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BMA NI response to Adult Protection Bill: legislative options

Dear Sir/Madam

The British Medical Association (BMA) is an apolitical independent trade union and professional association representing doctors and medical students from all branches of medicine across the UK. Our mission is we look after doctors so they can look after you. BMA Northern Ireland welcomes the opportunity to comment on the legislative options for an adult protection bill.

BMA NI supports the introduction of additional protections to strengthen and underpin the adult protection process, in conjunction with the current regional policy, '*Adult Safeguarding Prevention and Protection in Partnership Policy*.'

BMA NI accepts that adult protection is a challenging area, particularly where adults have relevant decision-making capacity. A difficult balance needs to be drawn between respecting an adult individual's decision-making freedoms and a welfare-based obligation to protect them from harm. In light of this, BMA NI seeks clarification on how practitioners and organisations navigate the legal and human rights frameworks for those adults who are deemed to be at risk, but who retain capacity and their legal rights to decision making remains. A significant programme of training with accompanying guidance will be essential.

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British Medical Association
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Definition

In relation to the definition of an adult at risk and in need of protection we accept that 'harm' in the absence of abuse, neglect or exploitation is a broader issue. It could however be an early indication of the potential for abuse, neglect or exploitation in the future. We welcome that the consultation document acknowledges this, and that guidance and training will be required (2.16). It would also be useful to read across to the Domestic Abuse and Civil Proceedings Act (Northern Ireland) 2021, especially in relation to patterns of controlling and coercive behaviour that extend beyond the immediate family circle.

The definition of 'serious harm' needs further consideration as it is difficult for this to be accurately defined and codified in legislation, which could result in too many or too few being protected. A single event may constitute serious harm or a build up of concerns or a series of incidents could also give rise to serious harm over time.

The definition of serious harm could also present differently for certain groups of people depending on their characteristics and or, clinical factors. Importantly however, it is essential that these decisions are based upon clinical factors related to outcome, and not, for example, on the basis of discriminatory judgments about the value or worth of individual lives¹.

Mandatory reporting

The proposals in the consultation document include mandatory reporting where there are risks of concern, rights of entry to interview an adult at risk, as well as rights of access to financial information. The BMA has often raised concerns about mandatory reporting in a variety of welfare-oriented contexts, largely because there may be unacknowledged downsides and also out of a more principled respect for adult decision-making freedoms. BMA NI seeks clarification on whether the consent of the adult at risk will be sought at this time. In addition, we would recommend some further analysis on the possible unintended consequences of mandatory reporting.

General Practice

General practice as small independent providers have specific issues that will need to be addressed. Drawing on their experience of working with child safeguarding and protection over the years, GPs need to have access to clear and unambiguous processes and direct contact with the safeguarding teams in the wider HSC. We previously provided information to the department on '*Information sharing for child protection*' in April 2019 and sought clarity across a number of issues such as information sharing, third party information and when to report. Our GP committee are happy to work with the department when developing guidance.

¹ <https://www.gmc-uk.org/ethical-guidance/ethical-hub/adult-safeguarding>

Resources from BMA

BMA has developed a number of resources that are relevant to these legislative options:

- Adult Safeguarding toolkit - <https://www.bma.org.uk/advice-and-support/ethics/safeguarding/adult-safeguarding-toolkit>
- Seeking patient consent toolkit - <https://www.bma.org.uk/advice-and-support/ethics/seeking-consent/seeking-patient-consent-toolkit>

Once again we would like to thank you for the opportunity to respond to this consultation, should you require any further information please contact Jenna Maghie, senior policy executive at jmaghie@bma.org.uk in the first instance.

Yours sincerely



Dr Tom Black
Chair
BMA NI Council