



# Adult Protection Bill

## Consultation Analysis Report

---

### Table of Contents

Adult Protection Bill.....	1
Summary Table .....	4
<b>Defining the scope of the Bill.....</b>	<b>12</b>
<b>Question 1 Part A - Do you agree with the title 'Adult Protection Bill' .....</b>	<b>12</b>
<b>Question 1 Part B – if no, what would you suggest as an alternative name.....</b>	<b>12</b>
<b>Summary of responses .....</b>	<b>13</b>
<b>Way forward.....</b>	<b>14</b>
<b>Question 2 - What are your views on a definition of 'adult at risk and in need of protection'? .....</b>	<b>14</b>
<b>Summary of responses .....</b>	<b>15</b>
<b>Way forward.....</b>	<b>16</b>
<b>Principles .....</b>	<b>16</b>
<b>Question 3 Part A - Do you agree with the list of principles proposed? .....</b>	<b>16</b>
<b>Question 3 Part B - If no, what would you suggest as an alternative approach?.....</b>	<b>16</b>
<b>Summary of responses .....</b>	<b>18</b>
<b>Way forward.....</b>	<b>18</b>
<b>Question 4 Part A - What are your views on principles being set out on the face of legislation or in Statutory Guidance? .....</b>	<b>18</b>
<b>Question 4 part B – Please explain your answer .....</b>	<b>18</b>
<b>Way forward.....</b>	<b>19</b>
<b>Duties to (i) report and (ii) make enquiries.....</b>	<b>19</b>
<b>Question 5 Part A - Do you agree with mandatory reporting? .....</b>	<b>19</b>
<b>Question 5 Part B - Should there be a new duty to report to the HSC Trust where there is a reasonable cause to suspect that an 'adult is at risk and in need of protection'? .....</b>	<b>20</b>
<b>Summary of responses .....</b>	<b>20</b>
<b>Way forward.....</b>	<b>21</b>

<b>Question 6 Part A</b> - Should a new duty be placed on HSC Trusts to make follow up enquiries? .....	21
<b>Question 6 Part B</b> – Further information .....	21
<b>Summary of responses</b> .....	22
<b>Way forward</b> .....	22
<b>Power of entry to interview an adult in private</b> .....	22
<b>Question 7 Part A</b> - What are your views on a power of entry to allow a HSC professional access to interview an adult in private? Do you think any additional powers should be available on entry?.....	22
<b>Question 7 Part B</b> – what additional powers should be available upon entry?.....	23
<b>Question 8</b> - How many times in the past 12 months, have you been aware of a situation where, had a power of entry existed, it would have been appropriate to use it? What were the circumstances? .....	24
<b>Summary of responses</b> .....	25
<b>Independent Advocacy</b> .....	26
<b>Question 9</b> - What are your views on statutory provision for independent advocacy in the context of adult protection? .....	26
<b>Summary of responses</b> .....	27
<b>Way forward</b> .....	27
<b>Independent Adult Protection Board</b> .....	27
<b>Question 10 Part A</b> - Do you agree that an Independent Adult Protection Board should be established and placed on a statutory footing?.....	27
<b>Question 10 Part B</b> - Please explain your answer.....	28
<b>Summary of responses</b> .....	29
<b>Way forward</b> .....	29
<b>Question 11 Part A</b> - Do you agree with the introduction of Serious Case Reviews? ...	29
<b>Question 11 part B</b> – please explain your answer .....	29
<b>Summary of responses</b> .....	30
<b>Way forward</b> .....	30
<b>Cooperation and information sharing</b> .....	30
<b>Question 12 Part A</b> - Do you agree with the proposal to introduce a duty to cooperate? .....	30
<b>Question 12 Part B</b> - Are there any aspects of the duty that you would change?.....	30
<b>Summary of responses</b> .....	31
<b>Way forward</b> .....	32
<b>Question 13 Part A</b> - Do you think there should be a new power to access an adult’s financial records as part of an adult protection enquiry? If yes, which organisations should be given this power? .....	32
<b>Question 13 Part B</b> - If yes, which organisation(s) should be given this power? .....	32

<b>Summary of responses</b> .....	33
<b>Way forward</b> .....	34
<b>Offences of ill-treatment and wilful neglect</b> .....	34
<b>Question 14 Part A</b> - Do you agree that new offences of ill treatment and wilful neglect should be introduced? .....	34
<b>Question 14 Part B</b> – Further information.....	34
<b>Summary of responses</b> .....	35
<b>Question 15 Part A</b> - Are there any new offences that should be considered? .....	35
<b>Question 15 Part B</b> - Please provide further detail.....	36
<b>Summary of responses</b> .....	37
<b>Way forward</b> .....	37
<b>Other Provisions</b> .....	37
<b>Question 16</b> - Are there any other provisions that you would like to see included in the Adult Protection Bill? .....	37
<b>Summary of responses</b> .....	39
<b>Way forward</b> .....	40
<b>Notes</b> .....	40
<b>Late responses</b> .....	40
<b>Incomplete responses</b> .....	40

# Summary Table

Questions	Summary of responses	Way forward
<b>Defining the scope of the Bill</b>		
<p><b>Question 1 Part A</b> - Do you agree with the title 'Adult Protection Bill'</p> <p><b>Question 1 Part B</b> – if no, what would you suggest as an alternative name</p> <p><b>Question 2</b> - What are your views on a definition of 'adult at risk and in need of protection'?</p>	<p><b>Title of the Bill</b></p> <p>A small majority of responses (52%) are in favour of the suggested bill title. The main issue raised centres on the Bill's purpose rather than its title, with a number of responses highlighting that they would like more focus on safeguarding as opposed to focusing exclusively on protection (19 of 64 – 30%). Others felt prevention should be given some consideration within the bill rather than focusing solely on protection (18 of 64 – 28%)</p> <p><b>Definition of an adult at risk</b></p> <p>A sizeable percentage of respondents (29%) were in agreement with the definition provided. 40% of respondents felt clarification was needed which may directly reference the need for statutory guidance. It is clear that terms included in the definition, such as</p>	<p>Retain the title as it stands: Adult Protection Bill.</p> <p>Include the definition for an adult at risk and in need of protection as is but with clear thresholds and accompanying statutory guidance that includes examples.</p>

