



COIMISIÚN UM
ATHCHÓIRIÚ AN DLÍ
LAW REFORM
COMMISSION

PLAIN ENGLISH SUMMARY

A REGULATORY
FRAMEWORK FOR ADULT
SAFEGUARDING

(LRC PES 128 - 2024)



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Telephone: + 353 1 637 7600

Email: info@lawreform.ie

Website: <https://www.lawreform.ie/>

Plain English Summary of our Report on a regulatory framework for adult safeguarding in Ireland

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About this document

You are reading the plain English Summary of our full report (Report) on adult safeguarding in Ireland. In this short introduction to this summary we tell you:

- what the Law Reform Commission does;
- some background on our work on adult safeguarding; and
- how to get what you want from this summary.

What we do in the Law Reform Commission

The Law Reform Commission reviews the law and recommends changes to it. The Commission also works to make the law easier to:

- access;
- understand; and
- follow.

Background about our work on adult safeguarding

In 2019, we wrote an Issues Paper which asked questions about adult safeguarding (keeping at-risk adults safe from harm) in Ireland. We read the responses that people sent us, and continued to research the situation in Ireland and in other countries. We also had lots of meetings with people and organisations so that we could understand their views and concerns. After comparing laws and the ways of safeguarding at-risk adults in other countries, we found that at-risk adults in Ireland need more support to protect themselves from harm.

We are now clear that many people and sectors need to work together to improve adult safeguarding in Ireland. This work needs to be supported by changes in the law and elsewhere.

How to get what you want from this summary

There are 20 chapters in our Report. We summarise each of them in this summary. The list of chapter titles is at the very start of this document.

To get the most from this summary, it helps to know that it covers three main areas:

1. The current situation around adult safeguarding in Ireland

We set out the current situation in terms of the law, policies and other measures in Ireland that are relevant to adult safeguarding. We explain how they work and why they are important. We also explain the approaches to adult safeguarding in other countries.

2. Gaps in adult safeguarding

We identify gaps in adult safeguarding in Ireland. For example, we explain how there is currently no law in Ireland that:

- requires different people, bodies and organisations to work together to safeguard at-risk adults; or
- requires people, bodies and organisations to take active steps to prevent harm to at-risk adults.

We also explain that there are gaps in criminal law that make it hard to prevent some types of harm towards at-risk adults.

3. Our recommendations to improve adult safeguarding in Ireland

We make many recommendations that we think are needed to improve adult safeguarding in Ireland. We recommend a number of changes to the law. For example, we recommend that new adult safeguarding laws should be created in Ireland. These laws should include things like:

- setting up a Safeguarding Body that is responsible for adult safeguarding;
- making sure that certain people, bodies and organisations like the Gardaí and the HSE work together to safeguard at-risk adults;
- making sure that certain people, bodies and organisations take steps to prevent harm to at-risk adults.

The laws should also give new powers to the Gardaí, Safeguarding Body and courts that allow them to take action in urgent cases. Finally, the laws should make new crimes that will help to prevent harm to at-risk adults.

We also make suggestions for government and others to consider to improve adult safeguarding.

We recommend you read Chapter 2. It lists some of the main terms you need to know in one place. We explain other specialist words in the relevant chapters. We also have a longer glossary of terms you can refer to as you read. This is available in a different document: [\[Available Here\]](#)

Have a question about our work?

If you do, you can contact us at:

Email: info@lawreform.ie

Phone: + 353 1 637 7600

The plain English Summary of our Report on a regulatory framework for adult safeguarding in Ireland

Chapter 1: The need for a regulatory framework for adult safeguarding

What is this chapter about?

In chapter 1, we talk about the need for clear laws to safeguard adults who might be at risk in Ireland. We describe these clear laws as a “regulatory framework”.

What do we mean by an “adult at risk of harm” or an “at-risk adult”?

An “adult at risk of harm” is someone over 18 who, because of their physical or mental health, personal traits or life situation, needs help to keep themselves safe from harm at a particular time.

If an adult can keep themselves safe from harm without help and chooses not to, they are not considered an “adult at risk of harm”.

We also use the words “at-risk adult” throughout the Report, which means the same as an “adult at risk of harm”.

The term “vulnerable person” does appear in some Irish laws. However, we believe the word “vulnerable” is outdated, so we don’t use the words “vulnerable”, “vulnerable adult”, or “vulnerable person” in our Report, unless we are talking about laws which use those words.

What supports are there for at-risk adults at the moment?

Currently Ireland has **some laws** that help to support at-risk adults and keep them safe from harm, like the Assisted Decision-Making (Capacity) Act 2015. However,

these laws do not cover everything needed to make sure that at-risk adults are safe from harm.

There are also some policies that help, but these policies do not cover everything. It can also be hard to enforce policies because they are not laws, so the consequences for not following them are not as serious. This means there are big gaps that impact on how Ireland keeps at-risk adults safe from harm.

We think that the situation right now is not good enough and should be improved.

What laws would provide better support?

It would be much better if there were clearer laws on adult safeguarding. We explain what safeguarding means in chapter 2, but generally we are talking about preventing harm to at-risk adults, protecting their rights, and helping them to keep themselves safe. These laws would make sure that:

- different bodies are responsible for making sure that steps are taken to keep at-risk adults safe from harm, and
- people have the power to support at-risk adults when they need to.

These laws would also require different public bodies and service providers (such as a service that provides day services to older people) to work better together and share information to prevent harm to at-risk adults. Having these laws would fill the current gaps in the law, and make it easier to keep at-risk adults safe from harm. The main goals are to:

- empower at-risk adults to keep themselves safe;
- protect the rights of at-risk adults;
- prevent harm to at-risk adults; and
- encourage everyone to actively keep at-risk adults safe.

We think that our suggested changes to the law should not affect people who are prisoners or who are being held in cells in Garda stations. We think these people should be kept safe by the laws and rules around conditions in prisons and Garda station cells.

What other changes are needed apart from laws?

Changing laws is helpful but not good enough on its own. We also need to make sure people know about these changes, understand them, and have the support they need to follow the law. This requires:

- training;
- resources; and
- changing how things are done to make sure the new laws are effective.

It will make the new laws more effective, if for example, people, bodies and organisations who work with adults:

- receive regular training on adult safeguarding;
- are aware of the issues and risks that may arise; and
- know what they must do to keep at-risk adults safe.

Social care is a system that provides support to people that need help with daily life. For example, this support can be providing at-home carers or services like 'meals on wheels'. We recognise that the way social care is provided in Ireland could be improved, especially when we look at countries like England and Wales, where there are strong social care laws. These laws cover things like personal budgets and how support should be given to people who need it. There are few laws about the way social care is provided in Ireland. Making the laws for social care stronger could help to prevent harm to at-risk adults at an earlier stage.

We suggest that the government think about making stronger social care laws.

Chapter 2: Defining key statutory terms for adult safeguarding legislation

What is this chapter about?

In chapter 2, we explain the meaning of certain words that we think should be used in new adult safeguarding laws. Some of these are statutory (legal) terms. You may be familiar with many of these words, but they have specific meanings when it comes to preventing harm to at-risk adults. It is important that everyone understands these words as we use them in the **two draft Bills**. These draft Bills are model laws that the government can use as a starting point if it decides to make new adult safeguarding laws. This will help all people to understand the changes we recommend in our Report.

What are the important words for new adult safeguarding laws?

On the next page is a table with words you need to know to understand the rest of this summary and our Report. We explain the meaning of each of these words in new adult safeguarding laws. You can return to these definitions at any time.

We created new words or descriptions that currently don't exist in Irish laws but we think are needed to help keep at-risk adults safe. We list the words to know in the order in which you need to know them.

Words to know	Meaning
<p>Adult at risk of harm or at-risk adult (words we use and want to continue using when talking about adult safeguarding laws)</p>	<p>An adult at risk of harm or at-risk adult is an adult who, because of their physical or mental health, personal traits or life situation, needs help to keep themselves safe from harm at a particular time.</p>
<p>Safeguarding</p>	<p>Taking actions to:</p> <ul style="list-style-type: none"> • reduce the risk of harm to at-risk adults; • protect their rights; • look after their health, safety and well-being; and • help them keep themselves safe.
<p>Safeguarding plan</p>	<p>A document that sets out the steps that need to be taken to:</p> <ul style="list-style-type: none"> • improve an at-risk adult's health, safety or well-being; • reduce the risk of harm to them; and • help them keep themselves safe.
<p>Capacity (The following definition of capacity has the same meaning it does in the Assisted Decision-Making (Capacity) Act 2015.)</p>	<p>This is a person's ability to understand the nature and consequences of making a decision at the time they make the decision.</p> <p>A person does not have "capacity" to make a decision when they cannot:</p> <ul style="list-style-type: none"> • understand information relevant to the decision; • remember the information; • use the information when making the decision; or • communicate their decision.

Words to know	Meaning
<p>Harm (in civil law – this is used for many of the other definitions in the non-criminal adult safeguarding law, including in the context of “adult at risk of harm”)</p>	<p>“Harm” includes:</p> <ul style="list-style-type: none"> • assaulting an at-risk adult; • neglecting (failing to properly care for) an at-risk adult; • sexual abuse of an at-risk adult; or • damaging an at-risk adult’s property by stealing from them or tricking them into giving away their property or money.
<p>Reportable harm (in civil law, but only for the purposes of reporting which is discussed in chapter 9)</p>	<p>This is a type of harm that has a significant impact on an at-risk adult’s health, safety or well-being. It includes:</p> <ul style="list-style-type: none"> • sexual abuse of an at-risk adult; or • serious financial abuse of an at-risk adult. <p>Note: We decided that a different definition to the general civil definition (explained above) is needed for the type of harm that must be reported when someone suspects that an at-risk adult is being abused or neglected.</p>
<p>Harm (in criminal law – where people are punished for committing crimes)</p>	<p>This covers physical or mental pain, any injury to physical or mental health or well-being, and loss to a person when another person unlawfully takes their property, money, pension or social welfare payments.</p>
<p>Serious harm (in criminal law – where people are punished for committing crimes. We discuss criminal law in chapter 19.)</p>	<p>This includes any injury that:</p> <ul style="list-style-type: none"> • creates a big risk of death; • is psychological and has a significant impact; • causes serious loss of function or changes to the body. <p>Note: Later, in chapter 19, instead of using “at-risk adults”, we use “relevant person” to describe particular “at-risk adults”. We do this because it’s important for the criminal law to be precise</p>

Words to know	Meaning
	about who is protected by the law. The definition of “relevant person” is narrower and more specific than the definition of “at-risk adult”. People need to know who a relevant person is in order to understand that certain actions or inactions against relevant persons are a crime.
Neglect	<p>This means:</p> <ul style="list-style-type: none"> • failing to take proper care of someone who is in your care, • not providing them with basic needs like food, clothing or medicine, or • not getting help to provide those needs if you cannot provide them yourself.
Self-neglect	When a person does not take proper care of their own basic needs and this seriously affects their well-being.

There are lots of other terms that it will be useful to know about when reading this plain English summary of our Report, such as:

- Safeguarding Body;
- Authorised officers;
- Relevant person; and
- Interventions.

We explain these in the relevant chapters as you come across them. (They are also in the full glossary, which is accessible on our website [here](#).)

Chapter 3: Guiding principles underpinning adult safeguarding legislation

What is this chapter about?

In chapter 3, we recommend seven guiding principles for adult safeguarding laws. These guiding principles should be kept in mind when making laws for at-risk adults or taking action to prevent harm to at-risk adults.

How did we select these guiding principles?

