



Commissioner for **Older People**  
for Northern Ireland

# **Beyond Good Intentions:** A Review of the Adult Protection Bill as Introduced





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## Introduction

The Adult Protection Bill represents a significant and long-awaited step towards establishing a dedicated legislative framework for safeguarding adults at risk of harm. The legislation would place adult safeguarding on a statutory footing, aligning Northern Ireland with approaches already in place in other parts of the United Kingdom.<sup>1 2 3</sup>

The Bill seeks to improve how public bodies and establishments identify, respond to and prevent harm where they believe there is reasonable cause to suspect an individual meets the criteria of an “adult at risk”. It places duties on parties such as health and social care trusts, the Police Service of Northern Ireland (PSNI), the Public Health Agency (PHA), the Regulation and Quality Improvement Authority (RQIA), independent providers, and social workers, among others, to act to protect an adult at risk of harm. It would strengthen the powers of these agencies and staff within these bodies to intervene and investigate incidences where they suspect an adult is at risk of harm.

The Bill has the potential to reshape the entire safeguarding landscape, better protecting adults from abuse and harm. It draws together broader public protection issues, including areas such as domestic abuse, violence against women and girls, substance use issues, homelessness, mental ill-health, suicide risk, and institutional abuse. The Bill would provide a framework for prevention, protection and accountability across the board.

### **COPNI's Involvement in the Development of the Adult Protection Bill**

The Commissioner for Older People for Northern Ireland (COPNI) has consistently called for stronger protections for adults who may be at risk of harm.

In 2017, COPNI undertook an investigation into widespread and systemic safeguarding failings at Dunmurry Manor Care Home. For context, in 2016, RQIA issued three Failure to Comply notices which set out actions for Dunmurry Manor to take to achieve compliance with regulations.

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<sup>1</sup> [Care Act 2014](#).

<sup>2</sup> [Social Services and Well-being \(Wales\) Act 2014](#).

<sup>3</sup> [Adult Support and Protection \(Scotland\) Act 2007](#).

In December of the same year, families contacted COPNI with concerns regarding their relatives' treatment. Two members of Dunmurry Manor staff also contacted COPNI noting concerns of alleged poor and unsafe practice within the home. The Commissioner also attended a public meeting organised by Community Restorative Justice Northern Ireland to discuss concerns and listen to experiences from families. February 2017 saw COPNI exercise their discretion to commence a statutory investigation into matters affecting older people at Dunmurry Manor Care Home.

The findings and recommendations of the investigation are contained within *Home Truths: A Report on the Commissioner's Investigation into Dunmurry Manor Care Home*.<sup>4</sup> The findings were deeply concerning, reflecting an environment of poor care and treatment of residents, serious safeguarding issues and a failure of responsible bodies to act quickly and comprehensively.

COPNI's recommendations arising from the investigation sought to improve care and bring about significant change within the system, with the intention that the failings found at Dunmurry Manor are not repeated there or anywhere else. One of the recommendations called for the establishment of an "Adult Safeguarding Bill for Northern Ireland" to ensure older people in Northern Ireland "enjoy the same rights and protections as their counterparts in other parts of the United Kingdom". COPNI recommended the Bill "clearly define the duties and powers on all statutory, community, voluntary and independent sector representatives working with older people".<sup>5</sup>

In January 2020, COPNI commissioned renowned elder law expert Professor John Williams, to advise on effective adult safeguarding legislation. He produced the report *Adult Safeguarding Legislation in Northern Ireland*,<sup>6</sup> which highlighted some key policy issues to consider when developing legislation for Northern Ireland. Williams' analysis suggested that Northern Ireland should adapt models seen in England, Scotland and Wales "to fit with its own policy objectives and to enhance or improve them".<sup>7</sup>

COPNI welcomed the then Health Minister, Robin Swann's announcement in September 2020 to consult on legislative options to inform an Adult Protection Bill.<sup>8</sup> The Commissioner's office

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<sup>4</sup> COPNI (2018) ['Home Truths: A Report on the Commissioner's Investigation into Dunmurry Manor Care Home'](#).

<sup>5</sup> COPNI (2018) ['Home Truths: A Report on the Commissioner's Investigation into Dunmurry Manor Care Home'](#), page 30.

<sup>6</sup> Professor John Williams (2020) ['Adult Safeguarding Legislation in Northern Ireland'](#).

<sup>7</sup> Professor John Williams (2020) ['Adult Safeguarding Legislation in Northern Ireland'](#), page 43.

<sup>8</sup> DoH (2020) ['Consultation: Legislative options to inform the development of an Adult Protection Bill for Northern Ireland'](#).

responded to the consultation in March 2021,<sup>9</sup> supporting the establishment of statutory duties for key bodies, a set of principles, as well as a clear definition of an “adult at risk”.

Following sustained engagement with the Department of Health’s (DoH) Adult Safeguarding Unit over the past number of years, COPNI was pleased to see the Adult Protection Bill introduced to the Assembly in June 2025<sup>10</sup> and agrees with Health Minister, Mike Nesbitt that it is “an important step to take in transforming our social care system”.<sup>11</sup>

### **COPNI’s Statutory Role and Legislative Interest**

Under legislation, COPNI’s statutory role is to safeguard and promote the rights and interests of older people across Northern Ireland.<sup>12</sup> As part of this role, the Commissioner has a responsibility to advise government where those interests are not being adequately protected or upheld. In this context, the Commissioner is undertaking this review to ensure that the proposed legislation is robust, fit for purpose, and capable of delivering meaningful protections for older people at risk of harm. Drawing on COPNI’s investigative experience and engagement with DoH’s Adult Safeguarding Unit, this review sets out the Commissioner’s initial assessment of some of the key provisions within the Bill, highlighting areas where they offer welcome progress, while also identifying potential concerns and challenges for implementation.

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<sup>9</sup> COPNI (2021) [‘Consultation Response: Legislative options to inform the development of an Adult Protection Bill for Northern Ireland’](#).

<sup>10</sup> [Adult Protection Bill as Introduced](#).

<sup>11</sup> DoH (2025) [‘Health Minister introduces Adult Protection Bill to Assembly’](#).

<sup>12</sup> [Commissioner for Older People Act \(Northern Ireland\) 2011](#).

## Overall Assessment

### Strengths

The Adult Protection Bill has the potential to strengthen protections for older people across Northern Ireland but particularly for those facing neglect, abuse or coercion. It introduces a much needed and welcome legal structure to adult safeguarding in Northern Ireland. The Bill supports a shift from reactive responses to preventive strategies by encouraging earlier identification of risk and more timely support for vulnerable adults.

- The Bill places a clear duty on health and social care trusts to act to investigate concerns where an adult may be at risk of harm.
- It allows for improved inter-agency cooperation between bodies such as trusts, the police, housing providers, general practitioners, and others, to share information and work together, breaking down siloed responses. This should lead to more effective interventions and better outcomes for adults at risk.
- The availability of independent advocacy is welcome and will support adults navigating safeguarding processes.
- The legislation also introduces a range of court powers. Assessment orders, removal orders and banning orders will enable intervention where serious harm of an adult is suspected.
- The new criminal offences, applicable to care workers and care providers that abuse or neglect adults in their care, create clear, enforceable legal accountability. This will ensure that failures in safeguarding can be more easily identified and addressed.
- The Bill also adopts a broad definition of 'harm', acknowledging that experiences of abuse often extend beyond just physical abuse.

### Concerns

COPNI welcomes the introduction of the Adult Protection Bill but notes several important concerns. The new powers given to key public bodies allow action to be taken against an individual's wishes, including entry to their home, removal from their home, and medical assessments. Such interventions carry a serious risk of undermining autonomy if not handled

with care. Thus, all interventions under the Bill need to be proportionate and uphold the human rights of those affected. Vulnerable adults must not be treated as passive recipients of care or protection. Rather, the law must support intervention with them, not simply on them.

- For the bodies listed at Clause 4, the Bill lacks detail on the consequences of non-compliance with their safeguarding duties. Without robust accountability mechanisms, the duty to report a suspected adult at risk may be seen as aspirational rather than binding.
- Despite the Bill requiring trusts to arrange for independent advocates to be available, it does not require an advocate to be actually assigned to an adult facing safeguarding procedures. This creates a risk that adults, particularly older people, will face such procedures without representation.
- Many of the Bill's safeguards are insufficient, phrased as things the court or professional may do, rather than must.
- The investigatory powers proposed in the Bill are extensive and, if used without appropriate safeguards, could amount to unjustified interference in the lives of those involved.
- The Bill does not include the right to appeal some of the most intrusive orders. There is no route to challenge production, assessment or removal orders, as well as warrants for entry, once granted, despite such powers interfering with rights such as liberty and privacy.
- The legislation does not include a duty to review or publish data on how often invasive powers, such as assessment and removal orders, are used, which makes it difficult to assess the Bill's impact in practice.
- The Bill does not explain how its banning orders will sit alongside existing domestic abuse protections.
- The provisions on CCTV remain unclear. The Bill allows for future regulations on CCTV use in various settings but with a lack of timelines or minimum standards, the benefit is uncertain.
- The Mental Capacity Act (Northern Ireland) 2016 has only been partially implemented despite being enacted in 2016. Its phased implementation has presented challenges for many stakeholders. This experience should not be repeated with the implementation of the Adult Protection Bill. We should ensure vulnerable adults can immediately benefit from these new legal protections.



## Key Clauses

This chapter sets out COPNI's analysis of some of the key provisions within the Adult Protection Bill.<sup>13</sup> It examines their strengths but also highlights areas of concern where the provisions may fall short in protecting older people from harm, abuse and neglect. The purpose of this review is to ensure that the legislation delivers the robust adult protection framework that Northern Ireland urgently needs.

### Principles

*1. An HSC trust or social worker performing functions under this Part in relation to an adult must, if relevant, have regard to-*

- (a) the principle that the trust or social worker should intervene, or authorise an intervention, only if satisfied that the intervention-*
  - i. will be in the best interests of the adult, and*
  - ii. is, of the range of options likely to fulfil the object of intervention, the least restrictive to the adult's freedom,*
- (b) the adult's ascertainable wishes and feelings (past and present),*
- (c) the importance of-*
  - i. the adult participating as fully as possible in the performance of the functions, and*
  - ii. providing the adult with such information and support as is necessary to enable the adult to so participate,*
- (d) the importance of promoting and respecting the dignity of the adult,*
- (e) the importance of ensuring that the adult is as safe as possible and that suspected harm is subject to investigation as quickly as possible, and*
- (f) the need for accountability and transparency in performing those functions.*

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<sup>13</sup> This review highlights selected key provisions only and does not constitute a clause-by-clause analysis of the entire Adult Protection Bill.

The Adult Protection Bill sets out key principles that guide how safeguarding duties should be exercised. In our response to the DoH consultation on legislative options to inform the development of the Adult Protection Bill, COPNI highlighted the merit of including a clear set of principles.<sup>14</sup> Firstly, the principles—prioritising the adult’s best interests, ensuring action is least restrictive to the adult’s freedom, as well as ensuring their dignity, participation and safety—place the legislation within a broader human-rights based approach. This is particularly important when considering older people who may be more likely to experience disempowerment, dependency or be overlooked in safeguarding processes.