	serious harm, needed to be clearly defined and thresholds for intervention also need to be clarified.	
<b>Principles</b>		
<p><b>Question 3 Part A</b> - Do you agree with the list of principles proposed?</p> <p><b>Question 3 Part B</b> - If no, what would you suggest as an alternative approach?</p> <p><b>Question 4 Part A</b> - What are your views on principles being set out on the face of legislation or in Statutory Guidance?</p> <p><b>Question 4 part B</b> – Please explain your answer</p>	<p>Further discussion is needed on this particular provision. Strong majority in favour of current principles (71% in agreement) but lots of additional suggestions made, including greater focus on families (10 of 66 responses to part B – 15%). More discussion is needed on the language used with some respondents finding it difficult to understand (8 of 66 responses to part B – 12%).</p> <p>There is a clear preference for the principles to be in legislation (68%) although there is also support for additional statutory guidance (8 of 72 responses to part B – 11%).</p>	Principles as agreed should be included on the face of the legislation.
<b>Duties to (i) report and (ii) make enquiries</b>		
<p><b>Question 5 Part A</b> - Do you agree with mandatory reporting?</p> <p><b>Question 5 Part B</b> - Should there be a new</p>	<p><b>Mandatory reporting</b></p> <p>There was broad agreement with the introduction of mandatory reporting (77% answered 'yes' to part A). However, a significant number of responses raised concerns about potential over-</p>	Introduce mandatory reporting with clearly defined thresholds and consideration given to additional resources and training required.

<p>duty to report to the HSC Trust where there is a reasonable cause to suspect that an 'adult is at risk and in need of protection'?</p> <p><b>Question 6 Part A -</b> Should a new duty be placed on HSC Trusts to make follow up enquiries?</p> <p><b>Question 6 Part B –</b> Further information</p>	<p>reporting (9 of 80 responses - 11%), the same number of responses (11%) referenced the need for additional resources for such a duty and many feeling thresholds for reporting needed to be clearly defined (11 of 80 - 14%).</p> <p><b>Follow-up enquiries</b> Strong majority in favour of follow-up enquiries (74% answered 'yes' to part A). A substantial number of responses felt additional resources (7 of 72 responses to part B – 10%) and training (10 of 72 responses to part B – 14%) would be needed to effectively implement this within the Bill.</p>	<p>Introduce follow-up enquiries, with clear thresholds and guidance.</p>
<p><b>Power of entry to interview an adult in private</b></p>		
<p><b>Question 7 Part A -</b> What are your views on a power of entry to allow a HSC professional access to interview an adult in private? Do you think any</p>	<p>There is overall support for the introduction of a Power of Entry (54 of 86 responses – 63%). However, it is clear that well defined thresholds for its use are required as well as clear guidance for those who will be entrusted with it.</p>	<p>Introduce a Power of Entry with clearly defined thresholds for use.</p>

<p>additional powers should be available on entry?</p> <p><b>Question 7 Part B</b> – what additional powers should be available upon entry?</p> <p><b>Question 8</b> - How many times in the past 12 months, have you been aware of a situation where, had a power of entry existed, it would have been appropriate to use it? What were the circumstances?</p>	<p>The Current Scottish legislation appears to be positively viewed (cited by 9 of 54 responses in agreement with PoE) and could be used as template, particularly in relation to any additional powers after entry.</p> <p>The issue of an individual’s consent (referenced in 5 responses) must also be given careful consideration, especially due to the potential impact with regards to Human Rights of this power (referenced in 9 responses).</p>	
<p><b>Independent Advocacy</b></p>		
<p><b>Question 9</b> - What are your views on statutory provision for independent advocacy in the context of adult protection?</p>	<p>There is broad agreement with the introduction of a statutory provision of independent advocates (46 of 62 responses – 74%) but consideration must be given to:</p> <ul style="list-style-type: none"> <li>• The level of independency advocates have and their links to the Trusts (referenced in 9 of 46 responses)</li> <li>• How this provision would dovetail with similar existing powers within the MCA (referenced in 9 of 46 responses)</li> </ul>	<p>Further consideration will be given to including independent advocacy within the legislation, including how it would be managed and resourced.</p>

	<ul style="list-style-type: none"> <li>Financial and training resources required to provide an adequate service (referenced in 12 of 46 responses)</li> </ul>	
<b>Independent Adult Protection Board</b>		
<p><b>Question 10 Part A</b> - Do you agree that an Independent Adult Protection Board should be established and placed on a statutory footing?</p> <p><b>Question 10 Part B</b> - Please explain your answer</p> <p><b>Question 11 Part A</b> - Do you agree with the introduction of Serious Case Reviews?</p> <p><b>Question 11 part B</b> – please explain your answer</p>	<p>Strong majority in favour of establishing the Board and placing it on a statutory footing (87% responded yes). The independence of the board is important to stakeholders (referenced by 13 of 66 responses to part B – 20%). The membership of the board is also important with suggestions for nurses, midwives and people with lived experience being referenced (referenced in 10 of 66 responses to part B – 15%)</p> <p><b>Serious Case Reviews</b></p> <p>The majority of respondents are in favour of the introduction of Serious Case Reviews (86% answered ‘yes’ to part A). There needs to be a focus on ensuring an outcomes based approach and that lessons learned from cases are implemented within a culture that is open to change (38 of 71 responses to part B – 54%).</p>	<p>Establish the board through legislation.</p> <p>Introduce Serious Case Reviews</p>



	Findings should be distributed to help positively influence best practice moving forward (14 of 71 responses to part B – 20%).	
<b>Cooperation and information sharing</b>		
<p><b>Question 12 Part A</b> - Do you agree with the proposal to introduce a duty to cooperate?</p> <p><b>Question 12 Part B</b> - Are there any aspects of the duty that you would change?</p> <p><b>Question 13 Part A</b> - Do you think there should be a new power to access an adult's financial records as part of an adult protection enquiry? If yes, which organisations should be given this power?</p> <p><b>Question 13 Part B</b> - If yes, which organisation(s) should be given this power?</p>	<p><b>Duty to cooperate</b></p> <p>The majority of responses were in favour of introducing a duty to cooperate (86%). Multiple responses felt the duty needed to be clarified in terms of who it applied to and which organisations it affected, with a significant number wishing to see it expanded to a wider number of organisations (15 of 74 responses to part B – 20%). The issue of GDPR was also raised in multiple responses (7 of 74 responses to part B – 9%).</p> <p><b>Power to access an adult's financial records</b></p> <p>There is broad agreement that this power should be introduced and would be beneficial in combatting financial abuse (65% answered 'yes'). However it should only be used in circumstances where the threshold for financial abuse has been met and this threshold, as well as the act of financial abuse, must be clearly defined in the legislation.</p>	<p>Introduce a duty to cooperate through legislation.</p> <p>Introduce powers to access financial records, but include thresholds for use and safeguards. Further consideration to be given to which organisations should be given this power.</p>

