

Meeting of the Health and Adult Social Care Scrutiny Committee – 14th November 2022

Report of the Director of Adult Social Care

Annual Adult Safeguarding Report and Deprivation of Liberty Safeguards (DoLS)

Purpose of report

1. This report is being provided to highlight the work completed relating to adult safeguarding and to demonstrate the preparation and work required in relation to the forthcoming Liberty Protection Safeguards (LPS).

Recommendations

2. It is recommended that the Scrutiny Committee
 - Considers and comments on the Dudley Safeguarding Adults Board's Annual Report for 2021/2022.
 - To consider the above and suggest any specific actions in relation to the preparation for Liberty Protection Safeguards (LPS)
 - To ensure that all stakeholders are aware of the legal changes in relation to preparation for Liberty Protection Safeguards (LPS) and promote the co-production of process and procedures.

Background

3. The Dudley Safeguarding People Partnership (DSPP) Priorities are:
 - Neglect across the life course
 - Preventing Harm across the life course
 - Exploitation across the life course

Key Achievements during 2021/2022

4. The local authority continues to experience increased numbers of safeguarding concerns. Despite this increase, using an agreed threshold tool and a consistent approach to decisions relating to Section 42 enquiries, the conversion rate across the directorate remains stable. This establishes the threshold documentation is being successful. See appendix 1.
5. Citizen and professional portals have been introduced via the Safeguarding Board (DSPP) and local authority websites. This increases diversity of access and allows new concerns to be input directly to the Liquid Logic electronic recording system. Referrers can be informed of outcomes more easily and securely and portal forms have been extensively tested with citizens to ensure they are easy to navigate and understand and there has been positive feedback.
6. Delegated portals have been developed providing a safer, quicker, and more robust process of information gathering between partners. This ensures all information pertaining to a safeguarding concern is recorded together transparently and securely, creating greater clarity in decision making and reducing room for error when storing sensitive data. Partners commitment and resilience during this change has been key to its success and demonstrates close professional relationships across all agencies and commitment to improve the outcomes for citizens.
7. The local authority has developed a recording and reporting system to populate high level data score cards which will continue to be developed 2022-2023 linked to audits and measured outcomes. This data collection system is to be mirrored across the Safeguarding partnership to increase access to robust data and improve practice.
8. The Person in a Position of Trust (PiPoT) policy and process has been updated and a pilot system implemented to enable a more robust measurable system to be initiated. Although this is a duty of the local authority it is overseen by the Safeguarding Board which provides governance.
9. The local authority continues to proactively triage and provide assessments through the Deprivation of Liberty Safeguards ensuring people have access to a legal framework and their human rights are protected.
10. The local authority works with its partners to support providers who are experiencing safeguarding issues prior to decisions being made to move into a large-scale investigation as directed by the Care Act 2014, the

support offered to organisations helps to minimise risk and provide support to organisations and the residents, carers, and family members.

11. The organisation and its multi-agency partners continue to successfully manage an increased number of Safeguarding Adult Reviews (SARs). This is complemented by thematic reviews and processes that are being revised. Learning from Safeguarding Adults Reviews is identified and how this is embedded into practice is audited.
12. The Safeguarding Adults at Risk team promotes trauma informed practice working with adults at risk who often present in crisis to services but are hard to engage and do not meet the criteria of other services.

Preparation for Liberty Protection Safeguards (LPS)

