**R. 9.8 The Commission recommends that** “reportable harm” should be defined in adult safeguarding legislation as:

“Reportable harm” means:

- (a) assault, ill-treatment or neglect in a manner that seriously affects, or is likely to seriously affect, health, safety or welfare;
- (b) sexual abuse; or
- (c) serious loss of, or damage to, property by theft, fraud, deception or coercive exploitation,

whether caused by a single act, omission or circumstance or a series or combination of acts, omissions or circumstances, or otherwise.

**R. 9.9 The Commission recommends that** “reportable harm” should be construed in adult safeguarding legislation as excluding “self-neglect” other than where a mandated person has:

- (a) assessed an adult who is reasonably believed to be an adult at risk of harm as lacking capacity; or
- (b) a belief, based on reasonable grounds, that the adult who is reasonably believed to be an adult at risk of harm lacks capacity,

to make personal care or welfare decisions at the particular point in time when the mandated person knows, believes or has reasonable grounds to suspect that the adult is self-neglecting.

**R. 9.10 The Commission recommends that** adult safeguarding legislation should state that a mandated person should not be required to make a report to the Safeguarding Body in the following circumstance:

- (a) where the mandated person knows or is of the opinion, based on reasonable grounds, that an adult at risk of harm has decision-making capacity in relation to their care and welfare at a particular point in time;
- (b) where the adult at risk of harm, who has decision-making capacity under paragraph (a), has made known to the mandated person his or her view that the knowledge, belief or suspicion, or information relating to it, should not be disclosed to the Safeguarding Body and the mandated person relied upon that view;

- (c) where the mandated person knows or is of the opinion, based on reasonable grounds, that the adult at risk of harm is deciding of their own free will, without undue influence or duress, to state that they do not want a report to be made to the Safeguarding Body.

**R. 9.11 The Commission recommends that** a provision similar to section 14(4) of the Children First Act 2015, which avoids the need for duplicate reporting by mandated persons, should be included in adult safeguarding legislation.

**R. 9.12 The Commission recommends that** mandated persons for the purposes of the duty to report actual or suspected abuse or neglect of at-risk adults should be prescribed in a schedule to adult safeguarding legislation.

**R. 9.13 The Commission recommends that** members of the Garda Síochána should be prescribed as mandated persons for the purposes of the proposed duty to report in adult safeguarding legislation.

**R. 9.14 The Commission recommends that** managers of the following types of services should be prescribed as mandated persons for the purposes of the proposed duty to report in adult safeguarding legislation:

- (a) a day service for adults;
- (b) a professional home support provider;
- (c) a centre that provides refuge accommodation services for victims of domestic, sexual or gender-based violence;
- (d) a homeless provision or emergency accommodation facility;
- (e) an accommodation centre for people seeking international protection (direct provision); and
- (f) an addiction or substance misuse service.

**R. 9.15 The Commission recommends that** probation officers within the meaning of section 1(1) of the Criminal Justice (Community Service) Act 1983 should be included in the schedule of mandated persons for the purposes of the proposed duty to report in adult safeguarding legislation.

**R. 9.16 The Commission recommends that** the schedule of mandated persons for the purposes of the proposed duty to report in adult safeguarding legislation should include:

- (a) safeguarding officers or other persons (howsoever described) who are employed for the purpose of performing the adult safeguarding function of religious, sporting, advocacy, charitable, recreational, cultural and educational; and
- (b) other bodies and organisations offering services to adults, who may include adults at risk of harm.

**R. 9.17 The Commission recommends that** regular training should be provided to mandated persons for the purposes of the proposed duty to report in adult safeguarding legislation.

**R. 9.18 The Commission recommends that** a failure by a mandated person to report under adult safeguarding legislation should not result in the imposition of a criminal sanction.

**R. 9.19 The Commission recommends that** each code of professional conduct and ethics relevant to mandated persons who are registered medical, health or social care professionals should include provisions on reporting and compliance with relevant legal obligations that are uniform to all of the codes.

**R. 9.20 The Commission recommends that** failures to report by mandated persons who are not registered medical, health or social care professionals should be addressed by:

- (a) internal disciplinary procedures, where possible and appropriate;
- (b) notifications to the Health Information and Quality Authority so that failures to report can be taken into account in the inspection of designated centres and relevant social care services under the Health Act 2007;
- (c) notification to the Health Service Executive, which should be considered in light of any funding arrangements in place for the relevant setting under section 38 or section 39 of the Health Act 2004; or
- (d) notification of a breach of a duty to report to the National Vetting Bureau of the Garda Síochána.

**R. 9.21 The Commission recommends that** adult safeguarding legislation should provide that where the Safeguarding Body receives a report from a mandated

person, it should be permitted to take such steps as it considers necessary to exercise its functions under adult safeguarding legislation which may include, but are not limited to, a request to any mandated person whom it believes, based on reasonable grounds, may be in a position to assist it for those purposes, to provide it with such information and assistance as it may reasonably require and is, in its opinion, necessary and proportionate in all of the circumstances of the case.

**R. 9.22 The Commission recommends that** statutory protection should be introduced in adult safeguarding legislation that is applicable to anyone who makes a report of actual or suspected harm of an at-risk adult, provided the report is made reasonably and in good faith.

**R. 9.23 The Commission recommends that** a system of permissive reporting in the adult safeguarding context should not be introduced on a statutory basis.

**R. 9.24 The Commission recommends that** having regard to the lead-in time required for the commencement of mandated reporting provisions and the need to ensure the successful introduction of mandated reporting in Ireland, the Government should conduct preparatory work which may include the following:

- (a) drafting guidance and resources;
- (b) developing training and e-learning programmes; and
- (c) raising awareness.

## **Chapter 10: Powers of Entry to and Inspection of Relevant Premises**

**R. 10.1 The Commission recommends that** adult safeguarding legislation should provide for authorised officers of the Safeguarding Body to be conferred with a power of entry to, and inspection of, a relevant premises, for the purposes of assessing the health, safety or welfare of an at-risk adult or at-risk adults. This would take the form of a provision in adult safeguarding legislation allowing for an authorised officer of the Safeguarding Body to exercise powers of entry and inspection.

**R. 10.2 The Commission recommends that** “relevant premises” should be defined in adult safeguarding legislation as:

- (a) a “designated centre” within the meaning of section 2(1) of the Health Act 2007, insofar as it relates to an institution wherein residential services are provided to older people or to adults with disabilities;

- (b) a premises in which day services are provided to adults with disabilities;
- (c) a premises in which day services are provided to older adults;
- (d) any hospital, hospice, health care centre or other centre which receives, treats or otherwise provides physical or mental health services or social care services to adults including approved centres within the meaning of section 2(1) of the Mental Health Act 2001;
- (e) a premises in which a service provider provides a health or personal social service or services on behalf of the Health Service Executive or provides a service similar or ancillary to a service that the Health Service Executive may provide and in this regard, a "service provider" means a person who, or organisation that (i) enters into an arrangement under section 38 of the Health Act 2004 to provide a health or personal social service on behalf of the Health Service Executive; or (ii) receives assistance under section 39 of the Health Act 2004 to provide a service similar or ancillary to a service that the Health Service Executive may provide;
- (f) a reception or accommodation centre which provides residential accommodation services to adults in the international protection process managed by, or under contract to the Department of Children, Equality, Disability, Integration and Youth;
- (g) a centre which provides residential refuge accommodation services for victims of domestic, sexual or gender-based violence;
- (h) a centre which provides residential accommodation services for the purposes of providing substance misuse services; and
- (i) a centre which provides residential accommodation services to adults experiencing homelessness.

**R. 10.3 The Commission recommends that** adult safeguarding legislation should provide the relevant Minister with the power to prescribe by regulations any other premises as a "relevant premises" for the purposes of the proposed powers of entry and inspection.

**R. 10.4 The Commission recommends that** adult safeguarding legislation should provide for an authorised officer of the Safeguarding Body to exercise a power of entry to and inspection of a relevant premises without warrant, except any part of a relevant premises that is occupied as a dwelling.

**R. 10.5 The Commission recommends that** for the purposes of adult safeguarding legislation, "dwelling" should be defined as one or more of the following:

- (a) a building or structure (whether temporary or not) which is constructed or adapted for use as a residence and is being so used;



(b) a vehicle or vessel (whether mobile or not) which is constructed or adapted for use as a residence and is being so used, or

(c) a part of a:

(i) building or structure (whether temporary or not): or

(ii) a vehicle or vessel (whether mobile or not), which is constructed or adapted for use as a residence and is being so used,

and includes a self-contained part of a relevant premises which is constructed or adapted for use as a residence and is being so used by a service provider, or a member of staff of a service provider, but shall not include the room of a resident in a relevant premises.

**R. 10.6 The Commission recommends that** the room of a resident in a relevant premises should not be construed as a dwelling for the purposes of adult safeguarding legislation.

**R. 10.7 The Commission recommends that** any self-contained part of a relevant premises which is constructed or adapted for use as a residence and is being so used by a service provider or a member of staff of a service provider shall be construed as a dwelling for the purposes of adult safeguarding legislation.

**R. 10.8 The Commission recommends that,** in light of the constitutional protection afforded to the inviolability of the dwelling, an authorised officer of the Safeguarding Body should not be able to enter or inspect any part of a relevant premises that is occupied as a dwelling other than:

(a) with the consent of the occupier, or

(b) in accordance with a warrant or other legal power of entry.

**R. 10.9 The Commission recommends that** adult safeguarding legislation should provide for an authorised officer of the Safeguarding Body to make an application to the District Court for a warrant where the authorised officer (or any persons permitted to accompany them) has been prevented from entering a relevant premises, or has a belief, based on reasonable grounds, that there is a likelihood that they will be prevented from entering the relevant premises.

**R. 10.10 The Commission recommends that** adult safeguarding legislation should provide that, in the event that the next sitting of the District Court for the District Court area wherein the relevant premises is located is not due to be held within three days of the intended application for a warrant, an application for a warrant

may be made at a sitting of the District Court, which has been specially arranged, held within the said three days.

**R. 10.11 The Commission recommends that** the proposed power of entry to, and inspection of, a relevant premises should apply where an authorised officer of the Safeguarding Body has a belief, based on reasonable grounds, that:

- (a) there is an at-risk adult on the relevant premises;
- (b) there is a risk to the health, safety or welfare of the at-risk adult, that is caused by abuse, neglect or ill-treatment; and
- (c) access to the premises is necessary to assess the health, safety or welfare of the at-risk adult.

**R. 10.12 The Commission recommends that** the threshold to apply for a warrant for entry to, and inspection of, a relevant premises, other than any part of a relevant premises used as a dwelling, should be that an authorised officer of the Safeguarding Body has a belief, based on reasonable grounds, that:

- (a) there is an at-risk adult on the relevant premises;
- (b) there is a risk to the health, safety or welfare of the at-risk adult, that is caused by abuse, neglect or ill-treatment; and
- (c) a warrant for access to the relevant premises is necessary to assess the health, safety or welfare of the at-risk adult.

In addition, the authorised officer (or any persons permitted to accompany them) must:

- (a) have been prevented; or
- (b) have a reasonable belief that there is a likelihood that they (or any persons permitted to accompany them) will be prevented,

from entering the relevant premises.

**R. 10.13 The Commission recommends that** the threshold for granting a warrant for entry to, and inspection of, a relevant premises, other than any part of a relevant premises used as a dwelling, should be that a judge of the District Court is satisfied on the sworn information of an authorised officer that there are reasonable grounds for believing that:

- (a) there is an at-risk adult on the relevant premises;
- (b) there is a risk to the health, safety or welfare of the at-risk adult, that is caused by abuse, neglect or ill-treatment;

- (c) a warrant for access to the relevant premises is necessary to assess the health, safety or welfare of the at-risk adult; and
- (d) an authorised officer (or any persons permitted to accompany them) has been prevented, or will be prevented, from entering the relevant premises.

**R. 10.14 The Commission recommends that** adult safeguarding legislation should allow authorised officers and appropriately qualified health or social care professionals to conduct a private interview with, and a preliminary medical examination of, an at-risk adult in a relevant premises.

**R. 10.15 The Commission recommends that** adult safeguarding legislation should require that, in advance of carrying out any interview or medical examination, an authorised officer or health or social care professional must explain to the at-risk adult that they may refuse to answer any question or to be medically examined.

**R. 10.16 The Commission recommends that** adult safeguarding legislation should require that the powers of interview and medical examination cannot be exercised if the at-risk adult objects.

**R. 10.17 The Commission recommends that** an authorised officer, in respect of assessing the health, safety or welfare of an at-risk adult on a relevant premises, should be permitted by legislation to:

- (a) inspect, take copies of or extracts from and remove from the relevant premises any documents or records (including personal records) relating to the health, safety or welfare of an at-risk adult,
- (b) inspect the operation of any computer and any associated apparatus or material which is or has been in use in connection with the records in question,
- (c) inspect any other item and remove it from the premises if an authorised officer considers it necessary or expedient for the purposes of assessing the health, safety or welfare of an at-risk adult,
- (d) interview in private any person—
  - (i) working at the premises concerned, or
  - (ii) who at any time was or is in receipt of a service at the premises and who consents to be interviewed, and
- (e) make any other examination into the state and management of the premises or the standard of any services provided to an at-risk adult, or at-risk adults, on the premises.

**R. 10.18 The Commission recommends that** an authorised officer, in respect of assessing the health, safety or welfare of an at-risk adult on a relevant premises, should be permitted by legislation to require any person who:

- (a) is in charge of the premises or of services provided at the premises, or
- (b) possesses or is in charge of any records held at the premises or in respect of any services provided at the premises, even if the records are held elsewhere,

to furnish the authorised officer with the information the authorised officer reasonably requires for the purposes of assessing the health, safety or welfare of an at-risk adult, and to make available to the authorised officer any document or record in the power or control of the person described in paragraph (a) or (b) above that, in the opinion of the authorised officer, is relevant to the assessment of the health, safety or welfare of an at-risk adult.

**R. 10.19 The Commission recommends that** an authorised officer, in respect of assessing the health, safety or welfare of an at-risk adult on a relevant premises, should be permitted by legislation to:

- (a) require a person who is in charge of the relevant premises or possesses or is in charge of any relevant documents or records to produce a document or record in a form which is legible and can be taken away,
- (b) require a person who is in charge of the relevant premises or possesses or is in charge of any relevant documents or records to provide an explanation of any—
  - (i) document or record inspected, or
  - (ii) information provided, or
  - (iii) other relevant matters.

**R. 10.20 The Commission recommends that** the power of entry to, and inspection of, a relevant premises should be conferred on an authorised officer of the Safeguarding Body.

**R. 10.21 The Commission recommends that** the proposed provisions in adult safeguarding legislation should allow for an authorised officer of the Safeguarding Body to be accompanied by a member of the Garda Síochána where the authorised officer is in possession of a warrant issued on the basis of an authorised officer (or any persons permitted to accompany them) having been prevented, or having a belief based on reasonable grounds that there was a likelihood that they would be prevented, from entering the premises.

- R. 10.22 The Commission recommends that** the proposed provisions in adult safeguarding legislation should permit an authorised officer to be accompanied by appropriately qualified health or social care professionals (such as GPs and public health nurses) or any other persons the authorised officer reasonably considers necessary or appropriate, such as a trusted friend or family member of the at-risk adult.
- R. 10.23 The Commission recommends that** adult safeguarding legislation should require that a notice in plain English be provided to the at-risk adult to whom access is sought, or whose assessment is intended, by the use of the warrant or power, explaining the nature of the warrant or power being exercised and the process involved.
- R. 10.24 The Commission recommends that** adult safeguarding legislation should provide that the relevant Minister may prescribe by regulations a standard notice setting out the form and content of the notice to be provided to the at-risk adult to whom access is sought, or whose assessment is intended, by the use of the warrant or power.
- R. 10.25 The Commission recommends that** when exercising a power of entry to a relevant premises, the authorised officer should, insofar as practicable, explain to the at-risk adult the nature and purpose of the power they are authorised to exercise. However, any failure to give such an explanation should not invalidate the exercise of the power.
- R. 10.26 The Commission recommends that** the adult safeguarding legislation should allow for the District Court to issue a warrant allowing for the use of reasonable force, if necessary, by an authorised officer or member of the Garda Síochána to gain access to a relevant premises (except any part of a relevant premises that is occupied as a dwelling).
- R. 10.27 The Commission recommends that** a warrant for entry to a relevant premises or any part thereof (other than any part of a relevant premises used as a dwelling) should expire 30 days after the date of issue of the warrant.
- R. 10.28 The Commission recommends that** a warrant should permit an authorised officer of the Safeguarding Body, accompanied by appropriately qualified health or social care professionals, any other persons the authorised officer reasonably considers necessary or appropriate, and by members of the Garda Síochána, as may be necessary, at any time or times, not later than 30 days of the date of issue of the warrant, on production of the warrant if requested, to enter the relevant premises or any part thereof (other than any part of the relevant premises used as a dwelling).

**R. 10.29 The Commission recommends that** adult safeguarding legislation should provide for an offence where a staff member, service provider or other person carrying out functions for and within a relevant premises:

- (a) refuses to allow an authorised officer of the Safeguarding Body or any person accompanying them to enter a relevant premises (other than any part of a relevant premises used as a dwelling) in accordance with the relevant section of the proposed adult safeguarding legislation or in accordance with a warrant for access to a relevant premises issued by a judge of the District Court, or
- (b) obstructs or impedes an authorised officer of the Safeguarding Body or any person accompanying them in the exercise of functions under the relevant section of the proposed adult safeguarding legislation or in accordance with a warrant for access to a relevant premises issued by a judge of the District Court; or
- (c) gives to an authorised officer of the Safeguarding Body or any person accompanying them who is exercising functions under the relevant section of the proposed adult safeguarding legislation or in accordance with a warrant for access to a relevant premises issued by the District Court information that the person giving the information knows, or should reasonably know, to be false or misleading.

**R. 10.30 The Commission recommends that** a person guilty of the proposed offence should be liable: (a) on summary conviction, to a fine not exceeding €5,000, or imprisonment for a term not exceeding 12 months, or both, or (b) on conviction on indictment, to a fine not exceeding €70,000, or imprisonment for a term not exceeding 2 years, or both.

**R. 10.31 The Commission recommends that** the proposed offences of obstruction should not apply in relation to the at-risk adult whose assessment is intended using the powers of entry and inspection.

**R. 10.32 The Commission recommends that** in relation to any proceedings for a warrant to enter and inspect a relevant premises, it should be an offence for a person, other than an at-risk adult, to publish, distribute or broadcast any information likely to identify the at-risk adult or at-risk adults concerned, unless the court directs otherwise. (See the relevant section of the Commission's Adult Safeguarding Bill 2024 regarding the anonymity of adults at risk of harm and others.)

## Chapter 11: Powers of Access to At-Risk Adults in Places Including Private Dwellings

- R. 11.1 The Commission recommends that** adult safeguarding legislation should make provision for a new power of access to at-risk adults in places including private dwellings, for the purposes of assessing the health, safety or welfare of an at-risk adult.
- R. 11.2 The Commission recommends that** a power of access should be exercised on foot of a warrant issued by a judge of the District Court. The warrant should permit an authorised officer or a member of the Garda Síochána, or both, accompanied by appropriately qualified health or social care professionals and any other persons the authorised officer or member reasonably considers necessary or appropriate, to enter the place or any part thereof.
- R. 11.3 The Commission recommends that** a warrant for access should be valid for three days after the day it is issued.
- R. 11.4 The Commission recommends that** an application for a warrant should be capable of being made by either an authorised officer of the Safeguarding Body or a member of the Garda Síochána.
- R. 11.5 The Commission recommends that** in order to apply for a warrant for access, the authorised officer of the Safeguarding Body or member of the Garda Síochána must have a reasonable belief that:
- (a) an at-risk adult is present in the place;
  - (b) there is a risk to the health, safety or welfare of the at-risk adult;
  - (c) a warrant for access is necessary to assess the health, safety or welfare of the at-risk adult; and
  - (d) access to the at-risk adult cannot be gained by less intrusive means.
- R. 11.6 The Commission recommends that** the power to execute a warrant for access should apply to a member of the Garda Síochána or authorised officer of the Safeguarding Body, or both.
- R. 11.7 The Commission recommends that** the proposed provisions in adult safeguarding legislation should allow for an authorised officer or member of the Garda Síochána to be accompanied by appropriately qualified health or social care professionals (such as GPs and public health nurses) or any other persons the authorised officer or member of the Garda Síochána reasonably considers necessary or appropriate, such as a trusted friend or family member of the at-risk adult when executing a warrant for access.

**R. 11.8 The Commission recommends that** adult safeguarding legislation should provide that, in the event that the next sitting of the District Court for the District Court area wherein the place is located is not due to be held within three days of the intended application for a warrant, an application for a warrant may be made at a sitting of the District Court, which has been specially arranged, held within the said three days.

**R. 11.9 The Commission recommends that** the threshold for the granting of a warrant for access should be that a judge of the District Court is satisfied that there are reasonable grounds for believing that:

- (a) an at-risk adult is present in the place;
- (b) there is a risk to the health, safety or welfare of the at-risk adult;
- (c) a warrant for access is necessary to assess the health, safety or welfare of the at-risk adult; and
- (d) access to the at-risk adult cannot be gained by less intrusive means.

**R. 11.10 The Commission recommends that** when making an application to the District Court for a warrant for access, the applicant should be required to give evidence that there are reasonable grounds for believing each of the matters specified in the threshold.

**R. 11.11 The Commission recommends that** an application for a warrant should be grounded on the sworn evidence of the person seeking the warrant, stating that reasonable efforts have been made in relation to the following and that such efforts have failed:

- (a) to seek consent to enter the place to gain access to the at-risk adult; and
- (b) to gain access to the at-risk adult outside of the place.

**R. 11.12 The Commission recommends that** adult safeguarding legislation should provide that a member of the Garda Síochána may enter a place, including a private dwelling, without a warrant where they have a reasonable belief that:

- (a) an at-risk adult is present in the place;
- (b) there is an immediate risk to the life and limb of the at-risk adult; and
- (c) the risk is so immediate that the place or the at-risk adult must be accessed so urgently that there would be insufficient time to apply to the District Court for a warrant for access.

This power is referred to in the Commission's recommendations as a "summary power of access".



- R. 11.13 The Commission recommends that** adult safeguarding legislation should permit a member of the Garda Síochána to be accompanied by an authorised officer, appropriately qualified health or social care professionals (such as GPs and public health nurses) or any other persons the member reasonably considers necessary or appropriate, such as a trusted friend or family member of the at-risk adult, when exercising a summary power of access.
- R. 11.14 The Commission recommends that** where a summary power of access is exercised, the member of the Garda Síochána exercising the power must notify the Safeguarding Body in writing as to the use of the power as soon as is practicable.
- R. 11.15 The Commission recommends that** where a summary power of access is exercised, the member of the Garda Síochána exercising the power must make an appropriate record of the usage of the power, including the reasons for exercising the power, and the record must be uploaded to the PULSE database.
- R. 11.16 The Commission recommends that** adult safeguarding legislation should require that a notice in plain English be provided to the at-risk adult whose assessment is intended upon execution of a warrant for access, explaining the nature of the warrant being exercised and the process involved.
- R. 11.17 The Commission recommends that** adult safeguarding legislation should provide that the relevant Minister may prescribe by regulations a standard notice to be provided upon execution of a warrant for access, which explains the nature of the warrant and process involved.
- R. 11.18 The Commission recommends that** when executing a warrant for access or exercising the summary power of access, the authorised officer or member of the Garda Síochána should insofar as practicable explain to the at-risk adult the nature and purpose of the powers they are authorised to exercise. However, any failure to give such an explanation should not invalidate the execution of a warrant or exercise of the summary power.
- R. 11.19 The Commission recommends that** a warrant for access and a summary power of access provided under adult safeguarding legislation should allow for the use of reasonable force, if necessary, by an authorised officer or member of the Garda Síochána to gain access to the place.
- R. 11.20 The Commission recommends that** adult safeguarding legislation should allow authorised officers and appropriately qualified health or social care professionals to conduct a private interview with, and a preliminary medical examination of, an at-risk adult in a place including a private dwelling.
- R. 11.21 The Commission recommends that** adult safeguarding legislation should require that, in advance of carrying out any interview or medical examination, an authorised officer or health or social care professional should explain to the at-

risk adult that they may refuse to answer any question or to be medically examined.

- R. 11.22 The Commission recommends that** adult safeguarding legislation should require that the powers of interview and medical examination cannot be exercised if the at-risk adult objects.
- R. 11.23 The Commission recommends that** when executing a warrant for access or exercising a summary power of access, a member of the Garda Síochána should be able to require individuals present to provide their name and address, and a record should be kept of these details.
- R. 11.24 The Commission recommends that** it should be an offence for a person, other than an at-risk adult, to obstruct or impede a member of the Garda Síochána or an authorised officer when they are executing a warrant for access or exercising the summary power of access.
- R. 11.25 The Commission recommends that** a member of the Garda Síochána should be able to arrest without warrant any person, other than an at-risk adult, who obstructs or impedes the member when they are executing a warrant for access or exercising the summary power of access.
- R. 11.26 The Commission recommends that** the offence of obstruction and associated power of arrest should not apply in relation to the at-risk adult whose assessment is intended using the power of access.
- R. 11.27 The Commission recommends that** in relation to any proceedings for a warrant for access, it should be an offence for a person, other than an at-risk adult, to publish, distribute or broadcast any information likely to identify the at-risk adult concerned, unless the court directs otherwise. (See the relevant section of the Commission's Adult Safeguarding Bill 2024 regarding the anonymity of adults at risk of harm and others.)

## Chapter 12: Powers of Removal And Transfer

**R. 12.1 The Commission recommends that** adult safeguarding legislation should make provision for a removal and transfer order, which would permit the removal of a person who is reasonably believed to be an at-risk adult to a designated health or social care facility or other suitable place specified in the order to allow professionals to attempt:

- (a) an assessment of the health, safety and welfare of the at-risk adult, and
- (b) an assessment of whether any actions are needed in respect of the at-risk adult,

where this cannot be done in the place where the at-risk adult is currently located.

**R. 12.2 The Commission recommends that** a removal and transfer order should allow a member of the Garda Síochána, accompanied by an authorised officer of the Safeguarding Body where possible, together with appropriately qualified health or social care professionals and other persons as may be necessary, to:

- (a) enter the place where the at-risk adult is believed to be, including a relevant premises and a private dwelling;
- (b) remove the at-risk adult from the place; and
- (c) transfer the at-risk adult to a designated health or social care facility or other suitable place specified in the court's order.

**R. 12.3 The Commission recommends that** in order to apply for a removal and transfer order, an authorised officer of the Safeguarding Body or a member of the Garda Síochána must have a belief, based on reasonable grounds, that:

- (a) an at-risk adult is present in a particular place;
- (b) there is a serious and immediate risk to the health, safety or welfare of the at-risk adult;
- (c) actions may be required to safeguard the health, safety or welfare of the at-risk adult;
- (d) removal to a designated facility or other suitable place is necessary to attempt to assess the matters specified in subsections (b) and (c) as such assessment cannot be done in the place where the at-risk adult currently is located; and

- (e) the assessment of the matters specified in subsections (b) and (c) cannot be achieved using less intrusive means.