	<p>The possibility of asking for an individual’s consent before using this power was also raised multiple times (11 of 70 responses to part B – 16%).</p>	
<p><b>Offences of ill-treatment and wilful neglect</b></p>		
<p><b>Question 14 Part A</b> - Do you agree that new offences of ill treatment and wilful neglect should be introduced?</p> <p><b>Question 14 Part B</b> – Further information</p> <p><b>Question 15 Part A</b> - Are there any new offences that should be considered?</p> <p><b>Question 15 Part B</b> - Please provide further detail</p>	<p><b>Offences of ill treatment and wilful neglect</b></p> <p>There is broad agreement for the introduction of both new offences (78% answered ‘yes’ to part A), with the caveats that they are clearly defined and appropriate thresholds are put in place for their use (12 of 71 responses to part B – 17%). A number of responses (8 of 71 responses to part B – 11%) referenced other legislation in this area (Mental Capacity Act and Domestic Abuse and Civil Proceedings Act (Northern Ireland) 2021) so it is important that consideration is given as to how these offences within the Adult Protection Bill will interact with them</p> <p><b>Additional new offences</b></p> <p>Almost a quarter of respondents did not provide an answer to Question 15A. Of those that did, a small majority did not see a need for any additional offences to be included (35 of 89 – 39%).</p>	<p>Both offences to be introduced with consideration given to thresholds. Consideration given to additional offences of coercive control and failure to report.</p>

	<p>Of those who did want to see additional offences included, failure to report (6 of 41 responses to part B – 15%) and coercive control (5 of 41 responses to part B – 12%) were referenced most often, as well as in multiple stakeholder engagement sessions.</p>	
<p><b>Other Provisions</b></p>		
<p><b>Question 16</b> - Are there any other provisions that you would like to see included in the Adult Protection Bill?</p>	<p>There are a wide range of additional provisions which it has been suggested should be included within the proposed Adult Protection Bill. The most commonly referenced are the creation of statutory guidance (14%) and additional resources and training to help implement proposed changes within the bill (12%). No other suggestion was made by more than 4 responses (7%), however, increased use of CCTV was referenced in 2 responses (3%) and strongly advocated for in a number of stakeholder engagement sessions.</p>	<p>Include provision for statutory guidance. Additional resources and training will need to be discussed in parallel with discussions on the draft Bill, as the Department will need to give adequate resourcing to the new arrangements it puts in place. Consideration should also be given to whether increased use of CCTV can or should be legislated for within the draft Bill.</p>

## **Defining the scope of the Bill**

**Question 1 Part A** - Do you agree with the title 'Adult Protection Bill'

<b>Yes</b>	46 (52%)
<b>No</b>	30 (34%)
<b>Did not respond</b>	13 (14%)
<b>Total</b>	<b>89 (100%)</b>

**Question 1 Part B** – if no, what would you suggest as an alternative name

- 64 of 89 respondents provided an answer

There were 14 alternative titles suggested by respondents:

1. Adult Protection Bill for those at risk
2. Adult Safeguarding Bill
3. Adult Support and Protection Bill (twice)
4. Adult and Social Care protection Bill
5. Adult Care Protection Bill/ Care and Protection of Adults Bill
6. Adult Protection and Support Bill
7. Adult Protection NI Order
8. Adult Safeguarding and Protection Bill (three times)
9. Elderly, Vulnerable and Those at Risk Adult Protection Bill
10. Mental Capacity Act (Northern Ireland) 2016
11. Protection of Adults at Risk
12. Protection of Personal Wellbeing Bill
13. Safeguarding bill
14. Vulnerative (sic) Adult Protection Bill

Of the alternative titles suggested, two them were suggested multiple times; Adult Safeguarding and Protection Bill (three times) and Adult Support and Protection Bill.

Adult Safeguarding and Protection Bill was also suggested in some of the engagement sessions as was Adult Safeguarding Bill

19 of 64 (30%) respondents referenced safeguarding in their responses. They felt that the purpose of the bill needed to be expanded to include safeguarding and that the title should reflect that. There were suggestions that a focus on protection rather than safeguarding would lead to a reactive approach and wouldn't stop issues that arise earlier the safeguarding continuum.

18 responses also referenced prevention. Some of these noted that the purpose of the bill was protection but felt prevention should be given some consideration, whilst others wanted to see prevention given equal weighting to protection in the purpose of the bill.

6 respondents referenced the Scottish Adult Support and Protection Bill (2007) in their response, suggesting inclusion of the word support would be beneficial in the title.

Of those who agreed with the title (46 of 89) 25 provided further response. Of those, 15 (60%) felt that the title provided clarity of the Bills intention and felt it was the correct title for a bill that is to focus on the protection element of the safeguarding continuum.

### **Summary of responses**

A small majority of responses (52%) are in favour of the suggested bill title. The main issue raised centres on the Bill's purpose rather than its title, with a number of responses highlighting that they would like more focus on safeguarding as opposed to focusing exclusively on protection (19 of 64 – 30%). Others felt prevention should be given some consideration within the bill rather than focusing solely on protection (18 of 64 – 28%)

## Way forward

Retain the title as it stands: Adult Protection Bill.

**Question 2** - What are your views on a definition of 'adult at risk and in need of protection'?

- 87 of 89 respondents provided an answer

In total, 25 responses (29%) expressed agreement, either explicitly or in principle with the definition provided.

34 responses (40%) felt a need to ensure clarity around the definition with the majority of these highlighting the importance of statutory guidance for this purpose.

A further 8 responses (9%) felt clear thresholds were needed within the definition and a further 8 responses (9%) highlighted the importance of being compatible with related legislation (including the Mental Capacity Act, Domestic Abuse and Child Protection laws).

Multiple responses referenced existing definitions in the other parts of the UK, including:

- 5 responses wishing to emulate the Welsh definition
- 4 responses wishing to emulate the Scottish definition
- 1 response wishing to emulate the English definition

There were 5 responses in favour of including serious harm within the definition and also 4 responses who expressed concern about its inclusion, how preferred to keep it as 'harm'. 4 responses also felt the definition was too narrow whilst 2 respondents thought it too broad.

A number of individual responses wanted to see greater emphasis on particular groups of people, including:

- Older people
- People with mental ill health
- People with disabilities
- People 'being cared for' (2 responses)
- People with an addiction (2 responses)

A number of alternative definitions were provided. These included:

- Adult who is no longer able to make an informed decision regarding giving consent for either treatment or care provision to themselves
- An adult who is vulnerable because they cannot speak for themselves or have the capacity to make an informed decision for the betterment of their own life. They depend on others to assist them with their daily tasks
- A vulnerable adult unable to speak for themselves
- Adult in need of protection: is a person aged 18 or over, whose exposure to harm through abuse, exploitation or neglect may be increased by their: a) Personal characteristics AND/OR. b) Life circumstances AND. c) Who is unable to protect their own well-being, property, assets, rights or other.
- Anyone over 18 years old who has a career where emotional or physical neglect is occurring, or where this is suspected of occurring.
- Adult at risk and in need of protection, refers to a person who needs preventative strategies in their lives. Prevention is a sound method of safeguarding.