13. Deprivation of liberty safeguards (DoLS) and deprivation in the community will be replaced by the Liberty Protection Safeguards. The initial implementation date of April 2022 was not enacted but the government have advised that the changes will still take place, but it may be April 2023 or October 2023. However, preparations have to continue to ensure the local authority and their partners are ready to meet their statutory obligations.
14. Once enacted any new deprivations will be under LPS regulations and all DoLS will cease once they reach authorisation end date or if there are any changes. Therefore, both systems will run concurrently for up to 12 months. The LPS covers 16+ with implication for Childrens services, new statutory responsibilities for ICB, Acute Hospitals and Mental Health Trusts. The LPS is embedded in the Mental Capacity Act (MCA) and care planning with greater expectation for any assessments for care or placement provision to be MCA compliant, within agreed timescales with formal involvement of family or Independent Mental Capacity Advocate (IMCA). The Best Interest Assessor (BIA) role will go and there will be a new role of Approved Mental Capacity Professional (AMCP). The local authority will have a duty to ensure there are enough AMCP available for the area and approve their practice and re approval, but they will not necessarily employ them.
15. The Code of Practice Consultation closed in July 2022 and all stakeholders await feedback from the government on the consultation and any proposed changes to the scheme. Once agreed it will then be laid before Parliament for 42 days and it should be published six months before legislation is enacted but this is not a legal requirement. As well as the Code we have not seen the finalised Impact Assessment; Regulations or training framework. The Training framework seen to date indicates there will be levels of training needed from basic awareness for

everyone to specific training for the Necessary and Proportionate assessors and the AMCP, but this is not the finalised version.

16. ADASS (Association of Directors of Adult Social Services) West Midlands seconded Lorraine Currie (DoLS Regional and National LA Lead) to offer support and guidance on the implementation of LPS.
17. The Safeguarding Board oversees the preparation for implementation by its partners which provides strategic assurance and promotes interagency collaboration where applicable. Single agencies also have working groups to look at resources, practice, process, and risks. Dudley's project group is chaired by the Head of Adult Safeguarding and feeds back to the Adult Social Care Leadership Team as well as the Safeguarding Board. The regional DoLS Leads group meet bi-monthly so that any planning or learning can be shared regionally which will also assist with benchmarking. The Head of Adult Safeguarding attends and feeds back to the local authority and the Safeguarding Board. The local authority corporate and partnership positions will be informed by information being provided from the local task and finish group and project groups with partners.
18. Information has been disseminated and discussed with the Successor Project, Adult Social Care LAS, and Children's LCS information management systems to look at the necessary planning required to ensure systems are fit for purpose for LPS and statutory data returns are built in.
19. The demand for LPS assessment cannot be accurately identified at this juncture as there will be a transitional period from DoLS to LPS and there is little robust data on potential deprivation of liberty for 16 and 17 year-olds and people in the community. Additionally, mechanisms for identification of individuals will only be confirmed on receipt of the finalised Code of Practice. The lack of a Code of Practice is also negatively impacting on our and our partners ability to train staff accordingly, but the local authority is currently working to identify the number of staff who will require training in the area of statutory provision and the communication pathways required for engagement with stakeholders and citizens of Dudley. These issues are being monitored closely through the established sub-groups at a local and regional level.
20. To promote general awareness the Safeguarding Board in consultation with partners has launched an E Learning LPS awareness as part of its training offer which can be accessed by citizen's carers and partners.
21. In conclusion, LPS will be a major change which has implications for Adult and Childrens services and although the finer detail is not known it is

imperative planning is undertaken as there are significant risks. Recommendations, decisions, or actions required It is recommended that:

- To consider the above and suggest any specific actions.
 - To ensure that all stakeholders are aware of the legal changes and promote the co-production of process and procedures. To develop a multiagency training strategy which support and informs the workforce to meet the legal requirements of this significant change.
 - The Safeguarding executive and board continue to provide a scrutiny function of the safeguarding arrangements in Dudley MBC, the Independent Chair and the Director of Adult Social Care seek assurances where required. Additionally, the arrangements benefit from internal audit and where required external peer review
22. For Adult safeguarding there was extensive consultation on the implementation of the portals and for LPS and there will be consultation with stakeholders including citizens and providers once the Code of Practice is finalised.
23. There are alternative options to the portals to provide diversity of access. Adult safeguarding and LPS is a statutory requirement and there are no viable alternatives.
24. No known conflicts of interest.
25. Adult Safeguarding and LPS is a statutory requirement. Adult Social Care needs to be prepared and have sufficient resources or there is a risk to vulnerable adults in Dudley and the Local Authority for non-compliance with a statutory duty.