**R. 12.4 The Commission recommends that** when making an application to the District Court for a removal and transfer order, the applicant should be required to give evidence that there are reasonable grounds for believing each of the matters specified in the threshold.

**R. 12.5 The Commission recommends that** the application for a removal and transfer order must be grounded upon an affidavit or information sworn by one of the following health or social care professionals:

- (a) a doctor;
- (b) a nurse;
- (c) a midwife;
- (d) a social worker;
- (e) an occupational therapist;
- (f) a speech and language therapist;
- (g) an emergency medical technician;
- (h) a paramedic or advanced paramedic; or
- (i) a psychologist.

Where an authorised officer of the Safeguarding Body is a health or social care professional as defined, it should be sufficient for their own evidence to ground the application.

**R. 12.6 The Commission recommends that** adult safeguarding legislation should provide the relevant Minister with the power to designate other professionals for the purposes of providing evidence to ground an application for a removal and transfer order.

**R. 12.7 The Commission recommends that** every application to court by a member of the Garda Síochána for a removal and transfer order must be notified in writing to the Safeguarding Body as soon as is practicable.

**R. 12.8 The Commission recommends that** adult safeguarding legislation should provide that an authorised officer of the Safeguarding Body or member of the Garda Síochána must:

- (a) make reasonable efforts to ascertain the views of the at-risk adult before making an application for a removal and transfer order; and

- (b) consider any such views in deciding whether to make an application for a removal and transfer order.

**R. 12.9 The Commission recommends that** the applicant should provide evidence to the District Court to demonstrate the reasonable efforts made to ascertain the views or wishes of the at-risk adult, and information regarding the use of any methods or supports such as speech and language therapists or independent advocacy services.

**R. 12.10 The Commission recommends that** adult safeguarding legislation should provide that, upon any application for a removal and transfer order where access to the at-risk adult has been obtained, the District Court must:

- (a) enquire as to whether reasonable efforts have been made to ascertain the views of the at-risk adult in relation to whom the order is sought, concerning the making of such order; and
- (b) in determining whether to grant any such order, have regard to any views expressed by the at-risk adult in relation to whom the order is sought, concerning the making of such order.

**R. 12.11 The Commission recommends that** a removal and transfer order may be sought and granted against the views or wishes of an at-risk adult whose protection is intended by the making of the order.

**R. 12.12 The Commission recommends that** if the removal and transfer order is sought in the context of apparent objection on the part of the at-risk adult, an authorised officer of the Safeguarding Body or member of the Garda Síochána must also have a reasonable belief that:

- (a) the apparent objection of the at-risk adult is not voluntary; or
- (b) the at-risk adult may lack capacity to decide whether to remain in the place where they presently are, or be moved to a designated health or social care facility or other suitable place.

**R. 12.13 The Commission recommends that** if the removal and transfer order is sought in the context of apparent objection on the part of the at-risk adult, in addition to the general threshold for the granting of a transfer and removal order, the judge of the District Court must be satisfied that there are reasonable grounds for believing that the apparent objection of the at-risk adult is not voluntary, or the at-risk adult may lack capacity to decide whether to remain in the place where they presently are, or be moved to a designated health or social care facility or other suitable place for the purposes of an assessment.

**R. 12.14 The Commission recommends that** the threshold for granting a removal and transfer order should be that a judge of the District Court is satisfied that there

are reasonable grounds for believing that:

- (a) an adult at risk of harm is present in a particular place;
- (b) there is a serious and immediate risk to the health, safety or welfare of the at-risk adult;
- (c) actions may be required to safeguard the health, safety or welfare of the at-risk adult;
- (d) removal to a designated facility or other suitable place is necessary to attempt to assess the matters specified in subsections (b) and (c) as such assessment cannot be done in the place where the at-risk adult is currently located; and
- (e) the assessment of the matters specified in subsections (b) and (c) cannot be achieved using less intrusive means.

**R. 12.15 The Commission recommends that** where an application for a removal and transfer order is made and access to the at-risk adult has not yet been obtained, to grant the order (and in addition to the general threshold for the granting of a removal and transfer order) a judge of the District Court must be satisfied that the granting of a warrant for access would be insufficient in the circumstances.

**R. 12.16 The Commission recommends that** adult safeguarding legislation should permit the relevant Minister to prescribe by regulations designated health or social care facilities to which an at-risk adult may be removed.

**R. 12.17 The Commission recommends that** in order to grant a removal and transfer order authorising removal of an at-risk adult to any place other than a designated health or social care facility, in addition to the general threshold for the granting of a removal and transfer order, a judge of the District Court must be satisfied that such place is suitable for the purposes of assessing:

- (a) the health, safety or welfare of the at-risk adult; and
- (b) whether actions are required to safeguard the health, safety or welfare of the at-risk adult.

**R. 12.18 The Commission recommends that** adult safeguarding legislation should provide that, in the event that the next sitting of the District Court for the District Court area wherein the relevant place is located is not due to be held within three days of the intended application for a removal and transfer order, an application for an order may be made at a sitting of the District Court, which has been specially arranged, held within the said three days.

- R. 12.19 The Commission recommends that** the validity period for a removal and transfer order should be three days.
- R. 12.20 The Commission recommends that** a removal and transfer order should be executed by a member of the Garda Síochána, who should be accompanied by an authorised officer of the Safeguarding Body, where possible.
- R. 12.21 The Commission recommends that** a member of the Garda Síochána may be accompanied by appropriately qualified health or social care professionals, members of an assisted admissions team, or any other persons that the member reasonably considers necessary or appropriate to execute the removal and transfer order, such as a trusted friend or family member of the at-risk adult.
- R. 12.22 The Commission recommends that** a removal and transfer order should allow for the use of reasonable force by a member of the Garda Síochána or an authorised officer, if necessary, to gain access to the place where the at-risk adult is currently located.
- R. 12.23 The Commission recommends that** a member of the Garda Síochána should be permitted to take all reasonable measures necessary for the removal and transfer of an at-risk adult including, where necessary, the detention or restraint of the at-risk adult where reasonable efforts to secure the voluntary cooperation of the at-risk adult have failed.
- R. 12.24 The Commission recommends that** adult safeguarding legislation should require that a notice in plain English be provided to the at-risk adult whose removal and transfer is intended upon execution of a removal and transfer order, explaining the nature of the order being exercised and the process involved.
- R. 12.25 The Commission recommends that** adult safeguarding legislation should provide that the relevant Minister may prescribe by regulations a standard notice to be provided upon execution of a removal and transfer order, which explains the nature of the order and the power being exercised.
- R. 12.26 The Commission recommends that** when executing a removal and transfer order, the authorised officer or member of the Garda Síochána should insofar as practicable explain to the at-risk adult:
- (a) the nature and purpose of the order and the powers exercisable under it; and
  - (b) that upon arrival at the designated health or social care facility or other suitable place, the at-risk adult may choose to leave, and will be facilitated in doing so.

However, any failure to give such an explanation should not invalidate the order or the exercise of any power on foot of the order.

**R. 12.27 The Commission recommends that** if, once a removal and transfer order has been executed, the at-risk adult chooses to leave the designated health or social care facility or other suitable place, the Safeguarding Body, members of the Garda Síochána and appropriately qualified health or social care professionals, as appropriate, should support them in doing so, and the removal and transfer order should be considered discharged.

**R. 12.28 The Commission recommends that** if, once a removal and transfer order has been executed, the at-risk adult chooses to leave the designated health or social care facility or other suitable place, the Safeguarding Body, members of the Garda Síochána and appropriately qualified health or social care professionals, as appropriate, should be obliged to return the at-risk adult to the place from which they were removed or to a place of the at-risk adult's choosing, insofar as practicable. The Safeguarding Body should also continue to offer assistance and support to the at-risk adult, including providing information in relation to such other supports as may be available.

**R. 12.29 The Commission recommends that** if, once a removal and transfer order has been executed, it appears to the Safeguarding Body, members of the Garda Síochána or other professional that the at-risk adult may lack capacity to decide to remain in the designated health or social care facility or other suitable place, they must endeavour to support the at-risk adult to make the decision, and where necessary consider supports under the Assisted Decision-Making (Capacity) Act 2015 and notifying, in writing, the Director of the Decision Support Service. Such a view should not, however, be grounds for refusing the at-risk adult permission to leave the designated health or social care facility or other suitable place.

**R. 12.30 The Commission recommends that** a removal and transfer order should allow authorised officers and appropriately qualified health or social care professionals to conduct a private interview with, and a preliminary medical examination of, an at-risk adult in a designated health or social care facility or other suitable place specified by the court.

**R. 12.31 The Commission recommends that** adult safeguarding legislation should require that, in advance of carrying out any interview or medical examination, an authorised officer or health or social care professional should explain to the at-risk adult that they may refuse to answer any question or to be medically examined.

**R. 12.32 The Commission recommends that** adult safeguarding legislation should require that the powers of interview and medical examination cannot be exercised if the at-risk adult objects.

**R. 12.33 The Commission recommends that** it should be an offence for a person, other than an at-risk adult, to obstruct or impede a member of the Garda Síochána or



an authorised officer when the member or officer is executing a removal and transfer order.

**R. 12.34 The Commission recommends that** a member of the Garda Síochána should be able to arrest without warrant any person, other than an at-risk adult, who obstructs or impedes the member when they are executing a removal and transfer order.

**R. 12.35 The Commission recommends that** the offence of obstruction and associated power of arrest should not apply in relation to the at-risk adult whose assessment is intended under the removal and transfer order.

**R. 12.36 The Commission recommends that** in relation to any proceedings for a removal and transfer order, it should be an offence for a person, other than an at-risk adult, to publish, distribute or broadcast any information likely to identify the at-risk adult, unless the court directs otherwise. (See the relevant section of the Commission’s Adult Safeguarding Bill 2024 regarding the anonymity of adults at risk of harm and others.)

**R. 12.37 The Commission recommends that** adult safeguarding legislation should not make provision for a summary power of removal and transfer.

**R. 12.38 The Commission recommends that** a removal and transfer order should not allow for any period of detention of the at-risk adult, other than their removal and transfer to the designated health or social care facility or other suitable place, as specified in the order.

## Chapter 13: No-Contact Orders

**R. 13.1 The Commission recommends that** the Domestic Violence Act 2018 should be amended as follows:

(a) The category of relationships to which barring orders under the Domestic Violence Act 2018 apply should be expanded to include individuals of full age who cohabit with an “adult at risk of harm” (as defined in the Commission’s Adult Safeguarding Bill 2024) on:

(i) a non-contractual basis; and

(ii) a contractual basis where the contractual arrangement involves the individual of full age caring for the adult at risk of harm.

(b) The category of relationships to which safety orders under the Domestic Violence Act 2018 apply should be expanded to include individuals of full age who cohabit with an “adult at risk of harm” (as defined in the Commission’s Adult Safeguarding Bill 2024) on a contractual basis where

the contractual arrangement involves the individual of full age caring for the adult at risk of harm.

**R. 13.2 The Commission recommends that** the definition of “agency” in section 2 of the Domestic Violence Act 2018 should be amended to allow both the Child and Family Agency and the Safeguarding Body to make an application for an order in respect of an “adult at risk of harm” (as defined in the Commission’s Adult Safeguarding Bill 2024) under the Domestic Violence Act 2018.

**R. 13.3 The Commission recommends that** an adult safeguarding no-contact order should be provided for in adult safeguarding legislation. An adult safeguarding no-contact order would prohibit a non-intimate and non-cohabiting third party from engaging in one or more of the following behaviours:

- (a) following, watching, pestering or communicating (including by electronic means) with, or about, the at-risk adult for whose protection the order is made;
- (b) attending at, or in the vicinity of, or watching or besetting a place where the at-risk adult resides;
- (c) approaching or coming within a specified vicinity of the at-risk adult.

**R. 13.4 The Commission recommends that** adult safeguarding legislation should provide that an authorised officer of the Safeguarding Body must:

- (a) make reasonable efforts to ascertain the views of the at-risk adult before making an application for a no-contact order; and
- (b) have regard to any views expressed by the at-risk adult in determining whether to apply for a no-contact order.

**R. 13.5 The Commission recommends that** where an authorised officer of the Safeguarding Body is the applicant for a no-contact order, they should provide evidence to the District Court to demonstrate the reasonable efforts made to ascertain the wishes of the at-risk adult, and information regarding the use of any methods or supports such as speech and language therapists or independent advocacy services.

**R. 13.6 The Commission recommends that** adult safeguarding legislation should provide that, upon any application for a no-contact order, the District Court must:

- (a) where the at-risk adult is not the applicant, enquire as to whether reasonable efforts have been made to ascertain the views of the at-risk adult in relation to whom the order is sought; and
- (b) in determining whether to grant any such order, have regard to any views expressed by the at-risk adult.

- R. 13.7 The Commission recommends that** adult safeguarding legislation should provide that an adult safeguarding no-contact order cannot be sought or granted where the at-risk adult objects to the making of the order.
- R. 13.8 The Commission recommends that** adult safeguarding legislation should provide that upon any application for a no-contact order, the court shall have regard to the respective rights, title or interests in the property wherein the at-risk adult resides.
- R. 13.9 The Commission recommends that** an adult safeguarding no-contact order should neither affect rights, title or interests in the property wherein the at-risk adult resides nor disturb the existing property law mechanisms open to an individual with superior rights, title or interests in the property wherein the at-risk adult resides.
- R. 13.10 The Commission recommends that** the following persons should be permitted to make an application for an adult safeguarding no-contact order provided for in adult safeguarding legislation:
- (a) the at-risk adult whose protection is sought by the making of the order; and
  - (b) an authorised officer of the Safeguarding Body.
- R. 13.11 The Commission recommends that** in order to apply for an adult safeguarding no-contact order, an authorised officer of the Safeguarding Body must have a reasonable belief that the health, safety or welfare of the at-risk adult requires the order.
- R. 13.12 The Commission recommends that** an application for an adult safeguarding no-contact order should be made on an *inter partes* basis.
- R. 13.13 The Commission recommends that** adult safeguarding legislation should provide that, in the event that the next sitting of the District Court for the District Court area wherein the at-risk adult resides is not due to be held within three days of the intended application for a no-contact order, an application for an order may be made at a sitting of the District Court, which has been specially arranged, held within the said three days.
- R. 13.14 The Commission recommends that** the threshold for granting an adult safeguarding no-contact order should be that the court is satisfied that there are reasonable grounds for believing that the health, safety or welfare of the at-risk adult requires it.
- R. 13.15 The Commission recommends that** a validity period of a maximum of two years (from the date of the making of the order) should apply to an adult safeguarding no-contact order applied for by, or on behalf of, an at-risk adult.

- R. 13.16 The Commission recommends that** the at-risk adult whose protection is intended by a no-contact order should be permitted by adult safeguarding legislation to make an application to discharge the order.
- R. 13.17 The Commission recommends that** the respondent to a no-contact order should be permitted by adult safeguarding legislation to make an application to discharge the order.
- R. 13.18 The Commission recommends that** where the Safeguarding Body has applied for a no-contact order, it should be permitted by adult safeguarding legislation to make an application to discharge the order.
- R. 13.19 The Commission recommends that** wilful non-compliance with the terms of a no-contact order should be a criminal offence capable of being tried summarily or on indictment.
- R. 13.20 The Commission recommends that,** as in family law, there should be no legal sanction imposed on an at-risk adult if they choose to engage with the person against whom an order is made.
- R. 13.21 The Commission recommends that** the legislation providing for an adult safeguarding no-contact order should provide that an appeal of a no-contact order shall, if the court that made the order or the court to which the appeal is brought so determines (but not otherwise), stay the operation of the order on such terms (if any) as may be imposed by the court making the determination.
- R. 13.22 The Commission recommends that** the legislation providing for an interim no-contact order or an emergency no-contact order should provide that an appeal of an interim no-contact order or an emergency no-contact order shall not stay the operation of the order.
- R. 13.23 The Commission recommends that** an interim adult safeguarding no-contact order should be provided for in adult safeguarding legislation to be available, on an *inter partes* or *ex parte* basis, where an application for a (“full”) adult safeguarding no-contact order has been made.
- R. 13.24 The Commission recommends that** the following should be permitted to make an application for an interim adult safeguarding no-contact order provided for in adult safeguarding legislation:
- (a) an at-risk adult whose protection is sought by the making of the order;  
and
  - (b) an authorised officer of the Safeguarding Body.
- R. 13.25 The Commission recommends that** in order to apply for an interim adult safeguarding no-contact order, an authorised officer of the Safeguarding Body

must have a reasonable belief that there is an immediate risk to the health, safety or welfare of the at-risk adult such that an interim no-contact order is required.

- R. 13.26 The Commission recommends that** the threshold for granting an interim adult safeguarding no-contact order should be that a judge of the District Court is satisfied that there are reasonable grounds for believing that there is an immediate risk to the health, safety or welfare of the at-risk adult such that an interim no-contact order is required.
- R. 13.27 The Commission recommends that** an interim adult safeguarding no-contact order granted on an *inter partes* basis should be valid until the determination of the pending application for the adult safeguarding no-contact order.
- R. 13.28 The Commission recommends that** a validity period not exceeding 8 working days after the day it is issued should apply to an interim adult safeguarding no-contact order granted on an *ex parte* basis.
- R. 13.29 The Commission recommends that** an emergency adult safeguarding no-contact order should be provided for in adult safeguarding legislation to be available on an *ex parte* basis, without any requirement that an application for a “full” adult safeguarding no-contact order has been made.
- R. 13.30 The Commission recommends that** that the following should be permitted to make an application for an emergency adult safeguarding no-contact order provided for in adult safeguarding legislation:
- (a) an at-risk adult whose protection is sought by the making of the order; and
  - (b) an authorised officer of the Safeguarding Body.
- R. 13.31 The Commission recommends that** an emergency adult safeguarding no-contact order may be sought and granted against the wishes of an at-risk adult whose protection is intended by the making of the order.
- R. 13.32 The Commission recommends that** in order to apply for an emergency adult safeguarding no-contact order, an authorised officer of the Safeguarding Body must have a reasonable belief that there is an immediate risk to the health, safety or welfare of the at-risk adult and a no-contact order is required:
- (a) to address or mitigate that risk; or
  - (b) to assess the voluntariness of the at-risk adult’s objection to the making of a no-contact order, and where necessary to facilitate a capacity assessment.
- R. 13.33 The Commission recommends that** if the emergency no-contact order is sought in the context of apparent objection on the part of the at-risk adult, an authorised officer of the Safeguarding Body must also have a reasonable belief

that that the apparent objection of the at-risk adult is not voluntary, or the at-risk adult may lack capacity to decide whether to continue to have contact with the intended respondent to the emergency no-contact order.

**R. 13.34 The Commission recommends that** the threshold for granting an emergency adult safeguarding no-contact order should be that the judge of the District Court is satisfied that there are reasonable grounds for believing that there is an immediate risk to the health, safety or welfare of the at-risk adult, and a no-contact order is required:

- (a) to address or mitigate that risk, or
- (b) to assess the voluntariness of the at-risk adult's objection to the making of a no-contact order, and where necessary to facilitate a capacity assessment.

**R. 13.35 The Commission recommends that** if the emergency adult safeguarding no-contact order is sought in the context of apparent objection on the part of the at-risk adult, the judge of the District Court must also be satisfied that there are reasonable grounds for believing that the apparent objection of the at-risk adult is not voluntary, or the at-risk adult may lack capacity to decide whether to continue to have contact with the intended respondent to the emergency no-contact order.

**R. 13.36 The Commission recommends that** a validity period not exceeding 8 working days after the day it is issued should apply to an emergency no-contact order. There should be no possibility for renewal or extension of an emergency no-contact order.

**R. 13.37 The Commission recommends that** a provision in adult safeguarding legislation should oblige the Safeguarding Body to make an application for immediate revocation of the order where, following the making of an emergency no-contact order, the voluntariness of the at-risk adult's objection to the making of a no-contact order is confirmed, and the at-risk adult has, at the time concerned, capacity to object to the making of the order. Such an application must be brought as soon as is practicable.

**R. 13.38 The Commission recommends that** where an emergency no-contact order is made in circumstances wherein the at-risk adult is believed to lack capacity to consent to the making of a no-contact order, the Safeguarding Body must endeavour to support the at-risk adult to make the decision and, where necessary, consider supports under the Assisted Decision-Making (Capacity) Act 2015 and notifying, in writing, the Director of the Decision Support Service.

**R. 13.39 The Commission recommends that** in relation to any proceedings for a no-contact order (including an interim or an emergency no-contact order), it should be an offence for a person, other than an at-risk adult, to publish, distribute or

broadcast any information likely to identify the at-risk adult concerned, unless the court directs otherwise. (See the relevant section of the Commission’s Adult Safeguarding Bill 2024 regarding the anonymity of adults at risk of harm and others.)

- R. 13.40 The Commission recommends that** the respondent to a no-contact order, interim no-contact order, or emergency no-contact order should be identified, unless doing so would identify the at-risk adult. (See the relevant section of the Commission’s Adult Safeguarding Bill 2024 regarding the anonymity of adults at risk of harm and others.)
- R. 13.41 The Commission recommends that** free legal aid should be extended to applications by at-risk adults for no-contact orders, interim no-contact orders and emergency no-contact orders.
- R. 13.42 The Commission recommends that** the Civil Legal Aid Regulations 1996 should be amended to state that no contribution shall be payable by an applicant where the subject matter of the application relates solely to proceedings in the District Court (or on appeal from the District Court to the Circuit Court) where the only remedy sought by the applicant in those proceedings is a no-contact order (including an interim no-contact order and emergency no-contact order).

## Chapter 14: Financial Abuse

- R. 14.1 The Commission recommends that** the Central Bank Reform Act 2010 (Section 17A) (Standards for Business) Regulations and the Central Bank (Supervision and Enforcement) Act 2013 (Section 48) (Conduct of Business) Regulations should provide for obligations on regulated financial service providers to prevent and address actual or suspected financial abuse of at-risk customers.
- R. 14.2 The Commission recommends that** regulated financial service providers, credit unions and post offices should be under a statutory obligation to ensure that relevant personnel receive regular adult safeguarding awareness training.
- R. 14.3 The Commission recommends that** the Central Bank Reform Act 2010 (Section 17A) (Standards for Business) Regulations and the Central Bank (Supervision and Enforcement) Act 2013 (Section 48) (Conduct of Business) Regulations should be consistent with the Assisted Decision-Making (Capacity) Act 2015 and existing codes, such as the statutory codes of practice made under the Assisted Decision-Making (Capacity) Act 2015, for example the Code of Practice for Financial Service Providers published by the Director of the Decision Support Service.
- R. 14.4 The Commission recommends that** the following amendments and clarifications should be made and provided respectively in relation to the proposed definition of “consumer in vulnerable circumstances” in the Central

Bank (Supervision and Enforcement) Act 2013 (Section 48) (Conduct of Business) Regulations:

- (a) the words “especially susceptible to harm” and “harm” should be defined in the proposed definition or elsewhere in the Regulations;
- (b) certain other circumstances wherein a consumer will constitute a “consumer in vulnerable circumstances” should be provided in the proposed definition or elsewhere in the Regulations;
- (c) the proposed definition should be amended, in part, to refer to a consumer that is a natural person and whose individual circumstances (whether permanent or otherwise) at a particular time make that consumer especially susceptible to harm; and
- (d) the proposed Guidance on Protecting Consumers in Vulnerable Circumstances should clarify:
  - (i) the meaning of “especially susceptible to harm” in the proposed definition;
  - (ii) what constitutes “harm” for the purposes of the proposed definition; and
  - (iii) the certain other circumstances wherein a consumer will constitute a “consumer in vulnerable circumstances”.

**R. 14.5 The Commission recommends that** regulated financial service providers should be provided with a power in primary or secondary legislation to temporarily suspend the completion of a financial transaction where there is knowledge or a reasonable belief that an at-risk customer is being, has been or is likely to be subject to financial abuse.

**R. 14.6 The Commission recommends that** a statutory immunity should be introduced in primary or secondary legislation to clarify that no action shall lie against a regulated financial service provider or a branch manager, director, officer, employee, agent or other representative of a regulated financial service provider in respect of an action taken in good faith to safeguard an at-risk customer from actual or suspected financial abuse when there is knowledge or a reasonable belief that an at-risk customer is being, has been or is likely to be subject to financial abuse.

**R. 14.7 The Commission recommends that** the relevant provisions of the Social Welfare Consolidation Act 2005 and the Social Welfare (Consolidated Claims, Payments



and Control Provisions) Regulations 2007 (SI No 142 of 2007) should be amended to ensure consistency with the Assisted Decision-Making (Capacity) Act 2015, the United Nations Convention on the Rights of Persons with Disabilities, and Council of Europe Recommendation (CM/Rec(2014)2) of the Committee of Ministers to Member States on the promotion of human rights of older persons.

**R. 14.8 The Commission recommends that** the remit of the Safeguarding Body to receive and respond to reports of actual or suspected abuse or neglect of at-risk adults should apply to reports of all types of abuse, including actual or suspected financial abuse of at-risk adults.

**R. 14.9 The Commission recommends that** provision should be made in secondary legislation to clarify the financial procedures for the confirmation of fee arrangements in contracts for care between home support providers and service users in order to allow for advance consideration of home support providers by potential service users and to provide financial certainty to potential service users.

**R. 14.10 The Commission recommends that** a standard in relation to the prevention of financial abuse by service providers should be introduced and included in the National Standards for Homecare and Home Support Services.

## Chapter 15: Cooperation

**R. 15.1 The Commission recommends that** adult safeguarding legislation should provide that it shall be a function of the Safeguarding Body to cooperate with any person or body that it considers appropriate in relation to any matter connected to its functions.

**R. 15.2 The Commission recommends that** adult safeguarding legislation should impose a statutory duty on a public service body, when requested by the Safeguarding Body, to cooperate with the Safeguarding Body for the purpose of the performance of a function of the Safeguarding Body.

**R. 15.3 The Commission recommends that** adult safeguarding legislation should impose a statutory duty on a public service body, when requested by another public service body, to cooperate with that body for the purpose of the performance of a function of that body which relates to safeguarding the health, safety or welfare of an at-risk adult.

**R. 15.4 The Commission recommends that** adult safeguarding legislation should impose a statutory duty on a public service body, when requested by a provider of a relevant service, to cooperate with that provider where such provider is of the opinion, based on reasonable grounds, that there is a risk to the health, safety or welfare of an at-risk adult that is caused by abuse, neglect or ill-treatment.

**R. 15.5 The Commission recommends that** adult safeguarding legislation should impose a statutory duty on a provider of a relevant service, when requested by the Safeguarding Body, to cooperate with the Safeguarding Body for the purpose of the performance of a function of the Safeguarding Body.

**R. 15.6 The Commission recommends that** adult safeguarding legislation should impose a statutory duty on a provider of a relevant service, when requested by a public service body, to cooperate with that body for the purpose of the performance of a function of that body which relates to safeguarding the health, safety or welfare of an at-risk adult.