### **Summary of responses**

A sizeable percentage of respondents (29%) were in agreement with the definition provided. 40% of respondents felt clarification was need which may directly reference the need for statutory guidance. It is clear that terms included in the definition, such as serious harm, needed to be clearly defined and thresholds for intervention also need to be clarified.

## Way forward

Include the definition for an adult at risk and in need of protection as is but with clear thresholds and accompanying statutory guidance that includes examples.

## Principles

**Question 3 Part A** - Do you agree with the list of principles proposed?

<b>Yes</b>	<b>63 (71%)</b>
<b>No</b>	<b>15 (17%)</b>
<b>Did not respond</b>	<b>11 (12%)</b>
<b>Total</b>	<b>89 (100%)</b>

**Question 3 Part B** - If no, what would you suggest as an alternative approach?

- 66 of 89 respondents provided an answer

Of the 66 responses to part B, 12 (18%) directly referenced Human Rights, and the need for principles and the bill to be set within a Human Rights Framework. 3 of these response were particularly interested in how the human rights of people with learning disabilities are being embedded in all organisations especially the Health & Social Care System.

10 (15%) responses felt that families needed to be included in a greater capacity within the principles. They argued that more recognition was needed for the care provided by family members and that their input should be sought, particularly in instances where an individual's capacity is limited.

8 (12%) responses referenced the language being used within the principles and raised concerns that it was overly complicated and that simplifying it should be considered. An additional 2 responses also felt the principles were ambiguous and open to interpretation.



7 (11%) responses wanted to see prevention of harm be given greater significance within the bill as a whole and some suggested it could be added as a principle.

A number of additional potential principles were suggested across all responses. These included:

- Inclusion (3 times)
- Collaboration (2 times)
- Abuse of power
- Abuse, neglect, complicity and falsification of information made a crime for both corporate bodies and individuals.
- Accountability
- An updated, reformed and fit for purpose inspectorate
- Care partners
- Conflict of interest and cap on care business lucrative profits
- Convenience decline
- Dignity and respect
- Do not resuscitate, feeding by tube, other lifesaving treatments and death pathways
- Duty of Candour
- Duty of Care
- Equality and fairness
- Equality and human rights
- Failure to act and protracted investigations
- Family 24/7 mobile phone camera protection
- Family as voice when cognitively is impaired
- Independent Advocacy
- Learning Culture
- Long term solution and meaningful system rebuild
- Mixed economy of care/statutory sector National Care Service
- Pooled data base of complaints/concerns
- Prevention
- Protection
- Recognition that family and friends protect and safeguard

- Residents and family as service users are best placed to evaluate the service they receive
- Security of Tenure
- Self-funding by selling home before death
- Staff to resident ratio and allocated time for domiciliary care
- Transparency
- Whistleblowing

### Summary of responses

Further discussion is needed on this particular provision. Strong majority in favour of current principles (71% in agreement) but lots of additional suggestions made, including greater focus on families (10 of 66 responses to part B – 15%). More discussion is needed on the language used with some respondents finding it difficult to understand (8 of 66 responses to part B – 12%).

### Way forward

Principles as agreed should be included on the face of the legislation.

**Question 4 Part A** - What are your views on principles being set out on the face of legislation or in Statutory Guidance?

Agree principles should be in legislation	61 (68%)
Agree principles should in Statutory Guidance	7 (8%)
Did not answer	21 (24%)
<b>Total</b>	<b>89 (100%)</b>

**Question 4 part B** – Please explain your answer

- 72 of 89 respondents provided an answer

Of the 61 responses that felt the principles should be in legislation, 8 (13%) reasoned that having the principles in statutory guidance wouldn't provide a high enough level of protection compared to legislation.

A further 8 responses (13%) felt that the principles should be in legislation but supplemented with statutory guidance. They felt this would provide the best of both options.

6 of these 61 responses (10%) felt that having the principles in legislation would allow for greater accountability.

Of the 7 responses to prefer the principles in statutory guidance, 6 (86%) felt that having the principles in guidance offered greater flexibility and would allow for updates and changes to be made more easily.

### **Summary of responses**

There is a clear preference for the principles to be in legislation (68%) although there is also support for additional statutory guidance (8 of 72 responses to part B – 11%).

### **Way forward**

Include the principles in legislation.

### **Duties to (i) report and (ii) make enquiries**

**Question 5 Part A** - Do you agree with mandatory reporting?

Yes	69 (77%)
No	7 (8%)
Did not respond	13 (15%)
<b>Total</b>	<b>89 (100%)</b>

**Question 5 Part B** - Should there be a new duty to report to the HSC Trust where there is a reasonable cause to suspect that an 'adult is at risk and in need of protection'?

- 81 of 89 respondents provided an answer

11 of 81 responses (14%) felt it was important to define the thresholds for mandatory reporting, particularly the threshold for reasonable cause.

10 responses (13%) wanted to see some level of independence when it comes to mandatory reporting. Many were concerned about the thought of the Trusts being solely responsible for mandatory reporting, particularly if they or their staff were involved in the incident being investigated.

9 responses (11%) were concerned that making reporting mandatory would lead to a scenario of over reporting or a risk averse approach to reporting from staff. 1 additional response referenced mandatory reporting in child safeguarding and how it has led to complications in reporting there.

9 responses (11%) referenced the need for either additional resources or training for staff to help implement any additional reporting. Resources mainly referred to additional staff to help deal with an influx of reports.

7 responses (9%) were concerned that introducing mandatory reporting could impinge upon an individual's right to autonomy. They argued that introducing this power would remove an individual's ability to make their own decisions, particularly if these may not be in their own best interests.

### **Summary of responses**

There was broad agreement with the introduction of mandatory reporting (77% answered 'yes' to part A). However, a significant number of responses raised concerns about potential over-reporting (9 of 80 responses - 11%), the same number

of responses (11%) referenced the need for additional resources for such a duty and many feeling thresholds for reporting needed to be clearly defined (11 of 80 - 14%).

### Way forward

Introduce mandatory reporting with clearly defined thresholds and consideration given to additional resources and training required.

**Question 6 Part A** - Should a new duty be placed on HSC Trusts to make follow up enquiries?

Yes	66 (74%)
No	7 (8%)
Did not answer	16 (18%)
<b>Total</b>	<b>89 (100%)</b>

### Question 6 Part B – Further information

- 73 of 89 respondents provided an answer

Of the 73 responses, 10 (14%) felt that additional training was needed to help staff better identify when the thresholds for making an enquiry had been met. There were references to this process being too subjective at present with suggestions that training may help with standardisation.