However, COPNI concurs with the Northern Ireland Human Rights Commission’s (NIHRC) recommendation to expressly “include reference to the human rights obligations of those exercising functions provided for in the Bill”.<sup>15</sup> COPNI’s *Home Truths* report explains that the Human Rights Act 1998 dictates it is “unlawful for a public authority to act in a way which is incompatible with a Convention Right”.<sup>16</sup> <sup>17</sup> Yet COPNI’s statutory investigation of Dunmurry Manor Care Home highlighted failures to respond to human rights violations. By amending the Bill to explicitly reference human rights, public authorities are further reminded of their human rights obligations and the importance of embedding same in their practice.

Nonetheless, the requirement to have regard to the adult’s past and present wishes is a welcome development. This reflects an important shift towards an approach underpinned by respect for the adult’s autonomy, lived experience and preferences, including people who have reduced mental capacity or experience difficulties communicating with others. Acknowledging both past and present wishes ensures safeguarding is not done to older people, but with them, helping to mitigate paternalistic decision-making.

Unlike the Mental Capacity Act (Northern Ireland) 2016<sup>18</sup> which protects people who cannot make decisions for themselves, this Bill authorises intervention even where an adult has capacity. The principles in the Adult Protection Bill therefore need to be stronger to safeguard against disproportionate interference in the lives of capacitated adults. The Mental Capacity Act (Northern Ireland) 2016 has binding principles. This means any act or decision taken for a person who lacks capacity must be made in accordance with them. By contrast, the Adult Protection Bill, as currently drafted, only requires trusts to “have regard to” its principles. Such

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<sup>14</sup> COPNI (2021) [‘Consultation Response: Legislative options to inform the development of an Adult Protection Bill for Northern Ireland’](#).

<sup>15</sup> Northern Ireland Human Rights Commission (2025) [‘Submission to Committee for Health on the Adult Protection Bill’](#), page 7/8.

<sup>16</sup> COPNI (2018) [‘Home Truths: A Report on the Commissioner’s Investigation into Dunmurry Manor Care Home’](#), page 19.

<sup>17</sup> [Human Rights Act 1998](#).

<sup>18</sup> [Mental Capacity Act \(Northern Ireland\) 2016](#).

weaker wording means they need only consider the principles, not follow them. Because the Bill permits interventions against capacitated adults, Article 8 of the European Convention on Human Rights (ECHR) is directly engaged.<sup>19 20</sup> COPNI suggests the Bill impose a binding duty to act in accordance with the principles and require trusts to record how proportionality has been assessed in each case.

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<sup>19</sup> [European Convention on Human Rights](#).

<sup>20</sup> [Human Rights Act 1998](#).

## **“Adult at Risk”**

2. (1) *For the purposes of this Act an adult (“A”) is “an adult at risk” if-*

- (a) A is unable to protect A’s own well-being or property;*
- (b) the conduct of another person is causing (or is likely to cause) A to be harmed; and*
- (c) A’s personal circumstances increase A’s exposure to harm.*

*(2) A’s personal circumstances include, in particular-*

- (a) any illness, infirmity or disability (whether physical or mental) affecting A;*
- (b) A’s living conditions and other socio-economic factors affecting A.*

*(3) In this Part “harm” includes all harmful conduct and, in particular, includes-*

- (a) conduct which causes physical harm;*
- (b) conduct which causes psychological harm (for example, by causing fear, alarm or distress);*
- (c) unlawful conduct which appropriates or adversely affects property (for example, theft or fraud).*

*(4) In this Part “conduct” includes neglect and other failures to act.*

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The broad and inclusive definition of an “adult at risk” is a significant and welcome feature of the Adult Protection Bill. This approach reflects an understanding that abuse and harm experienced by older people is often complex, unpredictable, varied and hidden. Through the inclusion of psychological and property-related harms, for example, the Bill recognises that harm can take many forms. This is reflective of the lived reality of many older people, whose experiences of abuse are layered and shaped by multiple vulnerabilities.

COPNI’s *Growing Concern*<sup>21</sup> report identifies a number of distinct factors that can make older people more vulnerable to experiencing domestic abuse, while also discouraging them from reporting and seeking help. Some of these factors are also important to consider here. For instance, reduced mental capacity can limit a person’s ability to recognise abuse and recall experiences to others. Physical disability or mobility challenges can make it more difficult for a

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<sup>21</sup> COPNI (2024) ‘[Growing Concern: Older Victims of Domestic Abuse in Northern Ireland](#)’.

person to escape abusive situations or defend themselves. Importantly, the Bill recognises that vulnerability is not just medical or physical, but also shaped by experiences of poverty, loneliness, social isolation and other socio-economic factors. This mirrors thinking in safeguarding legislation in England<sup>22</sup> and Scotland.<sup>23</sup>

Nonetheless, COPNI notes several concerns with the current definition that may limit its effectiveness. Firstly, there is no requirement to consider the adult's own perception of risk or whether they feel at risk, thereby overlooking their perspective and experiences. Secondly, the Bill does not explicitly mention mental capacity, creating uncertainty about how it will interact with the Mental Capacity Act (Northern Ireland) 2016.<sup>24</sup>

Moreover, the focus on harm caused by others excludes forms of self-directed harm or neglect, including hoarding or hazardous living conditions. By contrast, in other jurisdictions, self-neglect is explicitly recognised as a safeguarding concern. In England, the Care Act 2014's<sup>25</sup> accompanying Care and Support Statutory Guidance<sup>26</sup> lists self-neglect as a form of abuse or neglect. Similarly in Wales, the Social Services and Well-being (Wales) Act 2014<sup>27</sup> creates a duty to make inquiries where an adult is at risk of harm, and statutory guidance confirms this includes self-neglect.

As currently drafted, Northern Ireland's three-point defining criteria (Clause 2(1)) can be directly contrasted with the three-point criteria in Scotland's equivalent definition of an "adult at risk".<sup>28</sup> Northern Ireland's use of "conduct of another person" focuses on the perception of one specific individual causing this risk of harm. Instead, Scotland's use of "at risk of harm" creates a much wider picture to include contact with different individuals or scenarios where an adult may be unable to safeguard themselves from any risk of harm. This ensures Scotland's definition of an "adult at risk" is open-ended and allows the legislation to trigger in many more situations. Statistically, in Scotland, for inquiries undertaken with the use of investigatory powers, self-inflicted harms, including 'self-neglect' and 'self-harm', were reported as the primary type of harms in 26% of cases in 2024/25.<sup>29</sup> Therefore, Northern Ireland's proposed legislation, by not

<sup>22</sup> [Care Act 2014](#).

<sup>23</sup> [Adult Support and Protection \(Scotland\) Act 2007](#).

<sup>24</sup> [Mental Capacity Act \(Northern Ireland\) 2016](#).

<sup>25</sup> [Care Act 2014](#).

<sup>26</sup> [Care and Support Statutory Guidance, Issued under the Care Act 2014](#), page 196.

<sup>27</sup> [Social Services and Well-being \(Wales\) Act 2014](#).

<sup>28</sup> [Clause 3\(1\) of the Adult Support and Protection \(Scotland\) Act](#) defines an adult at risk as follows: "Adults at risk" are adults who – (a) are unable to safeguard their own well-being, property, rights or other interests, (b) are at risk of harm, and (c) because they are affected by disability, mental disorder, illness or physical or mental infirmity, are more vulnerable to being harmed than adults who are not so affected.

<sup>29</sup> Scottish Government (2025) ['Adult Support and Protection \(ASP\) National Minimum Dataset, 2024-25'](#).

recognising self-directed harm and neglect, would create a gap in protection. This is particularly concerning given recent statistics on suicide in Northern Ireland. In 2024, there were 58 deaths by suicide where the person was aged 60 and over, the most recorded since the beginning of the dataset in 2015.<sup>30</sup>

Moreover, Clause 3(2) of the Mental Health (Northern Ireland) Order 1986 states that “No person shall be treated under this Order as suffering from mental disorder, or from any form of mental disorder, by reason only of ... dependence on alcohol or drugs”.<sup>31</sup> Given the links between adult safeguarding, mental capacity and mental health legislation, the exclusion of those dependent on alcohol and drugs from any protections afforded in the Mental Health (Northern Ireland) Order 1986, should act as a prompt to consider whether it would be appropriate to make provision for those individuals at risk of harm under the Adult Protection Bill. The Adult Support and Protection (Scotland) Act 2007’s Revised Code of Practice<sup>32</sup> highlights that there is “growing appreciation that Adult Support and Protection can have direct relevance to a broader range of people than originally anticipated, including some people who have substance dependency problems...”.

COPNI suggests that these factors be considered. If not addressed, they may leave significant safeguarding gaps in Northern Ireland’s legislation.

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<sup>30</sup> In 2024, there were 21 deaths by suicide in the 60-64 age category, 20 in the 65-69 age category, 1 in the 70-74 age category and 16 in the 75+ age category. By comparison, in 2015, there were 9 deaths by suicide in the 60-64 age category, 11 in the 65-69 age category, 4 in the 70-74 age category and 5 in the 75+ age category. NISRA (2025) ‘[Suicides in Northern Ireland, 2024](#)’, Table 2.

<sup>31</sup> [The Mental Health \(Northern Ireland\) Order 1986](#).

<sup>32</sup> Scottish Government (2022) ‘[Adult Support and Protection \(Scotland\) Act 2007: Code of Practice](#)’, Preface.

## Inquiries

### *Duty to Make Inquiries*

3. (1) *An HSC trust must make inquiries about a person's well-being or property if the trust has reasonable cause to suspect-*

*(a) that the person is an adult at risk, and*

*(b) that the trust might need to intervene (by performing functions under this Part or otherwise) in order to protect the person from harm.*

*(2) If, after making inquiries under this section, an HSC trust considers that it needs to intervene as mentioned in subsection (1)(b), the trust must have regard to the importance of the provision of an independent advocate to the adult concerned.*

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The introduction of a statutory duty to make inquiries is one of the most significant changes introduced by the Adult Protection Bill. For the first time, trusts will be legally obligated to make inquiries where there is reasonable cause to suspect there is an adult at risk of harm. The Commissioner strongly supports this duty, which represents a shift from discretionary to mandatory safeguarding action. This duty will be particularly important for older people who may be reluctant or unable to disclose abuse or neglect, and those whose circumstances only come to light through the vigilance of professionals. Clause 3 ensures that safeguarding concerns cannot be overlooked and provides a clear trigger for intervention.

Critically, Clause 3(2) creates a statutory safeguard of having “regard to the importance of the provision of an independent advocate”, something that could prove vital for many older people navigating safeguarding procedures. However, it stops short of creating an automatic right to an independent advocate. It lacks clarity on how the trust will decide when to provide an advocate, and whether the adult will be consulted about whether they want an advocate. By comparison, the Care Act 2014 dictates that an independent advocate must be appointed “to represent and support the individual for the purpose of facilitating the individual's involvement”.<sup>33</sup> COPNI recommends the Bill be amended to ensure access to independent advocacy for all

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<sup>33</sup> [Care Act 2014](#).

people facing safeguarding processes. Otherwise, adults risk facing such processes without representation.