**R. 15.7 The Commission recommends that** adult safeguarding legislation should impose a statutory duty on a provider of a relevant service, when requested by another provider of a relevant service, to cooperate with that provider where such provider is of the opinion, based on reasonable grounds, that there is a risk to the health, safety or welfare of an at-risk adult that is caused by abuse, neglect or ill-treatment.

**R. 15.8 The Commission recommends that** adult safeguarding legislation should provide that in circumstances where, on the basis of information reported or available to the Safeguarding Body, an authorised officer of the Safeguarding Body believes, based on reasonable grounds, that there is a risk to the health, safety or welfare of an at-risk adult, the Safeguarding Body should be able to take whatever action it deems necessary to safeguard the at-risk adult which should include, but should not be limited to, cooperating with other agencies to develop a safeguarding plan to safeguard the at-risk adult.

**R. 15.9 The Commission recommends that** an interdepartmental steering group should be established on a statutory basis to provide oversight of cooperation in the adult safeguarding context.

**R. 15.10 The Commission recommends that** statutory provisions for transitional care arrangements should be included in any future social care legislation that may be considered by the Government.

**R. 15.11 The Commission recommends that,** if statutory provisions for transitional care arrangements are provided for in any future social care legislation, the Government should consider:

- (a) the appointment of a lead organisation, or two or more organisations as lead organisations, to manage transitional care arrangements in cooperation with certain public service bodies and certain providers of relevant services to at-risk adults; and
- (b) the introduction of a duty on the lead organisation(s) to:

- (i) assess whether a child who is considered to be at risk or has complex needs is likely to be an at-risk adult upon transition from children's services to adult services; and
- (ii) undertake timely transitional care planning and safeguarding planning for that child.

## Chapter 16: Information Sharing

- R. 16.1 The Commission recommends that** primary legislation should provide for information sharing between relevant bodies whose functions relate, in whole or in part, to safeguarding the health, safety or welfare of at-risk adults.
- R. 16.2 The Commission recommends that** both a statutory obligation and a statutory permission should be introduced in primary legislation to specifically provide for information sharing between relevant bodies whose functions relate, in whole or in part, to safeguarding the health, safety or welfare of at-risk adults.
- R. 16.3 The Commission recommends that** until adequate provision is made for information sharing in the adult safeguarding context in primary legislation, regulations under sections 51(3) and 73(2) of the Data Protection Act 2018 should be introduced to allow relevant bodies, whose functions relate in whole or in part to safeguarding the health, safety or welfare of at-risk adults, to share the special categories of personal data of at-risk adults with relevant bodies for the substantial public interest reason of safeguarding the health, safety or welfare of at-risk adults in Ireland.
- R. 16.4 The Commission recommends that** guidance and/or codes of conduct should be published on the sharing of the personal data and special categories of personal data of at-risk adults in the adult safeguarding context.

## Chapter 17: Adult Safeguarding reviews

**R. 17.1 The Commission recommends that** adult safeguarding reviews should be introduced on a statutory basis to review serious incidents that reach a high threshold.

**R. 17.2 The Commission recommends that** the following principles should be followed when an adult safeguarding review is carried out:

- (1) Adult safeguarding reviews should be learning focused. The objective is not to attribute blame. The aim should be to identify changes that can be made to improve the quality and safety of services and reduce the likelihood of reoccurrence;
- (2) There should be a consistent, standardised and transparent adult safeguarding review process for very serious incidents, and adult safeguarding review reports should be made publicly available where possible;
- (3) Adult safeguarding reviews should apply to all serious incidents involving at-risk adults that meet set criteria, irrespective of the care setting;
- (4) Adult safeguarding reviews should be completed in a timely manner in order to disseminate learnings without delay;
- (5) There should be a shared learning culture, in which at-risk adults, their families, advocates, staff and service providers are all given the opportunity to engage meaningfully in the review process;
- (6) The implementation of recommendations should be audited and evaluated by the reviewing body to ensure that reviews are achieving their objective and are effectively bringing about systems improvement;
- (7) A response should be required from agencies and organisations identified in the review, outlining their acceptance or rejection of the recommendations contained therein, and the actions they have taken, or will take, to implement the recommendations. These responses should be made publicly available by the reviewing body.

**R. 17.3 The Commission recommends that** provisions emphasising that the purpose of adult safeguarding reviews is not to attribute blame or liability should be included in its proposed Adult Safeguarding Bill 2024.

**R. 17.4 The Commission recommends that** an adult safeguarding review must be carried out when:

- (a) (i) an at-risk adult dies, and abuse or neglect is known or suspected to be a factor in the death; or
- (ii) an at-risk adult does not die, but it is known or suspected that they experienced or are experiencing serious abuse or neglect; and
- (b) where an incident or series of incidents suggests that there have been serious and significant failings on behalf of one or more agencies, organisations or individuals responsible for the care and protection of at-risk adults.

**R. 17.5 The Commission recommends that** an adult safeguarding review may be carried out where the criteria for a mandatory review are not met and the reviewing body has reasonable grounds for believing that valuable insights could be gained from an adult safeguarding review regarding how the safety, quality and standards of adult safeguarding services provided by one or more agencies, organisations or individuals can be improved to—

- (a) protect and promote the health, safety and welfare of adults at risk of harm, and
- (b) minimise the risk of harm to adults at risk of harm.

**R. 17.6 The Commission recommends that** the reviewing body may decide to pause, discontinue, or not undertake a mandatory or discretionary adult safeguarding review if:

- (a) the incident concerned is the subject of criminal proceedings;
- (b) the incident concerned is the subject of investigation by the Garda Síochána;
- (c) the incident concerned is or will be the subject of a review or investigation under any other enactment by another statutory body or officeholder under a statutory duty;
- (d) the incident concerned has already been resolved or substantially resolved, or
- (e) the reviewing body believes, based on reasonable grounds, that, due to the considerable length of time between the incident concerned occurring, and deciding whether to undertake an adult safeguarding review, it is not necessary or appropriate to undertake a review.

**R. 17.7 The Commission recommends that** the reviewing body shall ensure that any mandatory or discretionary adult safeguarding review undertaken does not interfere, or conflict, with the functions of any statutory bodies or office holders under a statutory duty.

**R. 17.8 The Commission recommends that** the reviewing body should have powers to:

- (a) require the production of information or documents;
- (b) inspect and take copies of, or extracts from, information or documents;
- (c) inspect the operation of any computer and any associated apparatus or material which is, or has been, in use in connection with the information or documents; and
- (d) interview in private relevant persons to enable it to carry out adult safeguarding reviews effectively.

**R. 17.9 The Commission recommends that** where a person does not produce information or documents upon request or does not consent to participate in an interview in private, the reviewing body should be able to apply for a court order directing the person to produce information or documents or to participate in an interview in private.

## Chapter 18: Regulation of Professionals and Occupational Groups

**R. 18.1 The Commission recommends that** health care assistants and health care support assistants should be regulated in Ireland to ensure the:

- (a) protection of the public;
- (b) establishment of minimum educational and training requirements for health care assistants and health care support assistants;
- (c) standardisation of the roles of health care assistants and health care support assistants;
- (d) establishment of defined scopes of practice for health care assistants and health care support assistants; and
- (e) implementation of controls on access to employment as a health care assistant or health care support assistant.

**R. 18.2 The Commission recommends that** barred lists should not be established in Ireland.

**R. 18.3 The Commission recommends that** post-conviction prohibition orders should be introduced in primary legislation in Ireland to prohibit persons who have been convicted of offences under adult safeguarding legislation or assisted decision-making legislation, or whose victims were at-risk adults, from engaging in work or activities where such persons would have access to, or contact with, at-risk adults.

**R. 18.4 The Commission recommends that** a system of mandatory re-vetting should be introduced for persons subject to mandatory vetting in respect of relevant work or activities under the National Vetting Bureau (Children and Vulnerable Persons) Act 2012.

## Chapter 19: Adult Safeguarding and the Criminal Law

**R. 19.1 The Commission recommends that** the criminal offences it proposes in its Criminal Law (Adult Safeguarding) Bill 2024 should apply where a person commits an offence against a “relevant person” and that the term “relevant person” should be defined as follows:

“relevant person” means a person, other than a child, whose ability to guard himself or herself against violence, exploitation or abuse, whether physical, sexual or emotional, or neglect, by another person is significantly impaired through one, or more, of the following—

- (a) a physical disability, a physical frailty, an illness or an injury;
- (b) a disorder of the mind, whether as a result of mental illness or dementia;
- (c) an intellectual disability;
- (d) autism spectrum disorder.

**R. 19.2 The Commission recommends that** a broad abuse, neglect or ill-treatment offence should be enacted in the Criminal Law (Adult Safeguarding) Bill 2024, modelled on the cruelty offence set out in section 246 of the Children Act 2001.

**R. 19.3 The Commission recommends that** an offence of exposure of a relevant person to risk of serious harm or sexual abuse should be enacted in the Criminal Law (Adult Safeguarding) Bill 2024. It should be modelled on the offence set out in section 176 of the Criminal Justice Act 2006 in respect of children. However, the definition of “serious harm” should include injury which is of a psychological nature which has a significant impact.

**R. 19.4 The Commission recommends that** a new offence of coercive control of a relevant person should be enacted in the Criminal Law (Adult Safeguarding) Bill 2024, which would apply to a broader range of relationships than the offence in section 39 of the Domestic Violence Act 2018.

**R. 19.5 The Commission recommends that** the new offence of coercive control in the Criminal Law (Adult Safeguarding) Bill 2024 should apply to all persons in a familial, caring or cohabitating relationship with a relevant person.

**R. 19.6 The Commission recommends that** an offence of coercive exploitation of a relevant person should be enacted in the Criminal Law (Adult Safeguarding) Bill

2024.

**R. 19.7 The Commission recommends that** the offence of coercive exploitation should criminalise the actions of a person who, without reasonable excuse, engages in controlling or coercive behaviour in relation to a relevant person for the purpose of obtaining or exercising control over any of the property (whether real or personal) or financial resources of that relevant person in order to gain a benefit or advantage, whether for themselves, or for any third party.

**R. 19.8 The Commission recommends that** for the purposes of the coercive exploitation offence, it is irrelevant whether there was any actual gain, benefit or advantage, and it will not be a defence to prove the acquiring of consent of or acquiescence by the relevant person.

**R. 19.9 The Commission recommends that** the legislation should specify a non-exhaustive list of behaviours that can be considered to be “controlling or coercive behaviour”, while leaving open the possibility that other actions may fall within the scope of the offence. This non-exhaustive list should include:

- (a) controlling the relevant person’s necessities of life, medication, interactions with others, access to information, or sleep;
- (b) use of violence, intimidation or threats, whether directed against a relevant person or any family member of a relevant person;
- (c) exercising undue influence over a relevant person; or
- (d) making, or threatening to make, changes to the personal or property rights of a relevant person.

**R. 19.10 The Commission recommends that** the definition of benefit or advantage should include, but not be limited to, any form of financial benefit or advantage, including one, or more, of the following:

- (a) the taking, withholding, appropriation or use of money or assets owned by a relevant person;
- (b) the taking, withholding, appropriation, or use of property owned or occupied by a relevant person, including occupying or making use of any property owned or occupied by a relevant person, or any part of such property, or otherwise interfering with the relevant person’s enjoyment of such property;
- (c) the taking, withholding, appropriation or use of any benefits payable to a relevant person.

**R. 19.11 The Commission recommends that** the proposed offence should specify that undue influence involves a person exploiting a position of power in relation to a



relevant person so as to cause that relevant person to act, or to refrain from acting, in a manner detrimental to their own best interests and which confers, or is intended to confer, a benefit or advantage on themselves or a third party.

**R. 19.12 The Commission recommends that** where a person who is a care provider is found guilty of certain offences under the Criminal Law (Adult Safeguarding) Bill 2024, a court may make a publicity order.

**R. 19.13 The Commission recommends that**, in deciding whether to make a publicity order, the court should have regard to the following:

- (a) whether the publicity order is in the public interest;
- (b) whether the making of the publicity order risks the identification of the victim;
- (c) the potential effect of identification on the victim by the making of the publicity order;
- (d) the views of the victim on the making of the publicity order, where they can be ascertained.

**R. 19.14 The Commission recommends that** a publicity order should require the person convicted of the offence to publicise one or more of the following:

- (a) the fact that the person has been convicted of an offence,
- (b) the particulars of the offence concerned,
- (c) the amount of fine, or duration of any term of imprisonment, imposed by the court in respect of the offence.

**R. 19.15 The Commission recommends that** the court may specify the manner of publication, and a non-exhaustive list of forms of publication should be included in the Criminal Law (Adult Safeguarding) Bill 2024. This should include notification to the regulator where the care provider is an approved centre regulated by the Mental Health Commission or a service or designated centre regulated by HIQA. Where a service is publicly funded, the Minister and the body, organisation or group through which the funds are provided should also be notified.

**R. 19.16 The Commission recommends that**, in relation to any proceedings for an offence committed under the Criminal Law (Adult Safeguarding) Bill 2024, it should be an offence for a person, other than a relevant person, to publish, distribute or broadcast any information likely to identify the relevant person, unless the court otherwise directs.

## Chapter 20: A Regulatory Framework for Adult Safeguarding Implementation and a Whole of Government Approach

- R. 20.1 The Commission recommends that** proposed adult safeguarding legislation should be cross-sectoral legislation that applies across all relevant sectors rather than specific legislation being introduced for individual sectors.
- R. 20.2 The Commission recommends that** one Department should be identified by Government as the appropriate Department to lead on the introduction, and implementation, of the proposed cross-sectoral adult safeguarding legislation.
- R. 20.3 The Commission recommends that** an interdepartmental implementation group should be established on a statutory basis in the proposed adult safeguarding legislation to provide oversight of the introduction and implementation of the proposed legislation.
- R. 20.4 The Commission recommends that** the inter-departmental implementation group should have the following functions in respect of adult safeguarding legislation:
- (a) promote compliance by departments with their obligations under the Act;
  - (b) monitor compliance by public service bodies with their obligations to cooperation under the Act;
  - (c) monitor the implementation by departments with any guidelines issued by the lead minister;
  - (d) provide support to relevant departments to assist them with preparing and publishing sectoral implementation plans (discussed further below);
  - (e) ensure consistency between departments in relation to sectoral implementation plans;
  - (f) report to the lead minister when requested on progress to implement the Act and any guidelines issued in accordance with the Act;
  - (g) provide information or advice and make proposals to the lead minister on matters related to the functions of the inter-departmental implementation group.
- R. 20.5 The Commission recommends that** the Government should designate the relevant Ministers who are required to prepare and publish a sectoral implementation plan under adult safeguarding legislation. This plan should

outline the measures taken or proposed to be taken by or on behalf of the Minister concerned to ensure that their department, any public service bodies under the aegis of their department and any organisation that provides a relevant service for and receives funding from the department comply with their obligations under the Act and any guidelines issued by the lead minister.

**R. 20.6 The Commission recommends that** the proposed civil adult safeguarding legislation should provide for the lead minister to introduce statutory guidance in the form of guidelines or codes of practice to provide practical guidance to any person or organisation in respect of the performance of their functions under the Act or on the application and interpretation of the legislation.

# **APPENDIX B**

## **TABLE OF RECOMMENDATIONS – SECONDARY LEGISLATION**

This appendix sets out, in tabular form, the Commission’s recommendations about:

- amendments to existing secondary legislation; and
- the introduction of new secondary legislation under existing primary legislation.

For ease of reference, the Commission includes the relevant recommendations from across the Report in tables below.

### **Chapter 7: Imposing Safeguarding Duties on Service Providers**

## Chapter 7: Imposing Safeguarding Duties on Service Providers

Recommendation Number	Primary Act	Secondary Legislation	Summary of Proposed Amendments
7.27	Health Act 2007	Health Act 2007 (Care and Welfare of Residents in Designated Centres for Older People) Regulations 2013 (SI No 415 of 2013)	Where a resident is identified as being at risk of harm, care plans should be updated to include a safeguarding plan. This should be regularly reviewed.
7.27	Health Act 2007	Health Act 2007 (Care and Support of Residents in Designated Centres for Persons (Children and Adults) with Disabilities) Regulations 2013 (SI No 367 of 2013)	Where a resident is identified as being at risk of harm, personal plans should be updated to include a safeguarding plan. This should be regularly reviewed.
7.27	Mental Health Act 2001	Mental Health Act 2001 (Approved Centres) Regulations 2006 (SI No 551 of 2006)	Where a resident is identified as being at risk of harm, care plans should be updated to include a safeguarding plan. This should be regularly reviewed.
7.29	Mental Health Act 2001	Mental Health Act 2001 (Approved Centres) Regulations 2006 (SI No 551 of 2006)	Amend regulation 26 to require staff of approved centres to be provided with adult safeguarding training, including training on how to detect, prevent and respond to abuse.

7.31	Taxi Regulation Act 2013	Taxi Regulation (Small Public Service Vehicle) Regulations 2015 (SI No 33 of 2015)	Introduce requirement on holders of SPSV licenses to undertake adult safeguarding training, including training on how to detect, prevent and respond to abuse.
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## Chapter 8: Independent Advocacy

Recommendation Number	Primary Act	Secondary Legislation	Summary of Proposed Amendments
8.2	Health Act 2007	Health Act 2007 (Care and Support of Residents in Designated Centres for Persons (Children and Adults) with Disabilities) Regulations 2013 (SI No 367 of 2013)	Require designated centres for adults with disabilities to facilitate access to independent advocacy services.
8.3	Mental Health Act 2001	Mental Health Act 2001 (Approved Centres) Regulations 2006 (SI No 551 of 2006)	Require approved centres to facilitate access to independent advocacy services.
8.4	Health Act 2007	Health Act 2007 (Care and Support of Residents in Designated Centres for Persons (Children and Adults) with Disabilities) Regulations 2013 (SI No 367 of 2013)	Require the service provider to engage with an independent advocate engaged by a resident for the purposes of a complaint.
8.4	Mental Health Act 2001	Mental Health Act 2001 (Approved Centres) Regulations 2006 (SI No 551 of 2006)	Require the service provider to engage with an independent advocate engaged by a resident for the purposes of a complaint.

## Chapter 9: Reporting Models

Recommendation Number	Primary Act	Secondary Legislation	Summary of Proposed Amendments
9.3	Health Act 2007	Health Act 2007 (Care and Welfare of Residents in Designated Centres for Older People) Regulations 2013 (SI No 415 of 2013)	Amend regulation 31 and paragraph 7(1) of Schedule 4 to extend the list of notifiable incidents to include financial coercion, patterns of neglect and psychological or emotional abuse.
9.3	Health Act 2007	Health Act 2007 (Care and Support of Residents in Designated Centres for Persons (Children and Adults) with Disabilities) Regulations 2013 (SI No 367 of 2013)	Amend regulation 31 and paragraph 10 of Schedule 4 to extend the list of notifiable incidents to include financial coercion, patterns of neglect and psychological or emotional abuse.
9.4	Mental Health Act 2001	Mental Health Act 2001 (Approved Centres) Regulations 2006 (SI No 551 of 2006)	Amend regulation 32(3) to extend the list of notifiable incidents. List contained in recommendation.



## Chapter 13: No-Contact Orders

<b>Recommendation Number</b>	<b>Primary Act</b>	<b>Secondary Legislation</b>	<b>Summary of Proposed Amendments</b>
13.42	Civil Legal Aid Act 1995	Civil Legal Aid Regulations 1996 (SI No 273 of 1996)	No contribution payable by an applicant, where the applicant is the at-risk adult who an order is intended to safeguard, when applying for a no-contact order (including an interim or emergency no-contact order) in the District Court/on appeal to the Circuit Court.

## Chapter 14: Financial Abuse

<b>Recommendation Number</b>	<b>Primary Act</b>	<b>Secondary Legislation</b>	<b>Summary of Proposed Amendments</b>
14.7	Social Welfare Consolidation Act 2005	Social Welfare (Consolidated Claims, Payments and Control) Regulations 2007 (SI No 142 of 2007)	Amend to ensure consistency with the Assisted Decision-Making (Capacity) Act 2015, the UNCRPD and Recommendation CM/Rec (2014) 2 of the Committee of Ministers to member States on the promotion of human rights of older persons.

## Chapter 16: Information Sharing

<b>Recommendation Number</b>	<b>Primary Act</b>	<b>Secondary Legislation</b>	<b>Summary of Proposed Amendments</b>
16.3	Data Protection Act 2018	To be made under sections 51(3) and 73(2) of the Data Protection Act 2018.	To make regulations to authorise/permit a “relevant body” (defined in the Commission’s Adult Safeguarding Bill 2024) or relevant bodies, whose functions relate in whole or in part to safeguarding the health, safety or welfare of an “adult at risk of harm” (defined in the Commission’s Adult Safeguarding Bill 2024) or adults at risk of harm, to process (share) the special categories of personal data of an adult at risk of harm or adults at risk of harm with another relevant body or relevant bodies where necessary for the substantial public interest reason of safeguarding the health, safety or welfare of an adult at risk of harm or adults at risk of harm in Ireland.

**APPENDIX C**  
**ADULT SAFEGUARDING BILL 2024**

**Note:** Some of the draft provisions contained in this Adult Safeguarding Bill 2024 are markers only, without substantive content. They are included to indicate that such a structural or organisational provision will have to be inserted in any future Bill.

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## **ADULT SAFEGUARDING BILL 2024**

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Criminal Justice (Community Service) Act 1983 (No. 23)

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## **ADULT SAFEGUARDING BILL 2024**

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### **Bill**

*entitled*

An Act to provide for the safeguarding of adults at risk of harm by the taking of measures, including cooperation and information sharing; to provide for the establishment of a safeguarding body to perform the functions conferred on it, including to promote the health, safety and welfare of adults at risk of harm; to provide for safeguarding duties on providers of relevant services; to provide for the making of certain orders to safeguard adults at risk of harm; to provide for adult safeguarding reviews; to amend the Domestic Violence Act 2018; and to provide for related matters.

**Be it enacted by the Oireachtas as follows:**

### **PART 1**

#### **PRELIMINARY AND GENERAL**

##### *Chapter 1*

##### *Preliminary and general*

#### **Short title and commencement**

1. (1) This Act may be cited as the Adult Safeguarding Act 2024.

(2) This Act shall come into operation on such day or days as the Minister may appoint by order or orders either generally or with reference to any particular purpose or provision and different days may be so appointed for different purposes or different provisions.

## **Definitions**

2. In this Act—

“Act of 1996” means the Powers of Attorney Act 1996;

“Act of 2004” means the Health Act 2004;

“Act of 2005” means the Health and Social Care Professionals Act 2005;

“Act of 2007” means the Health Act 2007;

“Act of 2015” means the Assisted Decision-Making (Capacity) Act 2015;

“Act of 2018” means the Domestic Violence Act 2018;

“adult” means a person who is not a child;

“adult at risk of harm” means an adult who by reason of their physical or mental condition or other particular personal characteristics or family or life circumstance (whether permanent or otherwise) needs support to protect himself or herself from harm at a particular time;

“adult safeguarding statement” has the meaning given to it in *section 69(1)(b)*;

“authorised officer” means a person appointed by the Safeguarding Body under *section 14* for the purposes of carrying out functions under this Act;

“capacity” has the same meaning as it has in the Assisted Decision-Making (Capacity) Act 2015;

“child” means a person who has not attained the age of 18 years;

“civil partner” has the meaning assigned to it by the Civil Partnership and Certain Rights and Obligations of Cohabitants Act 2010;

“designated centre” has the same meaning as it has in section 2(1) of the Act of 2007;

“Director of Decision Support Services” means the director appointed under section 94 of the Act of 2015;

“emergency no-contact order” has the meaning given to it in *section 48(4)*;

“enactment” has the same meaning as it has in the Interpretation Act 2005;

“harm” means—

- (a) assault, ill-treatment or neglect in a manner that affects, or is likely to affect, health, safety or welfare,
- (b) sexual abuse, or
- (c) loss of, or damage to, property by theft, fraud, deception or coercive exploitation,

whether caused by a single act, omission or circumstance or a series or combination of acts, omissions or circumstances, or otherwise;

“Implementation Group” has the meaning given to it in *section 80*;

“interim no-contact order” has the meaning given to it in *section 47(1)*;

“Minister” means [the lead Minister to be determined by the Government or the Oireachtas];

“neglect”, in a manner likely to cause suffering or injury to health, or to seriously affect wellbeing, means—

- (a) a failure to adequately protect an adult under a person’s care from preventable and foreseeable harm,
- (b) a failure to provide adequate food, clothing, heating or medical aid for an adult under a person’s care, or
- (c) in the case of a person being unable to provide such—
  - (i) protection from harm, or
  - (ii) food, clothing, heating or medical aid,

to an adult under his or her care, a failure to take steps to have each provided under the enactments relating to health, social welfare or housing;

“no-contact order” has the meaning given to it in *section 46(4)*;

“relevant service” shall be construed in accordance with *section 4*;

“removal and transfer order” has the meaning given to it in *section 41(1)*;

“reportable harm” shall be construed in accordance with *section 21*;

“safeguarding” means measures that are, or may be, put in place to promote the health, safety and welfare of adults at risk of harm including to —

- (a) minimise the risk of harm to adults at risk of harm, and
- (b) support adults at risk of harm to protect themselves from harm at a particular time;

“safeguarding plan” means a documentary record of the planned actions that have been identified to promote the health, safety and welfare of an adult at risk of harm, including to—

- (a) minimise the risk of harm to an adult at risk of harm, and
- (b) support an adult at risk of harm to protect himself or herself from harm at a particular time;

“sectoral implementation plan” has the meaning given to it in *section 87*;

“self-neglect” means the inability, unwillingness or failure of an adult to meet his or her basic physical, emotional, social or psychological needs, which is likely to seriously affect his or her wellbeing;

“website” means an internet website (including part of such a website) –

- (a) to which access is readily available by members of the public, and
- (b) where anything published is readily available for inspection by members of the public.

### **Regulations and orders**

3. (1) The Minister may by regulations provide for any matter referred to in this Act as prescribed or to be prescribed.

(2) Regulations under this Act may contain such incidental, supplementary and consequential provisions as appear to the Minister to be necessary or expedient for the purposes of the regulations.

(3) Every regulation made under *subsection (1)* shall be laid before each House of the Oireachtas as soon as may be after it is made and, if a resolution annulling the order is passed by either such House within the next 3 weeks on which that House sits after the order is laid before it, the order shall be annulled accordingly, but without prejudice to the validity of anything previously done thereunder.

### **Relevant services**



4. (1) Subject to the definition of a provider of a relevant service in *section 66*, for the purposes of this Act, a relevant service means a service mentioned in *Schedule 1*.

(2) The Minister may, by regulation, amend the list of relevant services mentioned in *Schedule 1* where he or she is satisfied that such amendment is necessary or expedient to ensure that the list contains only such work or activity that is being carried out by a person, a necessary and regular part of which consists mainly of a person having access to, or contact with, adults, or adults who are, may be, or may become adults at risk of harm.