Similarly, 7 responses (10%) felt additional resources would be need to adequately meet this new duty, with some requests for new staff to deal with a potential increase in cases.

7 responses (10%) also wanted clarity around both the thresholds for making follow up enquiries and the consequences of not making a follow up enquiry when deemed necessary.

6 responses (8%) raised the issue of independence, stating they did not think it should be for the HSC Trusts to make follow up enquiries, particularly if the

investigation was in relation to them. One further response felt this could be decided on a case by case basis with any enquiries in to the Trusts being carried out by an independent body.

3 responses referenced timeframes, with all of them feeling there needed to be a set time limit on enquiries to be completed to avoid the loss of momentum.

There was one suggestion that rather than calling it a 'duty to make follow up enquiries' that it should be called a 'duty to investigate'. The respondent stated that they felt the term follow-up enquiry lowered expectations and using the word investigate would make it a more robust duty.

### **Summary of responses**

Strong majority in favour of follow-up enquiries (74% answered 'yes' to part A). A substantial number of responses felt additional resources (7 of 72 responses to part B – 10%) and training (10 of 72 responses to part B – 14%) would be needed to effectively implement this within the Bill.

### **Way forward**

Introduce follow-up enquires, with clear thresholds and guidance.

### **Power of entry to interview an adult in private**

**Question 7 Part A** - What are your views on a power of entry to allow a HSC professional access to interview an adult in private? Do you think any additional powers should be available on entry?

- 87 of 89 respondents provided an answer. Of those 1 provided a response of 'nil'

54 of the 86 responses (63%) expressed direct agreement with the introduction of a Power of Entry, either totally or in principle.

Of these 54 responses, 9 (17%) directly referenced the current legislation in Scotland as a good example of how this power could be handled and implemented.

9 (17%) also referenced Human Rights, with some specifically referencing the European Convention of Human Rights, and the importance of balancing an individual's human rights against the importance of their personal safety.

10 responses (19%), although in favour of introducing it, felt clarity was needed on who the power would be available to and also on the threshold for using this power. It was also noted that guidance on when this power could be used would be useful.

5 responses (9%) raised the issue of consent. They felt that this power should only be granted if the individual in question agreed to it. There was one suggestion from these responses that interviews should be recorded also.

8 of the total 86 responses (9%) felt that the existing powers were adequate and that offering clear guidance on what these are would be more beneficial than introducing a new Power of Entry. One of these responses felt that expanding the existing remit of domestic abuse legislation would be sufficient.

Of the 32 responses who were not in favour or did not state a preference for a Power of Entry, 6 (19%) had concerns about such a power being given to HSC staff/trusts. They felt any such power, if it were brought in to existence, should only be given to independent bodies.

**Question 7 Part B** – what additional powers should be available upon entry?

- 35 of 89 respondents provided an answer. Of those 9 provided a response of 'none' or 'N/A'

Of the 26 responses to provide a response the additional powers suggested were:

- 4 (15%) directly referenced the Scottish Model and their powers
- 4 (15%) referenced assessment orders
- 6 (23%) referenced removal orders
- 5 (19%) referenced banning/detention orders
- 3 (12%) agreed for the need for additional powers without mentioning specific powers

2 of the responses that referenced banning/detention orders preferred this option to removal orders as they considered it less detrimental to the individual in comparison to removing them. There were also single references to communication support for the service user, protection for HSC staff and clear guidance for the use of any additional powers.

**Question 8** - How many times in the past 12 months, have you been aware of a situation where, had a power of entry existed, it would have been appropriate to use it? What were the circumstances?

- 69 of 89 respondents provided an answer. Of those 69, 25 provided a response of 'N/A'

Of the 44 respondents to provide an answer that was not 'N/A', the following answers were provided:



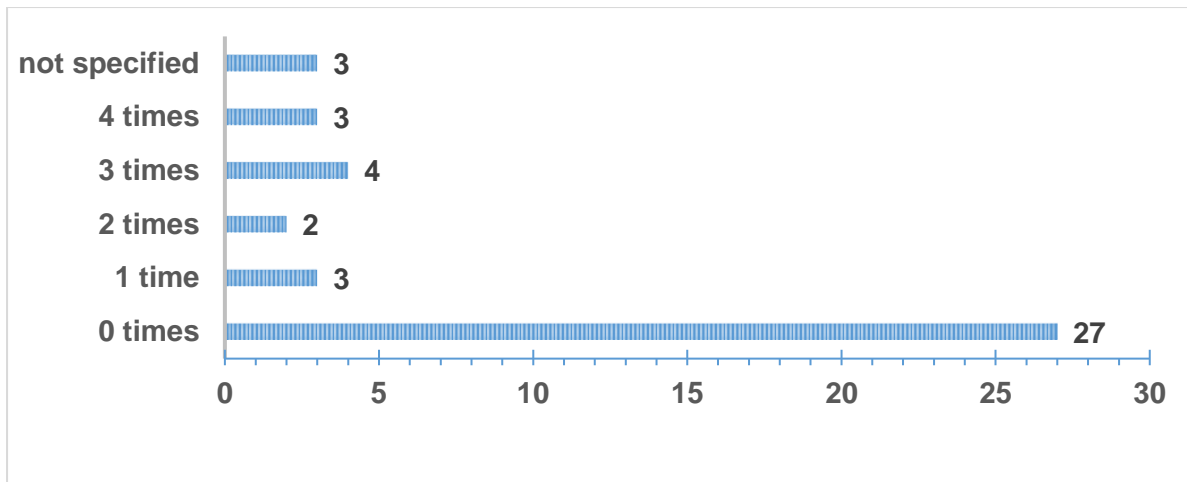


Figure 1 – Table of responses to Question 8 - ‘How many times in the past 12 months, have you been aware of a situation where, had a power of entry existed, it would have been appropriate to use it?’  
Total responses: 44

Of the 15 responses that supplied examples there were a range of circumstances outlined, including situations that led to physical, emotional and mental abuse. Neglect was referenced twice.

There were also examples of self-neglect and refusal by an individual to submit to medical assessment. Domestic abuse was mentioned in two responses as well as financial abuse and physical abuse in one response each. Coercive control was also referenced.

### Summary of responses

There is overall support for the introduction of a Power of Entry (54 of 86 responses – 63%). However, it is clear that well defined thresholds for its use are required as well as clear guidance for those who will be entrusted with it.

The Current Scottish legislation appears to be positively viewed (cited by 9 of 54 responses in agreement with PoE) and could be used as template, particularly in relation to any additional powers after entry.