### *Duty to Report and Co-operate in Inquiries*

4. (1) *This section applies to-*

- (a) HSC trusts,*
- (b) members of the police force and of any Harbour or Airport Police,*
- (c) the Regional Agency for Public Health and Social Well-being,*
- (d) RQIA,*
- (e) the Probation Board for Northern Ireland,*
- (f) the Northern Ireland Housing Executive,*
- (g) persons providing primary medical services under Part 6 of the Health and Personal Social Services (Northern Ireland) Order 1972 or in accordance with arrangements made under Article 15B of that Order,*
- (h) independent providers commissioned or contracted to provide health care or social care.*

(2) *Where a person or body to which this section applies has reasonable cause to suspect-*

- (a) that a person is an adult at risk, and*
- (b) that action needs to be taken (under this Part or otherwise) in order to protect that person from harm,*

*the body or person must report the facts and circumstances of the case to the HSC trust in whose operational area the adult ordinarily resides.*

*(3) The persons and bodies to which this section applies must, so far as consistent with the proper exercise of their functions, co-operate with an HSC trust making inquiries under section 3 where such co-operation is likely to enable or assist the trust in making those inquiries.*

*(4) Regulations may amend the list of bodies and persons in subsection (1).*

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The Adult Protection Bill places specific legal duties on trusts, the police, PHA, RQIA, the Probation Board, the Housing Executive and providers of primary medical services and health and social care. It is positive that the Bill, under Clause 4(4), allows additions to be made to the list of bodies at Clause 4(1). Ensuring this list is as expansive as possible is crucial to capture the wide range of persons adults at risk may interact with. Thus, ensuring the duty to report encompasses a wide range of relevant bodies will prevent gaps in safeguarding responsibility.

As an example, we note the absence of the Northern Ireland Ambulance Service, who routinely engages with adults who may be at risk.

If the bodies fail to report a case in which they suspect an adult is at risk, they are in breach of their statutory duty. This provision addresses a gap in adult safeguarding where the absence of a clear legal duty has, at times, led to a reluctance or failure to share information, which is particularly crucial for older people who may be harmed in complex and hidden ways. By placing this duty on these bodies, it will prevent claims that they did not know it was their duty to report and will break down silo working. The Bill therefore strengthens accountability and supports a more joined-up response to adult safeguarding. Effective protection will depend on collaboration across health and social care, housing, justice and regulatory bodies, as well as accessible reporting arrangements.

Clause 4(3) adds a second-tier duty: to cooperate with the trust in making an inquiry into an adult at risk. This will help towards building a multi-agency picture of risk and reducing delays caused by poor inter-agency communication. It also ensures professionals remain actively involved in the inquiry and closes off the potential of them disengaging without fulfilling their safeguarding responsibilities.

However, COPNI notes that the Bill lacks clarity on the consequences for these bodies of non-compliance with their statutory duty, which may limit its impact in practice. Without clear enforcement mechanisms, there is a risk the duty will be seen as aspirational rather than binding. To ensure effectiveness, this provision must be accompanied by robust guidance and a commitment to training for all listed professionals to ensure they not only understand what is required of them but also understand the importance of their role in protecting vulnerable adults.

As well as this, the Bill does not make it clear whether the adult concerned will be informed that a report has been made or an inquiry is being undertaken. Failing to do so would undermine the adult's right to be informed and involved in matters affecting them. This would likely impact on their right to respect for private and family life, Article 8 of the ECHR.<sup>34 35</sup> The Commissioner would welcome further clarity on how and when adults will be made aware of safeguarding actions concerning them.

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<sup>34</sup> [European Convention on Human Rights](#).

<sup>35</sup> [Human Rights Act 1998](#).

## Powers of Investigation

The Adult Protection Bill confers significant statutory investigatory powers on trusts and designated social workers. The powers facilitate visits, interviews, medical examinations, examinations of records and production orders where there are concerns there is an adult at risk.

The provisions mark a considerable expansion of authorities' power and have important implications for the rights and protections of older people. They engage a number of human rights<sup>36 37</sup> such as the right to respect for private and family life, as well as the right to liberty and security. They also intersect with the United Nations Principles for Older Persons,<sup>38</sup> particularly independence, autonomy and dignity. If used without appropriate safeguards, the powers could amount to unjustified interference in the lives of older people.

COPNI would welcome an express requirement in the Bill that any investigatory power must be necessary and proportionate, while also having regard to the adult's rights and wishes, the level of risk, and the availability of less intrusive alternatives. For transparency, COPNI also recommends that the Bill introduce a requirement for an Annual Safeguarding Audit whereby trusts would be required to report on the use of entry powers, interviews, medical examinations, records, and production orders, including any outcomes of their usage and any concerns raised.

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<sup>36</sup> [European Convention on Human Rights](#).

<sup>37</sup> [Human Rights Act 1998](#).

<sup>38</sup> [United Nations Principles for Older Persons](#).

### *Visits by Social Worker*

5. (1) *A social worker may enter any premises for the purpose of enabling or assisting an HSC trust conducting inquiries under section 3 to decide-*

- (a) whether the person is an adult at risk, and*
- (b) if it decides that the person is an adult at risk, whether it needs to intervene (by performing functions under this Part or otherwise) in order to protect the person from harm.*

(2) *Section 18 contains further provisions about visits under this section.*

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Clause 5 of the Adult Protection Bill gives social workers the power to enter any premises, including a person's private home, to make decisions on whether the adult is at risk and whether intervention is needed. The purpose is to assist a trust in conducting inquiries under Clause 3 (Duty to make inquiries).

Clause 18 (Visits: supplementary) of the Bill sets out the procedural requirements for visits including that the social worker must state the objective of the visit, produce evidence of their authorisation, and may not use force to gain entry. Where entry is refused, or where refusal is reasonably anticipated, Clause 19 (Warrants for entry: visits under section 5 or 11(5)) provides that a trust may apply to a magistrates' court for a warrant authorising entry. A warrant may be granted if the court is satisfied with evidence that there is reasonable cause to suspect an adult is at risk and that entry is reasonably required.

While this power may be essential in rare cases to protect an adult at risk, COPNI is concerned by the threshold of "reasonable cause to suspect", an unusually low evidential bar. Overriding refusal of entry by a capacitated adult is a serious matter and engages important Article 8 considerations.<sup>39 40</sup> To safeguard autonomy and comply with Article 8 of the ECHR, the Bill should provide clearer criteria to ensure that warrants are demonstrably necessary and proportionate, and that reasons are recorded to enable appropriate oversight. An independent

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<sup>39</sup> [European Convention on Human Rights](#).

<sup>40</sup> [Human Rights Act 1998](#).

advocate should also be appointed to support the adult and ensure their rights and views are properly represented.

## *Interviews*

*6. (1) A social worker, and any person accompanying the social worker, may interview, in private, any adult found in premises being visited under section 5.*

*(2) An adult interviewed under this section is not required to answer any question (and the adult must be informed of that fact before the interview starts).*

*(3) The power given by subsection (1) applies regardless of whether a court has granted an assessment order authorising the social worker to take the person to other premises to allow an interview to be conducted.*

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The Adult Protection Bill allows social workers to undertake interviews in private with any adult on the premises in which they visit. Importantly, adults must be informed that they are not required to answer any questions. However, similar to Clause 5 (Visits by social worker) and unlike the Mental Capacity Act (Northern Ireland) 2016,<sup>41</sup> there is no statutory requirement for the social worker to assess the capacity of the adult concerned before overriding an adult's refusal to be interviewed. This is particularly problematic for older people with fluctuating cognitive ability who may appear lucid at one moment and confused the next. This gap could also leave capacitated adults with fewer protections than those without. Under the Mental Capacity Act (Northern Ireland) 2016,<sup>42</sup> when an adult lacks capacity, there is a clear legal framework that must be followed. Decisions must be justified, recorded and made in the person's best interests. As currently drafted, under the Adult Protection Bill, when an adult appears to have capacity, there is no requirement to carry out any statutory capacity assessment before acting on the person's refusal or consent. In practice, this could mean a capacitated adult may have their 'yes' or 'no' taken at face value even if they are distressed, intimidated or confused. Meanwhile, an adult who lacks capacity would have the protection of a formal assessment and best-interests process, creating an imbalance. COPNI therefore maintains that the Bill should contain a requirement to assess the adult's capacity to ensure those with and without capacity receive equivalent protections. Doing so ensures validity of both

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<sup>41</sup> [Mental Capacity Act \(Northern Ireland\) 2016](#).

<sup>42</sup> [Mental Capacity Act \(Northern Ireland\) 2016](#).

consent and refusal. In cases where capacity is present, consent should be required, recorded and respected.

There is also no requirement for the social worker to involve an advocate when an interview under Clause 6 is proposed. Without such a requirement, the adult may find it difficult to understand the process and make informed decisions, where possible. COPNI recommends that an independent advocate be mandatorily assigned in all cases where an interview is proposed. This aligns with the Care Act 2014.<sup>43</sup>

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<sup>43</sup> [Care Act 2014](#).

### *Medical Examinations*

#### *7. (1) Where-*

- (a) a social worker finds a person in premises being visited under section 5,*
- (b) the social worker has reasonable cause to believe the person to be an adult at risk, and*
- (c) the social worker, or any person accompanying the social worker, is a health professional,*

*that health professional may, in private, conduct a medical examination of the person.*

*(2) A person must be informed of the right to refuse to be examined before a medical examination is carried out (whether under this section or in pursuance of an assessment order).*

*(3) The power given by subsection (1) applies regardless of whether the court has granted an assessment order authorising the social worker to take the person to other premises to allow a medical examination to be conducted.*

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Clause 7 of the Adult Protection Bill allows health professionals who have accompanied the social worker on a visit to carry out a private medical examination if they believe the adult is an adult at risk. Importantly, adults must be informed of their right to refuse the examination before it commences.

COPNI is concerned that the dynamics of power and trust may lead older people to comply when they do not truly consent. Because older people may view health professionals as authority figures, they may be reluctant to challenge their request for a medical examination. There exists a risk that medical examinations could proceed in ways that override the adult's autonomy, especially because the Bill does not require the adult's consent to be recorded or independently verified. COPNI therefore recommends that consent should be formally documented and, where practicable, witnessed by an independent advocate to provide assurance that the adult's wishes are respected.