#### **Service of notices**

5. (1) Subject to *subsection (2)*, any notice required or authorised by virtue of this Act to be given to any person by the Minister, or required to be given under this Part, shall be addressed to the person concerned by name and may be given—

- (a) by delivering it to the person,
- (b) by leaving it at the address at which the person ordinarily carries on business,
- (c) by sending it by pre-paid registered post addressed to the person at the address at which the person ordinarily carries on business,

(d) if an address for the service of notices has been furnished by the person, by leaving it at, or sending it by pre-paid registered post addressed to, that person at that address, or

(e) by sending it by means of electronic mail or a facsimile machine, to a device or facility for the reception of electronic mail or facsimiles located at the address at which the person concerned carries on business or, if an electronic address or facsimile number address for the service of a notice has been furnished by the person concerned, that electronic address or facsimile machine, but only if—

(i) the recipient's facility for the reception of electronic mail generates a message confirming a receipt of the electronic mail, or

(ii) the sender's facsimile machine generates a message confirming successful delivery of the total number of pages of the notice or direction;

and it is also given in one of the other ways mentioned in *paragraphs (a) to (d)*.

(2) For the purposes of this section, a company within the meaning of the Companies Act 2014, or the Companies Acts, shall be deemed to be ordinarily resident at its registered office, and every other body corporate and

every unincorporated body shall be deemed to be ordinarily resident at its principal office or place of business.

### **Guidelines**

6. Subject to *section 76*, the Minister may issue guidelines for the purpose of providing practical guidance in respect of the performance of any functions under this Act or on the application of the legislation.

### **Establishment days**

7. The Minister shall, by order, appoint a day or days to be the establishment day or an establishment day for the purposes of this Act.

### **Expenses**

8. The expenses incurred by the Minister in the administration of this Act shall, to such extent as may be sanctioned by the Minister for Public Expenditure, National Development Plan Delivery and Reform, be paid out of money provided by the Oireachtas.

### **Review of operation of Act**

9. (1) The Minister shall, not later than 3 years after the date of the coming into operation of this section, carry out a review of the operation of this Act.

(2) In carrying out a review under *subsection (1)*, the Minister may consult with such persons as he or she considers appropriate.

## *Chapter 2*

### *Guiding principles*

#### **Guiding principles**

**10.** (1) The Safeguarding Body and its authorised officers, as the case may be, shall, as appropriate, have regard to the principles set out in *subsections (3) to (11)* in the exercise of any function under this Act.

(2) In exercising any functions under this Act, a court may, as it considers it appropriate, have regard to the principles set out in *subsections (3) to (11)*.

(3) It shall be presumed that an adult at risk of harm has capacity in respect of the matter concerned unless the contrary is shown in accordance with the Act of 2015.

(4) An adult at risk of harm shall not be considered to be unable to make a decision in respect of the matter concerned unless—

- (a) all practicable steps have been taken, without success, to help him or her to make such decision, or

- (b) a person is preventing him or her from freely making such decision or is preventing practicable steps from being taken to help him or her to make such decision.

(5) An adult at risk of harm shall not be considered to be unable to make a decision in respect of the matter concerned merely by reason of making, having made, or being likely to make, an unwise decision.

(6) There shall be no exercise of a function under this Act in respect of an adult at risk of harm unless it appears necessary to exercise such function, having regard to the individual circumstances of the adult at risk of harm.

(7) The exercise of a function under this Act in respect of an adult at risk of harm shall—

- (a) be made in a manner that, insofar as is practicable, minimises any restriction to—
  - (i) the rights of the adult at risk of harm, and
  - (ii) the freedom of action of the adult at risk of harm,
- (b) have due regard to the need to respect the right of the adult at risk of harm to dignity, bodily integrity,

privacy, autonomy and control over his or her financial affairs and property,

- (c) be aimed at the prevention of harm to the adult at risk of harm,
- (d) be proportionate to the significance and urgency of the matter the subject of the intervention, and
- (e) be as limited in duration, insofar as is practicable, after taking into account the particular circumstances of the adult at risk of harm.

(8) The Safeguarding Body, its authorised officers or the court, as the case may be, in exercising a function under this Act, shall—

- (a) insofar as is practicable, permit, encourage and facilitate, the adult at risk of harm to participate, or to improve his or her ability to participate, as fully as possible, in making decisions or expressing views on the exercise of a function under this Act,
- (b) give effect, insofar as is practicable, to the will and preferences of the adult at risk of harm, insofar as that will and those preferences are reasonably ascertainable,

- (c) take into account—
  - (i) the beliefs and values of the adult at risk of harm (in particular those expressed in writing), insofar as those beliefs and values are reasonably ascertainable, and
  - (ii) any other factors that the adult at risk of harm would be likely to consider if he or she were able to do so, insofar as those other factors are reasonably ascertainable,
- (d) consider the views of the following persons, unless a person or a court, as the case may be, reasonably considers that it is not appropriate or practicable to do so:
  - (i) any person named by the adult at risk of harm as a person to be consulted on the matter concerned or any similar matter;
  - (ii) any decision-making assistant, co-decision-maker, decision-making representative or attorney under the Act of 1996, or the Act of 2015, for the adult at risk of harm,

- (e) act at all times in good faith and for the benefit of the adult at risk of harm,
- (f) consider all other circumstances of which the Safeguarding Body, its authorised officers or the court, as the case may be, is aware and which it would be reasonable to regard as relevant, and
- (g) consider any relevant information provided by a professional or another person and consider the need to co-operate with other entities or professionals when exercising a function under this Act.

(9) The Safeguarding Body, its authorised officers, or a court, as the case may be, in exercising a function under this Act, may consider the views of—

- (a) any person engaged in caring for the adult at risk of harm,
- (b) any person who has a *bona fide* interest in the health, safety or welfare of the adult at risk of harm, or
- (c) appropriately qualified health or social care professionals.



(10) In exercising a function under this Act in relation to an adult at risk of harm who lacks capacity, regard shall be had to—

- (a) the likelihood of the recovery of the capacity of such person in respect of the matter concerned, and
- (b) the urgency of exercising a function under this Act prior to such recovery.

(11) The Safeguarding Body, its authorised officers or a court, as the case may be, in exercising a function under this Act, shall ensure that, insofar as is practicable, the nature and volume of the information obtained in respect of the adult at risk of harm is adequate, is used only for the purpose of making a decision in respect of the adult at risk of harm, and that suitable and specific measures are taken to safeguard the rights of the adult at risk of harm in respect of such information.

(12) A failure to have regard to the guiding principles in *subsections (3) to (11)* in the exercise of a function under this Act shall not invalidate or affect the exercise of any such function.

## **PART 2**

### **INDEPENDENT ADVOCACY**

#### **Independent advocacy**

**11.** (1) The Safeguarding Body shall facilitate, insofar as is reasonably practicable, subject to *subsection (2)*, access to independent advocacy services, for an adult who is, or is believed to be, an adult at risk of harm, where it engages with such adult directly for the purposes of exercising its functions under this Act.

(2) The obligation under *subsection (1)* shall only apply where the Safeguarding Body is satisfied that—

- (a) without access to independent advocacy services, an adult who is, or is believed to be, an adult at risk of harm may experience significant challenges in doing one or more of the following:
  - (i) understanding relevant information;
  - (ii) retaining that information;
  - (iii) using or weighing that information as part of the process of engaging with the Safeguarding Body;
  - (iv) communicating his or her views, wishes or feelings (whether by talking, using sign language or any other means), and

- (b) there is no other suitable person who could effectively support the adult who is, or is believed to be, an adult at risk of harm to enable his or her engagement with the Safeguarding Body.

(3) The Safeguarding Body may—

- (a) prepare and publish a code of practice,
- (b) prepare and publish a code of practice in conjunction with another body,
- (c) request another body to prepare a code of practice, or
- (d) approve a code of practice prepared by another body, whether or not pursuant to a request referred to in *paragraph (c)*,

to provide guidance to independent advocates acting on behalf of adults who are, or are believed to be, adults at risk of harm, under this Act or under any relevant enactment.

(4) In this section, “relevant enactment” means the following regulations and any other regulations that may be construed as one with those regulations:

- (a) the Mental Health Act 2001 (Approved Centres) Regulations 2006 (S.I. No. 551 of 2006);
- (b) the Health Act 2007 (Care and Support of Residents in Designated Centres for Persons (Children and Adults) with Disabilities) Regulations 2013 (S.I. No. 367 of 2013);
- (c) the Health Act 2007 (Care and Welfare of Residents in Designated Centres for Older People) Regulations 2013 (S.I. No. 415 of 2013);
- (d) any other regulations as may be prescribed by the Minister to be relevant enactments for the purposes of *subsection (3)*.

### **PART 3**

## **NATIONAL ADULT SAFEGUARDING OFFICE**

### *Chapter 1*

#### *Establishment and functions*

### **National Adult Safeguarding Office**

**12.** There is established on the establishment day, an office within the Health Service Executive, which shall be known as Oifig Náisiúnta um Chumhdach Aosach or, in the English language, the National Adult Safeguarding Office (in this Act, referred to as the “Safeguarding Body”) to perform the functions conferred on it by this Act or any other enactment.

### **Functions of Safeguarding Body**

**13. (1)** The functions of the Safeguarding Body shall be the following:

- (a) to promote the health, safety and welfare of adults at risk of harm who need support to protect themselves from harm at a particular time;
- (b) in relation to the function specified in *paragraph (a)*—
  - (i) to maintain and develop services, including regional services,
  - (ii) to carry on such activities, or publish such information, as it considers appropriate,
  - (iii) to undertake or commission research into such matters, or into such other matters as the Minister may request,

(iv) to collect, maintain and publish data on such matters,

(v) to provide training on such matters, or on such other matters as the Minister may request, and

(vi) to provide information to the public on such matters, or on such other matters as the Minister may request;

(c) to provide information or advice, or make proposals, to the Minister on matters relating to the functions of the Safeguarding Body.

(2) The Safeguarding Body shall, in the performance of its functions—

(a) demonstrate high standards of performance, transparency and accountability, and

(b) use the resources available to it in the most beneficial, effective and efficient manner.

(3) The Safeguarding Body shall—

- (a) cooperate with any person or body that it considers appropriate in relation to any matter connected to its functions,
- (b) have all such powers as are necessary or expedient for, or incidental to, the performance of its functions, which may include the making of such enquiries as it considers appropriate, and
- (c) facilitate and promote enhanced inter-agency cooperation to ensure that services for adults at risk of harm who need support to protect themselves from harm at a particular time are co-ordinated and provide an integrated response to the needs of adults at risk of harm.

(4) Subject to this Act and the Act of 2004, the Safeguarding Body shall be independent insofar as possible in the performance of its functions.

(5) The Safeguarding Body may perform any of its functions through or by any member of its staff who is duly authorised by it to perform such functions.

(6) The director of the Safeguarding Body shall report directly to the chief executive officer of the Health Service Executive.

## *Chapter 2*

## *Authorised officers*

### **Appointment of authorised officers**

**14.** (1) The Safeguarding Body shall appoint such and so many of its employees as authorised officers for the purposes of this Act.

(2) Each authorised officer shall be given a warrant of his or her appointment and, when exercising any power conferred by this Act, shall, on request by any person affected, produce the warrant or a copy thereof, together with a form of personal identification.

(3) An appointment under this section shall cease—

- (a) if the Safeguarding Body revokes the appointment,
- (b) if the appointment is for a fixed period, on the expiry of that period, and
- (c) where the person appointed ceases to be a member of staff of the Safeguarding Body.

### **Reports of authorised officers**

**15.** \_\_



*Appointment, functions and terms and conditions of Director of  
Safeguarding Body*

**Appointment of Director**

16. \_\_

**Functions of Director**

17. \_\_

**Terms and conditions of Director**

18. \_\_

*Chapter 4*

*Staff of Safeguarding Body*

**Staff of Safeguarding Body**

19. \_\_

*Chapter 5*

*Accountability*

## Plans and reports of Safeguarding Body

20. \_\_

### ALTERNATE PART 3

#### **National Adult Safeguarding Body**

##### *Chapter 1*

##### *Establishment and Functions*

#### **Definition**

X. In this Part, “Safeguarding Body” means An Comhlachas Náisiúnta um Chumhdach Aosach or, in the English language, the National Adult Safeguarding Body, established on the establishment day.

#### **National Adult Safeguarding Body**

X. There shall stand established on the establishment day, a body which shall be known as An Comhlachas Náisiúnta um Chumhdach Aosach or, in the English language, the National Adult Safeguarding Body (in this Act, referred to as the “Safeguarding Body”) to perform the functions conferred on it by this Act or any other enactment.

#### **Functions of Safeguarding Body**

X. (1) The functions of the Safeguarding Body shall be the following:

- (a) to promote the health, safety and welfare of adults at risk of harm who need support to protect themselves from harm;
- (b) in relation to the function specified in *paragraph (a)*—
  - (i) to maintain and develop services, including regional services,
  - (ii) to carry on such activities, or publish such information, as it considers appropriate,
  - (iii) to undertake or commission research into such matters, or into such other matters as the Minister may request,
  - (iv) to collect, maintain and publish data on such matters,
  - (v) to provide training on such matters, or on such other matters as the Minister may request, and
  - (vi) to provide information to the public on such matters, or on such other matters as the Minister may request;
- (c) to provide information or advice, or make proposals, to the Minister on matters relating to the functions of the Safeguarding Body.

(1) The Safeguarding Body shall, in the performance of its functions—

- (a) demonstrate high standards of performance, transparency and accountability, and
- (b) use the resources available to it in the most beneficial, effective and efficient manner.

(2) The Safeguarding Body shall—

- (a) cooperate with any person or body that it considers appropriate in relation to any matter connected to its functions,
- (b) have all such powers as are necessary or expedient for, or incidental to, the performance of its functions, which may include the making of such enquiries as it considers appropriate,
- (c) facilitate and promote enhanced inter-agency cooperation to ensure that services for adults at risk of harm who need support to protect themselves from harm at a particular time are co-ordinated and provide an integrated response to the needs of adults at risk of harm, and

(d) for the purposes of its functions, have the power to acquire, receive on transfer, hold, sell, mortgage, lease, let or otherwise dispose of land, buildings or premises and to erect, alter or maintain buildings or premises.

(3) Subject to this Act, the Safeguarding Body shall be independent in the performance of its functions.

(4) The Safeguarding Body may perform any of its functions through or by any member of its staff who is duly authorised by it to perform such functions.

## *Chapter 2*

### *Board of Safeguarding Body*

#### **Membership of Board**

X. \_\_\_\_\_

#### **Role of Board**

X. \_\_\_\_\_

#### **Conditions of office**

X. \_\_\_\_\_

#### **Resignations and casual vacancies**

X. \_\_\_\_\_

**Removal of members from office**

X. \_\_\_\_\_

**Meetings and procedures of Board**

\_\_\_\_. X

**Committees of Board**

X. \_\_\_\_\_

**Remuneration and expenses of members of Board and committees**

X. \_\_\_\_\_

*Chapter 3*

*Chief Executive Officer of Safeguarding Body*

**Chief executive officer of Safeguarding Body**

X. \_\_\_\_\_

**Functions of chief executive officer**

X. \_\_\_\_\_

**Delegation of functions of chief executive officer**

X. \_\_\_\_\_

**Accountability of chief executive officer to Committee of Public Accounts**

X. \_\_\_\_\_

**Accountability of chief executive officer to other Oireachtas Committees**

X. \_\_\_\_\_

*Chapter 4*

*Employees, advisers and authorised officers*

**Employees of Safeguarding Body**

X. \_\_\_\_\_

**Superannuation**

X. \_\_\_\_\_

**Advisers of Safeguarding Body**

X. \_\_\_\_\_

### **Authorised officers of Safeguarding Body**

\_\_\_\_. (1) The Safeguarding Body shall appoint such and so many of its employees as authorised officers for the purposes of this Act.

(2) Each authorised officer appointed under this section shall be given a warrant of his or her appointment and, when exercising any power conferred by this Act, shall, on request by any person affected, produce the warrant or a copy thereof, together with a form of personal identification.

(3) An appointment under this section shall cease—

- (a) if the Safeguarding Body revokes the appointment,
- (b) if the appointment is for a fixed period, on the expiry of that period, and
- (c) where the person appointed ceases to be a member of staff of the Safeguarding Body.

### **Reports of authorised officers**

X. \_\_\_\_\_

### *Chapter 5*

### *Accountability and funding of Safeguarding Body*

### **Directions to Safeguarding Body**

X. \_\_\_\_\_



**Corporate plan of Safeguarding Body**

X. \_\_\_\_\_

**Determination by Minister of net expenditure limits for Safeguarding Body**

X. \_\_\_\_\_

**Grants to Safeguarding Body**

X. \_\_\_\_\_

**Submissions of business plan**

X. \_\_\_\_\_

**Code of governance**

X. \_\_\_\_\_

**Accounts of Safeguarding Body**

X. \_\_\_\_\_

**Gifts**

X. \_\_\_\_\_

**Annual report**

X. \_\_\_\_\_

**Assistance to other bodies**

X. \_\_\_\_\_

**Charges for services**

X. \_\_\_\_\_

**PART 4**

**REPORTING**

**Mandated persons**

**21.** (1) (a) For the purposes of *subsections (2) and (3)*, any relevant harm of an adult at risk of harm shall be referred to as reportable harm.

(b) For the purposes of this section, subject to *paragraph (c)*, “reportable harm” means—

(i) assault, ill-treatment or neglect in a manner that seriously affects, or is likely to seriously affect, health, safety or welfare,

(ii) sexual abuse, or

(iii) serious loss of, or damage to, property by theft, fraud, deception or coercive exploitation,

whether caused by a single act, omission or circumstance or a series or combination of acts, omissions or circumstances, or otherwise.

(c) In this section, “reportable harm” shall be construed as excluding self-neglect other than where a mandated person has—

(i) assessed an adult who is reasonably believed to be an adult at risk of harm as lacking capacity, or

(ii) a belief, based on reasonable grounds, that the adult who is reasonably believed to be an adult at risk of harm lacks capacity,

to make personal care or welfare decisions at the particular point in time when the mandated person knows, believes or has reasonable grounds to suspect that the adult is self-neglecting.

- (d) The classes of persons specified in *Schedule 2* shall be mandated persons for the purposes of this Act.

(2) Subject to *subsections (4) to (8)*, where a mandated person knows, believes or has reasonable grounds to suspect, on the basis of information that he or she has received, acquired or becomes aware of in the course of his or her employment or profession as such a mandated person, that an adult at risk of harm—

- (a) has been harmed,
- (b) is being harmed, or
- (c) is at risk of being harmed,

he or she shall, as soon as is practicable, report that knowledge, belief or suspicion, as the case may be, to the Safeguarding Body.

(3) Where an adult at risk of harm believes that he or she—

- (a) has been harmed,
- (b) is being harmed, or
- (c) is at risk of being harmed,

and discloses that belief to a mandated person in the course of the mandated person's employment or profession as such a person, the mandated person shall, subject to *subsections (6), (7) and (8)*, as soon as is practicable, report that disclosure to the Safeguarding Body.

(4) A mandated person shall not be required to make a report to the Safeguarding Body under *subsection (2)* in the following circumstance:

- (a) where the mandated person knows or is of the opinion, based on reasonable grounds, that an adult at risk of harm has decision-making capacity in relation to their care and welfare at a particular point in time;
- (b) where the adult at risk of harm, who has decision-making capacity under *paragraph (a)*, has made known to the mandated person his or her view that the knowledge, belief or suspicion, or information relating to it, should not be disclosed to the Safeguarding Body and the mandated person relied upon that view;
- (c) where the mandated person knows or is of the opinion, based on reasonable grounds, that the adult at risk of harm is deciding of their own free will, without undue influence or duress, to state that they do not want a report to be made to the Safeguarding Body.

(5) A mandated person shall not be required to make a report to the Safeguarding Body under *subsection (2)* where the sole basis for the mandated person's knowledge, belief or suspicion is as a result of information he or she has received, acquired or become aware of—

(a) from—

(i) another mandated person, or

(ii) a person, other than a mandated person, who has reported the information concerned jointly with a mandated person pursuant to *subsection (7)(b)*,

that a report has been made to the Safeguarding Body in respect of the adult at risk of harm concerned by that other person,

(b) pursuant to his or her role, as a member of staff of the Safeguarding Body, or

(c) pursuant to his or her role in assisting the Safeguarding Body with the exercise of its functions under this Act.

(6) *Subsection (2)* or *(3)* shall apply only to information that a mandated person receives, acquires or becomes aware of after the commencement of

this section irrespective of whether the harm concerned occurred before or after that commencement.

(7) Subject to *subsection (8)*, a report under *subsection (2)* or *(3)* shall be made by the completion of such form as shall be specified for that purpose by the Safeguarding Body (in this Act, referred to as a “mandated report form”) and may be made by the mandated person—

- (a) himself or herself, or
- (b) jointly with one, or more than one, other person, irrespective of whether or not the other person is a mandated person.

(8) Where a mandated person acting in the course of his or her employment or profession knows, believes or has reasonable grounds to suspect that an adult at risk of harm may be at risk of immediate harm, he or she may make a report to the Safeguarding Body under *subsection (2)* or *(3)* other than by means of a mandated report form.

(9) Where a mandated person makes a report under *subsection (2)* or *(3)*, he or she shall complete a mandated report form as soon as may be but, in any event, not later than 3 days after the making of the report.

(10) Each of the following matters may be prescribed:

- (a) the procedures that are to apply to a mandated person making a report under this section;
- (b) the procedures that are to apply to the making of a report by a mandated person jointly with one or more than one other person under this section.

(11) The Safeguarding Body shall make a mandated report form available in such form and manner (including on a website maintained by it) as the Safeguarding Body considers appropriate.

(12) The obligations imposed on a mandated person under this section are in addition to, and not in substitution for, any other obligation that the person has to furnish, or disclose, information to the Safeguarding Body (whether or not in his or her capacity as a mandated person) but, subject to *subsection (9)*, this section shall not require the mandated person to disclose the information, that forms the basis for the making of a report under *subsection (2) or (3)*, to the Safeguarding Body more than once.

(13) Nothing in this section shall operate to affect any other obligation that a person has to disclose information to a member of the Garda Síochána under the Criminal Justice (Withholding of Information on Offences against Children and Vulnerable Persons) Act 2012 or to any other person by, or under, any other enactment or rule of law.

### **Authorised persons**



**22.** (1) The chief executive officer of the Safeguarding Body shall authorise in writing such member or members of staff of that body he or she considers appropriate for the purposes of receiving reports under *section 21* and such persons shall, in this Act, be referred to as authorised persons.

(2) Where an authorised person receives a report under *section 21*, he or she shall forward, or cause to be forwarded, an acknowledgement in writing stating the date of receipt of the report to the mandated person or persons who made the report.

**Safeguarding Body may request assistance of mandated persons**

**23.** (1) Where the Safeguarding Body receives a report from a mandated person under *section 21*, the Safeguarding Body may take such steps as it considers necessary or appropriate in the exercise of its functions under this Act.

(2) The steps referred to in *subsection (1)* may include, but are not limited to, a request to any mandated person whom it believes, based on reasonable grounds, may be in a position to assist the Safeguarding Body for those purposes, to provide the Safeguarding Body with such information and assistance as it may reasonably require and is, in the opinion of the Safeguarding Body, necessary and proportionate in all of the circumstances of the case.

(3) Where the Safeguarding Body makes a request of a mandated person under *subsection (1)*, the mandated person shall, as soon as is practicable, comply with the request.

(4) If a mandated person furnishes any information (including a report), document or thing to the Safeguarding Body pursuant to a request made under *subsection (1)*, the furnishing of that information, document or thing shall not give rise to any civil liability in contract, tort or otherwise, nor shall the information, document or thing be admissible as evidence against that person in any civil or criminal proceedings.

(5) The Safeguarding Body may share information concerning an adult at risk of harm who is the subject of a report under *section 21* with a mandated person who is assisting that body but the sharing of such information shall be limited to such information as is, in the opinion of the Safeguarding Body, necessary and proportionate in all the circumstances of the case.

(6) In this section, “assistance” includes, in relation to a request under *subsection (1)*—

- (a) the provision of verbal or written information or reports,
- (b) attendance at any meeting arranged by the Body, and
- (c) the production to the Safeguarding Body of any document or thing.

### **Information obtained by relevant person from Safeguarding Body**

**24.** (1) Subject to this Act, information obtained by a person (in this subsection, referred to as a “relevant person”) from the Safeguarding Body which—

(a) concerns or relates to an adult at risk of harm who is the subject of one, or more, of the following:

(i) a report under *section 21*;

(ii) an enquiry made by the Safeguarding Body in the exercise of its functions;

(iii) a safeguarding action taken by the Safeguarding Body in accordance with *Part 5*, and

(b) concerns, relates or arises out of such report, enquiry or action specified in *paragraph (a)*,

shall not be disclosed to a third party by the relevant person, save in accordance with law or under, and in accordance with, an authorisation by the Safeguarding Body under *subsection (2)*.

(2) The Safeguarding Body may authorise in writing the disclosure of information referred to in *subsection (1)* subject to such conditions (if any) as it considers appropriate and specifies in the authorisation.

(3) A person who contravenes *subsection (1)* shall be guilty of an offence and shall be liable on summary conviction to a class A fine or imprisonment for a term not exceeding 6 months, or both.

(4) Where an offence under this section is committed by a body corporate and it is proved that the offence was committed with the consent or connivance, or was attributable to any wilful neglect, of a person who was a director, manager, secretary or other officer of the body corporate, or a person purporting to act in that capacity, that person, as well as the body corporate, shall be guilty of an offence and may be proceeded against and punished as if he or she were guilty of the first-mentioned offence.

(5) Where the affairs of a body corporate are managed by its members, *subsection (4)* applies in relation to the acts and defaults of a member in connection with his or her functions of management as if he or she were a director or manager of the body corporate.

(6) Summary proceedings for an offence under this section may be brought and prosecuted by the Safeguarding Body.

(7) Notwithstanding section 10(4) of the Petty Sessions (Ireland) Act 1851, proceedings for an offence under this section may be instituted at any time within 12 months from the date of alleged commission of the offence.

**Protection from civil liability of persons who have reported knowledge, belief or suspicion of harm**

**25.** (1) A person who, apart from this section, would be liable in damages in respect of the communication, whether in writing or otherwise, by him or her to an appropriate person of his or her opinion that—

- (a) an adult at risk of harm has been, or is being, assaulted, ill-treated, neglected or sexually abused, or
- (b) the health, safety or welfare of an adult at risk of harm has been, or is being, avoidably impaired or neglected, in a manner which is avoidable,

shall not be so liable, other than where it is proved that he or she has not acted reasonably and in good faith in forming that opinion and communicating it to the appropriate person.

(2) The reference in *subsection (1)* to liability in damages shall be construed as including a reference to liability to be the subject of an order providing for any other form of relief.

(3) This section shall not apply to a communication that is a protected disclosure within the meaning of the Protected Disclosures Act 2014.