We looked at:

- international human rights principles;
- the principles in adult safeguarding laws and social care laws in countries like England and Wales;
- the principles in Irish laws and policies to prevent harm to at-risk adults; and
- the principles used in the National Standards for Adult Safeguarding.

What are our guiding principles for adult safeguarding?

There are seven guiding principles for adult safeguarding.



Figure 1: Guiding principles for adult safeguarding

1. A rights-based approach

This principle is about making sure that an at-risk adult's rights are respected. This includes:

- their freedom to make their own choices;
- being treated with respect;
- keeping control over their own body, privacy, money and property;
- being treated fairly; and
- having their beliefs and values respected.

(Chapter 4 focuses on this rights-based approach and explains individual rights in more detail.)

2. Empowerment and focusing on the wishes of the at-risk adult

This principle is about:

- respecting that at-risk adults can make their own decisions;
- helping them make decisions when they need help or ask for help;
- making sure they understand what they are agreeing to, and that other people include them when making decisions that affect them;
- respecting their independence and their right to be fully involved in society;
- helping them get support from an independent advocate if they want it;
- listening to what they want and respecting their choices;
- protecting their right to have risks and the options available to them explained; and
- consulting them if **adult safeguarding interventions** are needed to protect them from harm. These are serious actions that may be taken by the Safeguarding Body or the Gardaí, usually with the court's permission, to improve a situation and protect an at-risk adult's rights. We explain these interventions in chapters 10, 11, 12 and 13.

3. Protection

Protection means taking steps to prevent harm to at-risk adults and to help them keep themselves safe from harm.

4. Prevention

Prevention means stopping harm before it starts. To do this, it is important to:

- be organised and take steps in advance to stop abuse from happening;
- provide support to keep at-risk adults safe and uphold their dignity and their mental, physical and emotional health; and
- make sure that everyone involved in preventing harm to at-risk adults knows the law and how to carry out their duties properly, and that they receive training and guidance on their duties.

5. Proportionality

Proportionality is about keeping things balanced. It means making sure that any adult safeguarding intervention (as explained in point 2 above) taken:

- is necessary for the particular situation;
- limits the at-risk adult's freedom as little as possible;
- matches the level of risk;
- lasts only as long as needed;
- recognises the negative effect that trauma may have on an at-risk adult; and
- is checked and reviewed regularly, in line with best practices worldwide.

6. Integration and cooperation

Integration and cooperation mean different agencies and services working together to prevent harm to at-risk adults. This involves:

- making sure agencies and services work together in an organised way to stop and address safeguarding concerns; and

- bringing national policies in line across different areas to make sure practice, policies and laws are consistent.

7. Accountability

Accountability is about everyone taking responsibility for their actions and being open and honest if something goes wrong. Accountability makes sure that:

- actions taken to keep at-risk adults safe are clear and everyone knows what is required of them;
- health and social care services and other agencies are responsible for their actions and can explain how they protect at-risk adults;
- service providers are open and honest about how they handle safeguarding issues; and
- there are proper systems for managing risks, sharing information and reporting.

Chapter 4: A rights-based adult safeguarding framework

What is this chapter about?

In chapter 4, we discuss the rights that need to be looked at when introducing new laws to prevent harm to at-risk adults.

Adult safeguarding actions and interventions can affect the rights of at-risk adults, so we carefully considered their rights when making suggestions about how the law should be changed.

Chapters 10, 11, 12 and 13 suggest interventions, which are serious actions that may be taken by the Safeguarding Body or in some cases the Gardaí, usually with the court's permission, to improve a situation and protect an at-risk adult's rights. However, these interventions could interfere with the rights of at-risk adults, their family members and other people. These interventions include entering homes and places where at-risk adults live, moving them to a safe place, or preventing someone from contacting the at-risk adult.

What rights should be considered?

It is important to consider rights:

- under the Constitution of Ireland; and
- under the European Convention on Human Rights.

We look at rights under each of these, starting on the next page.

Rights under the Constitution of Ireland

The interventions we are recommending could affect several important rights under the Constitution, such as the right to:

- life (Article 40.3.2°);
- personal freedom (Article 40.4.1°);
- privacy (Article 40.3.1°);
- bodily integrity (Article 40.3.1°);
- make your own decisions (Article 40.3.1°);
- dignity (Article 40.3.1°);
- be protected as a person (Article 40.3.2°);
- the security of your home (Article 40.5); and
- be treated equally by the law (Article 40.1).

Some of these rights are written in the Constitution. Other rights are not written in the Constitution but are recognised by the courts as being part of the Constitution.

The changes we suggest could support **or** interfere with these constitutional rights of at-risk adults, and others who may care for or live with at-risk adults. Although these rights are very important, they have limits. In some situations, it is possible to limit these rights. Before suggesting changes to the law, we carefully thought about how these changes could limit the rights of at-risk adults and others, and whether there are good reasons for limiting their rights in some cases.

We believe that preventing harm to the health, safety or well-being of an at-risk adult is a strong enough reason **to limit a constitutional right** in some cases. However, it's very important that the way we prevent harm to at-risk adults does not go beyond what is needed to keep them safe from harm. To make sure any interventions taken are appropriate and only used when needed, we suggest there be:

- specific conditions that need to be met, and
- time limits for each intervention.

For example, we recommend that courts should use the “least intrusive means” (the way to keep at-risk adults safe that causes the least amount of interference) to keep at-risk adults safe when making safeguarding orders. This means only making a safeguarding order when no less intrusive (causing the least amount of inference) action could be taken to prevent harm to an at-risk adult.

We think actions or interventions to keep at-risk adults safe should have as little impact on their rights, and the rights of others, as possible.

Rights protected by the European Convention on Human Rights

Many rights that are protected by the Constitution of Ireland are also protected by the European Convention on Human Rights. These include the right to:

- a private and family life (Article 8);
- freedom and security (Article 5);
- life (Article 2); and
- not experience torture or cruel treatment (Article 3).

Just like constitutional rights in Ireland, rights under the European Convention on Human Rights can be limited, if needed, provided that the limitation does not go beyond what is required. For example, even though the European Convention on Human Rights protects a person’s right to freedom and security, there are some limits to this protection. A person’s right to freedom can be limited if they commit a crime and are sent to prison to protect public safety. We considered how the rights protected by the European Convention on Human Rights might be affected by our suggested changes to the law to prevent harm to at-risk adults.

Chapter 5: A Safeguarding Body: functions, duties and powers

What is this chapter about?

In chapter 5, we talk about the need for a Safeguarding Body that would be responsible for adult safeguarding in Ireland.

The main **function** of the Safeguarding Body would be to promote the health, safety and well-being of at-risk adults and help to keep them safe from harm. Currently, the HSE National Safeguarding Office and its Safeguarding and Protection Teams are responsible for adult safeguarding in some services (services for older people or people with disabilities) that are owned or funded by the HSE. But the HSE National Safeguarding Office and the Safeguarding and Protection Teams do not have legal roles and powers. This makes it difficult for them to do their jobs to keep at-risk adults safe from harm.

Other public bodies, agencies and services also have responsibilities for adult safeguarding in Ireland, for example the Gardaí and regulators of health and social care services.

We think there needs to be a Safeguarding Body that leads and coordinates adult safeguarding responses in Ireland. **The Safeguarding Body should exist in law.**

What should the Safeguarding Body do?

The Safeguarding Body's main function should be to promote the health, safety and well-being of at-risk adults who may need support to protect themselves from harm at a particular time.

The Safeguarding Body should have clear duties and powers.

It should receive reports or allegations of abuse or neglect of at-risk adults.

We think that the law should say that the Safeguarding Body has a **duty** to take any action that it thinks is needed when it believes that there is a risk to the health, safety or well-being of an at-risk adult.

The Safeguarding Body should be given legal powers to take action when an at-risk adult:

- has been harmed;
- is being harmed; or
- is at risk of being harmed in the future.

We think that the Safeguarding Body should have the **powers** that it needs to carry out its main role to promote the health, safety and well-being of at-risk adults in Ireland.

These powers would include powers to make enquiries to help the Safeguarding Body in carrying out its main role. Making enquiries could involve asking questions and checking to see if an at-risk adult needs support to protect themselves from harm at that time.

We do not think that the Safeguarding Body should have regulatory powers. Regulatory powers are powers that some bodies have to make sure that other organisations, services or professionals are doing their work correctly and in a safe way. We think that those kinds of powers should be given to bodies called regulators that already exist. The government could also decide to set up new bodies called regulators in the future. We talk more about powers of bodies called regulators in the summary of chapter 6 below.

We think that the Safeguarding Body should be able to do the following.

1. Report abuse or suspected abuse to the Gardaí

The Safeguarding Body should be able to report abuse or suspected abuse to the Gardaí where it believes someone has committed a crime against an at-risk adult.

2. Notify other bodies

The Safeguarding Body should be able to notify other bodies, such as the National Vetting Bureau of the Gardaí, if it is concerned about an at-risk adult's health, safety or well-being. The Safeguarding Body should also be able to notify bodies that regulate professionals, if a professional (for example, a social worker) is believed to be a risk to the health, safety or well-being of an at-risk adult.

3. Create or be involved in creating safeguarding plans

The Safeguarding Body should be able to create safeguarding plans to keep at-risk adults safe if it is the most appropriate body to do so. The Safeguarding Body should also be able to work with other public bodies, agencies, service providers and professionals to create safeguarding plans and take steps to carry out these plans.

4. Collaborate to help at-risk adults to get services they need

The Safeguarding Body should be able to work with the HSE, other public bodies, agencies and services to help at-risk adults. They should cooperate to help at-risk adults to get legal assistance, medical care, social care, a place to live, and other services.

5. Refer issues about the capacity of the at-risk adult

The Safeguarding Body should be able to:

- refer issues about an at-risk adult's capacity to the Director of the Decision Support Service; or
- make an application to the Circuit Court under Part 5 of the Assisted Decision-Making (Capacity) Act 2015, if needed.

Capacity here means a person's ability to understand the nature and consequences of making a decision at the time they make the decision.^ك

6. Take action if specific criteria apply

The Safeguarding Body should be able to take the following actions in a particular situation if specific criteria (conditions) are met:

- enter relevant premises (certain places that are not private homes) to check the health, safety and welfare of an at-risk adult (we talk about this in [chapter 10](#));
- ask a court for a warrant to check on an at-risk adult in their home, someone else's home, or similar places to make sure they are safe (we talk about this in [chapter 11](#));
- ask for a court order to move an at-risk adult to a safe place, if needed, so that their health, safety and well-being can be assessed (we talk about this in [chapter 12](#));
- ask for a court order to stop a particular person contacting an at-risk adult, to keep the at-risk adult safe (we talk about this in [chapter 13](#)); and
- help the Gardaí enter a home to check the health, safety and welfare of an at-risk adult (we talk about this in [chapter 11](#)).

Other responsibilities of the Safeguarding Body

The Safeguarding Body should provide some service providers with:

- training;
- information; and
- guidance.

Examples of these services include providers of health and social care services and accommodation centres for people experiencing homelessness.

The Safeguarding Body should also collect and publish information about adult safeguarding and carry out research on adult safeguarding.

Chapter 6: Organisational and regulatory structures: A Safeguarding Body and powers of various regulatory bodies

What is this chapter about?

In chapter 6, we talk about:

- the organisations that should have the main responsibility for leading adult safeguarding in Ireland;
- the powers that certain organisations who are regulators should have to make sure that providers of services, such as residential care services and day services, are doing their duties to keep adults, including at-risk adults, safe from harm; and
- the powers that certain organisations who are regulators should have to make sure that the Safeguarding Body carries out its role and uses its powers properly to keep at-risk adults safe from harm.