### *Examination of Records*

8. (1) *Where a social worker has reasonable cause to suspect an individual to be an adult at risk, the social worker may require any person holding health, financial or other records relating to that individual to give the records, or copies of them, to the social worker.*

(2) *Where the person holding the records is a person other than the individual in question, a requirement under subsection (1) may not be made unless that individual consents.*

(3) *A requirement under subsection (1)-*

- (a) may be made during a visit or at any other time;*
- (b) if made at such other time, must be made in writing;*
- (c) if transmitted by electronic means, is to be treated as being in writing if it is received in legible form and capable of being used for subsequent reference.*

(4) *Where-*

- (a) an individual refuses to give consent under subsection (2) or lacks capacity to give that consent, or*
- (b) the person holding records fails to comply with a requirement under subsection (1) within a reasonable time,*

*an HSC trust may apply to a magistrates' court for an order ("a production order") which requires the person holding specified records to give them, or copies of them, to a social worker.*

(5) *The court may grant a production order only if satisfied-*

- (a) as to the matters set out in subsection (4)(a) or (b);*
- (b) that the HSC trust has reasonable cause to suspect that the individual in question is an adult at risk who is being, or is likely to be, seriously harmed; and*
- (c) that the production order is required in order to establish whether that individual is an adult at risk who is being, or is likely to be, seriously harmed.*

(6) *Subject to subsection (8), records given to a social worker in compliance with a requirement under subsection (1) or a production order may be inspected by-*

- (a) the social worker, and*
- (b) any other person whom the social worker, having regard to the content of the records, considers appropriate,*

*for the purposes set out in subsection (7).*

*(7) Those purposes are to enable or assist the HSC trust to decide-*

- (a) whether the person is an adult at risk,*
- (b) if it decides that the person is an adult at risk, whether it needs to intervene (by performing functions under this Part or otherwise) in order to protect the person from harm.*

*(8) Nothing in this section authorises a person who is not a health professional to inspect health records (other than to determine whether they are health records).*

*(9) In this section-*

- (a) “health records” are records relating to an individual’s physical or mental health which have been made by or on behalf of a health professional in connection with the care of the individual;*
- (b) a reference to consent given by an individual includes a reference to consent given on behalf of the individual by a court or by another person acting within the scope of an authority conferred by law on that person.*

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In cases where the social worker suspects there is an adult at risk, the Adult Protection Bill allows them to request access to the individual’s health, financial or other records. Though perhaps important to identify patterns of abuse, neglect or coercion, this is an intrusive power introduced by the Bill and may engage a number of the adult’s rights.

Where records are held by a third party, the individual’s consent must normally be obtained. However, if the adult refuses or lacks capacity to consent, the trust may apply to a magistrates’ court for a production order (Clause 9, Applications for production orders: procedure). While this introduces some judicial oversight, the category of “other records” is undefined. There is no specified limit on the types of other records social workers can request, creating potential for an overly broad intrusion into the adult’s life. Clause 8(6), which allows a social worker to share such records with “any other person” they consider appropriate, is a very broad and undefined power. The lack of clarity could lead to situations in which there are breaches of Article 8 of the

ECHR<sup>44</sup> <sup>45</sup> and data protection law.<sup>46</sup> COPNI suggests that the Bill be amended to clarify the scope of “other records” under Clause 8(1), as well as restrict disclosure of personal records to only those with a statutory function in safeguarding, or with the adult’s consent, under Clause 8(6).

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<sup>44</sup> [European Convention on Human Rights](#).

<sup>45</sup> [Human Rights Act 1998](#).

<sup>46</sup> [Data Protection Act 2018](#).

### *Applications for Production Orders*

9. (1) *This section applies in relation to an application for a production order.*

(2) *in this section-*

*“the affected adult” means the adult to whom the relevant records relate;*

*“the holder” means the person holding the relevant records (whether the affected adult or another person);*

*“the relevant records” means the records production of which is sought by the application.*

(3) *The applicant must give notice of an application to-*

- (a) the holder of the relevant records, and*
- (b) the affected adult (if not the holder of those records).*

(4) *A magistrates’ court must, before determining an application, invite-*

- (a) the holder of the relevant records, and*
- (b) the affected adult (if not the holder of those records),*

*to be heard by, or represented before, the court.*

(5) *The affected adult may be accompanied at any hearing conducted in respect of an application by-*

- (a) an independent advocate assigned to the adult under section 26;*
- (b) a friend, a relative or any other representative chosen by the adult.*

(6) *The court may appoint a person to safeguard the interests of the affected adult in any proceedings relating to an application.*

(7) *Such an appointment may be made on such terms as the court thinks fit.*

(8) *A magistrates’ court may disapply any of subsections (3) to (7) in relation to an application if satisfied that doing so will protect the affected adult from serious harm or will not prejudice any person affected by the disapplication.*

(9) *Nothing in this section affects the power to make further provision by magistrates’ court rules in connection with the procedure and practice to be followed in connection with an application.*

Clause 9 of the Adult Protection Bill allows a trust to apply to a magistrates' court to compel production of records held by a third party. Under this provision, the trust must notify both the holder of the records and the affected adult, unless excused by the court under Clause 9(8). However, under Clause 25(1) (Appeals), the adult has no right to appeal a production order, raising Article 6 concerns.<sup>47 48</sup> Reliance on judicial review as the sole challenge route is inadequate and risks rendering the safeguard illusory, creating an imbalance that may undermine the adult's right to fair process and respect for private life. COPNI suggests consideration be given to a limited and expedited appeal mechanism for production orders to ensure adults have a route to challenge such decisions.

In addition, production orders engage obligations under the UK GDPR and Data Protection Act 2018,<sup>49</sup> since they authorise disclosure of highly sensitive health and financial records. The Bill should therefore be aligned with data protection law, requiring that any disclosure is strictly necessary and proportionate.

The Bill requires notice and a right to be heard for both the record holder and the adult concerned. Legal aid is available for these proceedings, and the court may also appoint a person to safeguard the adult's interests. However, the Bill contains no guaranteed right to an independent advocate. Production orders can involve the sharing of complex and sensitive information. Many older people may struggle to understand the nature and implications of the order without support, and therefore, may struggle to assert their rights. COPNI recommends a statutory duty to appoint an independent advocate in every case where a production order is sought. This safeguard is essential in ensuring older people understand the nature and scope of disclosure and can participate effectively in proceedings, in line with Article 6 of the ECHR.<sup>50</sup>

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<sup>47</sup> [European Convention on Human Rights](#).

<sup>48</sup> [Human Rights Act 1998](#).

<sup>49</sup> [Data Protection Act 2018](#).

<sup>50</sup> [European Convention on Human Rights](#).

<sup>51</sup> [Human Rights Act 1998](#).

## Assessment Orders

10. (1) *An HSC trust may apply to a magistrates' court for an order ("an assessment order") which authorises a social worker to take a specified person from premises being visited under section 5 in order to allow-*

- (a) a social worker to interview the specified person in private for the purposes set out in subsection (2),*
- (b) a health professional nominated by the trust to conduct, in private, a medical examination of the specified person for those purposes, or*
- (c) both an interview under paragraph (a) and a medical examination under paragraph (b) to be conducted for those purposes.*

(2) *Those purposes are to enable or assist the HSC trust to decide-*

- (a) whether the person is an adult at risk, and*
- (b) if it decides that the person is an adult at risk, whether it needs to intervene (by performing functions under this Part or otherwise) in order to protect the person from harm.*

(3) *The court may grant an assessment order only if satisfied-*

- (a) that the HSC trust has reasonable cause to suspect that the person in respect of whom the order is sought is an adult at risk who is being, or likely to be, seriously harmed,*
- (b) that the assessment order is required in order to establish whether the person is an adult at risk who is being, or is likely to be, seriously harmed, and*
- (c) as to the availability and suitability of the premises at which the person is to be interviewed and examined.*

(4) *A person may be taken from premises in pursuance of an assessment order only if it is not practicable during a visit under section 5 (due to a lack of privacy or otherwise) to-*

- (a) interview the person under section 6 (in the case of an assessment order under subsection (1)(a)),*
- (b) conduct a medical examination of the person under section 7 (in the case of an assessment order under subsection (1)(b)), or*
- (c) both interview the person under section 6 and conduct a medical examination of the person under section 7 (in the case of an assessment order under subsection (1)(c)).*

(5) *An assessment order-*

- (a) is valid from the date specified in the order, and*
  - (b) expires 7 working days after that date.*
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This is one of the most intrusive powers introduced by the Adult Protection Bill. While COPNI acknowledges the potential value of assessment orders as a last-resort power in cases where an adult may be isolated, controlled or prevented from receiving help, there are clear implications for an older person's autonomy, liberty and right to private and family life.

An assessment order authorises the removal of an adult from their home. For older people, in particular, this carries a real threat of trauma or disorientation. The order also authorises removal without consent, based on the low threshold of "reasonable cause to suspect" an adult at risk of harm. This threshold is not clearly defined and may lead to inconsistent use of assessment orders across trusts. Clause 17 (Consent of affected adult) also permits overriding an adult's refusal of consent where they are deemed to lack capacity or have been "unduly pressurised". Again, this is not clearly defined. The absence of a statutory definition or evidential threshold for 'undue pressure' risks inconsistent and subjective application across trusts. COPNI recommends that the Bill be amended to include a clearer evidential threshold or statutory guidance to ensure consistent and proportionate application of assessment orders.

As well as this, Clause 25(1) (Appeals) excludes assessment orders from appeal. This means there is no route for the adult to challenge their removal from their home in court. Moreover, while the Bill does extend civil legal aid to assessment order proceedings to provide legal representation, there is no automatic right to an independent advocate for the adult concerned. Especially given the absence of any appeal right, the Bill should create a statutory duty to provide an independent advocate in every case where an assessment order is sought. This safeguard is essential to ensure effective participation and compliance with Article 6 of the ECHR.<sup>52 53</sup>

COPNI also has concerns about how assessment orders engage human rights.<sup>54 55</sup> Article 8 of the ECHR, right to respect for private and family life, is clearly engaged by the removal of an

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<sup>52</sup> [European Convention on Human Rights](#).

<sup>53</sup> [Human Rights Act 1998](#).

<sup>54</sup> [European Convention on Human Rights](#).

<sup>55</sup> [Human Rights Act 1998](#).

older person from their home. In some circumstances, Article 5, right to liberty and security, may also be triggered by an assessment order as it enables a temporary but enforced displacement. The Supreme Court in *Cheshire West* (2014) UKSC 19<sup>56</sup> confirmed that a deprivation of liberty occurs where a person is under continuous supervision and control and is not free to leave. This is commonly referred to as the acid test.<sup>57</sup> Although the Bill does not contain a formal power to detain, in practice, an assessment order could still result in circumstances that meet the acid test. Yet there is no equivalent statutory safeguard within the Bill to ensure that any interference with liberty is necessary, proportionate or clearly regulated. The Mental Capacity Act (Northern Ireland) 2016<sup>58</sup> contains detailed procedural protections when Article 5 is engaged, yet no similar framework is provided here. This raises a clear risk of incompatibility with Article 5 of the ECHR.<sup>59 60</sup>

By contrast, the Adult Support and Protection (Scotland) Act 2007's Revised Code of Practice explicitly states that an assessment order "does not have the power to detain the adult in the place they are taken to" and that the adult "may choose to leave at any time".<sup>61</sup> Whether a similar code of practice for Northern Ireland's Adult Protection Bill will be established remains uncertain. For now, COPNI is concerned that the Bill could permit interference with an older person's liberty without any tailored safeguards to ensure proportionality or compliance with Article 5.<sup>62 63</sup>

To ensure these powers are used safely and in line with human rights obligations, the Commissioner recommends stronger safeguards to ensure the protection of an adult does not come at the cost of their autonomy and dignity. While Clause 1 (Principles) requires trusts and social workers to "have regard to" the principle of using the least restrictive option, this duty does not extend to the magistrates' court when deciding to grant an assessment order. COPNI recommends that the Bill require magistrates' courts to apply a statutory necessity and proportionality test before granting an assessment order. This would ensure that removal from

<sup>56</sup> *P v Cheshire West and Chester Council and another; P and Q v Surrey County Council* [2014] UKSC 19.