The issue of an individual's consent (referenced in 5 responses) must also be given careful consideration, especially due to the potential impact with regards to Human Rights of this power (referenced in 9 responses).

## **Way forward**

Introduce a Power of Entry with clearly defined thresholds for use.

## **Independent Advocacy**

**Question 9** - What are your views on statutory provision for independent advocacy in the context of adult protection?

- 67 of 89 respondents provided an answer. 5 of these were 'no comment'.

Of the 62 respondents to provide a response, 46 stated in their answer that they agreed with the statutory provision of independent advocates (74%).

Of the 62 respondents to provide a response 23 of them referenced capacity in some way (37%). 16 directly referenced the Mental Capacity Act 2016, (26%) and 9 (15%) felt it important to give careful consideration to how the provision of independent advocates interfaces and dovetails with the same provision as part of the Mental Capacity Act.

Two respondents felt it important that the provision of independent advocates within the MCA was evaluated to measure its impact before it is agreed to include such a service within any Adult Protection Bill. Another respondent added that the role of independent advocates within the Adult Protection Bill should be separate to that of advocates in the MCA and not just an extension of their current responsibilities.

12 of 61 responses (20%) raised the issue of resources, both financial and training. They felt it important that money be made available to help ensure a usable service

is available should the provision of independent advocates be included in the bill, with one response suggesting money should be ring-fenced.

15 of 62 responses (24%) highlighted the need for independence in the provision of independent advocates. 9 of these made it clear that they felt there should be no link whatsoever, particularly financial between the Trusts and advocates. A further response said the same in relation to RQIA and another in relation to any relevant authority which was being investigated. Two respondents who referenced independence felt a clear definition of what constituted an independent advocate would be beneficial.

### **Summary of responses**

There is broad agreement with the introduction of a statutory provision of independent advocates (46 of 62 responses – 74%) but consideration must be given to:

- The level of independency advocates have and their links to the Trusts (referenced in 9 of 46 responses)
- How this provision would dovetail with similar existing powers within the MCA (referenced in 9 of 46 responses)
- Financial and training resources required to provide an adequate service (referenced in 12 of 46 responses)

### **Way forward**

Further consideration should be given to including independent advocacy within the legislation, including how it would be managed and resourced.

## **Independent Adult Protection Board**

**Question 10 Part A** - Do you agree that an Independent Adult Protection Board should be established and placed on a statutory footing?

Yes	77 (87%)
No	2 (2%)
Did not answer	10 (11%)
<b>Total</b>	<b>89 (100%)</b>

**Question 10 Part B** - Please explain your answer

- 66 of 89 respondents provided an answer

Of the 66 responses to Part B, 13 (20%) cited independence as being an important factor. Many directly referenced the potential relationship between the board and the Department of Health, RQIA and health trusts as barriers to independence.

An additional 10 (15%) responses had issues with the potential membership of the board. There were suggestions to include:

- Nurses and midwives
- Members of the public, including family members with lived experience
- Individuals from the voluntary care sector
- Other agencies, including councils

A further 4 responses (6%) referenced transparency and its importance to any potential board. To ensure transparency, these response suggested regular changes to board membership and separation from the Department of Health.

6 (9%) referenced the Safeguarding Board for Northern Ireland (SBNI), also known as the Children's Safeguarding Board. Of the 6, 4 referenced that it was on a statutory footing and that a similar approach for the proposed Adult Protection Board would be suitable. The other response referenced the SBNI negatively and cited it as an example of what can go wrong when such a board is established.

3 responses (5%) referenced Scottish powers and suggested any board should have similar powers and functions to those available in Scotland.

## Summary of responses

Strong majority in favour of establishing the Board and placing it on a statutory footing (87% responded yes). The independence of the board is important to stakeholders (referenced by 13 of 66 responses to part B – 20%). The membership of the board is also important with suggestions for nurses, midwives and people with lived experience being referenced (referenced in 10 of 66 responses to part B – 15%)

## Way forward

Establish Board through legislation.

### Question 11 Part A - Do you agree with the introduction of Serious Case Reviews?

Yes	76 (85%)
No	2 (2%)
Did not answer	11 (12%)
<b>Total</b>	<b>89 (100%)</b>

### Question 11 part B – please explain your answer

- 71 of 89 respondents provided an answer

Of the 71 respondents who provided additional information, 38 (54%) cited the potential for learning from serious case reviews as a reason for implementing them as part of the Bill. There was a particular focus on sharing the lessons learned and implementing the findings made. In particular respondents wanted to see findings used to inform best practice, influence learning and training moving forward (14 – 20%). They wanted clear outcomes with actionable changes rather than an arbitrary 'lessons learned' approach.

The use of Serious Case Review findings to help inform future policy decisions was also cited as a key reasons for their introduction.

Those who were opposed (2 respondents) to the introduction of Serious Case Reviews cited issues with how findings and outcomes from the current system, in particular Serious Adverse Incidents translated in to practice. It was suggested focus should be on fixing the current system as opposed to creating a new process.

### **Summary of responses**

The majority of respondents are in favour of the introduction of Serious Case Reviews (86% answered 'yes' to part A). There needs to be a focus on ensuring an outcomes based approach and that lessons learned from cases are implemented within a culture that is open to change (38 of 71 responses to part B – 54%). Findings should be distributed to help positively influence best practice moving forward (14 of 71 responses to part B – 20%).

### **Way forward**

Introduce Serious Case Reviews.

### **Cooperation and information sharing**

**Question 12 Part A** - Do you agree with the proposal to introduce a duty to cooperate?

Yes	76 (86%)
No	3 (3%)
Did not respond	10 (11%)
<b>Total</b>	<b>89 (100%)</b>

**Question 12 Part B** - Are there any aspects of the duty that you would change?

- 79 of 89 respondents provided an answer. Of these 79, 5 were either 'no' or 'nil response'

Of the 74 responses, 15 (21%) wanted to see this duty expanded to include other organisations not included in the consultation document. The most commonly referenced organisation was independent service providers.

7 responses (9%) wanted clear guidance on how and when information would be shared and who it would be shared with.

Similarly, 7 responses (9%) wanted assurances that the sharing of information would take data protection in to consideration and that only relevant information would be shared in line with GDPR.

5 responses (7%) wanted the proposed duty of candour to be incorporated in to this as well or at least taken in to consideration if this duty were introduced. Another 5 responses (7%) felt the introduction of a duty to cooperate would help with accountability in relation to ongoing cases of potential harm.

2 responses felt training would be necessary to ensure information sharing was being carried out effectively, with one of these suggesting specialist teams could be created for this specific duty to avoid delays in information sharing that may occur if this were added to existing staffs workload.