Safeguarding Body

In the previous chapter, chapter 5, we talk about:

- the need for a Safeguarding Body who would be an organisation with legal responsibility for adult safeguarding in Ireland; and
- the work that the Safeguarding Body should do to keep at-risk adults safe from harm.

In chapter 6, we talk about who the Safeguarding Body should be. We also talk about whether the Safeguarding Body should be:

- a new organisation with a new name; or
- set up inside an organisation that has already been set up by the government (this could be the HSE or another organisation).

We think that it would be best for the government to decide what organisation should be the Safeguarding Body. We think the government should make the decision because it is not just a decision about the law or how the law could be improved. It is also a decision about how public bodies should be set up and how public money should be spent.

What should happen while the government decides what organisation should be the Safeguarding Body?

We think that if the government thinks that it cannot, or should not, decide about how to set up the Safeguarding Body soon, the law should be changed. This change should set up the Safeguarding Body in the HSE **until** the government decides what organisation should be the Safeguarding Body. The government can then decide if the Safeguarding Body should:

- be set up under law in the HSE permanently;
- be moved to another organisation that has already been set up by the government; or
- be set up as a new organisation.

How the Safeguarding Body is set up should not change the responsibilities or powers of the Safeguarding Body

The Safeguarding Body should have all the responsibilities and the powers that we talk about in chapter 5 to keep at-risk adults safe from harm. The Safeguarding Body should have these powers no matter how it is set up.

Regulators should have more powers to keep at-risk adults safe from harm

We also talk about whether a new organisation is needed to make sure that providers of relevant services, such as residential care services or day services, do their duties to keep at-risk adults safe from harm.

We think that organisations who are regulators that already exist should be given more powers to check whether providers of relevant services are doing their duties to keep at-risk adults safe from harm. HIQA (the Health Information and Quality

Authority) and the Mental Health Commission are examples of organisations who are regulators that have already been set up by the government.

In chapter 6, we talk about providers of relevant services having **new duties** to do the following.

1. Manage and provide services in a way that prevents harm

We believe providers of relevant services should have a duty to manage and provide services in a way that prevents harm to adults receiving the services, who are or may be at-risk adults.

2. Assess risks and prepare an adult safeguarding statement

We believe that providers of relevant services should have a duty to assess the risk of harm to adults receiving services and to keep a written record of the risks that they found. They should also have a duty to prepare an adult safeguarding statement. This statement should set out how a provider of relevant services intends to prevent harm to adults receiving the services, who are or may be at-risk adults.

We say that we think that certain organisations who are regulators that have already been set up should be able to check whether providers of relevant services are managing and providing services in a way that prevents harm, and to prepare a safeguarding statement. We do not think that a new regulatory body is needed unless the government decides to set one up.

Powers that organisations called regulators should have to make sure that the Safeguarding Body uses its powers properly

We think that an organisation called a regulator should have responsibility for making sure that the Safeguarding Body does its work and uses its powers properly to keep at-risk adults safe from harm. We think this could be done by changing the law to:

- give more responsibilities to HIQA – an organisation that already inspects residential settings for older people and for people with disabilities; **or**

- give more responsibilities to a group of organisations already set up by the government such as HIQA and the Mental Health Commission who could work together to make sure that the Safeguarding Body does its work and uses its powers properly.

Chapter 7: Imposing safeguarding duties on certain service providers

What is this chapter about?

In chapter 7, we talk about duties that providers of certain services (relevant services) should have to prevent harm to at-risk adults. Adult safeguarding is everyone's business and many different public bodies, agencies, services and service providers play a role in safeguarding adults.

Chapter 7 of our Report includes a list of relevant services that play a role in safeguarding adults. Here is the full list:

Relevant services that play a role in safeguarding adults
Residential centres for older people and adults with disabilities.
Services that provide care to adults in their homes.
Services that provide day services to adults with disabilities.
Services that provide day services to older adults.
Services that provide personal assistance to adults with disabilities.
Hospitals, hospices, and other centres that provide physical services to adults.
Mental health services including residential centres.
International protection accommodation centres.
Domestic, sexual or gender-based violence centres.
Centres that treat drug and alcohol addiction.
Homeless accommodation.
Services providing therapy and counselling.
Drivers and supervisors who bring adults to day services.
Adult safeguarding work carried out by the Gardaí.

Are all relevant services regulated?

Currently, some services are regulated, but others are not. It is easier to place duties (requirements or responsibilities that must be followed) on regulated services. This is so as the regulator can check that regulated service providers are doing what they are supposed to do.

For this reason, we suggest that the government should carefully consider regulating services that are currently not regulated. For example, these include services that provide homeless accommodation, or day services for older adults.

What about unregulated services?

If the government does decide to regulate services that are currently unregulated, it could take a long time. Some unregulated services have existing standards (not in law) that they are asked to follow. Agencies and government department's that financially support these services often produce standards they should follow. Sometimes contracts for services will include safeguarding duties. Standards and contracts for service could be updated to include the safeguarding duties in this chapter.

Are there currently duties to prevent harm to at-risk adults?

Currently, there are some duties to prevent harm to at-risk adults. Providers of some relevant services already have duties to prevent harm to at-risk adults, for example residential centres where people with disabilities or older people live. These duties are set out in laws, policies, standards or in contracts for services. But there are no laws to prevent harm to at-risk adults that apply to all services for adults who may be at-risk adults.

Should there be new duties for service providers?

Yes, we think that there should be a new law that places duties on providers of relevant services. These duties should include:

- managing and providing services in a way that prevents harm to any adult receiving the services, who are or may be an at-risk adult;

- assessing the risk of harm to adults receiving services and keeping a record of those risk assessments; and
- preparing a safeguarding statement which sets out the measures the relevant service has in place to prevent harm.

Adult Safeguarding statement

We think relevant services need to have an adult safeguarding statement which sets out how they will prevent harm to all adults and at-risk adults to whom they provide services. The adult safeguarding statement should have three main features.

1. It should be in writing

The adult safeguarding statement should be a written document that outlines what the provider of the relevant service is doing to address the risks identified after a service assesses the risk of harm to adults receiving its services.

2. It should include certain procedures

The adult safeguarding statement should include the procedures the service provider has put in place to prevent harm to adults and at-risk adults receiving its services.

We think the relevant service's adult safeguarding statement should include its procedures for:

- reviewing and updating care plans and personal plans to make sure there are safeguarding plans in them, where needed;
- preparing and updating safeguarding plans, if there are concerns that a person using the service is at risk of harm.

3. It should be publicly available

The adult safeguarding statement should be publicly available to adults using the service and all members of staff.

It should also be available to regulators and anyone who request it.

What if a relevant service does not assess the risk of harm or prepare an adult safeguarding statement?

Where relevant services are **regulated**, the regulator of the service should make sure the service carries out its duties. If a relevant service does not carry out its duty to assess the risk of harm to adults using the service or prepare an adult safeguarding statement, the regulator should record the service's name on a register (list) for services who don't carry out their duties.

The regulator will know that a relevant service has not carried out its duty if it does not give written documents about its risk assessment or a copy of its adult safeguarding statement to the regulator within a certain amount of time after the regulator asks for them.

Safeguarding plans, and other plans

Chapter 7 also talks about laws and policies that require certain relevant services to have safeguarding plans, care plans or personal plans in place for each service user. It explains the difference between these types of plans.

A safeguarding plan outlines the actions the service will take to address the needs of a **particular** adult or at-risk adult who is using a service. This plan helps to reduce the risk of harm to them.

Safeguarding plans for relevant services that are regulated

Throughout our Report, we talk about certain "Regulations" which set out how organisations and people that run residential centres, which are regulated by the Health Information and Quality Authority (HIQA) and the Mental Health Commission, care for:

- adults with disabilities;
- older adults; and
- adults with mental disorders.

“Regulations” are laws created by ministers or other public bodies under powers given to them by Acts of the Oireachtas.

We know that some people find terms like “mental disorder” offensive. These terms are used in the Mental Health Act 2001 and the Regulations made under that Act. This is why we use them here. Sometimes “medical language” needs to be used in laws.

We think these Regulations should be changed to include the following requirements

- 1.** The Regulations should require updates to a care plan or personal plan to include a safeguarding plan if an adult is at risk of harm.
- 2.** The Regulations should also be changed to say that providers of these residential centres must carry out a review of the safeguarding plan to assess progress on reducing the risk of harm to the at-risk adult.

This review should take place within six months – no later – after a service provider and the person using the service create a care plan or personal plan for the first time, and 12 months after every update of these plans.

- 3.** We believe that these residential centres should provide adult safeguarding training to staff.

The Regulations about residential centres for older adults and for adults with disabilities say that the residential centres must provide adult safeguarding training to staff, including training on how to:

- notice;
- prevent; and
- respond to abuse.

We believe the Regulations about care of adults with mental illness in residential centres should also require these centres to provide adult safeguarding training to staff, including training on how to notice, prevent and respond to abuse.

People with licences to drive taxis and other small public vehicles should receive adult safeguarding training

Taxi drivers often come into contact with at-risk adults, as they may drive them to appointments or to particular services, for example, day services. However, for the most part, they receive no adult safeguarding training.

We believe that the 2015 Taxi Regulations should be changed to require people who have licences to drive “small public vehicles” to take part in adult safeguarding training, including training on how to notice, prevent and respond to abuse. This should be provided by the National Transport Authority and the Gardaí with help from the Safeguarding Body.

Collecting information about adult safeguarding allegations and events

Many people and organisations think that there are gaps in the information about adult safeguarding in Ireland. This means that there could be more abuse or neglect happening than any of us know about. Having complete information is important to make sure that the government knows where help such as training is needed to prevent abuse or neglect.

To make sure that there is complete information, services used by adults who are or might be at-risk adults would have to tell the Safeguarding Body about all allegations and events of abuse in their services.

We think the law should be changed to require providers of relevant services to at-risk adults to keep track of the total number and abuse types of adult safeguarding allegations (claims) and events in their services each year. This information should be shared with the Safeguarding Body, who should then publish the total numbers of allegations and events in Ireland, and any information about the types of abuse that happened or were alleged to have happened.

This information should be published on the Safeguarding Body’s website and in its annual report. This will help the Safeguarding Body understand the types of adult safeguarding allegations and events, and how often they happen.

Chapter 8: Independent advocacy

What is this chapter about?

In chapter 8, we look at and explain how to help adults, including adults who are, or are believed to be at-risk adults (“adults”) get better access to independent advocacy services. Independent advocacy is a service where a person supports an adult to:

- understand difficult situations or information;
- express their wishes and views;
- make decisions about their lives; and
- deal with public bodies, agencies, services or service providers.

Advocacy is independent where the person who is helping an adult is not someone in the adult’s family or someone who is providing an adult with a service. This means that the person who is helping an adult is neutral, not biased, and they can focus on what an adult wants.

An independent advocate’s main goal is to empower and help adults who may find it hard to exercise their rights. An independent advocate tries to make sure that adults can share their views and be part of decisions that affect their lives.

How does independent advocacy work in Ireland?

Currently in Ireland, only certain people are legally entitled to access services from independent advocates. These include:

- people with disabilities and older people in residential centres regulated by Health Information and Quality Authority (HIQA); and
- people with mental disorders in residential centres regulated by the Mental Health Commission. (See chapter 7 for note on terminology in the law that can be offensive to some people.)

However, the extent of the support is inconsistent, and adults, including adults who are or are believed to be at-risk adults outside of these settings don’t have a legal right to this support.