**Protection from penalisation of employees for having reported knowledge, belief or suspicion of harm**

26. (1) An employer shall not penalise an employee for having formed a belief of the kind referred to in *section 21(2)* and communicated it, whether in writing or otherwise, to an appropriate person if the employee has acted reasonably and in good faith in forming that opinion and communicating it to the appropriate person.

(2) *Subsection (1)* shall not apply to a communication that is a protected disclosure within the meaning of the Protected Disclosures Act 2014.

(3) In proceedings under Part 4 of the Workplace Relations Act 2015 before an adjudication officer or the Labour Court in relation to a complaint that *subsection (1)* has been contravened, it shall be presumed, until the contrary is proved, that the employee concerned acted reasonably and in good faith in forming the opinion and making the communication concerned.

(4) If a penalisation of an employee, in contravention of *subsection (1)*, constitutes a dismissal of the employee within the meaning of the Unfair Dismissals Acts 1977 to 2005, relief shall not be granted to the employee in respect of that penalisation both under Part 4 of the Workplace Relations Act 2015 and under those Acts.

(5) An employee may present a complaint, under the Workplace Relations Act 2015, to a rights commissioner that his or her employer has contravened *subsection (1)* in relation to him or her and, where he or she does so, the commissioner shall—

- (a) give the parties an opportunity to be heard by the commissioner and to present to the commissioner any evidence relevant to the complaint,
- (b) give a decision in writing in relation to it, and
- (c) communicate the decision to the parties.

(6) A decision of an adjudication officer under section 41 of the Workplace Relations Act 2015 in relation to a complaint of a contravention of *subsection (1)* shall do one, or more, of the following:

- (a) declare that the complaint was or, as the case may be, was not well founded;
- (b) require the employer to comply with *subsection (1)*, and, for that purpose, require the employer to take a specified course of action;
- (c) require the employer to pay to the employee compensation of such amount (if any) as is just and equitable having regard to all of the circumstances, but not exceeding 104 weeks' remuneration in respect of the employee's employment calculated in accordance with regulations under section 17 of the Unfair Dismissals Act 1977.

(7) A decision of the Labour Court under section 44 of the Workplace Relations Act 2015, on appeal from a decision of an adjudication officer referred to in *subsection (6)*, shall affirm, vary or set aside the decision of the adjudication officer.

## **PART 5**

### **SAFEGUARDING ACTIONS**

#### **Authority of Safeguarding Body to carry out safeguarding actions**

27. (1) The Safeguarding Body shall receive reports from persons who know, believe or suspect that an adult at risk of harm has been harmed, is being harmed or is at risk of being harmed.

(2) Where, on the basis of information reported to it, or otherwise available to it, the Safeguarding Body or an authorised officer of that body, believes, based on reasonable grounds, that there is a risk to the health, safety or welfare of an adult at risk of harm, it shall take whatever action it deems necessary or appropriate to safeguard the adult at risk of harm, which (without limitation) may include one or more of the following:

- (a) an intervention under *Part 6* where the relevant criteria, as set out in that Part, are met;
- (b) make a report to a professional regulatory body where a member of the relevant profession is a person



believed to pose a risk to the health, safety or welfare of an adult at risk of harm;

- (c) make a report to the Director of the Decision Support Service in accordance with the functions of the Director under the Act of 2015;
- (d) make an application to the Circuit Court under Part 5 of the Act of 2015;
- (e) prepare a safeguarding plan;
- (f) cooperate with other agencies to develop a safeguarding plan or take any other actions which the Safeguarding Body considers appropriate, to safeguard an adult at risk of harm;
- (g) share information with another relevant body pursuant to *Part 11*.

(3) Where, following receipt of a report of harm under *subsection (1)*, or otherwise in exercising its functions under this Act, the Safeguarding Body—

- (a) believes that an offence under Schedule 2 to the Criminal Justice (Withholding of Information on

Offences against Children and Vulnerable Persons)  
Act 2012 has been committed against a vulnerable  
person, or

- (b) has a *bona fide* concern under section 19(1) of the  
National Vetting Bureau (Children and Vulnerable  
Persons) Act 2012,

the Safeguarding Body shall notify the Garda Síochána or Vetting Bureau as  
soon as is practicable in writing of that belief and shall state the reasons for  
it.

(4) In circumstances where, following an investigation, the Garda  
Síochána advises the Safeguarding Body that the person against whom an  
allegation has been made poses a risk of harm to an adult at risk of harm, the  
Safeguarding Body shall take such steps as it reasonably considers necessary,  
based on reasonable grounds, to protect the adult at risk of harm from harm.

## **PART 6**

### **SAFEGUARDING INTERVENTIONS AND SPECIFIED ORDERS**

#### *Chapter 1*

#### *Interpretation and application of Part 6*

**Interpretation (*Part 6*)**

**28.** (1) In this Part—

“dwelling” means one, or more, of the following:

- (a) a building or structure (whether temporary or not) which is constructed or adapted for use as a residence and is being so used;
- (b) a vehicle or vessel (whether mobile or not) which is constructed or adapted for use as a residence and is being so used;
- (c) a part of a—
  - (i) building or structure (whether temporary or not), or
  - (ii) a vehicle or vessel (whether mobile or not), which is constructed or adapted for use as a residence and is being so used,

and includes a self-contained part of a relevant premises which is constructed or adapted for use as a residence and is being so used by a service provider, or a member

of staff of a service provider, but shall not include the room of a resident in a relevant premises;

“intervention” means—

- (a) a specified order,
- (b) a warrantless power of access to relevant premises,
- (c) a warrantless power of access to a place, including a private dwelling, and
- (d) the exercise of a power of—
  - (i) interview, or
  - (ii) medical examination,

in accordance with *section 58*.

(2) A reference in this Part to the Safeguarding Body shall, where the context so requires, include a reference to an authorised officer of the Safeguarding Body.

“records” includes, in addition to records in writing—

- (a) discs, tapes, sound-tracks or other devices in which information, sounds or signals are embodied so as to

be capable (with or without the aid of some other instrument) of being reproduced in legible or audible form,

(b) films, tapes or other devices in which visual images are embodied so as to be capable (with or without the aid of some other instrument) of being reproduced in visual form, and

(c) photographs,

and a reference to a copy of records includes, in the case of records falling within *paragraph (a)* only, a transcript of the sounds or signals embodied therein, in the case of records falling within *paragraph (b)*, a still reproduction of the images embodied therein and, in the case of records falling within both of those paragraphs, such a transcript and such a still reproduction;

“relevant premises” means one, or more, of the following:

(a) a designated centre within the meaning of section 2(1) of the Act of 2007, insofar as it relates to an institution wherein residential services are provided to older people or to adults with disabilities;

(b) a premises in which day services are provided to adults with disabilities;

- (c) a premises in which day services are provided to older adults;
- (d) any hospital, hospice, health care centre or other centre which receives, treats or otherwise provides physical or mental health services or social care services to adults including approved centres within the meaning of section 2(1) of the Mental Health Act 2001;
- (e) a premises in which a service provider provides a health or personal social service on behalf of the Health Service Executive or provides a service similar or ancillary to a service that the Health Service Executive may provide;
- (f) a reception or accommodation centre which provides residential accommodation services to adults in the international protection process managed by, or under contract to, the Department of Children, Equality, Disability, Integration and Youth;
- (g) a centre which provides residential refuge accommodation services for victims of domestic, sexual or gender-based violence;

- (h) a centre which provides residential accommodation services for the purposes of providing substance misuse services;
- (i) a centre which provides residential accommodation services to adults experiencing homelessness.

“service provider” means a person who—

- (a) enters into an arrangement under section 38 of the Act of 2004 to provide a health or personal social service on behalf of the Health Service Executive or
- (b) receives assistance under section 39 of the Act of 2004 to provide a service similar or ancillary to a service that the Health Service Executive may provide;

“tape” includes—

- (a) a disc, magnetic tape, soundtrack or other device in which sounds or signals may be embodied for the purpose of being reproduced (with or without the aid of some other instrument) in audible form, and

- (b) a film, disc, magnetic tape or other device in which visual images may be embodied for the purpose of being reproduced (with or without the aid of some other instrument) in visual form.

“specified order” means—

- (a) a warrant for access to a relevant premises, a warrant for access to a place, including a private dwelling, a removal and transfer order, a no-contact order, an emergency no-contact order, or an interim no-contact order, or
- (b) an order varying or discharging an order referred to in *paragraph (a)*;

**Least intrusive means**

29. Where an application for a specified order is made, the court may grant such order only if it is satisfied that such order is, in the circumstances, the least intrusive means of achieving one or more of the following objectives:

- (a) reducing the risk of harm to the adult at risk of harm;
- (b) promoting and protecting his or her rights, safety and welfare;



- (c) supporting him or her to protect himself or herself from harm at that particular time.

## *Chapter 2*

### *Powers of access to adult at risk of harm in relevant premises and associated powers*

#### **Power of entry to, and inspection of, relevant premises**

**30.** (1) Subject to *subsections (2) and (3)*, an authorised officer may, without warrant, accompanied by any other person in accordance with *section 57*, at any time—

- (a) enter any relevant premises or part thereof, and
- (b) inspect any relevant premises or part thereof,

for the purposes of assessing the health, safety or welfare of an adult at risk of harm that the authorised officer is of the opinion, based on reasonable grounds, is present therein.

(2) An authorised officer may only take the steps set out in *subsection (1)*, where he or she has a belief, based on reasonable grounds, that—

- (a) there is an adult at risk of harm on the relevant premises,
- (b) there is a risk to the health, safety or welfare of the adult at risk of harm, that is caused by abuse, neglect or ill-treatment, and
- (c) access to the premises is necessary to assess the health, safety or welfare of the adult at risk of harm.

(3) Notwithstanding *subsection (1)*, an authorised officer may not enter or inspect any part of a relevant premises that is occupied as a dwelling other than—

- (a) with the consent of the occupier, or
- (b) in accordance with a warrant or other legal power of entry.

**Circumstances in which District Court may issue warrant for access to relevant premises**

**31.** (1) Where an authorised officer has a belief, based on reasonable grounds, in accordance with *section 30(2)*, and—

- (a) he or she (or any persons permitted to accompany him or her in accordance with *section 57*) has been prevented from entering a relevant premises in accordance with *section 30(1)*, or
- (b) has a belief, based on reasonable grounds, that there is a likelihood that he or she (or any persons permitted to accompany him or her in accordance with *section 57*) will be prevented from entering the premises in accordance with *section 30(1)*,

an application may be made to the District Court, in accordance with *section 54*, for a warrant under *subsection (2)* authorising the entry for the purposes of assessing the health, safety or welfare of an adult at risk of harm that the authorised officer is of the opinion, based on reasonable grounds, is present therein.

(2) If a judge of the District Court is satisfied on the sworn information of an authorised officer that there are reasonable grounds for believing that—

- (a) there is an adult at risk of harm on the relevant premises,
- (b) there is a risk to the health, safety or welfare of the adult at risk of harm, that is caused by abuse, neglect or ill-treatment,

- (c) a warrant to enter the relevant premises is necessary to assess the health, safety or welfare of the adult at risk of harm, and
- (d) an authorised officer (or any persons permitted to accompany him or her) has been prevented, or will be prevented, from entering the relevant premises,

the judge may issue a warrant permitting the authorised officer, accompanied by any other person in accordance with *section 57*, or by a member of the Garda Síochána as may be necessary, at any time or times, not later than 30 days of the date of issue of the warrant, on production of the warrant if requested, to enter the relevant premises or any part thereof, other than any part of a relevant premises used as a dwelling, if need be by reasonable force, and to perform the functions conferred by or under this Part.

(3) A warrant issued under *subsection (2)* shall be valid for 30 days after the day it is issued.

### **Powers of inspection and information gathering**

**32.** (1) An authorised officer, in respect of assessing the health, safety or welfare of an adult at risk of harm on a relevant premises, may—

- (a) inspect, take copies of or extracts from and remove from the relevant premises any documents or records

(including personal records) relating to the health, safety or welfare of an adult at risk of harm,

- (b) inspect the operation of any computer and any associated apparatus or material which is or has been in use in connection with the records in question,
- (c) inspect any other item and remove it from the premises if an authorised officer considers it necessary or expedient for the purposes of assessing the health, safety or welfare of an adult at risk of harm,
- (d) interview in private any person—
  - (i) working at the premises concerned, or
  - (ii) who at any time concerned was or is in receipt of a service at the premises and who consents to be interviewed, and
- (e) make any other examination into the state and management of the premises or the standard of any services provided to an adult at risk of harm on the premises.

(2) An authorised officer, in respect of assessing the health, safety or welfare of an adult at risk of harm on a relevant premises, may require any person who—

- (a) is in charge of the premises or of services provided at the premises, or
- (b) possesses or is in charge of any records held at the premises or in respect of any services provided at the premises, even if the records are held elsewhere,

to furnish the authorised officer with the information the authorised officer reasonably requires for the purposes of assessing the health, safety or welfare of an adult at risk of harm, and to make available to the authorised officer any document or record in the power or control of the person described in *paragraph (a) or (b)* that, in the opinion of the authorised officer, is relevant to the assessment of the health, safety or welfare of an adult at risk of harm.

(3) An authorised officer, in respect of assessing the health, safety or welfare of an adult at risk of harm on a relevant premises, may—

- (a) require a person who is in charge of the relevant premises or possesses or is in charge of any relevant documents or records to produce a document or record in a form which is legible and can be taken away, and

(b) require a person who is in charge of the relevant premises or possesses or is in charge of any relevant documents or records to provide an explanation of any—

(i) document or record inspected,

(ii) information provided, or

(iii) other relevant matters.

(4) An authorised officer upon entering any such place or part thereof, shall, together with any appropriately qualified health or social care professional accompanying him or her, have the power to conduct a private interview with an adult at risk of harm and, if necessary, to perform a medical examination with that adult's consent, to assess the health, safety or welfare of the adult concerned in accordance with *section 58*.

### **Prescribed relevant premises**

**33.** The Minister may prescribe any place or premises as a relevant premises for the purposes of this Part.

## *Chapter 3*

**Interpretation (Chapter 3 of Part 6)**

34. For the purposes of this Chapter, “place” shall include a private dwelling and shall not include a relevant premises.

**Power to seek warrant for access to an adult at risk of harm**

35. (1) Where an authorised officer or a member of the Garda Síochána has a belief, based on reasonable grounds, that—

- (a) an adult at risk of harm is present in a place,
- (b) there is a risk to the health, safety or welfare of the adult at risk of harm,
- (c) a warrant for access is necessary to assess the health, safety or welfare of the adult at risk of harm, and
- (d) access to the adult at risk of harm cannot be gained by less intrusive means,

an application may be made to the District Court, in accordance with *section 54*, for a warrant under *section 36* authorising access to the place for the purposes of assessing the health, safety or welfare of an adult at risk of harm



that the authorised officer or member of the Garda Síochána is of the opinion, based on reasonable grounds, is present therein.

(2) Every such application for a warrant, under *subsection (1)*, shall be grounded upon an affidavit or information sworn by the applicant that—

- (a) there are reasonable grounds for believing each of the matters specified in *subsection (1)*, and
- (b) reasonable efforts have been made in relation to the following and that such efforts have failed:
  - (i) to seek consent to enter the place to gain access to the adult at risk of harm;
  - (ii) to gain access to the adult at risk of harm outside of the place.

### **Power of access to adult at risk of harm**

**36.** (1) Where a judge of the District Court is satisfied by information on oath of an authorised officer or a member of the Garda Síochána that there are reasonable grounds for believing that—

- (a) an adult at risk of harm is present in the place,

- (b) there is a risk to the health, safety or welfare of the adult at risk of harm,
- (c) a warrant for access is necessary to assess the health, safety or welfare of the adult at risk of harm, and
- (d) access to the adult at risk of harm cannot be gained by less intrusive means,

the judge may issue a warrant in accordance with *subsection (2)* for the purposes of assessing the health, safety or welfare of an adult at risk of harm that the authorised officer or member of the Garda Síochána reasonably believes is present therein.

(2) A warrant under this section shall be expressed to and shall operate to authorise an authorised officer or a member of the Garda Síochána, or both, accompanied by any other person in accordance with *section 57*, to enter, not later than three days after the date of issue of the warrant (if necessary using reasonable force), on production of the warrant if requested, the place, named on the warrant, or any part thereof.

(3) An authorised officer upon entering any such place or part thereof, shall, together with any appropriately qualified health or social care professional accompanying him or her, have the power to conduct a private interview with an adult at risk of harm and, if necessary, to perform a medical examination with that adult's consent, to assess the health, safety or welfare of the adult concerned in accordance with *section 58*.

(4) A warrant issued under this section shall be valid for three days after the day it is issued.

### **Power of Garda Síochána to access adult at risk of harm**

37. (1) Where a member of the Garda Síochána has a belief, based on reasonable grounds, that—

- (a) an adult at risk of harm is present in the place,
- (b) there is an immediate risk to the life and limb of the adult at risk of harm, and
- (c) the risk is so immediate to the adult at risk of harm that the place must be accessed so urgently that there would be insufficient time to apply to a judge of the District Court for a warrant for access,

the member, accompanied by any other person in accordance with *section 57*, may, without warrant, enter (if need be by reasonable force) the place or any part thereof.

(2) *Subsection (1)* is without prejudice to any other powers exercisable by a member of the Garda Síochána.

(3) Where a member of the Garda Síochána exercises the power under this section, he or she shall make an appropriate record of such use of the power, including the reasons for such use.

(4) Where a member of the Garda Síochána exercises the power under this section, he or she shall notify the Safeguarding Body in writing as to such use of the power as soon as is practicable.

(5) When exercising the power under this section, a member of the Garda Síochána may be accompanied by—

- (a) an authorised officer, or
- (b) any other person in accordance with *section 57*.

### **Power of information gathering**

**38.** (1) A member of the Garda Síochána, when executing a warrant under *section 36* or exercising the power under *section 37*, may require any person who is present at the place to provide to the member his or her name and address.

(2) Where information is given in response to a request under *subsection (1)*, a record shall be kept of these details.

*Powers of removal and transfer*

**Interpretation (*Chapter 4 of Part 6*)**

**39.** For the purposes of this Chapter, “place” shall include a private dwelling and a relevant premises.

**Power to seek order for removal and transfer**

**40.** (1) Where an authorised officer or a member of the Garda Síochána has a belief, based on reasonable grounds, that—

- (a) an adult at risk of harm is present in a particular place,
- (b) there is a serious and immediate risk to the health, safety or welfare of the adult at risk of harm,
- (c) actions may be required to safeguard the health, safety or welfare of the adult at risk of harm,
- (d) removal to a designated facility or other suitable place is necessary to attempt to assess the matters specified in *paragraphs (b) and (c)* as such assessment cannot be done in the place where the adult at risk of harm currently is located, and

- (e) the assessment of the matters specified in *paragraphs (b) and (c)* cannot be achieved using less intrusive means,

an application may be made to the District Court, in accordance with *section 54*, for an order under *section 41* for the purposes of assessing the health, safety or welfare of an adult at risk of harm that the authorised officer or member of the Garda Síochána is of the opinion, based on reasonable grounds, is present therein and assessing whether any actions are needed in respect of the adult at risk of harm, where this cannot be done in the place where the adult at risk of harm currently is located.

(2) Every such application for an order, under *subsection (1)*, shall be grounded upon an affidavit or information sworn by the applicant that there are reasonable grounds for believing each of the matters specified in *subsection (1)*.

(3) Every such application for an order, under *subsection (1)*, shall be grounded upon an affidavit or information sworn by at least one of the following health or social care professionals:

- (a) a doctor;
- (b) a nurse;
- (c) a midwife;

- (d) a social worker;
- (e) an occupational therapist;
- (f) a speech and language therapist;
- (g) an emergency medical technician;
- (h) a paramedic or advanced paramedic;
- (i) a psychologist,

who may also be the applicant, or who is a separate person where the applicant is not such a health or social care professional.

(4) The Minister may prescribe any other professionals as health or social care professionals for the purposes of *subsection (3)*.

### **Order for removal and transfer of an adult at risk of harm**

**41.** (1) Subject to *subsections (2) and (3)*, if a judge of the District Court is satisfied on information provided in accordance with *section 40* that there are reasonable grounds for believing that—

- (a) an adult at risk of harm is present in a particular place,
- (b) there is a serious and immediate risk to the health, safety or welfare of the adult at risk of harm,
- (c) actions may be required to safeguard the health, safety or welfare of the adult at risk of harm,
- (d) removal to a designated health or social care facility or other suitable place is necessary to attempt to assess the matters specified in *paragraphs (b) and (c)* as such assessment cannot be done in the place where the adult at risk of harm currently is located, and
- (e) the assessment of the matters specified in *paragraphs (b) and (c)* cannot be achieved using less intrusive means,

the judge may issue an order (in this Act, referred to as a “transfer and removal order”) in accordance with *subsection (4)* for the purposes of assessing the health, safety or welfare of an adult at risk of harm that the authorised officer or member of the Garda Síochána is of the opinion, based on reasonable grounds, is present therein and assessing whether any actions are needed in respect of the adult at risk of harm, where this cannot be done in the place where the adult at risk of harm currently is located.



(2) Where a removal and transfer order is sought in circumstances in which access to the adult at risk of harm has not yet been obtained, in order to grant the order, in addition to the matters specified in *subsection (1)* a judge of the District Court shall be satisfied that the granting of a warrant for access would be insufficient in the circumstances.

(3) If the applicant seeks to move the adult at risk of harm to a place other than a designated health or social care facility, in order to grant the order, in addition to the matters specified in *subsection (1)* a judge of the District Court shall be satisfied that such other place is suitable for the purposes of assessment of the adult at risk of harm.

(4) An order under this section shall be expressed to, and shall operate to, authorise a member of the Garda Síochána, accompanied by an authorised officer where practicable, together with any other person in accordance with *section 57*, not later than three days after the date of issue of the order, to take steps in accordance with *subsection (5)*.

(5) An order under this section shall, subject to *section 54*, allow for the following:

- (a) entry to the place named on the order or any part thereof;
- (b) removal of the adult at risk of harm from the place;

- (c) transfer of the adult at risk of harm from the place to a designated health or social care facility or other suitable place specified in the order,

on production of the order if requested, for the purposes of assessing the health, safety or welfare of the adult at risk of harm and assessing whether any actions are needed in respect of the adult at risk of harm, where this cannot be done in the place where the adult currently is.

(6) An order issued under this section shall be valid for three days after the day it is issued.

#### **Notification to Safeguarding Body**

42. Every application to court by a member of the Garda Síochána for a removal and transfer order under this Chapter shall be notified in writing to the Safeguarding Body as soon as is practicable.

#### **Power of member of Garda Síochána to move adult at risk of harm**

43. A member of the Garda Síochána may, for the purposes of executing an order granted under *section 41*—

- (a) enter, if need be using reasonable force, any place where he or she is of the opinion, based on reasonable grounds, that the adult at risk of harm may be, as specified in the order, and

- (b) take all reasonable measures necessary for the removal and transfer of the adult at risk of harm to the designated health or social care facility or other suitable place including, where necessary, the detention or restraint of the adult at risk of harm where reasonable efforts to secure the voluntary cooperation of the adult at risk of harm have failed.

#### **Objection of adult at risk of harm to removal and transfer**

44. (1) Where, following the execution of a removal and transfer order, the adult at risk of harm objects to remaining at the designated health or social care facility or other suitable place, the Safeguarding Body, members of the Garda Síochána, and other appropriately qualified health or social care professionals, as appropriate, shall facilitate the adult to leave, which shall include transferring the adult to the place from which they were removed or to a place of his or her choosing, insofar as is practicable.

(2) Where a removal and transfer order has been executed and it appears to the authorised officer, member of the Garda Síochána, or appropriately qualified health or social care professional, as the case may be, that the adult at risk of harm may lack capacity to decide to remain in the designated health or social care facility or other suitable place, they shall endeavour to support the adult at risk of harm to make the decision, and where necessary consider supports under the Act of 2015 and notifying, in writing, the Director of the Decision Support Service.

(3) A concern as to the decision-making capacity of the adult at risk of harm shall not be grounds for hindering or prohibiting the adult at risk of harm from leaving the designated health or social care facility or other suitable place.

### **Regulations regarding designated health or social care facility**

45. The Minister may designate by regulations any place or premises as a designated health or social care facility for the purposes of this Part.

## *Chapter 5*

### *Adult safeguarding no-contact orders*

#### **Adult safeguarding no-contact order**

46. (1) In this Chapter, “applicant” means a person (other than the Safeguarding Body) who has applied, or a person on whose behalf the Safeguarding Body has applied by virtue of *section 54*, for a no-contact order against another person (in this section, referred to as the “respondent”).

(2) The applicant shall be—

- (a) an adult at risk of harm,
- (b) not the spouse or civil partner of the respondent,

- (c) not in an intimate relationship with the respondent prior to the application for a no-contact order, and
- (d) not residing with the respondent.

(3) Where an authorised officer has a belief, based on reasonable grounds, that the health, safety or welfare of an applicant so requires, an application may be made to the District Court, in accordance with *section 54*, for a no-contact order under this section.

(4) Where a judge of the District Court, on application to it, is satisfied that there are reasonable grounds for believing that the health, safety or welfare of the applicant so requires, the judge shall, if he or she considers it appropriate, by order (in this Act, referred to as a “no-contact order”) prohibit the respondent to the application from doing one or more of the following:

- (a) following, watching, pestering or communicating (including by electronic means) with, or about, the applicant;
- (b) attending at, or in the vicinity of, or watching or besetting a place where the applicant resides;
- (c) approaching or coming within a specified vicinity of the applicant.

(5) A no-contact order made by the District Court, or by the Circuit Court on appeal from the District Court, shall expire 2 years after the date of the making of the order or on the expiration of such shorter period as the court may provide for in the order.

(6) Where a no-contact order has been made under *subsection (4)*, any of the following persons may apply to have the order varied or discharged:

(a) where the application for the order was made by the Safeguarding Body in respect of an adult at risk of harm by virtue of *section 54*—

(i) the Safeguarding Body,

(ii) the applicant for the order, or

(iii) the respondent to that application, and

(b) in any other case—

(i) the applicant for the order, or

(ii) the respondent to the application for that order.

(7) The court may, upon hearing an application under *subsection (6)*, make such order varying the no-contact order as it considers appropriate in the circumstances.

(8) For the purposes of making an application under *subsection (6)*, a no-contact order made by a court on appeal from another court shall be treated as if it had been made by that other court.

### **Interim adult safeguarding no-contact order**

47. (1) Where a judge of the District Court, on application to it for a no-contact order or between the making of that application and its determination, is satisfied that there are reasonable grounds for believing that there is an immediate risk to the health, safety or welfare of an adult at risk of harm such that an interim no-contact order is required, the judge shall, if he or she considers it appropriate, by order (in this Act, referred to as an “interim no-contact order”) prohibit the respondent to the application from doing one, or more, of the following:

- (a) following, watching, pestering or communicating (including by electronic means) with, or about, the applicant;
- (b) attending at or in the vicinity of, or watching or besetting a place where the applicant resides;

- (c) approaching or coming within a specified vicinity of the applicant,

for a specified period of time, pending the determination of the application for a no-contact order under *section 46*.

