

REPORT TO: Health Policy & Performance Board
DATE: 17 June 2014
REPORTING OFFICER: Strategic Director, Communities
PORTFOLIO: Health & Wellbeing; Community Safety
SUBJECT: Safeguarding Adults update
WARD(S) Borough-wide

1.0 **PURPOSE OF THE REPORT**

1.1 To update the Board on key issues and the progression of the agenda for safeguarding 'vulnerable adults' (i.e. adults at risk of abuse) in Halton.

2.0 **RECOMMENDATION: That: The Board note the contents of the report**

3.0 **SUPPORTING INFORMATION**

3.1 The Deprivation of Liberty Safeguards (DoLS) are one aspect of the Mental Capacity Act (2005). The Safeguards are to ensure that people in care homes and hospitals are cared for in a way that does not inappropriately restrict their freedom, and if necessary restrictions are only applied in a safe and correct way, and that this is only done when it is in the best interests of the person and there is no other way to provide appropriate care.

3.2 The recent Supreme Court ruling P v Cheshire West and Chester and P and Q v Surrey Council is significant in the determination of whether arrangements made for the care and/or treatment of an individual lacking capacity to consent to those arrangements amount to a deprivation of liberty.

3.3 A deprivation of liberty for such a person must be authorised in accordance with one of the following legal regimes: a deprivation of liberty authorisation or Court of Protection order under DoLS in the MCA 2005, or (if applicable) under the Mental Health Act 1983.

3.4 The ruling has clarified that there is now a revised test for a deprivation of liberty and two key questions that should be asked are:

- Is the person subject to continuous supervision and control?

- Is the person free to leave?

The focus is not on the person's ability to express a desire to leave, but on what those with control over their care arrangements would do if they sought to leave. The recent judgment is significant in the determination of whether arrangements made for the care and/or treatment of an individual lacking capacity to consent to those arrangements amount to a deprivation of liberty.

- 3.5 The judgment is important as it holds that a DoL can occur in a domestic setting where the State is responsible for imposing those arrangements. This will include a placement in a supported living arrangement in the community. Hence, where there is, or is likely to be, a deprivation of liberty in such placements that must be authorised by the Court of Protection.
- 3.6 An action plan is currently being developed to fully scope and address the implications. It is anticipated that this will place an extra burden on the Council in terms of an increase in the number of applications to the Court of Protection and the number of DoLS cases will be significantly greater than previously assumed.
- 3.7 In November 2013 Halton joined the Making Safeguarding Personal Project, an initiative supported by ADASS and the LGA. This work aims to facilitate a shift in emphasis from processes to a commitment to improve outcomes for people at risk of harm. The key focus is on developing a real understanding of what people wish to achieve, recording their desired outcomes and then seeing how effectively these have been met.
- 3.8 Councils taking part in this project were tasked with completing an impact assessment statement at the end of the project, providing aggregated measure outcomes and an anonymised case study highlighting how this approach had benefitted the individual involved in the case.
- 3.9 Halton's level of participation was at bronze level; this being the point that all Councils had to start with. Halton focused on the following two methods to:
- Establish what outcomes the person want at the outset and then a review of the extent to which they have been realised, and
 - Gather feedback from people who use services on their experience of the safeguarding adult process.

Currently Halton Safeguarding Adults Board receives performance data in relation to safeguarding adults however this data is unable to provide Board members with any real understanding of whether the safeguarding processes in Halton are making a difference for those

who are most vulnerable and at risk in the locality. On-going work from this project to embed this approach into day to day practice will change the nature of the performance data and will provide Halton Safeguarding Adults Board with a better understanding of people's experiences and thus serve to influence and improve the delivery of safeguarding services in Halton.

4.0 **POLICY IMPLICATIONS**

4.1 A review of existing policies and procedures will be completed in light of the Social Care Bill.

5.0 **FINANCIAL IMPLICATIONS**

5.1 None identified.

6.0 **IMPLICATIONS FOR THE COUNCIL'S PRIORITIES**

6.1 **Children & Young People in Halton**

Safeguarding Adults Board (SAB) membership includes a Manager from the Children and Enterprise Directorate, as a link to the Local Safeguarding Children Board. Halton Safeguarding Children Board membership includes adult social care representation. Joint protocols exist between Council services for adults and children. The SAB chair and sub-group chairs ensure a strong interface between, for example, Safeguarding Adults, Safeguarding Children, Domestic Abuse, Hate Crime, Community Safety, Personalisation, Mental Capacity & Deprivation of Liberty Safeguards.

6.2 **Employment, Learning & Skills in Halton**

None identified.

6.3 **A Healthy Halton**

The safeguarding of adults whose circumstances make them vulnerable to abuse is fundamental to their health and well-being. People are likely to be more vulnerable when they experience illhealth.

6.4 **A Safer Halton**

The effectiveness of Safeguarding Adults arrangements is fundamental to making Halton a safe place of residence for adults whose circumstances make them vulnerable to abuse.

6.5 **Halton's Urban Renewal**

None identified.

7.0 **RISK ANALYSIS**

7.1 Failure to address a range of Safeguarding issues could expose individuals to abuse and leave the Council vulnerable to complaint, criticism and potential litigation.

8.0 **EQUALITY AND DIVERSITY ISSUES**

8.1 It is essential that the Council addresses issues of equality, in particular those regarding age, disability, gender, sexuality, race, culture and religious belief, when considering its safeguarding policies and plans. Policies and procedures relating to Safeguarding Adults are impact assessed with regard to equality.

9.0 **LIST OF BACKGROUND PAPERS UNDER SECTION 100D OF THE LOCAL GOVERNMENT ACT 1972**

None under the meaning of the Act.