There are many different organisations offering independent advocacy services in Ireland. Some organisations provide independent advocacy services for particular at-risk adults. Independent advocacy is an important part of safeguarding at-risk adults, because it is important that they can express their views and wishes on all decisions, actions and interventions made to keep them safe.

An independent advocate can:

- help at-risk adults take part in conversations about safeguarding measures taken to prevent harm to them;
- support at-risk adults through any adult safeguarding processes; and
- help them to understand the reasons behind any action or intervention.

What recommendations do we make?

We make the following recommendations.

Independent advocacy should be available in care settings

We believe that the government should make sure independent advocacy is available in all care settings.

Some Regulations need to be changed

In this chapter, we suggest changes to the Regulations which set out how residential centres that are regulated by HIQA and the Mental Health Commission care for:

- adults with disabilities;
- older adults; and
- adults with mental disorders.

Regulations are laws created by ministers or other public bodies under powers given to them by Acts of the Oireachtas. We think these Regulations should be changed to require the service providers to allow and support adults in these residential centres to access independent advocacy services.

The Safeguarding Body should support access to independent advocacy

We suggest that the Safeguarding Body should have powers to prevent harm to an at-risk adult, and that they should be able to take certain actions. These actions can be upsetting or confusing for an at-risk adult, especially if they do not understand what is going on. Having an independent advocate can help the person understand what's happening and help them to express their views.

We believe that the Safeguarding Body should have a duty to allow and support access to independent advocacy services, so far as possible, where it interacts with an adult who is, or is believed to be, an at-risk adult to use a power or take any action under adult safeguarding laws.

This duty should only apply where the at-risk adult would find it difficult to do one **or** more of the following:

- understand information;
- remember information;
- assess information so they can interact with the Safeguarding Body; or
- express their views, wishes or feelings.

We think this duty should only apply where the Safeguarding Body believes that there is no other suitable person who could help the at-risk adult interact with the Safeguarding Body about decisions that affect their lives.

Consider regulating independent advocates

Some people think that independent advocacy services should be regulated in Ireland so that all independent advocates or independent advocacy organisations are required to follow the same laws. This is a big question that we do not cover in this Report. But we think the government should think about regulating independent advocates or independent advocacy organisations.

We also think it would be good to have a code of practice for all the independent advocates working in adult safeguarding so they can understand their role. (A code sets standards that should be followed.)

Chapter 9: Reporting models

What is this chapter about?

In chapter 9, we talk about and explain how Ireland and other countries handle reporting when at-risk adults are abused or neglected. We believe it is important to report these things because reporting can catch issues early and stop more abuse or neglect from happening. An important term to know here is “mandated person”. This means that certain people must (are mandated) to report abuse if they suspect or know about abuse or neglect of an at-risk adult.

What are the different types of reporting?

Some other countries have different types of reporting in place. We have thought about a few different types of reporting:

1. Universal mandatory reporting

This type of reporting means that the law in a certain country requires everyone to report any abuse or neglect they suspect or know about an at-risk adult.

2. Permissive reporting

This type of reporting allows people to report if they suspect or know about abuse or neglect of an at-risk adult. Currently, we have permissive reporting in Ireland. However, it isn't written in the law and is just something people are allowed to do.

3. General reporting for “mandated persons”

This type of reporting means that only certain people must report abuse or neglect they suspect or know about an at-risk adult. (We list who we think should be mandated persons in law later in this chapter.)

4. Mandatory reporting of specific incidents

This type of reporting means only certain incidents of known or suspected abuse or neglect must be reported, for example incidents of physical or sexual abuse.

5. Mandatory reporting in specific places

This type of reporting means known or suspected abuse or neglect must be reported if it happens in particular places, like nursing homes or centres for people with disabilities. This type of reporting may require reporting by all people working, volunteering or visiting particular places, or may only require reporting by certain people working in particular places.

How do we think reporting should change in Ireland?

We don't think Ireland should have universal mandatory reporting where everyone must report any abuse or neglect that they suspect or know about an at-risk adult. We also don't think permissive reporting should be written into Irish law. However, we do think the government should consider changing its laws about reporting to better protect at-risk adults.

What do we recommend?

1. Add certain crimes to the list of crimes that must be reported to the Gardaí

It is a crime not to report certain things to the Gardaí if you know or believe them to be true. One way we suggest reporting could be changed to better protect at-risk adults from harm is by adding certain crimes to the list of crimes that must be reported to the Gardaí. Examples of crimes we think should be added to the list include:

- coercion (forcing someone to do something); and
- endangerment (putting someone in danger).

2. Update laws on reporting

There are also laws that say certain things have to be reported in **care settings**. We think those laws should be updated to include:

- financial coercion;
- neglect; and
- psychological or emotional abuse.

There are also laws that say certain things have to be reported in **mental health services**. We think those laws should be updated to require the making of a report when:

- a resident dies suddenly;
- a resident is seriously injured;
- a resident is absent without explanation; and
- a staff member is being reviewed by their professional body for not working according to the standards set by the professional body. (For example, they may have abused or neglected a service user.)

Laws in **mental health services** should also be updated to require the making of a report where there are allegations that an owner or staff member of a mental health service has:

- physically or sexually abused a resident;
- financially abused a resident (for example, they have control over a resident's private bank account and take money out of the account without the resident's consent);
- neglected a resident; and
- psychologically or emotionally abused a resident.

Create a new law

We recommend that the government should introduce a law requiring “mandated persons” to make reports to the Safeguarding Body when they know, believe or suspect that an at-risk adult:

- has been harmed;
- is being harmed; or
- is at risk of being harmed.

This law would require reporting key types of harm

We think the type of harm that has to be reported when it is known, believed or suspected should be:

- serious assault;
- sexual abuse; or
- serious damage to property, for example stealing an at-risk adult’s money or property, or taking money out of their bank account without their consent.

In general, we **don’t think** mandated persons should have to report all cases of self-neglect. However, we **think** mandated persons should have to report self-neglect when they:

- determine that an adult who is reasonably believed to be an at-risk adult lacks capacity (defined in [chapter 2](#)); or
- have a reasonable belief that the adult lacks capacity to make personal care or welfare decisions at a time when they know, believe or suspect that the adult is self-neglecting.

Exception to reporting: Sometimes, an at-risk adult may be able to decide of their own free will that they do not want a report to be made to the Safeguarding Body. In these circumstances, a mandated person should not be required to make a report.

Prevent duplicate reporting

If one mandated person has already reported abuse, we don't think the law should require another mandated person to report the same abuse. The aim of this law is to prevent duplicate reporting.

3. Legal protections for those who report in good faith

We think that a new legal protection should be introduced to protect people who report known or suspected abuse or neglect of an at-risk adult in good faith. This would protect people who report from getting in trouble with their employer or having to pay damages to someone who was affected by the report. In good faith means that the person honestly believes that their report is true.

Who should have to report abuse?

We think that a list of mandated persons should be written in the law. This is a list of people who, because of their work or activities, should have a duty to report abuse or neglect. We recommend that these people should include:

- medical professionals;
- social workers;
- the Gardaí;
- safeguarding officers;
- probation officers; and
- managers of certain services used by at-risk adults.

What happens if a mandated person fails to report?

If a mandated person fails to report abuse or neglect that they know about, believe or suspect, we don't think this should lead to criminal charges. However, their failure should be dealt with seriously under professional codes of conduct or by taking other measures.

We think that if a profession has particular rules for its members, those rules should mention the professionals' duty to report. We think these reporting rules should be the same across all professions that have codes of conduct. If a profession doesn't have a code of conduct, failing to report should be dealt with inside the organisation if possible.

Sometimes it won't be enough to deal with a failure to report inside an organisation. If a mandated person fails to make a report, it might be more appropriate for their organisation, or someone who knows they failed to make the report, to notify HIQA, the HSE or the National Vetting Bureau of the Gardaí.

Will there be protection for people who report abuse?

We recommend that the law should protect people who make reports about the abuse of at-risk adults. This protection should be for anyone who reports with good intentions, not just mandated persons.

Are mandated persons required to assist the Safeguarding Body?

Yes, they are required to assist if requested by the Safeguarding Body. Mandated persons often work closely with at-risk adults and know lots of information about their situation. This information can be very helpful to the Safeguarding Body after a report is made. For this reason, we think the new reporting laws should allow the Safeguarding Body to make a request to any mandated person who it believes could assist it after a report is made. A mandated person may be requested to provide information or reports to the Safeguarding Body, or to attend meetings.

How will people prepare for the changes to reporting?

To make sure the reporting system works well when it starts, we suggest that the government should prepare for these new reporting rules. This would involve:

- making guides;
- running training programmes; and
- raising awareness.

Once the new reporting system starts, we **think mandated persons should** do regular training on their role.

Chapter 10: Powers of entry to, and inspection of, relevant premises

What is this chapter about?

In chapter 10, we talk about the Safeguarding Body's power to access "relevant premises" so that they can protect at-risk adults from harm. "Relevant premises" are places like:

- residential centres for older people and adults with disabilities, that are regulated by the Health Information and Quality Authority (HIQA);
- hospitals, hospices, and other centres that provide physical services to adults;
- residential centres for people with mental disorders, that are regulated by the Mental Health Commission; (see chapter 7 for note on terminology in the law that can be offensive to some people.)
- international protection accommodation centres;
- domestic, sexual or gender-based violence centres; and
- places where day services are provided to older adults or adults with disabilities.

Because adults may be at risk of harm in many different places, we think that "authorised officers" should be able to go into these places to check what's happening in them. "Authorised officers" are staff members of the Safeguarding Body who are allowed to exercise the powers of the Safeguarding Body.

Currently the Irish bodies responsible for the health, safety and well-being of at-risk adults (the HSE Safeguarding and Protection Teams) can't get into many public or private places, including nursing homes. This isn't good enough, especially when we see that other countries like Scotland, Wales, Canada and Australia let their equivalent bodies do more. Many people we talked to agreed that we need to give these bodies more powers to help at-risk adults.

What rights did we consider in Chapter 10?

We've thought a lot about how a power to access relevant premises could affect people's rights. We want to keep at-risk adults safe from harm, but we don't want to

interfere too much with at-risk adult's rights, or with anyone else's rights. Letting authorised officers from the new Safeguarding Body we are proposing go into relevant premises would help to protect the at-risk adult's rights to:

- life;
- freedom;
- control over their body; and
- dignity.

However, letting authorised officers go into relevant premises might also interfere with the at-risk adult's rights or other people's rights to:

- freedom;
- privacy; or
- security in their home.

So, we're careful to suggest requirements and protections to be written into the new law.

What do we recommend?

In chapter 10, we suggest making new laws. These would allow certain actions in certain circumstances.

Authorised officers to enter relevant premises where needed

These new laws would let authorised officers go into relevant premises.

If the authorised officers think there is a risk to the health, safety or well-being of an at-risk adult in the relevant premises, they should be able to enter these premises **without the court's permission**. However, if they are having problems getting inside a relevant premises, they might need the court to write an order to help them gain access. This would be allowed under the new law.

The new law would also allow authorised officers to bring a Garda, a health or social care professional, or another person such as a friend or family member of the at-risk adult with them when they are going into a relevant premises, if the requirements set out in the law are met.

When authorised officers are inside a relevant premises, along with anyone else who is allowed to come inside, they could:

- talk privately with the at-risk adult;
- assess the at-risk adult's health;
- interview staff in the relevant premises; and
- look at documents to understand what's happening in the relevant premises.