<sup>57</sup> "'continuous supervision and control' and 'not free to leave', both which constitute a deprivation of liberty...became the cornerstone of the legal definition of 'deprivation of liberty'. This definition was later affirmed by the UK Supreme Court in the 2014 'Cheshire West' case which is commonly referred to as the 'acid test'...A definition of 'deprivation of liberty' should be universally applied to anybody, regardless of capacity, care arrangements, the intention of carers, or location. Therefore, according to the 'acid test', any person that is under constant supervision and control and not free to leave is subject to a deprivation of liberty." See COPNI (2025) '[Freedom, Care and Wellbeing: A Review of Deprivation of Liberty Safeguards](#)', page 17.

<sup>58</sup> [Mental Capacity Act \(Northern Ireland\) 2016](#).

<sup>59</sup> [European Convention on Human Rights](#).

<sup>60</sup> [Human Rights Act 1998](#).

<sup>61</sup> Scottish Government (2022) '[Adult Support and Protection \(Scotland\) Act 2007: Code of Practice](#)', Assessment Orders.

<sup>62</sup> [European Convention on Human Rights](#).

<sup>63</sup> [Human Rights Act 1998](#).



a person's home is authorised only where it is the least restrictive option available, consistent with Articles 5 and 8 of the ECHR.<sup>64 65</sup>

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<sup>64</sup> [European Convention on Human Rights](#).

<sup>65</sup> [Human Rights Act 1998](#).

## Removal Orders

11. (1) *An HSC trust may apply to a magistrates' court for an order ("a removal order") which authorises-*

- (a) a social worker to move a specified person to specified premises within 72 hours of the order being made, and*
- (b) the trust to take such reasonable steps as it thinks fit for the purpose of protecting the moved person from harm.*

*(2) The court may grant a removal order only if satisfied-*

- (a) that the person in respect of whom the order is sought is an adult at risk who is likely to be seriously harmed if not moved to other premises, and*
- (b) as to the availability and suitability of the premises to which the adult at risk is to be moved.*

*(3) A removal order may require an HSC trust to allow any specified person to have contact with the adult at risk to whom the order relates-*

- (a) at any specified time during which the order has effect, and*
- (b) in accordance with any specified conditions.*

*(4) But the court must, before including such a requirement, have regard to-*

- (a) any representations made by the HSC trust as to whether persons should be allowed to have contact with the adult at risk, and*
- (b) any relevant representations made by-*
  - i. the adult at risk,*
  - ii. any person who wishes to be able to have contact with the adult at risk, and*
  - iii. any other person who has an interest in the adult at risk's well-being or property.*

*(5) A social worker may enter any premises in order to move an adult at risk from the premises in pursuance of a removal order; and section 18 contains further provisions about visits under this subsection.*

*(6) A removal order expires 7 working days (or such shorter period as may be specified in the order) after the day on which the specified person is moved in pursuance of the order.*

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This is a major intervention introduced by the Bill and represents one of the most coercive powers. A removal order authorises the removal of an adult from a place in which they are believed to be at immediate and serious risk of harm, introducing a form of short-term protective custody.

While there will be cases where short-term removal is necessary to prevent such imminent harm, the current provisions offer too little protection to the rights of the adult concerned. Nonetheless, the Bill does provide several procedural safeguards. These include notice and a right to be heard, an allowance to be accompanied by an independent advocate or other representative, and power for the court to appoint someone to safeguard the adult's interests. Civil legal aid is also extended to these proceedings.

As mentioned, the Bill requires that the adult be given notice of a removal order application. However, the magistrates' court may disapply this requirement if it considers that it would risk serious harm to the adult or prejudice the proceedings. Whilst COPNI accepts that such exceptions may be necessary in urgent situations, there is a risk this disapplication could dilute procedural fairness. COPNI therefore recommends that any disapplication be accompanied by robust safeguards, such as an independent advocate and an early return hearing.

As with the previously discussed orders, there is no obligation for the adult to be mandatorily assigned an independent advocate. An older person may be removed from their home and held elsewhere without ever having an advocate engaged in their case. COPNI recommends that the Bill create a statutory right to an independent advocate to ensure support for the adult concerned during the application and removal processes.

Moreover, the adult cannot challenge their removal in court under Clause 25(1) (Appeals). Judicial review is not an adequate alternative given it is costly and slow. Excluding appeal rights risks leaving the adult without an effective remedy, contrary to Article 6 of the ECHR.<sup>66 67</sup> Thus COPNI suggests consideration be given to introducing a limited and expedited appeal mechanism for removal orders. COPNI would also support a statutory timeframe for appeals (for example, a return hearing within 7 days) to balance the need for urgent protection with procedural fairness.

The Bill also lacks clarity on how Clause 11 will interact with existing frameworks under the Mental Capacity Act (Northern Ireland) 2016.<sup>68</sup> The Act provides a legal framework for acting in

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<sup>66</sup> [European Convention on Human Rights](#).

<sup>67</sup> [Human Rights Act 1998](#).

<sup>68</sup> [Mental Capacity Act \(Northern Ireland\) 2016](#).

the best interests of people who lack capacity, including deprivation of liberty safeguards. A removal order allows for an adult to be taken from their home and kept elsewhere for up to seven working days, which could amount to a deprivation of liberty. As currently drafted, the Bill risks creating a parallel system that bypasses the protection of the mental capacity framework. COPNI suggests that the Bill be amended to confirm that removal orders cannot be used where the Mental Capacity Act applies. We also reiterate<sup>69</sup> that the Bill lacks a similar framework to the procedural protections contained within the Mental Capacity Act (Northern Ireland) 2016,<sup>70</sup> risking an imbalance whereby capacitated adults and adults lacking capacity may receive unequal protections.

For older people, the potential for distress and loss of autonomy under this provision is significant. Many may experience disorientation, anxiety or cognitive decline when suddenly removed from familiar settings. Without robust safeguards, the use of removal orders could become routine, heightened by the fact there is no limit to the number of times they can be authorised for the same adult. COPNI would therefore welcome a statutory limit on repeated use of removal orders for the same individual and a requirement for additional judicial scrutiny where multiple orders are sought in respect of the same individual.

In COPNI's experience, many older people live in complex family arrangements that give rise to concerns about neglect, control and undue influence. The definition of an "adult at risk" (Clause 2: "Adult at Risk") does not include a requirement to consider the adult's own perception of risk or whether they feel at risk. In such contexts, removal powers must be approached with great care, ensuring the adult's voice is central and that interventions are sensitive to both their risks and relationships. COPNI recommends that the Bill requires magistrates' courts to apply a statutory necessity and proportionality test before granting a removal order. This would ensure that such an intervention is authorised only where it is the least restrictive option available, consistent with Articles 5 and 8 of the ECHR.<sup>71 72</sup>

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<sup>69</sup> See discussion on the Mental Capacity Act (Northern Ireland) 2016 under '[Assessment Orders](#)'.

<sup>70</sup> [Mental Capacity Act \(Northern Ireland\) 2016](#).

<sup>71</sup> [European Convention on Human Rights](#).

<sup>72</sup> [Human Rights Act 1998](#).

## Banning Orders

12. (1) *A banning order is an order granted by a magistrates' court which bans the subject of the order ("the subject") from being in specified premises.*

(2) *A banning order may also-*

- (a) ban the subject from being in a specified area in the vicinity of the specified premises;*
- (b) authorise the removal of the subject from the specified premises and the specified area;*
- (c) prohibit the subject from moving any specified thing from the specified premises;*
- (d) direct any specified person to take specified measures to preserve any moveable property owned or controlled by the subject which remains in the specified premises while the order has effect;*
- (e) be made subject to any specified conditions;*
- (f) require or authorise any person to do, or to refrain from doing, anything else which the court thinks necessary for the proper enforcement of the order.*

(3) *A condition specified in a banning order may, in particular, authorise the subject to be in the premises or area from which the subject is banned in specified circumstances (for example, while being supervised by another person or during specified times).*

(4) *The court must, before including a condition of the type mentioned in subsection (3), have regard to any relevant representations made by-*

- (a) the applicant for the order,*
- (b) the adult at risk,*
- (c) any other person who has an interest in the adult at risk's well-being or property, and*
- (d) the subject.*

(5) *The court may grant a banning order only if satisfied-*

- (a) that an adult at risk is being, or is likely to be, seriously harmed by another person,*
- (b) that the adult at risk's well-being or property would be better safeguarded by banning that other person from premises occupied by the adult than it would be by moving the adult from those premises, and*
- (c) that either-*
  - i. the adult at risk is entitled, or permitted by a third party to occupy, the premises from which the subject is to be banned, or*

- ii. *neither the adult at risk nor the subject is entitled, or permitted by a third party, to occupy those premises.*

*(6) A banning order expires on the earliest of the following dates-*

- (a) any specified expiry date;*
- (b) if the banning order is revoked, the date on which it is revoked;*
- (c) the date which falls 6 months after the date on which it is granted.*

### *Temporary Banning Orders*

*13. (1) A magistrates' court may grant a temporary banning order pending determination of an application for a banning order.*

*(2) A temporary banning order may include any provision which may be included in a banning order.*

*(3) Where a temporary banning order is granted, the court must determine the related application for a banning order within the period of 6 months from the date of the application.*

*(4) A temporary banning order expires on the earliest of the following dates-*

- (a) the date on which the court determines the related application for a banning order;*
- (b) the date by which subsection (3) requires the court to determine the related application for a banning order;*
- (c) if the temporary banning order is revoked, the date on which it is revoked;*
- (d) any specified expiry date.*

### *Right to Apply for a Banning Order*

*14. (1) An application for a banning order may be made only by or on behalf of-*

- (a) an adult whose well-being or property would be safeguarded by the order,*
- (b) any other person who is entitled to occupy the premises concerned, or*
- (c) where subsection (2) applies, the HSC trust.*

*(2) The HSC trust must apply for a banning order if it is satisfied-*

- (a) as to the matters set out in section 12(5),*

*(b) that nobody else is likely to apply for a banning order in respect of the circumstances which caused the HSC trust to be satisfied as to those matters, and*

*(c) that no other proceedings (under this Part or otherwise) to remove or ban the person concerned from the premises concerned are pending before a court.*

*(3) An applicant for a banning order may also apply for a temporary banning order in respect of the same case.*

### *Variation or Revocation of Banning Order*

*15. (1) A magistrates' court may vary or revoke-*

*(a) a banning order, or*

*(b) a temporary banning order,*

*if satisfied that the variation or revocation is justified by a change in the facts or circumstances in respect of which the order was granted or, as the case may be, last varied.*

*(2) A variation may not vary the date on which the order expires-*

*(a) in the case of a banning order, beyond the date which is 6 months after the date on which the order was granted;*

*(b) in the case of a temporary banning order, beyond the date by which section 13(3) requires the court to determine the related application for a banning order.*

*(3) An order may be so varied or revoked only on an application by or on behalf of-*

*(a) the subject of the order;*

*(b) the applicant for the order;*

*(c) the adult at risk to whom the order relates;*

*(d) any other person who has an interest in the adult at risk's well-being or property.*

### *Offence: Failure to Comply with Banning Order or Temporary Banning Order*

*16. (1) A person who, without reasonable excuse, fails to comply with-*

*(a) a banning order, or*

*(b) a temporary banning order,*

*commits an offence.*

*(2) A person guilty of an offence under this section is liable on summary conviction to a fine not exceeding level 3 on the standard scale.*

*(3) In the Police and Criminal Evidence (Northern Ireland) Order 1989 in Article 19(1)(c) (entry for purposes of arrest for certain offences) at the end add-*

*“(v) section 16 of the Adult Protection Act (Northern Ireland) 2025;”.*

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Clauses 12 to 16 of the Adult Protection Bill introduce banning orders, a legal mechanism prohibiting a specified person from having contact with, or entering the premises of, an adult at risk. A banning order is aimed at protecting adults from individuals who may be harming or threatening them and is thus particularly important in domestic and caregiving situations.