(2) Where an authorised officer has a belief, based on reasonable grounds, that there is an immediate risk to the health, safety or welfare of the adult at risk of harm such that an interim no-contact order is required, an application may be made to the District Court, in accordance with *section 54*, for an interim no-contact order under this section.

(3) An interim no-contact order ceases to have effect on the determination by the court of the application for the no-contact order.

(4) An interim no-contact order may be made *ex parte* where, having regard to the circumstances of the particular case, the court considers it necessary or expedient to do so in the interests of justice.

(5) Where an application for an interim no-contact order is made *ex parte*, the application shall be grounded on an affidavit or information sworn by the applicant.

(6) Where an interim no-contact order is made *ex parte*—



- (a) a note of evidence given by the applicant shall be prepared forthwith—
  - (i) by the judge,
  - (ii) by the applicant, or the applicant's solicitor, and approved by the judge, or
  - (iii) as otherwise directed by the judge, and
- (b) a copy of the interim no-contact order, affidavit or information sworn under *subsection (5)* and note of evidence shall be served on the respondent as soon as is practicable.

(7) Notwithstanding the generality of *subsection (3)*, if an interim no-contact order is made *ex parte* that order shall have effect for a period, not exceeding 8 working days after the day it is issued, specified in the order, other than where on application by the applicant for the no-contact order and on notice to the respondent the interim no-contact order is confirmed not later than that 8 day period by order of the court.

(8) An interim no-contact order made *ex parte* shall contain a statement of the effect of *subsection (7)*.

## **Emergency adult safeguarding no-contact order**

**48.** (1) In this section, “applicant” means a person (other than the Safeguarding Body) who has applied, or a person on whose behalf the Safeguarding Body has applied by virtue of *section 54*, for an order against another person (in this section referred to as the “respondent”).

(2) The applicant shall be—

- (a) an adult at risk of harm,
- (b) not the spouse or civil partner of the respondent,
- (c) not in an intimate relationship with the respondent prior to the application for a no-contact order, and
- (d) not residing with the respondent.

(3) Where an authorised officer has a belief, based on reasonable grounds, that there is an immediate risk to the health, safety or welfare of the applicant and a no-contact order is required—

- (a) to address or mitigate that risk, or

- (b) to assess the voluntariness of the adult at risk of harm’s objection to the making of a no-contact order, and where necessary to facilitate a capacity assessment,

an application may be made to the District Court, in accordance with *section 54*, for an emergency no-contact order under this section.

(4) Where a judge of the District Court, on application to it, is satisfied that there are reasonable grounds for believing that there is an immediate risk to the health, safety or welfare of the adult at risk of harm, and a no-contact order is required—

- (a) to address or mitigate that risk, or
- (b) to assess the voluntariness of the adult at risk of harm’s objection to the making of a no-contact order, and where necessary to facilitate a capacity assessment,

the judge shall, if he or she considers it appropriate, by order (in this Act, referred to as an “emergency no-contact order”) prohibit the respondent to the application from doing one or more of the following:

- (i) following, watching, pestering or communicating (including by electronic means) with, or about, the applicant;
- (ii) attending at or in the vicinity of, or watching or besetting a place where the applicant resides;

(iii) approaching or coming within a specified vicinity of the applicant.

(5) An emergency no-contact order shall expire 8 working days after the date of the making of the order or on the expiration of such shorter period as the court may provide for in the order.

(6) An emergency no-contact order may be made *ex parte* where, having regard to the circumstances of the particular case, the court considers it necessary or expedient to do so in the interests of justice.

(7) Where an application for an emergency no-contact order is made *ex parte*, the application shall be grounded on an affidavit or information sworn by the applicant.

(8) If an emergency no-contact order is made *ex parte*—

(a) a note of evidence given by the applicant shall be prepared forthwith—

(i) by the judge,

(ii) by the applicant, or the applicant's solicitor, and approved by the judge, or

(iii) as otherwise directed by the judge, and

(b) a copy of the emergency no-contact order, affidavit or information sworn under *subsection (7)* and note of evidence shall be served on the respondent as soon as is practicable.

**Obligations of Safeguarding Body upon making of emergency no-contact order**

49. (1) Where, following the making of an emergency no-contact order under *section 48*—

- (a) the voluntariness of the adult at risk of harm's objection to a no-contact order is confirmed, and
- (b) the adult at risk of harm has, at the time concerned, capacity to object to the making of the order,

the Safeguarding Body shall apply for immediate revocation of the order, as soon as is practicable.

(2) Where an emergency no-contact order is made in circumstances wherein the adult at risk of harm is believed to lack capacity to consent to the making of a no-contact order, the Safeguarding Body shall—

- (a) endeavour to support the adult at risk of harm to make the decision and, where necessary, consider supports available under the Act of 2015, and
- (b) where necessary, having considered the supports available under the Act of 2015, notify the Director of the Decision Support Service of such matters in writing.

### **Respective rights, title or interests in property**

**50.** (1) Upon any application for a no-contact order, interim no-contact order or emergency no-contact order, the court shall have regard to the respective rights, title or interests in the property wherein the adult at risk of harm resides.

(2) The making of a no-contact order, interim no-contact order or emergency no-contact order shall not affect title to a particular property, or disturb the existing mechanisms under other law open to an individual with a superior legal or beneficial interest in the relevant property.

### **Effect of appeal from order**

**51.** (1) An appeal from a no-contact order shall, if the court that made the order or the court to which the appeal is brought so determines (but not otherwise), stay the operation of the order on such terms (if any) as may be imposed by the court making the determination.

(2) An appeal from an interim no-contact order or an emergency no-contact order shall not stay the operation of the order.

**Contravention of no-contact order**

**52.** (1) A respondent who wilfully contravenes

- (a) a no-contact order,
- (b) an interim no-contact order, or
- (c) an emergency no-contact order,

shall be guilty of an offence and shall be liable—

- (i) on summary conviction to a class B fine or to imprisonment for a term not exceeding 12 months, or both, and
- (ii) on conviction on indictment to a fine or a term of imprisonment not exceeding 5 years, or both.

(2) *Subsection (1)* is without prejudice to the law relating to contempt of court or any other liability, whether civil or criminal, that may be incurred by the respondent concerned.

## *Chapter 6*

### *Supplemental provisions and procedure regarding specified orders*

#### **Court to consider views of adult at risk of harm on application for certain orders**

**53.** (1) Upon any application for—

- (a) a removal and transfer order where access to the adult at risk of harm has been obtained, or
- (b) a no-contact order, an interim no-contact order, or an emergency no-contact order,

the court shall—

- (i) where the adult at risk of harm is not the applicant, enquire as to whether reasonable efforts have been made to ascertain the views of the adult at risk of harm in relation to whom the order is sought, concerning the making of such order, and



- (ii) in determining whether to grant any such order, have regard to any views expressed by the adult at risk of harm in relation to whom the order is sought, concerning the making of such order.

(2) The court shall not make a no-contact order or an interim no-contact order if it is satisfied that the adult at risk of harm objects to the making of the order.

(3) The court may grant a removal and transfer order or an emergency no-contact order, even if the adult at risk of harm objects to the making of the order, if it is satisfied that there are reasonable grounds for believing that—

- (a) the apparent objection of the adult at risk of harm is not voluntary, or
- (b) the adult at risk of harm may lack capacity to decide whether to—
  - (i) remain in the place where they currently are, or be moved to a designated health or social care facility or other suitable place, or
  - (ii) continue to have contact with the intended respondent to a no-contact order,

as the case may be.

**Power of Safeguarding Body to apply for certain orders**

**54.** (1) Subject to the relevant provisions of this Act, the Safeguarding Body may apply to the court for any specified order, including—

- (a) a no-contact order,
- (b) an interim no-contact order, or
- (c) an emergency no-contact order,

on behalf of, or in respect of, an adult at risk of harm.

(2) Before applying for—

- (a) in the case of a member of the Garda Síochána or the Safeguarding Body, a removal and transfer order, or
- (b) in the case of the Safeguarding Body—
  - (i) a no-contact order,

(ii) an interim no-contact order, or

(iii) an emergency no-contact order,

the Safeguarding Body or the member of the Garda Síochána, as the case may be, shall make reasonable efforts to ascertain the views of the adult at risk of harm whom the order is intended to protect.

(3) In determining whether to apply for—

(a) a removal and transfer order,

(b) a no-contact order,

(c) an interim no-contact order, or

(d) an emergency no-contact order,

in any case the Safeguarding Body or, in the case of a removal or transfer order, the member of the Garda Síochána, shall have regard to any wishes expressed by the adult at risk of harm whom the order is intended to protect.

(4) Where, having ascertained the views of the adult at risk of harm under *subsection (2) or (3)*, it is apparent that the adult at risk of harm objects

to the making of the order, the Safeguarding Body shall not make any application for a no-contact order or an interim no-contact order.

(5) Where, having ascertained the views of the adult at risk of harm under *subsection (2) or (3)*, it is apparent that the adult at risk of harm objects to the making of the order, an authorised officer of the Safeguarding Body, or a member of the Garda Síochána in the case of a removal and transfer order, as the case may be, may nonetheless make an application for a removal and transfer order or an emergency no-contact order if he or she has a belief, based on reasonable grounds, that—

- (a) the apparent objection of the adult at risk of harm is not voluntary, or
- (b) the adult at risk of harm may lack capacity to decide whether to—
  - (i) remain in the place where they are currently located, or be moved to a designated health or social care facility or other suitable place, or
  - (ii) continue to have contact with the intended respondent to a no-contact order,

as appropriate.

(6) On any application under this section, the Safeguarding Body, or the member of the Garda Síochána, as the case may be, shall provide evidence to the District Court, in accordance with *section 55*, demonstrating the reasonable efforts made to ascertain the wishes of the adult at risk of harm, and information regarding the use of any methods or supports such as Speech and Language Therapists or independent advocacy services.

### **Special sitting of District Court**

**55.** (1) Subject to *subsection (2)* and any direction given under *subsection (3)*, any application for a specified order shall be made at the next sitting of the District Court for the District Court area wherein the relevant place or any of them is located, or in the case of a no-contact order the District Court area wherein the adult at risk of harm resides.

(2) In the event that the next such sitting as specified in *subsection (1)* is not due to be held not earlier than three days of the date of the intended application, any application for a specified order may be made at a sitting of the District Court, which has been specially arranged in accordance with *subsection (3)*, held not later than the said three days.

(3) The following provisions shall have effect in relation to the issuing of specified order:

- (a) any such order shall, subject to *paragraph (b)*, be made by the justice for the district wherein the relevant place or any of them is located, or in the case of a no-

contact order by the justice for the district wherein the adult at risk of harm resides;

- (b) where a justice for the district as specified in *paragraph (a)* is not immediately available, an order may be made by any justice of the District Court;
- (c) an application for any such order may, if the justice is satisfied that the urgency of the matter so requires, be heard and an order made thereon elsewhere than at a public sitting of the District Court.

**Anonymity of adults at risk of harm and others**

**56.** (1) Where any application is made for a specified order, or to vary or discharge a specified order, any person who, by any means, publishes, distributes or broadcasts—

- (a) any information,
- (b) a photograph of, or a photograph that includes a depiction of, the person believed to be an adult at risk of harm or a dependent person of him or her, or
- (c) any other representation of the physical likeness, or any representation that includes a depiction of the

physical likeness, of the person believed to be an adult at risk of harm or a dependent person of him or her,

that is likely to enable the identification of the person believed to be an adult at risk of harm or a dependent person of him or her shall be guilty of an offence.

(2) A person shall not be guilty of an offence under *subsection (1)* where—

- (a) the person believed to be an adult at risk of harm consents in court to being identified or to the dependent person of him or her being identified, and
- (b) the court, having considered the effect of identification on the person believed to be an adult at risk of harm or the dependent person of him or her, consents to that identification.

(3) Where a judge of the District Court considers that the interests of justice so require, he or she may, having taken into account the views of the person believed to be an adult at risk of harm, direct that such information, photograph or representation referred to in *subsection (1)* as he or she specifies may be published, distributed or broadcast in such manner and subject to such conditions (if any) as he or she specifies in the direction.

(4) A direction given under *subsection (3)* shall be in writing.

(5) A person who contravenes a direction given under *subsection (3)*, including a condition in such a direction, shall be guilty of an offence.

(6) The respondent to—

- (a) a no-contact order,
- (b) an interim no-contact order, or
- (c) an emergency no-contact order,

shall be identified, and may be the subject of information, photograph or representation, unless doing so would identify the adult at risk of harm or a dependent person of such adult.

(7) A person who is guilty of an offence under *subsection (1)* or *(5)* is liable—

- (a) on summary conviction to a class A fine or to imprisonment for a term not exceeding 12 months, or both, or



- (b) on conviction on indictment to a fine not exceeding €50,000 or to imprisonment for a term not exceeding three years, or both.

(8) It shall be a defence for a person who is charged with an offence under *subsection (1)* or *(5)* to prove that at the time of the alleged offence the person was not aware, and neither suspected nor had reason to suspect—

- (a) in the case of an offence under *subsection (1)*, that the information, photograph or other representation published or broadcast was information, a photograph or other representation referred to in that subsection, or
- (b) in the case of an offence under *subsection (5)*, that the information, photograph or other representation was published or broadcast in contravention of a direction given under *subsection (3)*, including a condition in such a direction.

(9) It shall not be an offence for the person believed to be an adult at risk of harm to engage in the behaviour specified in *subsection (1)* or *(5)*.

(10) If any matter is published, distributed or broadcast in contravention of *subsection (1)* or *(5)*, persons who shall be guilty of an offence include, but are not limited to, all or any of the following:

- (a) in the case of matter published in a newspaper or periodical publication, the proprietor, the editor and the publisher thereof;
- (b) in the case of matter published in any other written publication, the publisher thereof;
- (c) in the case of matter distributed online, any person who publishes, distributes or broadcasts the matter;
- (d) in the case of matter broadcast, each person who transmits or provides the programme in which the broadcast is made and each person who performs functions in relation to the programme corresponding to those of the editor of a newspaper or periodical publication.

(11) In this section—

“broadcast” has the same meaning as it has in the Broadcasting Act 2009;

“distribute” means distribute to the public or a portion of the public;

“publish” means publish, other than by way of broadcast, to the public or a portion of the public.

**Authorised officer or member of Garda Síochána may be accompanied by health or social care professional or any such other person as may be necessary**

57. (1) An authorised officer or member of the Garda Síochána may be accompanied by one or more appropriately qualified health or social care professionals when performing functions under this Part in accordance with an order under *section 31, 36, or 41* or a power under *section 30 or 37*.

(2) An authorised officer or member of the Garda Síochána may be accompanied by any other person that the officer or member reasonably considers necessary or appropriate when performing functions under this Part in accordance with an order under *section 31, 36, or 41* or a power under *section 30 or 37*.

**Power of interview and medical examination**

58. (1) Subject to *subsection (4)*, an authorised officer, and any appropriately qualified health or social care professional accompanying him or her, may interview, in private, any person who he or she believes to be an adult at risk of harm and is accessed in accordance with *section 30, 31, 36, 37 or 41*.

(2) Subject to *subsection (4)*, an authorised officer, and any appropriately qualified health or social care professional accompanying him or her, may conduct a private medical examination of any person who he or she believes to be an adult at risk of harm and is accessed in accordance with *section 30, 31, 36, 37 or 41*.

(3) Such interview or assessment, under *subsection (1) or (2)*, may take place in the place where the adult at risk of harm is found or removed to, in accordance with an order under *section 41*.

(4) An adult at risk of harm may refuse to answer any question or to be medically examined, and shall be informed of such entitlement before an interview or examination is carried out.

### **Notice in plain English**

**59.** (1) Where an order under *section 31, 36 or 41* is executed or a power under *section 30* is exercised, a notice in plain English shall be provided to the adult at risk of harm to whom access is sought, or whose assessment is intended, by the use of the warrant, order or power, explaining the nature of the warrant or power being exercised and the process involved.

(2) The Minister may prescribe a standard notice setting out the form and content of a notice to be given under this section.

### **Oral explanation**

**60.** (1) Where an order under *section 31, 36 or 41* is executed or a power under *section 30 or 37* is exercised, the member of the Garda Síochána or authorised officer, insofar as is practicable, explain to the adult at risk of harm—

- (a) the nature of the order or power and the powers exercisable under it, and
- (b) the purpose of the order or power.

(2) Where a removal and transfer order is executed under *section 41*, in addition to the matters specified in *subsection (1)*, the member of the Garda Síochána or authorised officer, as the case may be, should insofar as is practicable explain to the adult at risk of harm that upon arrival at the designated facility or other suitable place, the adult at risk of harm may choose to leave, and shall be facilitated in doing so if so chosen.

(3) Any failure to give an explanation in accordance with this section shall not invalidate the order or the exercise of any power under a provision of this Part or on foot of a specified order.

### **Use of reasonable force**

**61.** (1) Where a member of the Garda Síochána or an authorised officer is executing an order under *section 31* or *41* or exercising a power under *section 37* the member or authorised officer, as the case may be, may use reasonable force for the purposes of accessing the relevant place or premises.

(2) The authorisation given in *subsection (1)* shall not encompass the use of reasonable force to restrain, detain or otherwise restrict the movement of an adult at risk of harm.

## Offences

62. (1) A staff member, provider of a relevant service or other person carrying out functions for and within a relevant premises who—

- (a) refuses to allow an authorised officer or any person accompanying him or her to enter a relevant premises (other than any part of a relevant premises used as a dwelling) in accordance with *section 30* or in accordance with a warrant granted under *section 31*, or
- (b) obstructs or impedes an authorised officer or any person accompanying him or her in the exercise of functions in accordance with *Chapter 3* or in accordance with a warrant granted under *section 31*, or
- (c) gives to an authorised officer or any person accompanying him or her who is exercising functions in accordance with *Chapter 3* or in accordance with a warrant granted under *section 31* information that the person giving the information knows, or should reasonably know, to be false or misleading,

shall be guilty of an offence.

(2) Subject to *subsection (5)*, any person who obstructs or impedes a member of the Garda Síochána or an authorised officer in executing a warrant granted under *section 31* or *36*, exercising the power under *section*

30 or 37 or executing an order granted under *section 41* shall be guilty of an offence.

(3) Subject to *subsection (5)*, a member of the Garda Síochána may arrest otherwise than on foot of a warrant any person who obstructs or impedes that member in executing a warrant granted under *section 36*, exercising the power *section 37* or executing an order granted under *section 41*.

(4) A person guilty of an offence under *subsection (1)* or *(2)* shall be liable—

- (a) on summary conviction, to a fine not exceeding €5,000, or imprisonment for a term not exceeding 12 months, or both, or
- (b) on conviction on indictment, to a fine not exceeding €70,000, or imprisonment for a term not exceeding 2 years, or both.

(5) It shall not be an offence for the adult at risk of harm to whom access is sought, or whose assessment is intended, by the use of the warrant, order or power, as the case may be, to engage in the behaviour specified in this section.

## *Chapter 7*

*Amendments to Act of 2018*

**Amendment of section 2 of Act of 2018**

63. Section 2 of the Act of 2018 is amended by the substitution of the following definition for the definition of “Agency”:

“ ‘Agency’ means the Child and Family Agency or the National Adult Safeguarding Body, as the context requires;”.

**Amendment of section 6 of Act of 2018**

64. Section 6(1)(a) of the Act of 2018 is amended—

- (a) in subparagraph (v), by the substitution of “contractual,” for “contractual, or”,
- (b) in subparagraph (vi), by the substitution of “respondent, or” for “respondent;”, and
- (c) by the insertion of the following subparagraph after subparagraph (vi):

“(vii) is an adult at risk of harm as defined in the *Adult Safeguarding Act 2024* who resides with the respondent in a relationship the basis of



which is a contractual arrangement whereby the respondent provides care for the adult at risk of harm;”.

**Amendment of section 7 of Act of 2018**

65. Section 7(1) of the Act of 2018 is amended—

- (a) in paragraph (c), by substituting “barring order,” for “barring order, or”,
- (b) in paragraph (d), by substituting “person, or” for “person.”, and
- (c) by inserting the following paragraph after paragraph (d):

“(e) is an adult at risk of harm as defined in the *Adult Safeguarding Act 2024* who resides with the respondent in a relationship—

- (i) the basis of which is not primarily contractual, or
- (ii) the basis of which is a contractual arrangement whereby the respondent provides care for the adult at risk of harm.”.

## PART 7

### ADULT SAFEGUARDING DUTIES ON PROVIDERS OF RELEVANT SERVICE

#### Definitions (*Part 7*)

66. In this Part—

“contract of employment” means—

- (a) a contract of service or apprenticeship, or
- (b) any other contract whereby an individual agrees with another person, who is carrying on the business of an employment agency within the meaning of the Employment Agency Act 1971, and is acting in the course of that business, to do or perform personally any work or service for a third person (whether or not the third person is a party to the contract),

whether the contract is express or implied and, if express, whether it is oral or in writing;

“non-compliance notice” means a notice served by the Safeguarding Body under *section 70*;

“personal relationship” has the same meaning as it has in section 3 of the National Vetting Bureau (Children and Vulnerable Persons) Act 2012;

“provider of a relevant service” means a person—

- (a) who provides a relevant service, and
- (b) who, in respect of the provision of such relevant service—
  - (i) employs (whether under contract of employment or otherwise) one, or more than one, other person to undertake any work or activity that constitutes a relevant service,
  - (ii) enters into a contract for services with one, or more than one, other person for the provision by the person of a relevant service, or
  - (iii) permits one, or more than one, other person (whether or not for commercial or other consideration and whether or not as part of a course of education or training, including an internship scheme) to undertake any work or activity, on behalf of the person, that constitutes a relevant service;

“register of non-compliance” shall be construed in accordance with *section 71*;

“relevant authority” means one, or more, of the following:

- (a) the Health Information and Quality Authority;
- (b) the Mental Health Commission;
- (c) An Ghníomhaireacht um Fhoréigean Baile, Gnéasach agus Inscnebhunaithe;
- (d) An tÚdarás Póilíneachta agus Sábháilteachta Pobail;

“relevant person” means a person who is appointed by a provider of a relevant service to be the first point of contact in respect of the provider’s duty to undertake or document a risk assessment or prepare an adult safeguarding statement;

“warning notice” shall be construed in accordance with *section 70(1)*.

### **Application of *Part 7***

**67.** A person who would but for this section be regarded as a provider of a relevant service shall not be a provider for the purposes of this Part if the relevant service being provided by the person concerned is—

- (a) undertaken in the course of a family relationship, where the work or activity is undertaken solely for the benefit of an adult, who may be an adult at risk of harm, or other family member of the person,
- (b) undertaken in the course of a personal relationship, without payment or for any other consideration, or
- (c) undertaken on an occasional basis only for no consideration at a sports or community event or activity.

### **Duty to prevent harm**

**68.** (1) A provider of a relevant service shall ensure, insofar as is practicable, that its services are managed and provided in such a way as to prevent harm to any adult, who is, may be, or may become an adult at risk of harm, while availing of the service.

(2) This section shall not be taken to confer on any person a right in law that he or she would not otherwise have to require a provider of a relevant service to take any steps or to seek damages for the failure to take such steps.

### **Risk assessments and adult safeguarding statements**

**69.** (1) Where a person proposes to operate as a provider of a relevant service, he or she shall, not later than 3 months from the date on which he or she commences as such a provider—

- (a) undertake, and document, a risk assessment of any potential for harm to an adult while availing of the service,
- (b) prepare, in accordance with *subsection (3)*, a written statement (in this Act, referred to as an “adult safeguarding statement”) specifying the service being provided and the procedures, referred to in *subsection (3)*, to be observed to ensure insofar as is practicable, that an adult, while availing of the service, is safe from harm, and
- (c) appoint a relevant person for the purposes of this Part.

(2) A person who, immediately before the commencement of this section, was operating as a provider of a relevant service shall, not later than 3 months from the date of such commencement—

- (a) undertake, and document, a risk assessment,
- (b) prepare, in accordance with *subsection (3)*, an adult safeguarding statement, and
- (c) appoint a relevant person for the purposes of this Part.

(3) An adult safeguarding statement shall include a written assessment of the risk and, in that regard, specify the policies, procedures, and measures that are in place in respect of the following:

- (a) to manage any risk identified as a result of a risk assessment;
- (b) how to proceed where a member of staff is the subject of an investigation (however described) in respect of any act, omission or circumstances in respect of an adult availing of a relevant service;
- (c) for the selection or recruitment of any person as a member of staff of the provider of a relevant service with regard to that person's suitability to work with adults who may be adults at risk of harm or who may be vulnerable persons within the meaning of section 2 of the National Vetting Bureau (Children and Vulnerable Persons) Act 2012;
- (d) for the provision of information and, where necessary, instruction and training, to members of staff of the provider of a relevant service in relation to the identification of the occurrence of harm;
- (e) for reviewing and updating care plans or personal plans including updating existing plans to include safeguarding plans, where there are concerns that an adult is at risk of harm while availing of the relevant service;

- (f) for preparing and reviewing safeguarding plans, where there are concerns that an adult is at risk of harm while availing of the relevant service;
- (g) for reporting to the Safeguarding Body by the provider of a relevant service or a member of staff of the provider (whether a mandated person or otherwise) in accordance with *Part 4*, including any guidelines issued by the Minister;
- (h) for maintaining a list of the persons (if any) in the relevant service who are mandated persons in accordance with the reporting requirements in *Part 4*;
- (i) for appointing a relevant person to be the first point of contact in respect of the provider of a relevant service's duty to undertake and document a risk assessment and prepare an adult safeguarding statement in accordance with *Part 7*.

(4) A provider of a relevant service shall ensure that the adult safeguarding statement being prepared by the provider has due regard to, and is in accordance with, any guidelines issued by the following:

- (a) the Minister under *section 6*;
- (b) the Safeguarding Body;



(c) the relevant authority.

(5) A provider of a relevant service shall furnish records of the provider's risk assessment and a copy of the provider's adult safeguarding statement—

(a) to adults availing of the relevant service,

(b) to members of staff of the provider, and

(c) on request, to—

(i) a relevant authority, or

(ii) any person.

(6) As soon as may be after the preparation of an adult safeguarding statement or any review of it, the provider concerned shall display the statement in a prominent place within the relevant service where it is clearly visible.

(7) Subject to *subsection (8)*, a provider of a relevant service shall, at intervals of not more than 24 months, undertake a review of its adult safeguarding statement and the first such review shall be undertaken not more than 24 months from the date on which the first adult safeguarding statement was prepared under *subsection (1) or (2)*, as the case may be, and displayed under *subsection (6)*.

(8) A provider of a relevant service shall review an adult safeguarding statement prepared under this section as soon as is practicable after there has been a material change in any matter to which the statement refers.

(9) Any of the following matters may be prescribed:

- (a) the form of an adult safeguarding statement;
- (b) the matters to be included in an adult safeguarding statement;
- (c) the procedures to be followed by a provider of a relevant service in respect of a review, by the provider, of an adult safeguarding statement.