The authorised officers would only be allowed to talk privately with the at-risk adult, or assess the at-risk adult's health, if the at-risk adult agrees.

What places will authorised officers be able to enter?

Authorised officers will be able to go into "relevant premises", a term which is explained in the law. It includes places like:

- residential centres for older people and adults with disabilities – these are places regulated by HIQA where older people or adults with disabilities live;
- hospitals, hospices, and other centres that provide physical services to adults;
- residential centres for adults with mental disorders – these are places regulated by the Mental Health Commission where people with mental disorders are cared for (See chapter 7 for note on terminology in the law that can be offensive to some people);
- international protection accommodation centres;
- domestic, sexual or gender-based violence centres; and
- places where day services are provided to older adults or adults with disabilities.

The government will be able to add more places to the list of relevant premises if it thinks this is necessary.

A relevant premises should not include a private home

The Constitution gives special protection to a person's home. We do not think that a resident's room in a relevant premises should be considered a home. We respect that residents may strongly believe that their rooms are their homes, but their rooms are not entirely private and many people can enter them. For this reason, we do not think a court's permission should be required to enter a resident's room in a relevant premises.

We do think that service providers' homes and rooms where staff members live should be considered homes, so authorised officers can't enter them using this new law.

Reasonable force allowed if needed

Under the new law, it will be possible to use reasonable force to enter a relevant premises if it is not possible to enter in another way, and the requirements in the law are met. We talk more about reasonable force in the next chapter.

It should also be a crime for people working in the relevant premises to stop authorised officers, or people they bring with them, from entering a relevant premises.

Important: It would not be a crime for the at-risk adult to stop authorised officers, or people they bring with them.

Chapter 11: Powers of access to at-risk adults in places including private dwellings

What is this chapter about?

In chapter 11, we talk about letting authorised officers from the Safeguarding Body and the Gardaí access at-risk adults in places like people's homes (private dwellings). We decided that this should be allowed in Ireland. We decided this after:

- hearing people's opinions;
- looking at what other countries do; and
- thinking about the rights of at-risk adults.

This new law would allow authorised officers and the Gardaí to access at-risk adults, including in private homes, but **only** when access to an at-risk adult is needed to protect their rights.

What is the law in Ireland?

There are only a few powers to enter people's homes in Irish law. These powers are usually used when:

- the Gardaí are investigating a crime; or
- when children need to be protected.

In very serious cases, it may be possible to get an order from the High Court to enter someone's home to check on them and remove them from the home (if needed).

However, there is no power written down in Irish law that lets people enter a home to check on an at-risk adult.

In other countries such as Scotland, Wales, and in some parts of Australia and Canada, there are laws that provide powers of access to the homes of at-risk adults, and other places, to check on at-risk adults. This can only be done if the requirements written in the law are met. The governments in England and Northern Ireland are thinking about making these powers of access available.

What do we recommend?

We think that adult safeguarding laws should allow the Gardaí and authorised officers to access at-risk adults in places such as people's private homes. In addition, we think the law should contain protections to make sure that the power of access is only used when it is needed to protect an at-risk adult from harm.

Set standard for getting a warrant

Homes are protected under the Irish Constitution. This means that a warrant (written authorisation) from the court should be needed to access at-risk adults in places like people's private homes.

We also recommend that the Gardaí or authorised officers must meet a certain standard to get a warrant. There must be reasons for thinking that:

- there is a risk to the health, safety or well-being of an at-risk adult in a certain place;
- a warrant is needed to check the at-risk adult's health, safety or well-being; and
- access cannot be gained by any other way.

The person applying for the warrant should give evidence in court about these things.

Authorised officers of the Safeguarding Body or the Gardaí can be joined by other people, such as health or social care workers or anyone else that might be able to help. For example, a friend or family member who the at-risk adult trusts could help to explain the situation.

Must give at-risk adults clear information

We recommend that the law should require that an at-risk adult should be given information in plain English about the warrant, why one is being used and what this means.

An interview and a health assessment done if at-risk adult agrees

The authorised officers and health or social care workers should be able to talk privately with the at-risk adult, and assess the at-risk adult's health. However, they can only do this if the at-risk adult agrees. The at-risk adult should be told that they can say "no" to this.

Should the Gardaí have special powers to enter without asking a court?

In some cases, we think that Gardaí should be able to enter a place, including a private home, without a court's permission. To do so, the Gardaí would need to believe that there is a risk to the at-risk adult's "life and limb". This is a specific legal term which requires a very high level of risk. Examples of this risk might include:

- Seeing an at-risk adult through a window lying on the floor seemingly unconscious.
- If the at-risk adult had rung an emergency number and complained about a violent adult child but were still in their home and not answering the door.

If the Gardaí use this power, they must write down their reasons for using it and they must tell the Safeguarding Body about it as soon as possible.

Reasonable force allowed if needed

When they are using the new powers, Gardaí and authorised officers of the Safeguarding Body should first try to enter the place with the consent of whoever is inside. They should explain the warrant or power that they are using and ask for cooperation. However, under the new law, it will be possible to use reasonable force to enter a place, including a private home, if it is not possible to enter in another way. For example, "reasonable force" might mean breaking a lock to enter a place.

It should be a crime for someone (other than the at-risk adult) to stop the Gardaí or authorised officers, or people they bring with them, from accessing the at-risk adult.

Important: If an at-risk adult stops authorised officers or the Gardaí, or people they bring with them, this would not be a crime.

Chapter 12: Powers of removal and transfer

What is this chapter about?

Chapter 12 talks about whether there should be a power to allow the Gardaí to:

- remove an at-risk adult from where they are; and
- transfer the at-risk adult to a place where health or social care services are provided, or to another place that has been approved by a court.

What is the purpose of a power of removal and transfer?

This power would allow the Gardaí, authorised officers and health or social care professionals (such as doctors and nurses) to assess the health, safety and well-being of an at-risk adult in an appropriate and safe place. It would also allow them to check whether an at-risk adult needs any supports to protect themselves from harm. The power could be used where the person doing the assessment cannot assess these things in the place where the at-risk adult is at the time.

This power would interfere with an at-risk adult's rights, but we believe it is needed to protect an at-risk adult's rights. It is important that the law is written so that it causes the least amount of interference with the rights of at-risk adults and other people. For this reason, we think there should be a power to remove and transfer an at-risk adult **only with the court's permission**.

Why is this power needed?

There are some powers like this in Ireland for criminal, public health and mental health situations. Although the High Court can do similar things, we think that writing down this power in law would be much **clearer and more certain**. Letting Gardaí, accompanied by authorised officers and health or social care professionals where possible, remove and transfer at-risk adults in really serious situations would allow them to:

- try to check the at-risk adult; and
- decide whether they need to be supported.

The place where the at-risk adult is might be too unsafe or unclean to check these things, or to assess the at-risk adult's health. There could also be a person in the place who is a serious risk to the at-risk adult and is not allowing other people to access the at-risk adult. In that situation, this power of removal and transfer should only be used where a no-contact order would not work. (A no-contact order is an order that stops a person who might be harming the at-risk adult from contacting an at-risk adult. We explain these orders in chapter 13.)

What do we recommend?

New adult safeguarding laws should include "removal and transfer orders", which are available in serious situations

We recommend that adult safeguarding laws should be changed to allow a court to make a "removal and transfer order" in serious situations. This order would allow the Gardaí, along with authorised officers of the Safeguarding Body or any other person who might be needed (including a health or social care professional or a friend or family member of the at-risk adult) to:

- enter the place where the at-risk adult is;
- take the at-risk adult away from this place; and
- move the at-risk adult to:
 - a place where health or social care services are provided; or
 - another place that has been approved by the court.

Gardaí may only remove and transfer at-risk adult in serious circumstances

The Gardaí or authorised officer must meet a certain standard to get a removal and transfer order.

There must be reasons for thinking that:

- there is a serious and immediate risk to the health, safety and well-being of an at-risk adult;
- actions might be needed to prevent harm to the health, safety and well-being of the at-risk adult; and
- the at-risk adult cannot be assessed at their current location. They must need to be assessed at a new location where health or social care services are provided or another place that has been approved by the court.

The person applying for the order needs to:

- 1) Try to see what the at-risk adult wants before applying for an order;
- 2) Consider what the at-risk adult wants when deciding whether to apply for an order.

When it is considering an application for an order, the court must check if these have been done.

If an at-risk adult does not want to be moved, the court can **only** make the order when it believes the at-risk adult is either:

- being forced to say that they do not want to be moved, or
- the court is not sure that the at-risk adult has capacity to decide for themselves whether or not they want to be moved. (Capacity as used here is defined in [chapter 2.](#))

Sometimes, a Garda or authorised officer may apply to the court for a removal and transfer order before they have had access to someone. They may do this when they believe there is a particularly urgent risk. Before the court will grant a removal and transfer order in such a case, it must believe that an access order would not be enough to protect the rights of the at-risk adult and prevent harm to them.

We recognise that a hospital or another medical place will not always be the best place to take an at-risk adult. In the future, more suitable places might be available. The government should have the power to add those places to the list of suitable places to assess at-risk adults in the legislation.

When an at-risk adult is not being brought to a place where health or social care services are provided, the court needs to be satisfied that this place is suitable for assessing the at-risk adult.

Reasonable force used if needed

The Gardaí and authorised officers should be able to use reasonable force, if needed, to use the removal and transfer order. The Gardaí should also be allowed to take any other action required to carry out the removal and transfer order. This could include:

- detaining an at-risk adult for the time it takes to remove and transfer them (detaining means keeping the at-risk adult somewhere without their consent); or
- restraining an at-risk adult so that they can be removed and transferred (restraining means physically holding the at-risk adult back or stopping them from moving).

However, Gardaí should detain or restrain only when they have no other way to carry out the order.

Must give at-risk adult clear information

We recommend that protections should be introduced like explaining the removal and transfer order in plain English.

At-risk adult must get clear explanation

We also recommend that the person removing and transferring the at-risk adult should explain what is happening to the at-risk adult. They must tell them:

- why the order is needed
- the powers that can be used.

They must also explain to the at-risk adult that when they get to the place where health or social care services are provided or the place approved by the court, they can decide to leave. The person removing and transferring the at-risk adult must explain that they will be helped to leave if that is what they decide to do.

Can the at-risk adult leave the place they have been brought to?

We do not think that a removal and transfer order should allow an at-risk adult to be detained at the place they have been brought to. Instead, if an at-risk adult decides to leave the place that they have been brought to, the Safeguarding Body, Gardaí or health and social care professionals should help them to:

- leave and go back to where they were before; or
- to go to another place of their choosing, where that is possible.

The Safeguarding Body should still continue to help at-risk adults and give them information they might need. The Safeguarding Body, Gardaí or health and social care professionals may be worried about whether the at-risk adult can decide for themselves. If they are, they should help the at-risk adult and consider supports that are available to the at-risk adult under the Assisted Decision-Making (Capacity) Act 2015.

Why did we decide that an at-risk adult should be able to leave the place they have been brought to?

We first thought that for a removal and transfer order to be effective at keeping an at-risk adult safe from harm, it should be possible to keep an at-risk adult in the place that they have been brought to for a period of time. Keeping someone in a place without their consent is called "detention". However, the government is currently working on separate laws on temporary detention. These separate laws would overlap with the new adult safeguarding laws. We think that it is better to deal with the issue of temporary detention in a special law that may be relevant for at-risk adults and for other people. So, we think the government should continue its separate work on this important issue.

What else do we recommend?

The at-risk adult may decide to stay in the place where health or social care services are provided or the place approved by the court. If so, the authorised officer and other health or social care workers should be able to talk privately with the at-risk adult and assess their health. They must first get consent to do this from the at-risk adult.