### **Summary of responses**

The majority of responses were in favour of introducing a duty to cooperate (86%). Multiple responses felt the duty needed to be clarified in terms of who it applied to and which organisations it affected, with a significant number wishing to see it expanded to a wider number of organisations (15 of 74 responses to part B – 20%).

The issue of GDPR was also raised in multiple responses (7 of 74 responses to part B – 9%).

## Way forward

Introduce a duty to cooperate through legislation.

**Question 13 Part A-** Do you think there should be a new power to access an adult's financial records as part of an adult protection enquiry? If yes, which organisations should be given this power?

Yes	58 (65%)
No	10 (11%)
Did not answer	21 (24%)
<b>Total</b>	<b>89 (100%)</b>

**Question 13 Part B** - If yes, which organisation(s) should be given this power?

- 70 of 89 respondents provided an answer

There were 12 respondents (17%) who felt the power should be given to Health and Social Care Trusts in some capacity. 1 further responses suggested the HSC Board be given the power.

10 respondents (14%) suggested the power should be given to the PSNI. One such response clarified that it should be PSNI with specialist training.

8 respondents (11%) felt the power should be given to an independent organisation or individual.

4 responses (6%) thought the power should be given to the proposed Interim Adult Protection Board (IAPB). The Office of Care and Protection (OCP), RQIA and independent providers were all suggested in 2 responses (3%). The courts, Probation Board, Public Health Agency (PHA), an appointed solicitor and the most senior individual involved were all suggested by 1 response (1%).



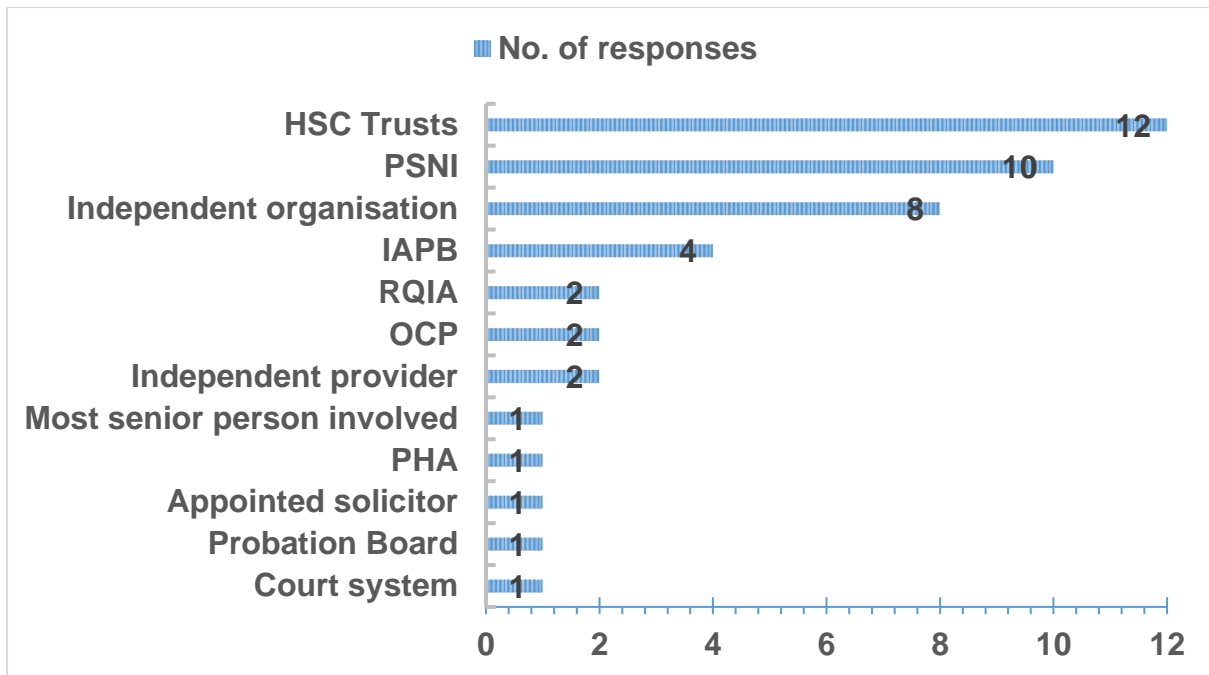


Figure 2 Table of responses to Question 13B – If yes, which organisation(s) should be given this power? Based on 30 responses

The issue of consent was raised by 11 respondents (16%) who felt that any access to an individual’s financial records should only be granted once you person involved had agreed to it.

Clarity around the definition of financial abuse (4 responses) and the threshold required for this power to be used (3 responses) were both raised multiple times.

Existing powers available to both the PSNI and the Office for Care and Protection (OCP) were raised in multiple responses. Some suggested that these powers could either be expanded or amended to avoid the need for a new power to be created. Others highlighted that any new power would need to be implemented in a way that was complimentary to these powers.

### Summary of responses

There is broad agreement that this power should be introduced and would be beneficial in combatting financial abuse (66% answered ‘yes’). However it should

only be used in circumstances where the threshold for financial abuse has been met and this threshold, as well as the act of financial abuse, must be clearly defined in the legislation.

The possibility of asking for an individual's consent before using this power was also raised multiple times (11 of 70 responses to part B – 16%).

### **Way forward**

Introduce power, but include thresholds for use.

### **Offences of ill-treatment and wilful neglect**

**Question 14 Part A** - Do you agree that new offences of ill treatment and wilful neglect should be introduced?

Yes	69 (78%)
No	4 (4%)
Did not answer	16 (18%)
<b>Total</b>	<b>89 (100%)</b>

**Question 14 Part B** – Further information

- 71 of 89 respondents provided an answer

Of the 71 responses to this part of the question 12 (17%) felt there needed to be clear definitions of what would constitute both proposed offences to help provide clarity on what they mean. 4 of these responses specifically wanted clarity on the thresholds needed to meet these offences. One specific response within this group wanted to clarify if an offence would be committed if an individual at risk refused to cooperate.

Of these 12 responses, 5 were in favour of the introduction of the new offences and answered part A 'yes'. The remaining 7 did not answer part A.

6 responses (9%) wanted to know how the new offences would fit in with similar offences in other pieces of legislation, namely the Domestic Abuse and Civil Proceedings Act (Northern Ireland) 2021 and the Mental Capacity Act. There were some concerns of overlap and one of these responses suggested a preference for one piece of legislation which housed all offences from these multiple locations.

A further 2 responses directly referenced the Mental Capacity Act and felt that it sufficiently covered these offences and that new offences would not be required under the Adult Protection Bill.