(10) This section shall not be taken to confer on any person a right in law that he or she would not otherwise have to require a provider of a relevant service to take any steps or to seek damages for the failure to take such steps.

(11) In this section, “member of staff” means, in relation to a provider of a relevant service, a person referred to in *paragraph (b)* of the definition of provider of a relevant service as set out in *section 66*.

**Non-compliance with request to furnish documented risk assessment and adult safeguarding statement**

70. (1) Where, pursuant to a request made by a relevant authority under *section 69(5)(c)(i)*, a provider of a relevant service, which is required to comply with standards set by a relevant authority and is subject to inspection of its compliance with such standards, fails to furnish the relevant authority with records of its adult safeguarding risk assessment and a copy of the provider’s adult safeguarding statement, the relevant authority may, serve a notice in writing on the provider (in this section, referred to as a “warning notice”).

(2) A warning notice shall—

- (a) inform the provider of a relevant service of a failure to furnish records of a risk assessment and an adult safeguarding statement,
- (b) require the provider of a relevant service, within such period as specified in the notice, to furnish the relevant authority with a copy of the provider’s risk assessment and the provider’s adult safeguarding statement,
- (c) inform the provider of a relevant service that failure to furnish the relevant authority with the record of the risk assessment and adult safeguarding statement within the time specified in the notice may result in the provider being served with a notice of non-compliance with their obligations under *subsection (1)* (in this Part, referred to as a “non-compliance notice”), and

- (d) inform the provider of a relevant service that he or she may make representations to the relevant authority in accordance with *subsection (3)*.

(3) A provider of a relevant service who is served with a warning notice may, not later than 14 days of the date of receipt of the notice, make representations in writing to the relevant authority in respect of the proposed non-compliance notice.

(4) The relevant authority shall have regard to any representations made to it under *subsection (3)* in assessing whether to proceed with the service of the non-compliance notice.

(5) The relevant authority shall, subject to *subsection (4)*, serve a non-compliance notice on a provider of a relevant service who fails to furnish the relevant authority with records of a risk assessment and an adult safeguarding statement within the period specified in the warning notice and the notice shall inform the provider concerned of the matters specified in *subsections (6) and (7)*.

(6) A non-compliance notice shall come into effect 21 days from the date of service of the notice unless an appeal is brought by the provider of a relevant service under *subsection (7)*.

(7) A provider of a relevant service who is served with a non-compliance notice may, not later than 21 days of the date of service of the notice, appeal the non-compliance notice to the District Court.

(8) The jurisdiction conferred on the District Court under this section shall be exercised by a judge of that court for the time being assigned to the District Court district in which the person on whom the non-compliance notice is served ordinarily resides or carries on any profession, business or occupation.

### **Register of non-compliance**

**71.** (1) Each relevant authority shall establish and maintain a register of non-compliance notices (in this section, referred to as the “register of non-compliance”) in respect of the relevant services inspected by that relevant authority.

(2) As soon as may be after a non-compliance notice comes into effect pursuant to *section 70*, the relevant authority shall enter the particulars of the non-compliance notice on the register of non-compliance.

(3) Subject to *subsection (4)*, an entry made in respect of a non-compliance notice shall be removed from the register of non-compliance upon receipt by the relevant authority of the records of a risk assessment and adult safeguarding statement to which the entry relates or upon being satisfied that an adult safeguarding statement is no longer required, as may be appropriate, whichever is the earlier.

(4) A person who is the subject of a non-compliance notice may at any time apply to the relevant authority to have the entry concerned removed from the register of non-compliance and that body may, if it considers it appropriate to do so, remove the entry.

(5) The register of non-compliance shall be made available for inspection by members of the public at all reasonable times at the principal office of the relevant authority.

## PART 8

### ADULT SAFEGUARD REVIEWS

#### Definition (*Part 8*)

72. In this Part, “reviewing body” means [to be determined by the Government or the Oireachtas];

#### Adult Safeguarding Reviews

73. (1) The reviewing body shall, with a view to improving the safety, quality and standards of adult safeguarding services and subject to *subsection (3)*, undertake a review (in this section, referred to as an “adult safeguarding review”) where—

- (a) an adult at risk of harm—
  - (i) dies and abuse or neglect is known or suspected to be a factor in the death, or

(ii) does not die, but it is known or suspected that they experienced or are experiencing serious abuse or neglect, and

(b) an incident or series of incidents suggests that there have been serious and significant failings on behalf of one or more agencies, persons or individuals responsible for the care and protection of adults at risk of harm.

(2) The reviewing body may, subject to *subsection (3)*, undertake an adult safeguarding review if it considers it appropriate to do so—

(a) where the criteria in *subsection (1)* are not met, and

(b) where the reviewing body believes, based on reasonable grounds that an adult safeguarding review could provide material information regarding how the safety, quality and standards of adult safeguarding services provided by one or more agencies, persons or individuals can be improved to—

(i) protect and promote the health, safety and welfare of adults at risk of harm, and

(ii) minimise the risk of harm to adults at risk of harm.

(3) The reviewing body may decide not to undertake an adult safeguarding review under *subsection (1) or (2)*, or decide to discontinue or pause such a review, if—

- (a) the incident concerned is, or will be, subject to a review or investigation under any other enactment by another statutory body or officeholder under a statutory duty,
- (b) the reviewing body believes, based on reasonable grounds, that, due to the considerable length of time between the incident concerned occurring, and it deciding whether to undertake an adult safeguarding review, it is not necessary or appropriate to undertake a review,
- (c) the reviewing body believes, based on reasonable grounds, that the incident or the subject matter of the adult safeguarding review has already been resolved or substantially resolved,
- (d) the incident or the subject matter of the adult safeguarding review concerned is the subject of criminal proceedings, or



- (e) the incident or the subject matter of the adult safeguarding review concerned, is the subject of an investigation by the Garda Síochána.

(4) The reviewing body shall ensure that an adult safeguarding review undertaken under *subsection (1) or (2)* does not interfere, or conflict, with the functions of any statutory bodies or officer holders under a statutory duty.

### **Provisions on liability**

**74.** (1) An adult safeguarding review undertaken in accordance with *section 73(1) or (2)* shall not—

- (a) consider or determine fault, or assign civil or criminal liability,
- (b) consider or determine whether any action should be taken in respect of an individual by any panel, committee, tribunal or professional regulatory body, or
- (c) be admissible as evidence of fault or liability in a court in relation to an incident that is subject to the adult safeguarding review under *section 73(1) or (2)*, or a clinical negligence action which arises (whether in whole or in part) from the consequences of that incident.

### **Powers of reviewing body**

**75.** (1) For the purposes of undertaking an adult safeguarding review under *section 73(1) or (2)*, the reviewing body may—

- (a) direct any person to produce information or documents,
- (b) inspect and take copies of or extracts from and remove from any premises any documents or records (including personal records) relating to the adult safeguarding review, and
- (c) inspect the operation of any computer and any associated apparatus or material which is or has been in use in connection with the records in question,
- (d) interview in private any person—
  - (i) working in an agency, or person, responsible for the care and protection of adults at risk of harm, or
  - (ii) who at any time was or is in receipt of an adult safeguarding service and who consents to be interviewed.

(2) Where a person fails to comply, in part or in full, with a direction or requirement of the Safeguarding Body under *subsection (1)*, the body may, having regard to the extent of the failure to comply with the said requirement, by notice in writing inform the person concerned—

- (a) of the failure to comply in full with such requirement, and
- (b) if such non-compliance with the requirement remains for more than 5 days after the date of the notice, an application may be made to the Circuit Court for an order directing the person to comply in full with the requirement concerned.

(3) Where an application is made to the Circuit Court pursuant to *subsection (2)*, the court may make such order or orders as the circumstances may require.

### **Guidelines for reviewing body**

**76.** (1) The Minister shall issue guidelines for the purposes of providing practical guidance to the review body in respect of the performance of its functions under this Part.

(2) Guidelines under this section shall include the procedures to be followed for adult safeguarding reviews under this Part, including, but not limited to, the following:

- (a) the principles underpinning reviews;
- (b) referral of serious incidents involving adults at risk of harm to the reviewing body;
- (c) the initiation of reviews, and notification requirements;
- (d) sharing of information regarding reviews;
- (e) the interface with parallel proceedings and other review mechanisms;
- (f) publication of review reports;
- (g) monitoring and evaluating actions and outcomes from reviews.

## **PART 9**

### **COOPERATION**

#### **Definitions (*Part 9*)**

77. In this Part—

“cooperate” includes sharing of documents and information (including statistical information);

“provider of a relevant service” means a provider of a relevant service, as defined in *section 4* and *Schedule 1*, other than a provider of the work or activity referred to in item 3 of *Schedule 1*;

“public service body” means—

- (a) the Child and Family Agency,
- (b) a Department of State,
- (c) the Director of the Decision Support Service,
- (d) the Garda Síochána,
- (e) An Ghníomhaireacht um Fhoréigean Baile, Gnéasach agus Inscnebhunaithe
- (f) the Health Service Executive,
- (g) the Health Information and Quality Authority,

- (h) the International Protection Accommodation Services, under the authority of the Minister for Children, Equality, Disability, Integration and Youth,
- (i) the Mental Health Commission,
- (j) An tÚdarás Póilíneachta agus Sábháilteachta Pobail, and
- (k) a body designated under *section 78* as a public service body;

### **Designation of public service body**

**78.** (1) The Minister may by order designate a body, whether created by or under any enactment or not, as a public service body for the purposes of this Act.

(2) The Minister may make an order under *subsection (1)* where he or she is satisfied—

- (a) that some or all of the functions of the body concerned relate to safeguarding the health, safety or welfare of an adult at risk of harm, and

- (b) it is desirable that the body would cooperate with other public service bodies or providers of a relevant service to safeguard the health, safety or welfare of an adult at risk of harm.

(3) The Minister shall not make an order under *subsection (1)* in respect of a body for which a Minister of the Government other than the Minister has responsibility and in whom functions, whether statutory or otherwise, in respect of the body are vested, other than with the consent of that Minister of the Government.

### **Cooperation for performance of functions**

79. (1) A public service body shall—

- (a) when requested by the Safeguarding Body to do so, cooperate with that body for the purpose of the performance of a function of the Safeguarding Body,
- (b) when requested by another public service body to do so, cooperate with that body for the purpose of the performance of a function of that body that relates to safeguarding the health, safety or welfare of an adult at risk of harm, and
- (c) when requested by a provider of a relevant service to do so, cooperate with that provider where the provider

is of the opinion, based on reasonable grounds, that there is a risk to the health, safety or welfare of an adult at risk of harm that is caused by abuse, neglect or ill-treatment.

(2) A provider of a relevant service shall—

- (a) when requested by the Safeguarding Body to do so, cooperate with that body for the purpose of the performance of a function of the Safeguarding Body,
- (b) when requested by a public service body to do so, cooperate with that body for the purpose of the performance of a function of that body that relates to safeguarding the health, safety or welfare of an adult at risk of harm, and
- (c) when requested by another provider of a relevant service to do so, cooperate with that provider where that provider is of the opinion, based on reasonable grounds, that there is a risk to the health, safety or welfare of an adult at risk of harm that is caused by abuse, neglect or ill-treatment.

## **PART 10**



## **INTER-DEPARTMENTAL IMPLEMENTATION GROUP AND SECTORAL IMPLEMENTATION PLANS**

### **Adult Safeguarding Inter-Departmental Implementation Group**

**80.** As soon as may be after the commencement of this section, the Minister shall establish a group to be known as the Inter-Departmental Implementation Group (in this Act, referred to as the “Implementation Group”) to perform the functions assigned to it by this Act.

### **Membership of Implementation Group**

**81.** (1) The Implementation Group shall consist of—

- (a) subject to *subsection (2)*, a chairperson, and
  
- (b) not less than 18 ordinary members,

each of whom shall be appointed by the Government to be a member of the Implementation Group.

(2) The Minister shall appoint an officer of the Minister to be the chairperson of the Implementation Group.

(3) The ordinary members of the Implementation Group shall be comprised as follows:

- (a) an officer of each relevant Minister of the Government, as appointed by the Government, nominated by the Minister of the Government having charge of the Department of State concerned;
- (b) a member of the Garda Síochána nominated by the Commissioner of the Garda Síochána;
- (c) an employee of the Health Service Executive nominated by the chief executive officer of that executive;
- (d) an employee of the Safeguarding Body nominated by the chief executive officer of that body.

(4) The Minister may at any time dissolve the Implementation Group.

### **Functions of Implementation Group**

**82.** The functions of the Implementation Group shall be the following:

- (a) promote compliance by Departments of State with their obligations under this Act;

- (b) monitor compliance by public service bodies with their obligations under *section 79(1)*;
- (c) monitor the implementation by Departments of State of the guidelines issued by the Minister under *section 6*;
- (d) provide support to Departments of State in respect of the preparation and publication of sectoral implementation plans;
- (e) promote a consistent approach by Departments of State in respect of the preparation and publication of sectoral implementation plans;
- (f) report to the Minister, when requested by the Minister, on the implementation of this Act and of the guidelines issued by the Minister under *section 6*;
- (g) provide information or advice, or make proposals, to the Minister on matters relating to the functions of the Implementation Group referred to in *paragraphs (a) to (e)*.

#### **Directions of Minister**

**83.** (1) The Minister may give a direction in writing to the Implementation Group in relation to the performance by the Implementation Group of its functions under this Act, requiring it to comply with such policies of the Government as are specified in the direction.

(2) The Minister may, by direction in writing, amend or revoke a direction under this section (including a direction under this subsection).

(3) The Implementation Group shall comply with a direction given to it under this section.

#### **Conditions and cessation of membership**

**84.** (1) An appointment made under *section 81* shall, subject to the provisions of this Part, be on such terms and conditions as may be determined by the Minister.

(2) Without prejudice to the generality of *subsection (1)*, a person appointed by the Minister under *section 81* shall cease to be a member of the Implementation Group—

(a) where appointed under *subsection (3)(a)* of that section—

(i) if he or she ceases to be an officer of the Minister of the Government concerned, or

- (ii) at the request of that Minister of the Government,
- (b) where appointed under *subsection (3)(b)* of that section—
  - (i) if he or she ceases to be a member of the Garda Síochána, or
  - (ii) at the request of the Commissioner of the Garda Síochána,
- (c) where appointed under *subsection (3)(c)* of that section—
  - (i) if he or she ceases to be an employee of the Executive, or
  - (ii) at the request of the chief executive officer of the Executive, or
- (d) where appointed under *subsection (3)(d)* of that section—

- (i) if he or she ceases to be an employee of the Safeguarding Body, or
- (ii) at the request of the chief executive officer of the Safeguarding Body.

(3) If a member of the Implementation Group dies or ceases to be a member of the Group, the Minister may appoint a person to be a member of the Implementation Group to fill the vacancy so occasioned in the same manner as the member of the Implementation Group who occasioned the vacancy was appointed.

### **Meetings and procedures**

**85.** (1) The Implementation Group shall hold such and so many meetings as may be necessary for the performance of its functions and may, subject to this Part, make such arrangements for the conduct of its meetings and business as it considers appropriate.

(2) The quorum for a meeting of the Implementation Group shall be 8.

(3) Subject to *subsection (2)*, the Implementation Group may act notwithstanding one, or more than one, vacancy among its membership.

(4) At a meeting of the Implementation Group—

- (a) the chairperson of the Implementation Group shall, if present, be the chairperson of the meeting, or
- (b) if and so long as the chairperson of the Implementation Group is not present, or if that office is vacant, the members of the Implementation Group who are present shall choose one of their number to be the chairperson of the meeting.

## **Reports**

**86.** (1) The Implementation Group shall, not later than 30 June of each calendar year, prepare and submit to the Minister a report on the performance of its functions and activities during the preceding year or, in the case of the first such report, its functions and activities since the date it was established up to and including 31 December of the preceding year.

(2) The Minister shall, as soon as may be after receiving the report under *subsection (1)*, cause a copy of it to be laid before each House of the Oireachtas.

(3) A report under *subsection (1)* shall be in such form as the Minister may approve and shall include information in such form and regarding such matters as the Minister may from time to time direct.

(4) The Implementation Group shall supply, when required by the Minister to do so, a report on any matter connected with the functions of the Implementation Group as may be specified by the Minister.

(5) A report under *subsection (4)* shall be in such form and shall be made within such period as the Minister may specify.

### **Sectoral implementation plans**

**87.** (1) The Government shall appoint Ministers of the Government, as soon as may be after the commencement of this section, to prepare and publish a plan (in this Act, referred to as a “sectoral implementation plan”) in relation to the matters referred to in *subsection (2)* outlining the programme of measures taken or proposed to be taken by or on behalf of the Minister concerned to ensure that—

- (a) the Department of State concerned and public service bodies under its aegis, and
- (b) any body that provides a relevant service and receives funding from the Department concerned in that regard,

complies with this Act and of the guidelines issued by the Minister under *section 6*.

(2) A sectoral implementation plan shall contain information concerning—



- (a) services provided by or on behalf of the Department of State concerned,
- (b) measures taken or proposed to be taken to promote, review and report on compliance with this Act and of the guidelines issued by the Minister under *section 6*,
- (c) monitoring and review procedures in relation to the subject matter of the plan, and
- (d) such other matters (if any) as the Minister of the Government concerned considers appropriate.

(3) Any plan that has been published by a Minister of the Government before the commencement of this section and in relation to the matters referred to in *subsection (2)* that is in force immediately before such commencement, shall be deemed, on such commencement, to be a sectoral implementation plan prepared and published by that Minister under *subsection (1)*.

(4) As soon as may be after the preparation of a sectoral implementation plan or, in the case of a sectoral implementation plan to which *subsection (3)* applies, as soon as may be after the commencement of this section, the Minister of the Government concerned shall cause copies of the plan to be laid before each House of the Oireachtas.

(5) Each Minister of the Government shall review and, if appropriate, revise a sectoral implementation plan and publish a sectoral implementation plan as revised—

- (a) not later than 3 years, or such other period as may be determined by the Minister, from the date of publication of that plan in accordance with this section or, in the case of a sectoral implementation plan to which *subsection (3)* applies, the date of the commencement of this section, and
- (b) not later than 3 years, or such other period as may be determined by the Minister, from the date of the last review of that plan under this section.

(6) A sectoral implementation plan prepared by a Minister of the Government under *subsection (1)* may be amended by another sectoral implementation plan prepared by that Minister.

## PART 11

### INFORMATION SHARING

#### **Information sharing between relevant bodies to safeguard health, safety or welfare of adults at risk of harm**

**88.** (1) In this section—

“data concerning health” has the meaning given to it in Article 4 of the General Data Protection Regulation;

“General Data Protection Regulation” means Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016<sup>1</sup> on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC;

“information” means information, including personal data and special categories of personal data, pertaining to the health, safety or welfare of an adult at risk of harm;

“Minister” means the Minister for Justice or [other Minister of the Government, as determined by the Government and the Oireachtas];

“personal data” has the meaning given to it in Article 4 of the General Data Protection Regulation;

“relevant body” means one of the following:

- (a) the Child and Family Agency;
- (b) a Department of State;

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<sup>1</sup> OJ No L 119, 04.05.2016, p. 1.

- (c) the Garda Síochána;
- (d) the Health and Social Care Professionals Council;
- (e) the Health Information and Quality Authority;
- (f) the Health Service Executive;
- (g) a body or office established under adult safeguarding legislation to perform the functions conferred on it, by or under this Act or any other enactment, whether on a permanent or temporary basis as determined by the Government and the Oireachtas;
- (h) the Mental Health Commission;
- (i) a designated centre for the purposes of the Act of 2007;
- (j) an agency in receipt of funding pursuant to section 38 or 39 of the Act of 2004;
- (k) an approved centre for the purposes of the Mental Health Act 2001;
- (l) a local authority within the meaning of the Local Government Act 2001;
- (m) a local community development committee established pursuant to section 49A of the Local Government Act 2001;

- (n) a local community safety partnership established pursuant to the Policing, Security and Community Safety Act 2024;
- (o) any other person or public or private body or group that the Minister may prescribe by regulations pursuant to *subsection (10)(a)*,

insofar as one or more of their functions relate to safeguarding the health, safety or welfare of an adult at risk of harm;

“request for information” means a request in writing or by electronic means from a relevant body to another relevant body for information;

“special categories of personal data” shall be construed in accordance with the General Data Protection Regulation and includes data concerning health.

(2) A relevant body may make a request for information to another relevant body.

(3) In order to make a request for information to another relevant body pursuant to *subsection (2)*, a relevant body shall satisfy one, or more, of the following conditions:

- (a) the sharing of the information is necessary in the public interest to safeguard the health, safety or welfare of an adult at risk of harm;

- (b) the prior consent of an adult at risk of harm cannot reasonably be expected to be obtained;
  - (c) the nature and volume of the information requested is necessary and proportionate to the aim of safeguarding the health, safety or welfare of an adult at risk of harm;
  - (d) suitable and specific measures are, or will be, provided to safeguard the fundamental rights and interests of an adult at risk of harm which may include, but are not limited to, the measures contained in section 36(1) of the Data Protection Act 2018.
- (4) The relevant body making the request for information shall—
- (a) specify the public interest served by sharing the information, and
  - (b) have regard to the following:
    - (i) the nature of the substantial public interest to safeguard the health, safety or welfare of the adult at risk of harm;
    - (ii) any benefits likely to arise for the adult at risk of harm;
    - (iii) any risks, including their likelihood and severity, arising for the rights and freedoms of the adult at risk of harm.

(5) A relevant body that receives a request for information pursuant to *subsection (2)* that is made in accordance with *subsections (3) and (4)* shall—

- (a) comply with such a request, and
- (b) only share such information that is necessary and proportionate to the aim of safeguarding the health, safety or welfare of the adult at risk of harm.

(6) A relevant body shall not, in discharging the obligation under *subsection (5)*, be required to share information that it would be entitled to refuse to share on the grounds of legal professional privilege.

(7) No action shall lie against a relevant body that acts in accordance with *subsection (6)*.

(8) A relevant body may share information with another relevant body if the following conditions are met:

- (a) the sharing of the information is necessary in the public interest to safeguard the health, safety or welfare of the adult at risk of harm;
- (b) the prior consent of the adult at risk of harm cannot reasonably be expected to be obtained;
- (c) the nature and volume of the information shared is necessary and proportionate to the aim of safeguarding the health, safety or welfare of the adult at risk of harm;
- (d) suitable and specific measures are, or will be, provided to safeguard the fundamental rights and interests of the

adult at risk of harm which may include, but are not limited to, the measures contained in section 36(1) of the Data Protection Act 2018.

(9) Where a relevant body shares information pursuant to *subsection (8)*, it shall—

(a) specify the public interest served by sharing the information, and

(b) have regard to the following:

(i) the nature of the substantial public interest to safeguard the health, safety or welfare of the adult at risk of harm;

(ii) any benefits likely to arise for the adult at risk of harm;

(iii) any risks, including their likelihood and severity, arising for the rights and freedoms of the adult at risk of harm.

(10) The Minister may prescribe the following by regulations:

(a) a person or public or private body or group as a relevant body for the purposes of this section;

(b) a form for the making of a request for information in accordance with this section.



## **SCHEDULE 1**

### **RELEVANT SERVICES**

*Sections 4 & 77*

1. Any work or activity which is carried out by a person, a necessary and regular part of which consists mainly of a person having access to, or contact with, adults, or adults who are, may be or may become adults at risk of harm, in one, or more, of the following:

- (a) a designated centre within the meaning of section 2(1) of the Act of 2007, insofar as it relates to an institution wherein residential services are provided to older people or to adults with disabilities;
- (b) a service that provides care to adults in private dwellings;
- (c) a service that provides day services to adults with disabilities;
- (d) a service that provides day services to older people;
- (e) a service that provides personal assistance to adults with disabilities;

- (f) any hospital, hospice, health care centre or other centre which receives, treats or otherwise provides physical services to adults;
- (g) a service that receives, treats or provides mental health services to adults, including approved centres under the Mental Health Act 2001;
- (h) a reception or accommodation centre which provides residential accommodation services to adults in the international protection process managed by, or under contract to, the Department of Children, Equality, Disability, Integration and Youth;
- (i) a centre which provides refuge accommodation services for victims of domestic, sexual or gender-based violence;
- (j) a centre which provides residential accommodation services for the purpose of providing substance misuse services;
- (k) a centre which provides residential accommodation services to adults experiencing homelessness;
- (l) a service that provides treatment (including assessment which may lead to treatment), therapy or counselling to an adult;

2. Any work or activity as a driver of, or as an assistant to the driver, or as a conductor, or as a supervisor of adults using a vehicle which is being hired or used only for the purpose of conveying adults to or from day services, or respite services, and related activities of such services;

3. Any work or activity which is carried out by a member of the Garda Síochána, a necessary and regular part of which consists mainly of the person having access to, or contact with, adults who may be at risk of harm or vulnerable persons within the meaning of section 2 of the National Vetting Bureau (Children and Vulnerable Persons) Act 2012.

## **SCHEDULE 2**

### **MANDATED PERSONS**

*Sections 21 & 27*

1. A registered medical practitioner within the meaning of section 2 of the Medical Practitioners Act 2007.
  
2. A registered nurse or registered midwife within the meaning of section 2(1) of the Nurses and Midwives Act 2011.
  
3. A physiotherapist registered in the register of members of that profession.
  
4. A speech and language therapist registered in the register of members of that profession.
  
5. An occupational therapist registered in the register of members of that profession.
  
6. A registered dentist within the meaning of section 2 of the Dentists Act 1985.
  
7. A registered pharmacist registered in the register of members of that profession.

8. A psychologist who practises as such and who is eligible for registration in the register (if any) of members of that profession.

9. A social care worker who practises as such and who is eligible for registration in accordance with Part 4 of the Act of 2005 in the register of that profession.

10. A social worker who practises as such and who is eligible for registration in accordance with Part 4 of the Act of 2005 in the register (if any) of that profession.

11. An emergency medical technician, paramedic and advanced paramedic registered with the Pre-Hospital Emergency Care Council under the Pre-Hospital Emergency Care Council (Establishment) Order 2000 (S.I. No. 109 of 2000).

12. A probation officer within the meaning of section 1 of the Criminal Justice (Community Service) Act 1983.

13. A member of the Garda Síochána.

14. A person employed in any of the following capacities:

- (a) as a manager of a day service for adults;

- (b) as a manager of a professional home support provider;
- (c) as a manager of a centre which provides refuge accommodation services for victims of domestic, sexual or gender-based violence;
- (d) as a manager of a homeless provision or emergency accommodation facility;
- (e) as a manager of accommodation centres for people seeking international protection (direct provision);
- (f) as a manager of an addiction or substance misuse service;
- (g) as an addiction counsellor employed by a body funded, wholly or partly, out of moneys provided by the Oireachtas;
- (h) as a psychotherapist or a person providing counselling who is registered with one of the voluntary professional bodies;
- (i) as a safeguarding officer or other person (howsoever described) who is employed for the purpose of performing the adult safeguarding function of religious, sporting, advocacy, charitable, recreational, cultural, educational and other bodies and persons offering services to adults, who may include adults at risk of harm.