It should be a crime for someone (other than the at-risk adult) to stop the Gardaí or authorised officers, or people they bring with them, from accessing, removing or transferring the at-risk adult.

Important: It would not be a crime for the at-risk adult to stop the Gardaí or authorised officers, or people they bring with them.

Chapter 13: No-contact orders

What is this chapter about?

Chapter 13 talks about orders that stop another person from contacting an at-risk adult. We suggest that the law about domestic abuse should be changed to better protect at-risk adults. We also suggest that there should be new “adult safeguarding no-contact orders” to prevent harm, exploitation or ill treatment of at-risk adults which is not domestic abuse.

What is the law in Ireland at the moment?

Orders that stop someone from contacting another person are available in Ireland, but they are not especially for adult safeguarding. For example, orders can be used in cases of harassing and stalking.

There are also orders available in the Domestic Violence Act 2018. However, the orders in this 2018 Act can only be used for certain relationships, for example some close family relationships or romantic relationships.

How should the Domestic Violence Act 2018 be changed?

We believe that the Domestic Violence Act 2018 should be changed so that it can be applied to more relationships where there is an at-risk adult involved. We recommend that this law is changed so that:

- “barring orders” will apply to people who live with an at-risk adult not as part of a contract, and people who live with an at-risk adult as part of a contract to provide care for the at-risk adult; and
- “safety orders” will apply to people who live with an at-risk adult as part of a contract to provide care for the at-risk adult.

Orders under Domestic Violence Act 2018 can be applied for and made without the person who is going to be protected by the order agreeing to it.

We recommend that the Child and Family Agency (Tusla) and the Safeguarding Body should be allowed to apply for an order under the Domestic Violence Act 2018 when it is for an at-risk adult.

What new orders should be in adult safeguarding laws?

We recommend that three new orders should be included in the new adult safeguarding laws:

- a full adult safeguarding no-contact order;
- an interim (temporary) adult safeguarding no-contact order; and
- an emergency adult safeguarding no-contact order.

These orders would stop another person who is not in a relationship with the at-risk adult or living with the at-risk adult from engaging in certain behaviours. These include:

- following the at-risk adult;
- watching the at-risk adult;
- annoying or talking to or about the at-risk adult; or
- coming near the at-risk adult or the place where the at-risk adult lives.

The at-risk adult themselves, or the Safeguarding Body, should be able to ask the court for these orders.

We explain each of the three proposed orders for an at-risk adult in the following paragraphs.

How would a full adult safeguarding no-contact order work?

The at-risk adult themselves could apply for a full no-contact order. An authorised officer of the Safeguarding Body could apply for a full adult safeguarding no-contact order if they believe that the health, safety or well-being of the at-risk adult means the order is needed.

The authorised officers of the Safeguarding Body must first try to see what the at-risk adult wants. This must be considered when deciding whether to apply for an order. The court must check whether this has been done. If an at-risk adult does not want a full no-contact order, then it cannot be granted by the court.

We recommend that the order should last for **up to two years**. The judge should decide the exact length of time. However, the at-risk adult should be able to apply to end the order before this time.

It should be a crime for the person who the order is about to not follow the order. Important: It should not be a crime for an at-risk adult to contact the person who the order is about.

How would an interim adult safeguarding no-contact order work?

We recommend that an “interim adult safeguarding no-contact order” should be available when the at-risk adult or the Safeguarding Body has already applied for a full adult safeguarding no-contact order. The **interim (temporary)** adult safeguarding no-contact order would be in place while everyone waits for the court to decide the case about the full adult safeguarding no-contact order.

The at-risk adult themselves could apply for an interim no-contact order. An authorised officer could apply for an interim order if they believe that there is an urgent risk to health, safety or well-being of the at-risk adult, and so the interim order is needed. The court must be satisfied that this standard is met.

If the court makes a decision when the person who is being ordered not to contact the at-risk adult is there, the interim order will last until the court decides about the full adult safeguarding no-contact order. If the decision is made **without** the other person there, the interim no-contact order can only last for up to eight working days.

How would an emergency adult safeguarding no-contact order work?

If there is a very urgent risk to an at-risk adult, and at at-risk adult or the Safeguarding Body waited to apply for a full no-contact order, the risk might get

even worse. There also might be cases where an at-risk adult says they do not want a no-contact order, but it is not clear if this is their own choice.

We recommend that the law should make an emergency adult safeguarding no-contact order available for a small number of cases. The at-risk adult or Safeguarding Body would not need to apply for a full adult safeguarding no-contact order to get the emergency order. To apply for the emergency order, an authorised officer of the Safeguarding Body must believe that there is a risk to the health, safety or well-being of the at-risk adult and the no-contact order is needed to:

- lower the risk to the at-risk adult, or
- check if the at-risk adult does not want the order by their own choice (and, if needed, check if the at-risk adult has capacity to make decisions for themselves).

The at-risk adult themselves could also apply for an emergency no-contact order. The court must be satisfied this standard has been reached to grant this order. An emergency no-contact order should last for up to eight working days.

Can you get an emergency adult safeguarding no-contact order if the at-risk adult doesn't want it?

We recommend that a court cannot give full and interim adult safeguarding no-contact orders when an at-risk adult doesn't want an order.

However, we think that emergency adult safeguarding no-contact orders should be possible even if the at-risk adult doesn't want it. In these cases, we recommend extra standards to protect the at-risk adult's rights. In order to apply for an emergency no-contact order in such a case, an authorised officer of the Safeguarding Body must have a reasonable belief that:

- the at-risk adult is saying no because they are being forced to say no by someone else; or
- the at-risk adult does not have capacity to make a decision about the order themselves.

The court must be satisfied this standard has been reached in order to grant the order. If, before the eight days is over, it is clear that the at-risk adult is not being forced and has capacity to choose for themselves, the Safeguarding Body should apply to end the order straight away.

What else do we recommend?

We also make general recommendations about the three kinds of no-contact orders. For example, before making any no-contact order, the court must consider the rights of the at-risk adult, and the other person, in relation to the property where the at-risk adult lives.

An adult safeguarding no-contact order cannot affect the property rights that already exist

For example, an at-risk adult might live in a house that their adult child owns, while their adult child lives somewhere else. Even if the adult child was subject to a no-contact order, their existing property rights in the house would be unaffected. This means they would be able to take back ownership of the house, if they wanted to.

What happens if an adult safeguarding no-contact order is appealed?

It should be possible for the person who the no-contact order is about to appeal it. If a full no-contact order is appealed, it should be possible for the order to be paused if the court thinks that would be appropriate. However, if an interim no-contact order or emergency no-contact order is appealed, it should not be possible to pause the order. This means the order would still be in place while everyone waits for the appeal.

Chapter 14: Financial abuse

What is this chapter about?

In chapter 14, we look at financial abuse of at-risk adults. We suggest ways to deal with financial abuse and what changes should be made to prevent financial abuse of at-risk adults. For example, financial abuse can include:

- stealing someone's property;
- lying to someone to make a profit or to cause someone to make a loss;
- taking advantage of someone or treating them unfairly to get a financial benefit.

What protections are there to prevent financial abuse of at-risk adults?

The criminal law protects everyone (including at-risk adults) from theft, fraud, coercion (force) and undue influence (unfair pressure). An example of undue influence is when a person unfairly pressures an at-risk adult (who could be their parent) to financially support their bank loan. However, there are some gaps in the law that need to be filled to prevent financial abuse of at-risk adults. To fill these gaps, we recommend in chapter 19 that a new offence of coercive exploitation should be introduced in law.

We also looked at the Central Bank of Ireland's Consumer Protection Code (code) and the bank's recent recommendations to update and review the code. This code is part of the law in Ireland and sets out the rules that regulated financial service providers (like banks) should follow.

What recommendations do we make about financial abuse?

Consumer protection code and regulations

We think the Central Bank should update its consumer protection code. The Central Bank published two draft regulations in March 2024. We think the updated code should be contained in these two regulations. However, we think some changes need to be made to these regulations before they come into force.

The regulations contain a definition of a “consumer in vulnerable circumstances”. The word “harm” is used in this definition. But “harm” is not defined in the regulations.

Also, because this definition doesn’t include any words to do with time, it’s not clear what point in time someone could be called a “consumer in vulnerable circumstances”. It’s also not clear what the words “especially susceptible to harm” mean in this definition.

The Central Bank published draft guidance on “consumers in vulnerable circumstances” in March 2024. We think the guidance should be changed to include more detail before it becomes final. Including more detail will help everyone understand the regulations and what is meant by the words “consumer in vulnerable circumstances”.

We also think the regulations should be consistent with assisted decision-making laws and codes of practice published by the Director of the Decision Support Service, for example the Code of Practice for Financial Service Providers.

Law

We believe the law should be changed in Ireland to require banks and bank staff to do certain things to prevent or address the financial abuse of at-risk adults. The law should be changed to allow banks and bank staff to freeze transactions (like payments into and out of bank accounts) in certain circumstances. This includes when they know, believe or suspect that at-risk adults:

- have been financially abused;
- are being financially abused; or
- might be victims of financial abuse in the future.

We also think that a law should be created to make it clear that banks and bank staff can’t be sued if they do certain things to prevent or address the financial abuse of at-risk adults.

We also believe social welfare laws should be changed to be consistent with assisted decision-making laws, the United Nations’ Convention on the Rights of Persons with

Disabilities, and the Council of Europe's Recommendation on the promotion of human rights of older persons.

Home support services are provided in Ireland to adults, including at-risk adults. We think the law should be changed to explain how and when fees should be paid to providers of home support services and how these fees should be calculated.

This change would make sure that everyone who uses or plans to use home support services knows what to expect.

Training and standards

We think banks, credit unions and post offices should provide staff with regular training. Staff should be trained on how to spot possible signs that a customer has been financially abused, is being financially abused or may be a victim of financial abuse in the future.

We also believe there should be a national standard on preventing the financial abuse of at-risk adults. Providers of home care services and providers of home support services should be required to act in line with this standard. We think preventing the financial abuse of at-risk adults could be included as a standard in HIQA's national standards for homecare and home support services.

Chapter 15: Cooperation

What is this chapter about?

In chapter 15, we look at the importance of the Safeguarding Body, public bodies and providers of certain services to at-risk adults working together to prevent and address issues that affect at-risk adults. It is important for them all to work together:

- when a person turns 18 and needs to move from children's services to adult services; and
- to keep at-risk adults safe from harm.

These following ways of working together can be described as cooperation or teamwork. Cooperation includes the Safeguarding Body, public bodies and providers of certain services to at-risk adults:

- sharing information, expertise and best practices;
- making decisions together; and
- combining resources.

How do public bodies and providers of certain services to at-risk adults work together now?

Currently in Ireland, public bodies and providers of certain services to at-risk adults often work together informally. Their work is based on policies, not laws. This can make it difficult to make them work together, or to work together in a particular way.

Public bodies and providers of certain services to at-risk adults sometimes do not have enough resources to work with other public bodies and service providers. Also, how they work together can differ and depend on whether they have strong relationships with each other.

What do we recommend?

New laws to promote better working together

We think that new laws are needed. These should say that groups must work together to promote or safeguard the health, safety and well-being of at-risk adults.

These groups include:

- the Safeguarding Body;
- certain public bodies; and
- providers of certain services to at-risk adults.