Given the concerns noted in the previous two sections, COPNI welcomes the provision of banning orders. In some circumstances, a banning order can offer an alternative to removing an adult from their home. A banning order may be less disruptive to the life of the adult, as well as perhaps more compliant with their rights. Clause 12(2)(f) affords a wide discretion to the court to “require or authorise any person to do, or refrain from doing, anything else which the court thinks necessary for the proper enforcement of the order”. This allows the court flexibility to tailor its response to the specific circumstances of each case, ensuring the adult at risk receives appropriate and effective protection. To give an example, a tailored response may look like a supervised visit.

COPNI also welcomes the fact that the subject of a banning order is in no way limited and can be ordered against any other person. This may be particularly important when considering, for instance, informal carers who may not be formally recognised but may nonetheless exert significant influence over adults at risk. The nuance and complexity that is likely to attach to family units and scenarios encountered in banning orders is well considered by Clause 12(3). However, COPNI’s *Growing Concern* report highlights that older victims of abuse can often “be dependent on their abusers whether for financial reasons, care needs or social support”.<sup>73</sup> As such, banning orders may still have a substantial impact on the adult at risk. The individual who is banned may be someone whom the adult relies upon for emotional support, day-to-day

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<sup>73</sup> COPNI (2024) [‘Growing Concern: Older Victims of Domestic Abuse in Northern Ireland’](#), page 20.



assistance, or care needs, highlighting the complexities attached to such interventions for older people.

As with other court orders, the Bill does not guarantee independent advocacy for the adult at risk. This is a critical omission, as banning orders will often be sought in sensitive family or caregiving contexts where the adult's voice may be marginalised. COPNI recommends that the Bill impose a statutory duty to appoint an independent advocate when a banning order is considered. This will ensure the adult can participate effectively and their wishes and feelings can be communicated with the court, in line with Article 8 of the ECHR.<sup>74 75</sup>

The provision of temporary banning orders is welcome, ensuring urgent protection for the adult concerned without waiting for a full hearing in court. However, the fixed 6-month period of expiry may be too rigid. In some cases, longer protection may be needed, while in others, less. In Scotland, for example, the Scottish Mental Health Law Review recommended that “banning orders under the ASP [Adult Support and Protection (Scotland)] Act should be extended where the court is satisfied this is necessary to protect the adult”.<sup>76</sup> COPNI therefore recommends that the Bill permit courts to set the duration of a banning order according to the circumstances, subject to regular review. A rigid 6-month cap risks being disproportionate. Introducing flexibility, combined with a requirement for review hearings, would ensure orders remain necessary and proportionate, in line with Article 8 of the ECHR.<sup>77 78</sup>

It remains unclear how the Bill will interact with existing domestic abuse legislation, specifically non-molestation and occupation orders.<sup>79 80</sup> Victims of domestic abuse can apply for a non-molestation order from the court to protect them and relevant children from harassment, intimidation or any other threat of abusive behaviour. Victims may also qualify for an occupation order which restricts the offender from entering or residing in the victim's home.<sup>81</sup> Whilst we recognise a key distinguishing factor between the Adult Protection Bill and these existing frameworks is the fact the applicant for a banning order can be the trust rather than the individual affected, COPNI recommends that the Bill expressly clarify how banning orders will sit alongside

<sup>74</sup> [European Convention on Human Rights](#).

<sup>75</sup> [Human Rights Act 1998](#).

<sup>76</sup> Scottish Mental Health Law Review (2022) '[Final Report: Executive Summary and Recommendations](#)', page 116.

<sup>77</sup> [European Convention on Human Rights](#).

<sup>78</sup> [Human Rights Act 1998](#).

<sup>79</sup> [Family Homes and Domestic Violence \(Northern Ireland\) Order 1998](#).

<sup>80</sup> [Domestic Abuse and Civil Proceedings Act \(Northern Ireland\) 2021](#).

<sup>81</sup> Police Service of Northern Ireland, '[Domestic Violence and Abuse Disclosure Scheme \(DVADS\)](#)'.

existing protections. A statutory cross-reference would help avoid duplication and ensure coherence across safeguarding and domestic abuse frameworks.

## Consent of Affected Adult

17. (1) *Except as provided by subsection (2)-*

- (a) a magistrates' court must not make a protection order unless the court reasonably believes that the affected adult has given consent to the making of the order;*
- (b) a person must not take any action for the purposes of carrying out or enforcing a protection order unless the person reasonably believes that the affected adult has given consent to the action.*

*(2) Subsection (1) does not apply (and the absence of consent may be ignored) if the court or person reasonably believes-*

- (a) that the affected adult lacks capacity to give consent and that it is in the best interests of the adult for the order to be made or the action to be taken; or*
- (b) that the affected adult has been unduly pressurised to refuse to give consent and that there are no steps which could reasonably be taken with the adult's consent which would protect the adult from the harm which the order or action is intended to prevent.*

*(3) In particular, an adult may be considered to have been unduly pressurised to refuse to give consent to the making of an order or the taking of an action if it appears-*

- (a) that harm which the order or action is intended to prevent is being, or is likely to be, inflicted by a person in whom the adult has confidence and trust, and*
- (b) that the adult would consent if the adult did not have confidence and trust in that person.*

*(4) Nothing in subsection (2) or any other provision of this Part authorises a social worker, a health professional or any other person to ignore the absence of consent of a person to participate in-*

- (a) an interview, or*
- (b) a medical examination.*

*(5) In this section a "protection order" means-*

- (a) an assessment order,*
- (b) a removal order,*
- (c) a banning order or temporary banning order;*

*and "affected adult", in relation to a protection order, means the person whose well-being or property would be protected by the granting, carrying out or enforcement of the order.*

*(6) A reference in this section to consent given by an adult includes a reference to consent given on behalf of the adult by a court or by another person acting within the scope of an authority conferred by law on that person.*

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Clause 17 of the Adult Protection Bill governs the circumstances in which a trust may apply for protection orders. It establishes a clear legal duty on trusts to seek adults' informed consent before making such an application. This is a key pre-application safeguard, ensuring that these court powers are not used unnecessarily. It also acknowledges the lived reality of many adults who may refuse help and provides a mechanism to override that refusal where serious harm is likely. In principle, this provision aligns with adults' right to autonomy and dignity under Article 8 of the ECHR<sup>82</sup> <sup>83</sup> and the United Nations Principles for Older Persons.<sup>84</sup>

The Bill requires that consent can only be disregarded when the court reasonably believes either the adult lacks capacity and it is in their best interests, or the adult has been "unduly pressurised to refuse" and there are no steps that could reasonably be taken with consent to protect them from harm. While the Bill provides an example of 'undue pressure' in Clause 17(3), the illustration is narrow and may not capture the full range of coercive circumstances older people can face. The lack of definition or evidential standard of 'undue pressure' means it is difficult to understand how the trust will assess whether consent has been given freely by the adult. COPNI recommends the inclusion of a statutory definition of 'undue pressure' in the Bill, alongside a threshold test and a requirement for objective evidence. Doing so will ensure refusals are not too readily disregarded and will limit conflating an older person's discomfort, dependency and family tension with coercion.

In England, the inherent jurisdiction explicitly allows High Court judges to intervene to protect a vulnerable adult, even where the adult has the capacity to make a decision under the Mental Capacity Act 2005.<sup>85</sup> Inherent jurisdiction is often known as the "great safety net" as it allows the court to intervene where there is no other avenue.<sup>86</sup> The inherent jurisdiction can be used where a vulnerable adult is "reasonably believed to be, either (i) under constraint or (ii) subject

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<sup>82</sup> [European Convention on Human Rights](#).

<sup>83</sup> [Human Rights Act 1998](#).

<sup>84</sup> [United Nations Principles for Older Persons](#).

<sup>85</sup> [Mental Capacity Act 2005](#).

<sup>86</sup> [The Inherent Jurisdiction of the High Court](#), page 3.

to coercion or undue influence or (iii) for some other reason deprived of the capacity to make the relevant decision, or disabled from making a free choice, or incapacitated or disabled from giving or expressing a real and genuine consent".<sup>87</sup> A more layered definition such as this would enhance Northern Ireland's legislation.

As well as this, Clause 17 does not require a formal capacity assessment under the Mental Capacity Act (Northern Ireland) 2016.<sup>88</sup> COPNI recommends that, where lack of capacity is relied upon, a formal assessment under the Act should be mandatory to ensure consistency and compliance with existing statutory safeguards.

Moreover, where consent is overridden by the trust, there lacks procedural safeguards. The Bill does not set out what documentation the trust will use to assess pressure or serious harm, or how such decisions will be authorised or reviewed. This absence risks undermining the very autonomy the clause seeks to protect. The Bill should therefore require trusts and courts to record and justify any reliance on the consent override to ensure transparency and allow for independent scrutiny.

Again, there is no requirement for an independent advocate to be assigned to the adult concerned. COPNI recommends that the Bill impose a statutory duty to appoint an independent advocate, a necessary safeguard to ensure the adult's wishes and feelings are communicated effectively and that their rights, under Article 8 of the ECHR,<sup>89 90</sup> are protected.

In sum, Clause 17 sets an important tone in the Bill, recognising that adult safeguarding must start with adults' consent. However, it needs to be tightened to ensure that trusts cannot override an older person's autonomy without robust evidence, statutory process, independent advocacy and transparent recording of decisions. COPNI believes that there should be a duty to record and justify any reliance on this clause in application documentation to ensure full transparency and accountability.

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<sup>87</sup> [Re SA \[2005\] EWHC 2942](#), paragraph 77.

<sup>88</sup> [Mental Capacity Act \(Northern Ireland\) 2016](#).

<sup>89</sup> [European Convention on Human Rights](#).

<sup>90</sup> [Human Rights Act 1998](#).