Finance

26. The change in legislation for LPS requires a final impact assessment from the Government which outlines resources required to implement the changes. The Local Authority has provided financial resources to ensure it meets its statutory duties. The Safeguarding Board is financially supported by the Local Authority, West Midlands Police and Dudley CCG.

Law

27. The Local authority will be apprised of and will adhere to the requirements of the following legislation:
- 1) The Human Rights Act 1998
 - 2) The Mental Health Act 2007
 - 3) The Mental Capacity Act 2005
 - 4) The Care Act 2014
 - 5) The Mental Capacity Amendment Act 2019

This is not an exhaustive list.

Risk Management

28. A lack of appropriately trained staff would prevent us from meeting our statutory duties. If the Local authority were unable to train or secure an appropriate number of professionally qualified people to complete Mental Capacity assessments, Necessary and Proportionate assessments and act as Approved Mental Capacity Professional citizens would be at risk of being illegally detained within the community, nursing and residential settings. This would place the Local authority at risk of legal challenge as this may lead to citizen's Human Rights being breached.

Equality Impact

29. The West Midlands Safeguarding Procedures with Making Safeguarding Personal (MSP) at the centre are implemented within Dudley and are consistent with Equal Opportunities and promote equality of opportunity, access and person-centred practice. The preparation for LPS and the Mental Capacity Amendment Act 2019 are grounded in the Human Rights Act 1998 and ensure that diversity and inclusion are central to all provision.
30. There are no significant equality impacts identified to warrant an Equality impact assessment.
31. The Safeguarding Board operates across the Life course promoting whole life policies, procedures, and partnerships. Adult Safeguarding has a close working relationship with the Children's Multi Agency Safeguarding Hub (MASH), Children's Services and partners and ensures it operates a "think family approach" throughout.
32. LPS will impact on young people 16+ and consultation is ongoing with Children's services, wider partnerships, and applicable young people's

forums to ensure all stake holders are involved in the preparation and planning.

Human Resources/Organisational Development

33. To meet the requirements of LPS there are workforce development issues and HR are sighted on the planning and preparation which links into the wider recruitment and retention strategy.

Commercial/Procurement

34. There are no commercial or procurement implications in relation to the contents of this report.

Environment/Climate Change

35. Adult Safeguarding looks to promote sustainable development goal 3, Good Health and Wellbeing, through the use of hybrid methods of meetings such as weekly team huddles to share good practice and virtual meetings with performance and wellbeing being monitored in person and remotely. A mix of face to face and virtual meetings and assessments continue to be used to meet the requirements of the citizen, carer, team, and organisation. The hybrid mix has increased productivity due to reduced travelling times and ability to attend multiple online meetings where required and the reduction in car journeys reduces emissions.

Council Priorities and Projects

36. Through safeguarding arrangements and preparation for LPS individuals are supported to live their lives as safely as possible while empowering them to work towards the outcomes they desire. The service ensures through Making Safeguarding Personal (MSP) and the necessary and proportionate and least restrictive principles built into the preparations for LPS this supports the Borough Vision "A place of healthy, resilient, safe communities where people have high aspirations and the ability to shape their own future". The safeguarding arrangements in Dudley are consistent with building stronger, safer, and more resilient communities to protect our residents' physical, and emotional health for the future.
37. The service will adhere to the declared position of the organisation.

The service will ensure the Human Rights of the individual are considered and assured.

38. Digital and information technology - Preparation for LPS includes discussions with the internal Successor Board and Liquid Logic Adults Social Care System providers.

M. Bowsher.

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Appendices

Appendix 1 – Data summary for Adult Safeguarding– September 2022
Appendix 2 - Dudley Safeguarding Adults Board's Annual Report for 2021/2022