4 responses, all of which were in favour of introducing the new offences in this bill, highlighted the current gap in legislation which does not offer protection to people who are cared for with capacity as a key reason why they were in favour.

### **Summary of responses**

There is broad agreement for the introduction of both new offences (78% answered 'yes' to part A), with the caveats that they are clearly defined and appropriate thresholds are put in place for their use (12 of 71 responses to part B – 17%).

A number of responses (8 of 71 responses to part B – 11%) referenced other legislation in this area (Mental Capacity Act and Domestic Abuse and Civil Proceedings Act (Northern Ireland) 2021) so it is important that consideration is given as to how these offences within the Adult Protection Bill will interact with them.

### **Question 15 Part A - Are there any new offences that should be considered?**

Yes	30 (34%)
No	36 (40%)
Did not respond	23 (26%)
<b>Total</b>	<b>89 (100%)</b>

### **Question 15 Part B** - Please provide further detail

- 52 of 89 respondents provided an answer. Of these, 11 were 'nil response' or similar.

Of the 41 responses, 5 (12%) referenced the use of restrictive practices by staff who were not suitably trained as a potential offence they would like to see added.

6 responses (15%) referenced failure to report as an additional offence to be considered. Some felt this was particularly important as a duty to report could not be fully enforced if there was no consequences.

5 responses (12%) wanted coercive control to be considered as an additional offence. This was also raised in stakeholder engagement sessions.

4 responses (10%) felt specific consideration should be given to protecting the elderly and that age should be considered a protected characteristic or that abuse against the elderly should be considered a hate crime.

3 (7%) responses wanted special consideration given to technological developments that have led to an increase in online abuse. There were references to online abuse, trolling, exploitation via social media revenge porn within these responses.

3 (7%) responses did not see the need for any additional offences as they felt they would be covered by existing legislation, namely, The Domestic Abuse and Family Proceedings Bill and the Mental Capacity Act.

A number of other offences were suggested in one response, including:

- False imprisonment
- Prevention of access to health or social care services
- Prevention of access to an individual by family members
- Domestic abuse

## Summary of responses

Almost a quarter of respondents did not provide an answer to Question 15A. Of those that did, a small majority did not see a need for any additional offences to be included (35 of 89 – 39%). Of those who did want to see additional offences included, failure to report (6 of 41 responses to part B – 15%) and coercive control (5 of 41 responses to part B – 12%) were referenced most often, as well as in multiple stakeholder engagement sessions.

## Way forward

Both offences to be introduced with consideration given to thresholds. Consideration given to additional offences of coercive control and failure to report.

## Other Provisions

**Question 16** - Are there any other provisions that you would like to see included in the Adult Protection Bill?

- 69 of 89 respondents provided an answer. Of these 10 were a 'nil' response

Of the 59 responses, there were multiple suggestions for additional provisions to be included. These were:

- Criminal sanctions:
  - Inclusion of criminal sanctions within the bill (3 responses)
  - Ban on adults with previous offences working in this sector (2 responses)
  - Ban on organisations with poor records running care home (1 response)
  - Corporate liability (1 response)
  - Institutional abuse to be added as an offence (1 response)

- Documentation and training:
  - Statutory guidance (8 responses)
  - Additional training and resources, including infrastructure to help implement new legislation and refresher training on a regular basis (7 responses)
  - Accessible documentation made available, for example easy read versions of guidance (4 responses)
  - Greater acknowledgement and training around the impact arising from certain conditions (1 response)
  
- Rights of families and voluntary carers:
  - Acknowledgement of family carers and their rights (1 response)
  - Support for the family of an adult at risk and in need of protection (1 response)
  
- Additional duties:
  - Inclusion of or reference to a Duty of candour (3 responses)
  - Duty to publish findings (1 response)
  
- Protection:
  - Protection for those suffering from addiction (2 responses)
  - Protection of staff (2 responses)
  - Restrictive practices removed (2 responses)
  - Protection measures specific to those living in domestic settings (1 response)
  - Protection measures specific to those residing in care homes (1 response)
  - Recognition that family and friends protect and safeguard (1 response)
  - Robust provisions in whatever is formulated, including compliance and accountability along with action to improve where there are issues which have the potential to lead to safeguarding concerns (1 response)
  - Power to ban a suspected 'abuser' from contacting an individual or attending a particular location (1 response)

- more proactive provisions on how to ensure prevention and good practice (1 response)
- More emphasis on safeguards (1 response)
- Whistle-blower protections to be strengthened (2 responses)
- Other legislation:
  - Self-neglect to remain under Mental Capacity Act (2 responses)
  - New bill to be appropriately aligned with existing legislation (2 responses)
  - Statutory duty on agencies who are involved with adults in need of protection to consider the needs of any children who may live at that address or be involved with that particular family (1 response)
  - A better understanding of capacity (1 response)
- General/Other:
  - Increased use of CCTV (2 responses)
  - Independent organisation at the centre of adult safeguarding (1 response)
  - Acknowledgement of wider multi- disciplinary involvement in both assessment and decision making in the area of adult protection (1 response)
  - Expanded remit of bill (1 response)
  - Greater degree of consistency in respect of these matters across all health and social care settings in Northern Ireland (1 response)
  - Sign language interpreters to be allowed to make a disclosure without being in breach of confidentiality (1 response)

## **Summary of responses**

There are a wide range of additional provisions which it has been suggested should be included within the proposed Adult Protection Bill. The most commonly referenced are the creation of statutory guidance (14%) and additional resources and training to help implement proposed changes within the bill (12%). No other

suggestion was made by more than 4 responses (7%), however, increased use of CCTV was referenced in 2 responses (3%) and strongly advocated for in a number of stakeholder engagement sessions.

## **Way forward**

Include provision for statutory guidance. Additional resources and training will need to be discussed in parallel with discussions on the draft Bill, as the Department will need to give adequate resourcing to the new arrangements it puts in place.

Consideration should also be given to whether increased use of CCTV can or should be legislated for within the draft Bill.

## **Notes**

### **Late responses**

Of the 89 responses to the consultation, eight were received after the deadline of 8 April 2021. Seven of these were received within four days of the consultation closing. One was only received on 5 May due to an administration error within the organisation that provided it. The lateness of these responses had minimal impact on the analysis of the consultation.

### **Incomplete responses**

There were six responses to the consultation which did not respond directly to the questions asked and therefore could not be added to Citizen Space for analysis. There were a range of reasons why these responses could not be added to Citizen Space, including:

- Not responding directly to the questions or only responding to a small number of questions
- Only referencing specific topics which were not including in the consultation, for example Universal Credit and other benefits or Data Sharing



- Providing a response in the form of a letter outlining personal experiences relating to one aspect of the consultation