## Obstruction

*23. (1) A person commits an offence if, without reasonable excuse, that person prevents or obstructs any other person from doing anything which the other person is authorised or entitled to do by virtue of-*

- (a) an assessment order,*
- (b) a removal order,*
- (c) a banning order,*
- (d) a temporary banning order,*
- (e) a warrant for entry, or*
- (f) any provision of this Part.*

*(2) A person guilty of an offence under this section is liable, on summary conviction, to a fine not exceeding level 3 on the standard scale or to imprisonment for a term not exceeding 3 months (or to both).*

*(3) A refusal to allow a social worker, or any person accompanying a social worker, to carry out a visit which is not authorised by a warrant for entry does not constitute an offence under this section.*

*(4) Nothing done by a person whose well-being or property another person is attempting to investigate or protect constitutes an offence under this section.*

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Clause 23 is an essential safeguard within the Bill. The clause makes it an offence to obstruct a person exercising powers under the Adult Protection Bill. As such, it creates a strong deterrent against obstruction of safeguarding investigations or non-cooperation with court orders. It underlines the seriousness of safeguarding work and helps to ensure those working to protect vulnerable adults are not hindered in carrying out their duties under the Bill.

COPNI recognises that safeguarding investigations can often take place in informal or family settings, where carers or relatives may be present. Consequently, there is some concern that family carers, neighbours or informal supporters may be criminalised for resisting intervention out of fear, misunderstanding or protective instincts under Clause 23. While the Bill does provide a defense of “reasonable excuse”, it lacks further clarification on how this defense applies in everyday circumstances. COPNI recommends the inclusion in statutory guidance of examples

of what “reasonable excuse” constitutes, particularly for carers and supporters acting in good faith. This would help avoid inappropriate criminalisation while ensuring the offence remains effective for deliberate obstruction. Similarly, COPNI also recommends that statutory guidance requires trusts and professionals to communicate the nature of their powers before resorting to enforcement, supported by training for staff and information for families to minimise the risk of inadvertent obstruction. COPNI believes this would prevent misunderstandings and support collective engagement, while also maintaining the priority of protecting the adult at risk.

## Offences by Bodies Corporate

### 24. (1) Where-

- (a) an offence under this Part has been committed by a body corporate or an unincorporated association, and*
- (b) it is proved that the offence was committed with the consent or connivance of, or was attributable to any neglect on the part of-*
  - i. a relevant person, or*
  - ii. a person purporting to act in the capacity of a relevant person,*

*that person as well as the body corporate or, as the case may be, unincorporated association is guilty of the offence and is liable to be proceeded against and punished accordingly.*

### *(2) In subsection (1) “relevant person” means-*

- (a) in relation to a body corporate-*
  - i. a director, manager, secretary or other similar officer of the body,*
  - ii. where the affairs of the body are managed by its members, a member,*
- (b) in relation to a partnership, a partner, and*
- (c) in relation to an unincorporated association other than a partnership, a person who is concerned in the management or control of the association.*

*(3) Proceedings in respect of an offence committed by virtue of this section may be brought only by, or with the consent of, the Director of Public Prosecutions for Northern Ireland.*

*(4) Section 20(2) of the Interpretation Act (Northern Ireland) 1954 (offences committed by a body corporate) does not apply to offences under this Part.*

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The Adult Protection Bill provides for personal liability where a corporate body commits an offence, and it can be shown that this occurred with the consent, connivance or neglect of an individual in a position of authority within the organisation. In such cases, both the organisation and the individual can be prosecuted and penalised.

Clause 24 is a vital part of the Bill’s enforcement and accountability framework. It is a significant step towards ensuring those in leadership positions cannot rely on the protection of the



corporate structure by holding directors and senior staff accountable for harm resulting from their actions or failures. This ensures compliance with the Bill's provisions from the top down, encouraging corporate bodies to take internal safeguarding governance seriously, with the knowledge that leadership may be held personally accountable. It therefore sends a strong message to corporate providers that adult safeguarding is not optional. This clause is particularly key for older people living in care homes, supported housing or community care settings. It targets organisational or systemic neglect, as well as institutional abuse, where culture, resource decisions and leadership can have a direct impact on the safety and wellbeing of older people.

Despite this, the clause lacks an enforcement mechanism. There is no parallel provision giving power to trusts, RQIA or any other body to investigate or recommend prosecution for such offences. Proceedings may be brought only by, or with the consent of, the Director of Public Prosecutions (DPP). Therefore, Clause 24 risks being symbolic, unless supported by regulatory action. Without a clear path to enforcement, its impact in practice may be limited. Therefore, COPNI recommends that the Bill clarify which agency (whether trusts, RQIA or another) has responsibility for gathering evidence and referring cases to the DPP. Without such clarity, Clause 24 may remain underenforced despite its potential importance.

The Bill also dictates a high evidential bar for establishing liability under this clause. Terms like 'consent', 'connivance' or 'neglect' imply intent or wilful disregard for safeguarding which COPNI believes may be difficult to prove, unless internal documentation or whistleblower evidence is available. COPNI recommends that the Bill should provide statutory definitions or guidance on what constitutes 'consent', 'connivance' or 'neglect' in a safeguarding context to avoid evidential uncertainty and inconsistent application.

Also, COPNI recommends that the Bill expressly link liability under Clause 24 to failures to comply with statutory safeguarding standards, staff training obligations and the duty of candour.<sup>91</sup> This would provide objective benchmarks for enforcement, making prosecutions more practical and ensuring that corporate liability captures systemic failings, not just deliberate misconduct. By embedding these duties, Clause 24 could operate not just as a punitive measure after harm occurs, but as a driver of preventive safeguarding culture. In turn, this will encourage providers to prioritise compliance before harm arises. Strengthening Clause 24's operational clarity and evidential guidance would improve its impact on the ground.

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<sup>91</sup> Northern Ireland Assembly (2025) '[Written Ministerial Statement, Department of Health, Department of Health Proposals on a Duty of Candour Bill for Northern Ireland](#)'.

## Appeals

25. (1) *No appeal lies against any decision of a magistrates' court on an application for-*

- (a) a production order;*
- (b) an assessment order;*
- (c) a removal order; or*
- (d) a warrant for entry.*

*(2) An appeal lies to the county court against any decision of a magistrates' court on an application for a banning order or temporary banning order, or for the variation or revocation of such an order; but an appeal under this subsection against a decision relating to a temporary banning order lies only with leave of the magistrates' court.*

*(3) The county court's decision on an appeal under subsection (2) may be appealed to the High Court; but an appeal under this subsection against a decision relating to a temporary banning order lies only with leave of the county court.*

*(4) Where the county court decides to quash a banning order or temporary banning order, the court may order that the banning order or temporary banning order concerned is (despite the county court's decision) to continue to have effect until-*

- (a) the end of the period during which the decision to quash the order may be appealed to the High Court (if no such appeal is made),*
- (b) where such an appeal is made, the day on which-*
  - i. the appeal is abandoned, or*
  - ii. the High Court confirms the county court's decision to quash the order, or*
- (c) any other day on which-*
  - i. the order otherwise expires by virtue of section 12(6) or 13(4), or*
  - ii. in the case of a temporary banning order, the county court refuses leave to appeal against the decision to quash the order.*

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Clause 25 is a necessary safeguard within the Adult Protection Bill. It introduces an important mechanism for challenging certain decisions made by magistrates' courts under the Bill, showing recognition that decisions made under the legislation can have implications for a person's rights, liberty and autonomy. As an example, banning orders can significantly restrict

an adult's liberty, as well as access to their home and Clause 25 provides a clear, tiered appeal mechanism for such orders. Clause 25 also allows courts to preserve protective measures while appeals are ongoing, preventing any gaps in safeguarding.

However, Clause 25 stops short of offering appeal rights where they are needed most. It expressly excludes production, assessment and removal orders, as well as warrants for entry, from appeal despite their significant intrusiveness. The absence of a right to challenge these orders is a serious limitation of procedural fairness and could be potentially incompatible with Article 6 of the ECHR, right to a fair trial.<sup>92 93</sup>

Clause 25 also dictates that appeals against temporary banning orders require leave. Given that temporary banning orders are likely to be used in urgent or contested cases, requiring leave may present as a barrier to justice. COPNI also notes that there is no automatic return hearing provided in cases where temporary banning orders are granted ex parte. The absence of this provision may be viewed as a gap in procedural safeguards, particularly when compared to protections in some domestic abuse frameworks.<sup>94</sup> To ensure early scrutiny, COPNI suggests including a requirement whereby automatic return hearings are held within 7 days for temporary banning orders made ex parte. This safeguard would align the Bill with best practice in domestic abuse frameworks and ensure early judicial scrutiny where orders have been granted without notice.

Despite these concerns, COPNI recognises that there are features of these orders that may explain why appeal rights are not provided in the Bill.

### Production Orders

The Bill requires the holder of the records, as well as the affected adult to be notified and given the opportunity to make representations before a production order is granted. These procedural rights provide an important degree of Article 6 protection at first instance, which may reduce the perceived need for an appellate tier.<sup>95 96</sup>

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<sup>92</sup> [European Convention on Human Rights](#).

<sup>93</sup> [Human Rights Act 1998](#).

<sup>94</sup> In Northern Ireland, domestic abuse frameworks include non-molestation orders and occupation orders under the Family Homes and Domestic Violence (Northern Ireland) Order 1998. These orders are similar in nature to banning orders under the Adult Protection Bill, because they restrict a person from entering or remaining in certain places to protect someone at risk. In those domestic abuse frameworks, if a non-molestation or occupation order is made ex parte (without the other party being present), the law provides for an automatic return hearing within a short timeframe (usually within 7 days), ensuring the person affected has an opportunity to be heard quickly, preserving procedural fairness. See [Family Homes and Domestic Violence \(Northern Ireland\) Order 1998](#).

<sup>95</sup> [European Convention on Human Rights](#).

<sup>96</sup> [Human Rights Act 1998](#).

### Assessment Orders

Assessment orders are intended to operate with speed and immediacy. Introducing an appeal mechanism could undermine their short-term protective purpose. In addition, an assessment order does not include any power to detain. Under Clause 17(4), an adult cannot be compelled to participate in an interview or medical examination and may leave the premises at any time. This statutory position does not remove the possibility that the practical operation of the order may still engage Article 5 rights for many older people, which reinforces the need for clear procedural safeguards.<sup>97 98</sup>

### Removal Orders

Although a removal order is more intrusive than an assessment order, it is subject to a significantly stricter statutory threshold. The court must be satisfied that the adult at risk is likely to be seriously harmed if not removed. This, combined with the short duration of the order and the absence of an explicit power of detention, could be viewed as offering a degree of procedural protection at first instance.

### Warrants for Entry

There is a comparable approach in clause 129(1) of the Mental Health (Northern Ireland) Order 1986,<sup>99</sup> which provides a power of entry, including by force, with no associated right of appeal. The Adult Protection Bill's approach to warrants for entry is consistent with that established framework.

While COPNI understands these structural features, we remain concerned that the absence of any statutory route of challenge leaves older people with limited procedural safeguards in situations that can be highly intrusive. As it stands, the Bill is diverting the management of extremely complex legal and factual situations to the magistrates' courts. By contrast, in England, such cases are currently being dealt with by High Court judges. This, coupled by the fact there is no appeal mechanisms for these orders, is worrying and could lead to urgent judicial reviews having to be brought on a frequent basis. COPNI believes judicial review is not an adequate substitute for a statutory right of appeal as it is slow, costly and largely inaccessible for many older people.

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<sup>97</sup> [European Convention on Human Rights](#).

<sup>98</sup> [Human Rights Act 1998](#).