The new law should also say that these stakeholders should work together **to take actions under adult safeguarding laws to protect at-risk adults from harm.**

We include a full list of those that should be under a duty to work together when taking action under adult safeguarding laws in chapter 15 of our full Report. We believe that the relevant government minister should be able to make Regulations to add other public bodies or providers of certain services to at-risk adults to this list.

An inter-departmental group should make sure that the Safeguarding Body, certain public bodies and certain service providers work well together

We believe that different government departments should form an inter-departmental group to make sure the Safeguarding Body, certain public bodies and certain service providers work together when taking the above actions.

Considering new laws to protect young people when they move from children's services to adult services

We also believe that the government should think about whether there should be new laws about how certain public bodies and providers of certain services to at-risk adults should work together when a person turns 18 and needs to move from children's services to adult services. These laws would help to make sure that young people who will or may become at-risk adults are kept safe from harm. The new laws could say that specific public bodies and providers of certain services to at-risk adults

must have responsibility for managing these transitions or changes from children's services to adult services.

If the government considers making these new laws, it should also consider the following:

- appointing a lead organisation to work with relevant public bodies and providers of certain services to at-risk adults to manage arrangements for these young people;
- introducing a duty on the lead organisation to check whether a young person who is considered to be at risk or has complex needs is likely to be an at-risk adult when they transition from children's services to adult services; and
- making sure there is careful planning for the young person's transition from children's services to adult services.

Chapter 16: Information sharing

What is this chapter about?

In chapter 16, we talk about how important it is for certain bodies to be able to share the personal data and special categories of personal data of at-risk adults to protect them from harm. Special categories of personal data include information about a person's health, sexual orientation and religious beliefs.

Community centres, care homes, day services and health services looking after at-risk adults may need to share the personal data and special categories of personal data of at-risk adults to protect them from harm. Banks, post offices and credit unions may also need to share this data for the same reason.

What do the people we have consulted with think about information sharing?

People working or in contact with at-risk adults often want to share the personal data and special categories of personal data of at-risk adults to protect them from harm. They are, however, unsure and worried about protecting at-risk adults from harm while also following data protection laws. The people working or in contact with at-risk adults want guidance on:

- when it is legally possible to share the personal data and special categories of personal data of at-risk adults to protect them from harm; and
- how to share this data in line with data protection laws.

Many people we have consulted with have told us that not knowing when and how to share information legally are big problems that make it difficult for them to protect at-risk adults from harm.

What are the current laws in Ireland around data sharing?

There's no law in Ireland that specifically allows or requires relevant bodies to share the personal data and special categories of personal data of at-risk adults when it's needed to keep at-risk adults safe from harm.

There's also no clear guidance in Ireland on how data protection laws can or should be used to protect at-risk adults from harm. This uncertainty has led to bodies dealing with the sharing of the personal data and special categories of personal data of at-risk adults in different ways. This is mostly because they are unsure about the laws for sharing information when it comes to protecting at-risk adults from harm.

What do we recommend?

New laws be made to clarify when it is legally possible or required to share at-risk adults' information

New laws should be made in Ireland that allow information sharing between relevant bodies when it is necessary and in the public interest to protect at-risk adults from harm. These laws should clearly state that in some situations it's possible and in other situations it's required to share the personal data and special categories of personal data of at-risk adults to protect them from harm. These situations should be contained in the laws and are set out in chapter 16.

Regulations be made on information sharing as a temporary measure before other laws are made

Until new laws are made and contained in Acts of the Oireachtas, Regulations should be made that allow relevant bodies to share the special categories of personal data of at-risk adults to protect at-risk adults. This should only be done for the (substantial) public interest reason of safeguarding the health, safety or welfare of at-risk adults in Ireland. The Regulations should clearly say that the reason that relevant bodies can share the special categories of personal data of at-risk adults is because it is substantially in the public interest to protect at-risk adults from harm in Ireland.

Regulations are laws created by ministers or other public bodies under powers given to them by Acts of the Oireachtas.

Guidance and codes of conduct be published to clarify information sharing in the adult safeguarding context

There should also be guidance or codes of conduct published on when and how bodies can share the personal data and special categories of personal data of at-risk adults where at-risk adults need to be protected from harm. The guidance or codes of conduct should include examples to explain when and how bodies can share data to protect at-risk adults from harm. Having published guidance or codes of conduct would help bodies to understand information sharing in the adult safeguarding context. It would also help them to feel comfortable or confident that they are sharing at-risk adults' information in line with data protection laws.

Chapter 17: Adult safeguarding reviews

What is this chapter about?

In chapter 17, we recommend that adult safeguarding reviews should be introduced in Ireland. These are reviews of very serious incidents that involve at-risk adults. These reviews are about learning from an incident that happened to an at-risk adult and making sure it doesn't happen again. We think adult safeguarding reviews should take place in all care settings where an at-risk adult may be present, even those outside of health and social care settings. These reviews should only be required to take place for very serious incidents that meet the conditions we identify for when a review must be carried out. We do not have adult safeguarding reviews in Ireland, but there are many other types of reviews that do take place when a serious incident occurs.

How do serious incident reviews work in Ireland?

Currently, there are many different types of reviews that can occur when a serious incident happens to an at-risk adult. Often, similar incidents are dealt with in different ways, and nobody knows exactly why. This could mean that serious incidents which are not in the media or publicly known are not being reviewed properly, or at all.

What do other countries do?

In other countries like England, Scotland and Wales, adult safeguarding reviews must be done when a serious incident happens to an at-risk adult that meets certain conditions. These reviews usually take place where:

- the person dies; or
- it is known or suspected that they are being abused or neglected; and
- it is believed that organisations responsible for adult safeguarding could have done more to help them.

These reviews are completed by Safeguarding Adults Boards or Adult Protect Committees. These boards and committees are made up of organisations responsible

for adult safeguarding. They work together to prevent harm to at-risk adults and to figure out how adult safeguarding processes can be improved.

Safeguarding Adults Boards or Adult Protection Committees can also decide to complete a review of a serious incident that does not meet the conditions above. They can do this if they believe that it would be useful to learn from this incident.

What are we suggesting?

Make new laws to require adult safeguarding reviews

We believe that adult safeguarding reviews should be introduced in Ireland and we think this should be done by making new laws.

These adult safeguarding reviews we suggest will be in addition to (and not replace) all the current reviews in Ireland, such as reviews by regulators or general incident reviews by the HSE. Those reviews are mostly focused on assessing whether action needs to be taken immediately to prevent further harm to at-risk adults.

The adult safeguarding reviews that we suggest will focus on learning how adult safeguarding systems and services can be improved. We believe that adult safeguarding reviews should only be required to take place where a very serious incident occurs in relation to an at-risk adult that meets specific conditions. We list suggested conditions below.

The reviewing body can also decide to carry out an adult safeguarding review where the specific conditions are not met. It may do this if it believes that it would be useful to learn from the incident.

Who should do these reviews?

We have not indicated who should do adult safeguarding reviews, because there are a lot of things to consider, like policies and resources. These are not part of our project. Instead, we believe it should be left to the government to decide who should be the reviewing body. In Chapter 6, we talk about why the reviewing body should not be the Safeguarding Body. We also talk about things to consider if the

government decides that regulators should be the reviewing body. The government can consider these views when deciding who the reviewing body should be.

What principles should apply to adult safeguarding reviews?

We believe that the following principles should apply to adult safeguarding reviews:

- Reviews should focus on learning and not to blame people, agencies or organisations.
- Reviews should be done the same way every time and findings should be shared publicly if possible.
- All very serious incidents involving at-risk adults that meet the conditions below should be dealt with in the same way, regardless of what setting they occur in. (See below “What are the conditions for doing an adult safeguarding review?”)
- Reviews should be finished and shared as soon as possible – they should not continue for many years.
- Reviews should involve everyone, including at-risk adults, their families, independent advocates, staff and service providers.
- The reviewing body should also assess the outcome of reviews and check progress to make sure the reviews are making improvements to adult safeguarding systems and services.
- Where the reviewing body decides that a public body, agency, service or service provider needs to make improvements, they should let the reviewing body know about the steps they will take to make improvements.

What are the conditions for doing an adult safeguarding review?

The reviewing body **must** undertake an adult safeguarding review if:

- (1) an at-risk adult dies and the reviewing body knows or suspects that this was because someone abused or neglected them when they were responsible for the at-risk adult’s care;

or

- (2) an at-risk adult does not die, but the reviewing body knows or suspects that someone is or was seriously abusing or neglecting the at-risk adult;
and
- (3) an incident (or incidents) happened that shows that one or more public bodies, agencies, services or service providers responsible for caring for at-risk adults significantly failed to prevent harm to at-risk adults.

We also believe that the reviewing body should be able to decide to do a review at other times. These would be times when the reviewing body thinks there is a chance of learning something about preventing harm or how to get better at keeping at-risk adults safe.

When can the reviewing body decide not to review, or to stop or pause a review?

We believe that the reviewing body should be able to decide not to do an adult safeguarding review, or stop or pause a review if:

- someone else is reviewing or investigating the incident;
- a long time has passed from when the incident took place and for that reason the reviewing body thinks it is not necessary to do a review;
- the problems related to the incident have been addressed;
- there are criminal proceedings ongoing regarding the incident; or
- the incident is being investigated by the Gardaí.

Powers to get information

To do these adult safeguarding reviews, the reviewing body needs to be able to get information about what happened. We suggest that the reviewing body should have legal powers to get this information and talk to the people involved in the serious incident. They should also be able to ask a court for help if people refuse to give them relevant information or talk to them.

Chapter 18: Regulation of professionals and occupational groups

What is this chapter about?

In chapter 18, we talk about the people who work in caring and support jobs that are not regulated by the law. For some professions, like doctors and nurses, there are clear laws about how people should do their jobs and about what happens if they don't do their jobs properly. For professions that aren't regulated, the situation is not as clear.

Chapter 18 assesses how good the checks are before someone gets a job to make sure they're safe to work with at-risk adults. It also looks at what other countries do to manage and monitor jobs or types of work that are not regulated, and talks about "barred lists" in the UK. These lists have information about people who aren't allowed to work with children or adults because of their past behaviour or previous criminal convictions.

How does Irish law deal with professions that are not regulated?

Currently in Ireland, the law does not deal as well as it should with a situation where someone in a profession that is not regulated is linked to abuse or neglect of an at-risk adult. The issues are:

- There are not enough measures to stop them from getting another job in the same field and possibly causing harm to at-risk adults.
- There are no set training standards for healthcare assistants or healthcare support assistants, and there's no system to check on people after they get the job.
- For some jobs, the law says that people must be Garda vetted (checked to see if they have a criminal record or any history that might pose a threat to a "vulnerable person"). However, people don't have to be re-vetted every few years after they've gotten a job and been vetted for the first time.

What changes to the law do we recommend for unregulated professions?

We suggest that health care assistants and healthcare support assistants should be regulated in Ireland. We agree with what the HSE said about the role and function of health care assistants and healthcare support assistants in its 2018 review.

The government wrote a law called the National Vetting Bureau (Children and Vulnerable Persons) Act 2012. It wrote it to introduce a process where people have to be re-vetted by the Gardaí. However, this law hasn't come into force yet. We recommend that it should come into force soon.

We don't think it's a good idea to make barred lists of people, because these lists don't sit well with the Constitution of Ireland and might affect peoples' rights under the Constitution. Instead, we think the government should create new laws that allow the courts to make "prohibition orders" to stop someone from working in certain jobs for a specific period of time if they are convicted of certain crimes.

These crimes should include any crime where the victim was a "relevant person". We explain this term in the next chapter, chapter 19. We use it when making new crimes because it's important for the criminal law to be precise about who is protected. The order could last as long as the longest amount of time that someone could be sent to prison for the particular crime.