15. A decision-making supporter appointed from a panel established by the Director of the Decision Support Service for the purposes of Act of 2015.

**APPENDIX D**  
**CRIMINAL LAW (ADULT SAFEGUARDING)**  
**BILL 2024**



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# CRIMINAL LAW (ADULT SAFEGUARDING) BILL 2024

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### ACTS REFERRED TO

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Broadcasting Act 2009 (No. 18)

Civil Partnership and Certain Rights and Obligations of Cohabitants Act 2010 (No. 24)

Civil Service Regulation Act 1956 (No. 46)

Criminal Justice (Withholding of Information on Offences against Children and Vulnerable Persons) Act 2012 (No. 24)

Criminal Law (Sexual Offences) Act 2017 (No. 2)

Education and Training Boards Act 2013 (No. 11)

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Local Government Act 2001 (No. 37)

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Parole Act 2019 (No. 28)

Petty Sessions (Ireland) Act 1851 (14 & 15 Vict., c.93)

Sex Offenders Act 2001 (No. 18)

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**CRIMINAL LAW (ADULT SAFEGUARDING) BILL 2024**

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# **Bill**

*entitled*

An Act to provide for offences committed against adults whose ability to guard themselves against violence, exploitation or abuse, whether physical, sexual or emotional, or against neglect by another person is significantly impaired; and to provide for related matters.

**Be it enacted by the Oireachtas as follows:**

## **Definitions**

**1.** In this Act—

“Act of 2010” means the Civil Partnership and Certain Rights and Obligations of Cohabitants Act 2010 (No. 24 of 2010);

“adult” means a person who is not a child;

“care” means personal care, including help with medical, physical, intellectual or social needs;

“child” means a person who has not attained the age of 18 years;

“civil partner” shall be construed in accordance with *section 4(4)*;

“harm” means—

- (a) harm to body or mind and includes pain and unconsciousness,
- (b) any injury or impairment of physical, mental, intellectual, emotional health or welfare, or
- (c) any form of property or financial loss;

“health care” includes—

- (a) all forms of health care provided for individuals, including—
  - (i) health care relating to physical health or mental health, and
  - (ii) health care provided for, or in connection with, the protection or improvement of public health, and
- (b) procedures that are similar to forms of medical or surgical care but are not provided in connection with a medical condition;

“Minister” means the Minister for Justice;

“neglect”, in a manner likely to cause suffering or injury to health, or to seriously affect wellbeing, means—

- (a) a failure to adequately protect a relevant person under a person’s care from preventable and foreseeable harm,
- (b) a failure to provide adequate food, clothing, heating or medical aid for a relevant person under a person’s care, or
- (c) in the case of a person being unable to provide such—
  - (i) protection from harm, or
  - (ii) food, clothing, heating or medical aid,to a relevant person under his or her care, a failure to take steps to have each provided under the enactments relating to health, social welfare or housing;

“relevant person” means a person, other than a child, whose ability to guard himself or herself against violence, exploitation or abuse, whether physical, sexual or emotional, or against neglect by another person is significantly impaired through one, or more, of the following:

- (a) a physical disability, a physical frailty, an illness or an injury;
- (b) a disorder of the mind, whether as a result of mental illness or dementia;

(c) an intellectual disability;

(d) autism spectrum disorder;

“serious harm” means injury which—

(a) creates a substantial risk of death,

(b) is of a psychological nature which has a significant impact, or

(c) causes permanent disfigurement, or loss or impairment of the mobility of the body as a whole, or of the function of any particular member or organ;

“social care” means all forms of personal care and other practical assistance provided for individuals who are in need of such care or assistance by reason of age, illness, disability, dependence on alcohol or drugs or any other similar circumstances;

“website” means an internet website (including part of such a website)—

(a) to which access is readily available by members of the public, and

(b) where anything published is readily available for inspection by members of the public.

## **Intentional or reckless abuse, neglect or ill-treatment**

**2.** (1) Any person—

- (a) who provides care for, or
- (b) who resides in the same household as,

a relevant person, that intentionally or recklessly—

- (i) assaults, ill-treats or neglects that relevant person, or
- (ii) causes, procures or allows that relevant person to be assaulted, ill-treated or neglected,

in a manner likely to cause suffering or injury to the relevant person's health or seriously affect his or her wellbeing shall be guilty of an offence.

(2) A person may be found guilty of an offence under this section notwithstanding—

- (a) the death of the relevant person in respect of whom the offence is committed, or
- (b) that actual suffering or injury to the health of the relevant person, or the risk of such suffering or injury, was avoided by the action of another person.

(3) On the trial of any person for the murder or manslaughter of a relevant person, the court or the jury, as the case may be, may, if satisfied that the accused is guilty of an offence under this section in respect of the relevant person, find the accused guilty of that offence.

(4) In *subsection (1)*, the reference to a relevant person's health or wellbeing includes a reference to the person's physical, mental or emotional health or wellbeing.

(5) In this section—

“provides care” includes where a person exercises control over any aspect of the care of a relevant person who requires care, regardless of whether the care is short, or long, term;

“ill-treatment”, of a relevant person, includes any frightening, bullying or threatening of that person.

### **Exposure of relevant person to risk of serious harm or sexual abuse**

**3.** (1) A person who is a person in authority in relation to a relevant person or abuser, or otherwise has control of the care of a relevant person or abuser, or has control of the provision of care by the abuser, who intentionally or recklessly endangers a relevant person by—

- (a) causing or permitting any relevant person to be placed or left in a situation which creates a substantial risk to the relevant person of being a victim of serious harm or sexual abuse, or



- (b) failing to take reasonable steps to protect a relevant person from such a risk while knowing that the relevant person is in such a situation,

shall be guilty of an offence.

(2) In this section—

“abuser” means an individual believed by a person who—

- (a) is a person in authority in relation to that individual,
- (b) otherwise has control of the care of that individual, or
- (c) has control of the provision of care by the individual,

to have seriously harmed or sexually abused a relevant person;

“person in authority” means—

- (a) in relation to a relevant person against whom an offence is alleged to have been committed, any person who as part of a contract of service or a contract for services is, for the time being, responsible for the education, supervision, training, treatment, care or welfare of the relevant person, or

- (b) in relation to an abuser, the person under whose direction and control care is being provided to the relevant person by the abuser;

“sexual abuse” means an offence—

- (a) referred to in paragraph 1 to 7, 9 to 15, or 16(a) or (b), of the Schedule to the Sex Offenders Act 2001, or
- (b) under section 21 or 22 of the Criminal Law (Sexual Offences) Act 2017.

#### **Coercive control of relevant person**

**4.** (1) A person who, in respect of a relevant person with whom he or she is personally connected, knowingly and persistently engages in behaviour that—

- (a) is controlling or coercive,
- (b) has a serious effect on that relevant person, and
- (c) a reasonable person would consider likely to have a serious effect on that relevant person,

shall be guilty of an offence.

(2) For the purposes of *subsection (1)*, a person's behaviour has a serious effect on a relevant person if the behaviour causes the relevant person—

- (a) to fear that violence will be used against him or her, or
- (b) serious alarm or distress that has a substantial adverse impact on his or her usual day-to-day activities.

(3) For the purposes of *subsection (1)*, a person and a relevant person are personally connected if one, or more, of the following applies:

- (a) they are, or have been, married to each other;
- (b) subject to *subsection (4)*, they are, or have been, civil partners of each other;
- (c) they have agreed to marry one another (whether or not the agreement has been terminated);
- (d) subject to *subsection (5)*, they are, or have been, in an intimate relationship with each other;
- (e) subject to *subsection (6)*, they each have, or there has been a time when they each have had, a parental relationship in relation to the same child;

- (f) subject to *subsection (7)*, they are immediate family members;
- (g) they reside in the same household on a contractual, or non-contractual, basis;
- (h) the person provides care to the relevant person on a paid, or unpaid, basis.

(4) For the purposes of *subsection (3)(b)*, civil partner has the meaning given to it by section 3 of the Act of 2010, and shall—

- (a) include a person who was a civil partner in a civil partnership that has been dissolved under the Act of 2010, and
- (b) not include a person who was in a civil partnership that has been dissolved by reason only of the application of section 109A of the Act of 2010.

(5) For the purposes of *subsection (3)(d)*, a relationship does not cease to be an intimate relationship merely because it is no longer sexual in nature.

(6) For the purposes of *subsection (3)(e)*, a person has a parental relationship in relation to the same child if—

- (a) the person is a parent of the child, or
- (b) the person has parental responsibility for the child.

(7) For the purposes of *subsection (3)(f)*, immediate family member, in relation to a person, means one of the following:

- (a) a spouse, civil partner or cohabitant of the person;
- (b) a child, step-child, son-in-law or daughter-in-law of the person;
- (c) a parent, step-parent, mother-in-law or father-in-law of the person;
- (d) a brother, sister, step-brother, step-sister, brother-in-law, sister-in-law, half-brother or half-sister of the person;
- (e) a grandparent or grandchild of the person;
- (f) an aunt, uncle, nephew or niece of the person.

### **Coercive exploitation of relevant person**

**5.** (1) A person who, without reasonable excuse, engages in controlling or coercive behaviour in relation to a relevant person for the purpose of obtaining or exercising control over any of the property (whether real or personal) or financial resources of that relevant person in order to gain a benefit or advantage, whether for himself or herself, or for any third party connected with him or her, shall be guilty of an offence.

(2) For the purposes of *subsection (1)*, controlling or coercive behaviour includes, but is not limited to, one, or more, of the following:

- (a) controlling a relevant person's necessities of life, medication, interactions with others, access to information or sleep;
- (b) use of violence, intimidation or threats, whether directed against a relevant person or any family member of a relevant person;
- (c) subject to *subsection (3)*, exercising undue influence over a relevant person;
- (d) making, or threatening to make, changes to the personal or property rights of a relevant person.

(3) A person exercises undue influence if he or she exploits a position of power in relation to a relevant person so as to cause that relevant person to act, or to refrain from acting, in a manner detrimental to the best interests of the relevant person and which confers, or is intended to confer, a benefit or advantage on the first-mentioned person or any third party connected with the first-mentioned person.

(4) For the purposes of *subsections (1), (3) and (5)*, benefit or advantage includes, but is not limited to, any form of financial benefit or advantage, including one, or more, of the following:

- (a) the taking, withholding, appropriation, or use of money or assets owned by a relevant person;

- (b) the taking, withholding, appropriation, or use of property owned or occupied by a relevant person, including occupying or making use of any property owned or occupied by a relevant person, or any part of such property, or otherwise interfering with the relevant person's enjoyment of such property;
  - (c) the taking, withholding, appropriation or use of any benefits payable to a relevant person.
- (5) For the purposes of the commission of an offence under *subsection (1)*—
- (a) it is irrelevant whether the first-mentioned person in that subsection, or any third party connected with that first-mentioned person, actually gained a benefit or advantage, and
  - (b) the acquiring of consent of, or acquiescence by, a relevant person to controlling or coercive behaviour, or to the gain of a benefit or advantage, shall not be a defence.

## **Penalties**

- 6.** (1) A person guilty of an offence under *section 2(1)* or *3(1)* shall be liable—
- (a) on summary conviction, to a class A fine, or imprisonment for a term not exceeding 12 months, or both, or
  - (b) on conviction on indictment, to a fine not exceeding €1,000,000, or imprisonment for a term not exceeding 10 years, or both.

(2) A person guilty of an offence under *section 4(1)* shall be liable—

- (a) on summary conviction, to a class A fine, or imprisonment for a term not exceeding 12 months, or both, or
- (b) on conviction on indictment, to a fine not exceeding €100,000, or imprisonment for a term not exceeding 5 years, or both.

(3) A person guilty of an offence under *section 5(1)* shall be liable—

- (a) on summary conviction, to a class A fine, or imprisonment for a term not exceeding 12 months, or both, or
- (b) on conviction on indictment, to a fine not exceeding €1,000,000, or imprisonment for a term not exceeding 5 years, or both.

(4) A person guilty of an offence under *section 7(6)* shall be liable—

- (a) on summary conviction, to a class C fine, or imprisonment for a term not exceeding 12 months, or both, or
- (b) on conviction on indictment, to a fine, or imprisonment for a term not exceeding 5 years, or both.



(5) A person guilty of an offence under *section 8(6)* or *9(1)* or *(4)* shall be liable—

- (a) on summary conviction, to a class A fine, or to imprisonment for a term not exceeding 12 months, or both, or
- (b) on conviction on indictment, to a fine not exceeding €50,000, or to imprisonment for a term not exceeding 3 years, or both.

### **Prohibition on working with relevant persons**

7. (1) Subject to *subsection (2)*, a court may, where it is satisfied that it is necessary to do so to protect relevant persons from serious harm from the applicable offender, impose on the offender concerned, in respect of the commission of a relevant offence, a sentence, including a prohibition, which consists of—

- (a) the imposition of a sentence of imprisonment (whether in addition to the imposition of a fine or not), and
- (b) a stipulation that during a specified period (in this section, referred to as the prohibition period) commencing on the prohibition commencement date, the applicable offender shall be subject to the prohibition.

(2) The aggregate of the sentence of imprisonment, referred to in *subsection (1)(a)*, and the prohibition period referred to in *subsection (1)(b)*, shall not exceed the duration of the maximum term of imprisonment that may be imposed in respect of the offence concerned.

(3) The term of the sentence of imprisonment referred to in *subsection (1)(a)* shall not be less than the term the court would have imposed if it had considered the matter apart from the provisions of this section.

(4) The court may, when imposing a sentence, including a prohibition, specify a particular type or category of relevant work or activity to which the prohibition applies.

(5) The court may, not more than one month before the proposed prohibition commencement date or at any time during the prohibition period, on the application of—

- (a) the applicable offender on whom the sentence, including a prohibition, was imposed, or
- (b) a probation officer,

discharge or vary the prohibition, if, having regard to the circumstances which have arisen since the sentence, including a prohibition, was imposed—

- (i) it would be in the interests of justice to do so, and
- (ii) the protection of relevant persons from serious harm from the applicable offender no longer requires that the prohibition should continue in force or, as appropriate, that it should continue in force in the form in which it stands at the date of the making of the application under this subsection.

(6) A person on whom a sentence, including a prohibition, is imposed who, during the prohibition period—

- (a) applies to another person to be employed by that person to do the particular type or category of prohibited work or activity,
- (b) enters into a contract of employment to do the particular type or category of prohibited work or activity,
- (c) applies to another person to do the particular type or category of prohibited work or activity on the other person's behalf (whether in return for payment, or for any other consideration, or not),
- (d) enters into a contract of service or a contract for services to do the particular type or category of prohibited work or activity, or
- (e) does the particular type or category of prohibited work or activity,

shall be guilty of an offence.

(7) The conviction of a person for an offence under *subsection (6)* shall not prevent the prohibition period continuing to have effect.

(8) In proceedings for an offence under *subsection (6)*, it shall be a defence for the accused to prove that he or she neither knew nor could reasonably be expected to have known that the work—

- (a) to which the application or contract referred to in *paragraph (a), (b), (c) or (d)* of that subsection related was prohibited work or activity, or

- (b) that the particular type or category of work or activity referred to in *paragraph (e)* of that subsection was prohibited work or activity.

(9) If a sentence of imprisonment is imposed on an applicable offender for an offence under *subsection (6)*, that sentence shall, for the period the offender concerned spends in prison on foot of that sentence, operate to suspend the prohibition and the period for which that prohibition is so suspended shall not be reckoned in calculating the date on which the prohibition period expires.

(10) For the purposes of *subsections (6) and (8)*, prohibited work or activity, in relation to a person, means a particular type or category of relevant work or activity that is the subject of a sentence, including a prohibition, imposed on the applicable offender.

(11) In imposing a sentence, including a prohibition, on an applicable offender, the court shall explain to him or her—

- (a) the effect of the sentence,
- (b) the consequences provided for under this section if he or she fails to comply with the prohibition, and
- (c) that under this section, the court may vary or discharge the prohibition on the application of either the applicable offender or a probation officer.

(12) In this section—

“applicable offender” means a person who is convicted of a relevant offence for which, in the opinion of the court before which the person appears, the appropriate sentence is, apart from the provisions of this section, one of imprisonment for any term (whether in addition to the imposition of a fine or not);

“prohibition” means a prohibition on an applicable offender engaging in relevant work;

“prohibition commencement date”, in relation to an applicable offender, means—

- (a) where the sentence of imprisonment referred to in *subsection (1)(a)* is suspended in its entirety, the date on which the sentence is imposed on the offender concerned,
- (b) where that sentence of imprisonment is suspended in part, the date on which the offender concerned is released from prison, or
- (c) in any other case, the date on which—
  - (i) the sentence expires,
  - (ii) remission from the sentence imposed on the offender concerned begins, or
  - (iii) the offender concerned is released on parole in accordance with the Parole Act 2019;

“prohibition period” shall be construed in accordance with *subsection (1)(b)*;

“relevant offence” means one, or more, of the following:

- (a) an offence under *section 2, 3, 4 or 5*;
  
- (b) an offence committed against a relevant person under one, or more, of the following sections of the Assisted Decision-Making (Capacity) Act 2015:
  - (i) section 15A(1);
  
  - (ii) section 34(1) or (2);
  
  - (iii) section 58B(1);
  
  - (iv) section 80(1) or (2);
  
  - (v) section 90(1) or (2);
  
  - (vi) section 145;
  
- (c) an offence committed against a relevant person under one, or more, of the following sections of the Non-Fatal Offences Against the Person Act 1997:
  - (i) section 2(1);
  
  - (ii) section 3(1);
  
  - (iii) section 3A(1);

- (iv) section 4(1);
  - (v) section 4A(1);
  - (vi) section 5(1);
  - (vii) section 6(1), (2) or (5);
  - (viii) section 7(1) or (4);
  - (ix) section 8(1) or (2);
  - (x) section 9(1);
  - (xi) section 10(1) or (2);
  - (xii) section 10A(1) or (6);
  - (xiii) section 11(1);
  - (xiv) section 12(1);
  - (xv) section 13(1);
  - (xvi) section 15(1);
- (d) an offence consisting of attempting or conspiring to commit, or aiding or abetting, counselling or procuring or inciting the commission of, an offence mentioned in *paragraphs (a) to (c)*.

“relevant work or activity” means work or a service (including State work or a service), a necessary and regular part of which consists, mainly, of a person who has been convicted of a

relevant offence, before or after the commencement of this section, having unsupervised access to, or contact with, relevant persons;

“sentence, including a prohibition,” shall be construed in accordance with *subsection (1)*;

“State work or a service” means work done or a service performed by a person who—

- (a) holds office under, or is otherwise in the service of the State (including as a civil servant, within the meaning of the Civil Service Regulation Act 1956),
- (b) is a member of the Garda Síochána or the Defence Forces,
- (c) is an officer or servant of a local authority for the purposes of the Local Government Act 2001,
- (d) is an officer or servant of a harbour authority, within the meaning of section 83 of the Harbours Act 1996,
- (e) is an officer or servant of the Health Service Executive, or
- (f) is a member of staff of an education and training board established under section 9 of the Education and Training Boards Act 2013.

(13) In this section—



- (a) references to protecting a relevant person from serious harm includes serious harm that may be occasioned if the applicable offender were to commit a relevant offence after he or she has been released into the community, and
- (b) a reference to a person applying to another person to be employed by that second-mentioned person to do a particular type or category of work or activity, or to do a particular type or category of prohibited work or activity on that second-mentioned person's behalf, includes a reference to the person applying to another person without that other person having requested or solicited the making of the application.

### **Publicity orders**

**8.** (1) A court, before which a person who is a care provider is found guilty of an offence under *section 2, 3 or 5* may make a publicity order.

(2) The court, in deciding whether to make a publicity order under *subsection (1)*, shall have regard to the following:

- (a) whether the publicity order is in the public interest;
- (b) whether the making of the publicity order risks the identification of the victim;

- (c) the potential effect of identification on the victim by the making of the publicity order;
- (d) the views of the victim on the making of the publicity order, where they can be ascertained.

(3) A publicity order, made under *subsection (1)*, shall be an order of the court requiring the person concerned to publicise one, or more, of the following:

- (a) the fact that the person has been convicted of an offence under *section 2, 3 or 5*;
- (b) the particulars of the offence concerned;
- (c) the amount of any fine, or duration of any term of imprisonment, imposed by the court in respect of the offence.

(4) The court may, in making a publicity order under *subsection (1)*, require the person concerned to publicise the matters mentioned in *subsection (3)* in a manner specified in the order which may include, but shall not be limited to, the following:

- (a) by publication on the website (if any) of the business or service of the person concerned;

- (b) by publication in a newspaper circulating in the locality in which the place of business or service of the person concerned is situate;
- (c) where the business or service of the person concerned is—
  - (i) an approved centre regulated by the Mental Health Commission under Part 5 of the Mental Health Act 2001, or
  - (ii) a service or designated centre regulated by the Health Information and Quality Authority under Parts 2, 7, 8 and 9 of the Health Act 2007;

by letter sent by registered post to the chairperson of the Commission or the Authority, as the case may be, and, where relevant, in accordance with *paragraph (d)*;

- (d) where the business or service of the person concerned is funded, wholly or partly, out of moneys provided by the Oireachtas, by letter sent by registered post to the Minister and copied to the chairperson of the body, organisation or group through which the funds are provided.

(5) A publicity order, made under *subsection (1)*, shall specify a period within which the requirements specified in the order shall be complied with.

- (b) a photograph of, or a photograph that includes a depiction of, the alleged relevant person, the person charged or a dependent person of either of them, or
  
- (c) any other representation of the physical likeness, or any representation that includes a depiction of the physical likeness, of the alleged relevant person, the person charged or a dependent person of either the relevant person or the person charged,

that is likely to enable the identification of the alleged relevant person, the person charged or a dependent person of either of them shall be guilty of an offence.

(2) A person does not commit an offence under *subsection (1)* where—

- (a) the relevant person consents in court to being identified, to the person charged being identified or to the dependent person of either relevant person or the person charged being identified, and
  
- (b) the court, having considered the effect of identification on the relevant person, the person charged or the dependent person of either the relevant person or the person charged, consents to that identification.

(3) The judge of the court in which the proceedings for an offence under *section 2, 3, 4 or 5* are brought may, where he or she considers that the interests of justice so require, direct that such information, photographs or representations, to which *subsection (1)*

applies, as he or she shall specify in the direction, may be published, distributed or broadcast in such manner and subject to such conditions (if any) as he or she may specify in the direction.

(4) A person, other than a relevant person, who contravenes a direction or a condition specified in a direction given under *subsection (3)* shall be guilty of an offence.

(5) It shall be a defence for a person who is charged with an offence under *subsection (1)* to prove that at the time of the alleged offence the person was not aware, and neither suspected nor had reason to suspect, that the matter alleged to have been published or broadcast was a matter specified in that section.

(6) If any matter is published, distributed or broadcast in contravention of *subsection (1)*, the persons who shall be guilty of an offence include, but are not limited to, all or any of the following:

- (a) in the case of matter published in a newspaper or periodical publication, the proprietor, the editor and the publisher thereof;
- (b) in the case of matter published in any other written publication, the publisher thereof;
- (c) in the case of matter distributed online, any person who publishes, distributes or broadcasts the matter;

(d) in the case of matter broadcast, each person who transmits or provides the programme in which the broadcast is made and each person who performs functions in relation to the programme corresponding to those of the editor of a newspaper or periodical publication.

(7) Nothing in this section shall prohibit the making of a publicity order under *section 7*.

(8) In this section—

“broadcast” has the same meaning as it has in the Broadcasting Act 2009;

“distribute” means distribute to the public or a portion of the public;

“publish” means publish, other than by way of broadcast, to the public or a portion of the public.

### **Proceedings for offences**

**10.** (1) No proceedings for an offence under this Act shall be brought except by, or with the consent of, the Director of Public Prosecutions.

(2) Notwithstanding the provisions of section 10(4) of the Petty Sessions (Ireland) Act 1851, summary proceedings in relation to an offence under this Act may be commenced—

- (a) at any time within 12 months from the date on which the offence was committed, or
- (b) at any time within 6 months from the date on which evidence that, in the opinion of the person by whom such proceedings are brought, is sufficient to justify the bringing of proceedings, comes to the knowledge of such person,

whichever is the later, but no such proceedings shall be commenced later than 3 years from the date on which the offence concerned was committed.

(3) Where an offence under this Act—

- (a) is committed by a body corporate, by a person purporting to act on behalf of a body corporate or by an individual or an unincorporated body of persons, and
- (b) is proved to have been committed with the consent or approval of, or to have been attributable to any neglect on the part of, any person who, when the offence was committed, was—
  - (i) a director, member of the committee of management or other controlling authority of the body concerned, or

- (ii) the manager, secretary or other officer of the body concerned,

that person as well as the body concerned shall be guilty of an offence and be liable to be proceeded against and punished accordingly as if he or she were guilty of the first-mentioned offence.

### **Amendment of Criminal Justice (Withholding of Information on Offences against Children and Vulnerable Persons) Act 2012**

**11.** Schedule 2 to the Criminal Justice (Withholding of Information on Offences against Children and Vulnerable Persons) Act 2012 is amended, by the insertion of the following paragraph after paragraph 12:

“13. An offence under any of the following provisions of the *Criminal Law (Adult Safeguarding) Act 2024*—

- (a) *section 2* (intentional or reckless abuse, neglect or ill-treatment),
- (b) *section 3* (exposure of relevant person to risk of serious harm or sexual abuse),
- (c) *section 4* (coercive control of relevant person),
- (d) *section 5* (coercive exploitation of relevant person).”.



### **Review of operation of Act**

**12.** (1) The Minister shall, not later than 3 years after the date of the coming into operation of this section, carry out a review of the operation of this Act.

(2) In carrying out a review under *subsection (1)*, the Minister may consult with such persons as he or she considers appropriate.

### **Short title and commencement**

**13.** (1) This Act may be cited as the Criminal Law (Adult Safeguarding) Act 2024.

(2) This Act shall come into operation on such day or days as the Minister may appoint by order or orders either generally or with reference to any particular purpose or provision and different days may be so appointed for different purposes or different provisions.



The Law Reform Commission is an independent statutory body established by the Law Reform Commission Act 1975. The Commission's principal role is to keep the law under review and to make proposals for reform, in particular by recommending the enactment of legislation to clarify and modernise the law.

The Commission's law reform role is carried out primarily under a Programme of Law Reform. Its Fifth Programme of Law Reform was prepared by the Commission following broad consultation and discussion. In accordance with the 1975 Act it was approved by the Government in March 2019 and placed before both Houses of the Oireachtas. The Commission also works on specific matters referred to it by the Attorney General under the 1975 Act.

The Commission's Access to Legislation work makes legislation more accessible online to the public. This includes the Legislation Directory (an electronically searchable index of amendments to Acts and statutory instruments), a selection of Revised Acts (Acts in their amended form rather than as enacted) and the Classified List of Legislation in Ireland (a list of Acts in force organised under 36 subject matter headings).