A person would be breaking the law if they:

- try to get a job the order says they're not allowed to do;
- try to make someone else hire them for a job the order says they're not allowed to do; or
- do work the order says they're not allowed to do while the order is in place.

Chapter 19: Adult safeguarding and the criminal law

What is this chapter about?

In chapter 19, we talk about how we can change Irish criminal law to better safeguard at-risk adults. We recommend creating new crimes to keep at-risk adults safe from harm and to punish those who commit crimes against at-risk adults. We think these new crimes, along with the other changes to the law that we recommend in our Report, would help prevent harm to at-risk adults.

What laws exist now?

In Ireland right now, there aren't many laws that make it a crime to abuse or neglect at-risk adults. The criminal law protects everyone including at-risk adults. But it's often hard to prove someone abused or neglected an at-risk adult, especially if the at-risk adult is unable to tell the Gardaí, the court or the jury about what happened. For example, an at-risk adult may not remember what happened, or may not remember everything that happened. They may not understand what has happened to them either.

While there are specific crimes to keep children safe from harm, there are no specific crimes to keep at-risk adults safe from harm. We think that the criminal law should be changed in Ireland to create specific crimes against certain at-risk adults.

Who is a relevant person?

Throughout our report, we've used the words "at-risk adult" to talk about adults who might be at risk of harm. In this chapter, and in the proposed offences, we use "relevant person" to describe particular at-risk adults because it's important for the criminal law to be precise about who is protected by the law. This means the offender will be aware that they are committing a crime if they take or fail to take certain actions which concern a "relevant person".

We define a “relevant person” as an adult whose ability to keep themselves safe from harm is seriously affected because they have:

- a physical disability, are frail, sick or injured;
- an intellectual disability;
- a mental disorder such as a mental illness or dementia; or
- autism (called ‘autism spectrum disorder’ in the law).

We know that some people find terms like “mental disorder” or “autism spectrum disorder” offensive. The Commission thought hard about what terms should be used. We need to use precise terms for the criminal law. These terms are used in laws and court cases. The National Disability Authority also said in a recent document that sometimes “medical language” needs to be used in laws.

What do we recommend?

We recommend the following new crimes are put in the criminal law:

- Abusing, neglecting or ill-treating a relevant person
- Exposing a relevant person to a risk of serious harm or sexual abuse
- Coercive control of a relevant person
- Coercive exploitation of a relevant person.

We talk about each of these new crimes that we recommend below.

Abusing, neglecting or ill-treating a relevant person should be a crime

We think there should be a law, similar to a law we already have for children, that makes it a crime to:

- abuse or neglect a relevant person, or
- ill-treat a relevant person.

In order to commit this crime, we do not think that it is necessary to prove that the relevant person was actually harmed. This means, for example, that if the crime is

committed against a person with dementia, they would not need to tell the jury or the court what happened to them for a person to be convicted of the crime. This should make it easier for people to be convicted of this crime.

This crime would apply to anyone who takes care of a relevant person or who lives with them and purposely or carelessly abuses them, neglects them, or ill-treats them, which could damage their health or seriously affect their well-being.

Exposing a relevant person to the risk of serious harm or sexual abuse should be a crime

In Ireland, it's already a crime to put a child in a situation where they could be seriously harmed or sexually abused.

We want to introduce a similar crime in relation to relevant persons where a person exposes them to a risk of serious harm or sexual abuse. This crime would apply where:

- a person is a "person in authority" (a person in charge) of the relevant person, or the abuser (for example, the owner or manager of a nursing home); or
- they control the care of the relevant person or the abuser; or
- they control how the abuser provides care to the relevant person.

The crime would apply if a person or body failed to take reasonable steps to protect a relevant person even though they knew there was a risk that they would be seriously harmed or sexually abused.

We think serious harm should include both physical harm **and** psychological harm that significantly affects a relevant person.

Coercive control against a relevant person should be a crime

We are also aware of the limitations of the current law that makes coercive control a crime in the context of keeping at-risk adults safe from harm. In this scenario, coercive control means controlling someone in a way that makes them feel trapped or afraid.

The current law only applies to partners or ex-partners and married couples. We do not suggest changing this law to include more types of relationships. Instead, we suggest a new crime of coercive control against a relevant person. This would exist in the criminal adult safeguarding laws that we suggest should be introduced in Ireland.

The crime of coercive control against a relevant person would apply to:

- anyone who has a family or caring relationship with a relevant person, or
- any person who lives with a relevant person.

This new law would be based on the existing law against coercive control, but it would be in criminal adult safeguarding law.

Coercive exploitation should be a crime

We also recommend a new crime of coercive exploitation against a relevant person be created. This crime does not exist in Ireland, although there are crimes to protect against stealing, fraud and deception. This new crime would deal with serious issues like:

- 'cuckooing' and
- 'mate crimes'.

We look at each of these two issues in turn followed by where coercive exploitation should apply.

Cuckooing – this is a term to describe situations where at-risk adults are taken advantage of by others in their community, usually by someone taking control of the at-risk adult's home. At-risk adults may be targeted because they are older and live alone, or because they have a disability and may have difficulties protecting themselves from harm.

Sometimes the at-risk adult does not know that they are being taken advantage of because they think the person is their friend and they want to help them out or spend time with them. If this happens, the situation can quickly get out of their control. These situations often involve another person or group of people using the at-risk adult's home or resources for illegal activities, anti-social behaviour or for their

own benefit (for example, to live rent free). This can harm the at-risk adult's health, safety, well-being and financial resources.

Mate crime – this is a term to describe a situation where a person becomes friends with an at-risk adult in order to take advantage of them. This may involve someone asking an at-risk adult for lots of money on a regular basis and never paying them back. It could also involve someone asking the at-risk adult to do things, for example, sell drugs or store weapons.

Mate crimes can mean that the at-risk adult does not have the money to look after their own needs, or it could mean they are being asked to commit crimes themselves. Usually, these things happen because the at-risk adult trusts the other person, and wants to make them happy.

We believe that a specific crime is needed to address this kind of exploitation. This type of exploitation does not always involve violence or deception but can still be very harmful to at-risk adults.

We believe the crime of coercive exploitation occurs when someone uses controlling or coercive behaviour to access or control the property or financial resources of a relevant person:

- for their own advantage; or
- the advantage of someone else.

Chapter 20: A regulatory framework for adult safeguarding – implementation and a whole of government approach

What is this chapter about?

Chapter 20 talks about the roles of different bodies and government departments in our regulatory framework for adult safeguarding. This chapter explains how bodies and government departments should work together to make sure that at-risk adults are kept safe from harm.

Why is this important?

At the moment, different bodies and government departments do different things to keep at-risk adults safe from harm. However, to be truly effective, it is important that everyone works together and cooperates. This is also important because at-risk adults may deal with many different bodies and government departments.

These bodies and departments should aim to work together to keep at-risk adults safe from harm. It should not be the job of just one body or government department to keep at-risk adults safe from harm. Adult safeguarding should be important to everyone.

How do we think the government departments should work together?

We think the government departments need to work together in different ways.

1. One main department to lead

Firstly, we think the government should decide which department should be the main one responsible for keeping at-risk adults safe from harm. It will have responsibility for coordinating the government's adult safeguarding policy, and coordinate with other departments.

2. Group across different government departments

Secondly, the different government departments should then set up a group that focuses on keeping at-risk adults safe from harm, and discusses whether any changes are required to the law, or to policy, to improve adult safeguarding. All the government departments that are members of the group will be involved in keeping at-risk adults safe from harm. This means that all relevant departments take responsibility for adult safeguarding, and not everything is left to the lead department.

3. Individual departments' plans

Finally, along with the work in this group, each individual department should make a plan for the work they have to do themselves to keep at-risk adults safe from harm. This should apply only to departments selected by government.

Who should receive guidance on these new laws?

We think that our new civil and criminal laws would make a big difference to keep at-risk adults in Ireland safe from harm. However, these laws can only do so much, we also need "statutory guidance" that explains how adult safeguarding laws should be applied in practice by certain people or organisations. There must be statutory guidance for:

- the Safeguarding Body;
- public bodies;
- service providers; and
- individuals.

They need statutory guidance to make sure they understand what they must do under the new laws to protect at-risk adults from harm.

This is the end of the plain English summary of our full Report. If you would like further information, you may wish to read the other versions of the Report or view our video. We list these on the following pages in the Appendix.

Appendix: Different versions of our Report on a regulatory framework for adult safeguarding in Ireland

This following list tells you about different versions of our Report, including a video.



We include different versions of the full Report for readers. We give a brief description below of each version and who it is mainly for. We have also produced a 3-minute video about our main recommendations.



Full Report

Go to www.lawreform.ie

This is a long report with the complete details of our work and our recommendations for law reform. Anyone can read this report, but it may be most suited to readers who understand legal language, and the current context of adult safeguarding.

This includes:

- people working in the government;
- lawyers; and
- health and social care workers.

(This is over 1,000 pages.)



Summary of Full Report [\[Available Here\]:](#)

This is a shorter document which summarises our Report. Anyone can read this document. However, it may be most suited for readers who understand legal language, and the current context of adult safeguarding, but have limited time or want an overview of what our Report says. (This has 59 pages.)



Plain English report

Anyone can read this report, but it may be most suited to readers who are not familiar with legal language or the details of adult safeguarding. It includes a glossary of specialist legal and other terms.

This will be available on our website soon.



Plain English summary

You have just read this summary. The National Adult Literacy Agency (NALA) edited this summary in collaboration with the Law Reform Commission.



Easy-to-read report

This version of the report uses short sentences and pictures to explain each point. It may be most suited to readers who are not familiar with legal language or the details of adult safeguarding. It may also be useful for:

- visual readers,
- people who speak English as a second language, and
- people who find it hard to read and write.

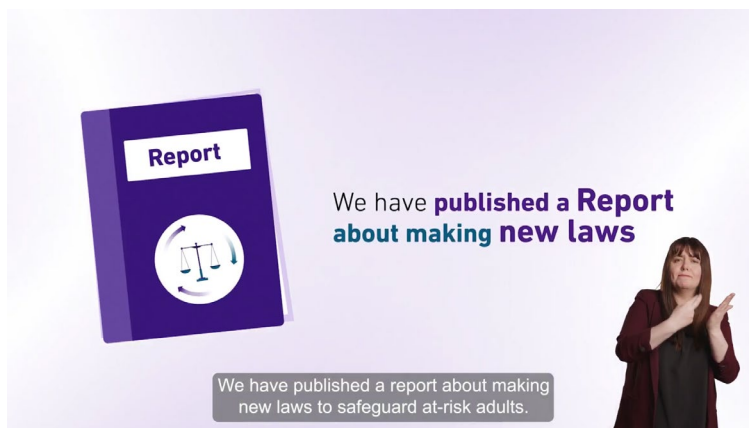
This will be available on our website soon.

Easy-to-read report summary [\[Available Here\]](#)

This is a shorter document which summarises our Report, and uses short sentences and pictures to explain each point. It may be useful for:

- visual readers,
- people who speak English as a second language,
- people who find it hard to read and write, and
- people who are in a hurry.

Video of the Report [\[Available Here\]](#)



We have also made a video that explains our Report and our recommendations. It has information on screen and animations to help explain each point.

The video also includes a:

- voiceover in English;
- English subtitles; and
- Irish Sign Language provided by an Irish Sign Language interpreter.

We hope that all these versions make our Report accessible to everyone.

Anyone can read, or watch, whatever version they think works for them.