<sup>99</sup> [The Mental Health \(Northern Ireland\) Order 1986](#).

COPNI therefore encourages consideration be given to introducing a limited and expedited appeal mechanism for production, assessment, removal and entry orders. Alternatively, at minimum, COPNI suggests allowing an urgent review or return hearing listed within a defined timeframe (for example, 7 days). This would help ensure that the Bill balances swift protection with procedural fairness while respecting the rights and dignity of the adults it is designed to protect. Strengthening this clause is vital to ensure the Bill meets basic standards of due process and proportionality, especially in cases involving older adults and intrusive action.

## Independent Advocates

26. (1) *Each HSC trust must make arrangements to secure that an independent advocate is available to be assigned to represent and provide support to an adult in relation to the exercise, or proposed exercise, by the trust of any functions under this Part in relation to the adult.*

(2) *Arrangements under subsection (1) may include provision for payments to be made to, or in relation to, persons carrying out functions by virtue of the arrangements.*

(3) *In this Part “independent advocate” means a person who has been assigned to act as such in accordance with arrangements under this section.*

(4) *Regulations may make provision about-*

- (a) the arrangements that may be entered into by HSC trusts for the purposes of this section;*
- (b) the assignment and functions of independent advocates.*

(5) *The regulations may in particular-*

- (a) provide that a person may be assigned as an independent advocate only if the person meets prescribed conditions;*
- (b) provide for the assignment of a person to be subject to prescribed conditions.*

(6) *The conditions that may be prescribed under subsection (5)(a) include-*

- (a) a condition that the person is approved, or belongs to a description of persons approved, in accordance with the regulations;*
- (b) a condition that the person has prescribed qualifications or skills or has undertaken prescribed training.*

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The importance of independent advocacy is discussed thoroughly throughout this review. Clause 26 is one of the most vital rights-protecting provisions in the Bill, and one which COPNI strongly welcomes. It places access to independent advocacy on a statutory footing, recognising advocacy as essential to ensuring that adults at risk have their voice heard, can participate fully, and can challenge decisions made about them. This is especially crucial for older people who may feel intimidated, disempowered or unheard in safeguarding processes.

As currently drafted, the clause falls short of providing meaningful protection. Trusts are only required to “make arrangements” for advocacy to be available, not to guarantee that an advocate will be assigned. This risks significant inconsistency across trusts and leaves open the possibility that older people will face safeguarding processes without support. As such, the principles of the Bill (Clause 1: Principles) must be considered here. In particular, to have regard to the wishes and feelings of the adult, the importance of enabling, as far as possible, the adult’s participation, and of providing such information and support as is necessary to enable them to participate. COPNI therefore recommends that the Bill create mandatory statutory triggers for advocacy in all cases where intrusive protection orders (production, assessment, removal, and banning orders) are sought. Without such triggers, advocacy risks being rationed or discretionary rather than a core safeguard.

While the Bill defines an “independent advocate” as a person assigned under trust arrangements, there is no express guarantee in the Bill that advocates must be genuinely independent from the trust itself, or any care provider involved in the adult’s support. In the context of adult safeguarding, where decisions may be taken about a person’s safety, liberty or care arrangements, it is essential that the advocate is not aligned with the bodies responsible for delivering or commissioning services. Clause 26(5)(a) and (b) of the Bill leaves specifying the conditions of independent advocacy to regulations, somewhat mirroring the Mental Health (Northern Ireland) Order 1986.<sup>100</sup> Similarly, in Scotland, their adult safeguarding legislation<sup>101</sup> adopts the wording of their Mental Health (Care and Treatment) (Scotland) Act 2003.<sup>102</sup> However, their legislation goes further in clarifying independence. Clause 259(4) and (5) of the Mental Health (Care and Treatment) (Scotland) Act 2003 states the expectations which should apply to all advocacy services in relation to adults at risk of harm. The Act highlights that “advocacy services are “independent” if they are to be provided by a person who is none” of the bodies or persons listed at Clause 259(5). Therefore, rather than leaving regulation to deal with this, COPNI would welcome Northern Ireland’s Bill explicitly requiring advocates to be independent of both the trust and any care provider involved in the adult’s support. Doing so would guarantee impartiality and build trust in the safeguarding process.

Further, the Bill contains no provision for minimum standards, training or approval criteria for advocates. Rather, it is delegated to regulation. COPNI recommends that regulations set clear professional standards, competence requirements, and monitoring arrangements, to ensure consistency and quality across Northern Ireland. The Bill also states that advocacy can be

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<sup>100</sup> [The Mental Health \(Northern Ireland\) Order 1986](#).

<sup>101</sup> [Adult Support and Protection \(Scotland\) Act 2007](#).

<sup>102</sup> [Mental Health \(Care and Treatment\) \(Scotland\) Act 2003](#).

delivered through a range of different models including third-sector or community providers. This increases the flexibility of Clause 26, which COPNI believes is not appropriate unless properly regulated.

It is also unclear how any independent advocacy provisions take account of the Mental Capacity Act (Northern Ireland) 2016.<sup>103</sup> COPNI recommends the Bill clarify how it will sit alongside existing provisions to ensure individuals with and without capacity are offered equivalent protection.

Embedding these safeguards is not simply desirable policy, it is necessary to ensure compliance with the Human Rights Act 1998<sup>104</sup> and Articles 6 and 8 of the ECHR.<sup>105</sup> Without mandatory advocacy, there is a risk that the adult will be sidelined in decisions that interfere with their liberty, private life and dignity. COPNI therefore recommends that Clause 26 be strengthened to impose a statutory duty, create mandatory triggers, require independence and set standards, ensuring advocacy fulfils its purpose as a cornerstone of rights protection.

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<sup>103</sup> [Mental Capacity Act \(Northern Ireland\) 2016](#).

<sup>104</sup> [Human Rights Act 1998](#).

<sup>105</sup> [European Convention on Human Rights](#).



## Adult Protection Board for Northern Ireland

### *Establishment of the Board*

30. (1) *The Department must establish in accordance with this section a Board to be known as the Adult Protection Board for Northern Ireland (in this Part referred to as “the Board”).*

(2) *The Board must include-*

- (a) a Chair appointed by the Department,*
- (b) such representative or representatives of the persons or bodies specified in subsection (3) as may be prescribed, and*
- (c) at least 2 but not more than 4 other persons (who are not representatives of the persons or bodies specified in subsection (3) or of any other person or body exercising functions or engaged in activities relating to the protection of adults at risk) appointed by the Department.*

(3) *The persons or bodies referred to in subsection (2) are-*

- (a) the Regional Agency for Public Health and Social Well-being;*
- (b) the Northern Ireland Social Care Council;*
- (c) the Patient and Client Council;*
- (d) HSC trusts;*
- (e) the Chief Constable;*
- (f) such other persons exercising functions or engaged in activities relating to the protection of adults at risk as may be prescribed.*

(4) *The persons who may be prescribed under subsection (2)(b) include any individual employed in a role the normal duties of which consist wholly or mainly of the direction or oversight of the exercise of the functions of the Department that relate to or are exercised in connection with the social care of adults (and for that purpose the employer of such an individual may be prescribed under subsection (3)(f)).*

(5) *Subject to the approval of the Department, the Board may also include representatives of such other persons or bodies exercising functions or engaged in activities relating to the protection of adults at risk as the members of the Board consider should be represented on it.*

(6) *Regulations may make provision as to-*

- (a) the appointment, tenure and vacation of office of a Chair and members of the Board (including the circumstances in which they cease to hold office or may be removed or suspended from office);*
- (b) the procedure of the Board;*
- (c) the staff, premises and expenses of the Board (including provision as to which person or body provides the staff and premises and meets the expenses).*

*(7) The Department may pay the Chair and the members of the Board referred to in subsection (2)(c) such remuneration and allowances as the Department may, with the approval of the Department of Finance, determine.*

*(8) Proceedings of the Board are not invalidated by any vacancy in membership or by any defect in a member's appointment or qualifications.*

### *Objective of the Board*

*31. (1) The objective of the Board is to co-ordinate and ensure the effectiveness of what is done by each person or body represented on the Board (by virtue of section 30(2)(b) and (5)) for the purposes of protecting adults at risk.*

*(2) Regulations may amend the objective specified in subsection (1) (whether by adding to, removal of or substitution of any part of that objective) for the purposes of protecting adults at risk.*

### *Functions of the Board*

*32. (1) The Board must, in respect of each financial year, develop and publish a strategic plan for the protection of adults at risk.*

*(2) The Board must-*

- (a) develop practices and procedures for protecting adults at risk, and*
- (b) promote an awareness of the need to protect adults at risk.*

*(3) The Board must-*

- (a) monitor, review and hold to account the exercise by bodies and persons represented on the Board (by virtue of section 30(2)(b) and (5)) of their functions relating to the protection of adults at risk;*

*(b) keep the practices and procedures of such bodies and persons in relation to the protection of adults at risk under review with a view to encouraging best practice, the standardisation of procedures and co-operation;*

*(c) make arrangements for training and advice to be provided to members of the staff of such bodies and persons whose work may be relevant to the protection of adults at risk.*

*(4) The Board must advise and support the Department in the exercise of the Department's functions relating to the protection of adults at risk.*

*(5) The Board must undertake such serious case reviews as may be prescribed in such circumstances as may be prescribed.*

*(6) The Board must make arrangements for consultation and engagement with persons or bodies (other than those represented on the Board) with an interest in the protection of adults at risk.*

*(7) The Board may-*

*(a) compile and analyse information concerning the protection of adults at risk;*

*(b) provide advice or information on any matter concerning the protection of adults at risk;*

*(c) subject to consultation with the Department, publish any matter concerning the protection of adults at risk.*

*(8) The Board may also engage in any other activity that facilitates, or is conducive to, the achievement of its objective.*

### *Directions to the Board*

*33. (1) The Department may give directions of a general or specific nature to the Board as to the exercise by the Board of any of its functions.*

*(2) Before giving any directions to the Board, the Department must consult the Board.*

*(3) Where the Department is of the opinion that because of the urgency of the matter it is necessary to give directions without consulting the Board-*

*(a) subsection (2) does not apply, but*

*(b) the Department must as soon as reasonably practicable give notice to the Board of the grounds on which the Department formed that opinion.*

*(4) The Board must comply with any directions given to it under subsection (1).*

*(5) Any directions given to the Board by the Department under subsection (1) may be varied or revoked by any subsequent directions so given.*

### *Annual Report*

*34. (1) The Board must, within such period after the end of each financial year as the Department may direct, prepare and send to the Department a report in such form, and containing such information, as may be prescribed.*

*(2) The report must include details on the implementation of the strategic plan including an assessment of the effect of the strategic plan and information on the activities carried out in pursuance of the strategic plan.*

*(3) The Department must lay a copy of the report before the Assembly.*

*(4) In this Part “financial year”, in relation to the Board, means-*

- (a) the period beginning with the day on which the Board is established and ending on the next following 31st March; and*
- (b) each subsequent period of 12 months ending on 31st March.*

### *Committees and Sub-Committees of the Board*

*35. (1) The Board may establish one or more committees in accordance with this section.*

*(2) The Board or a committee may establish one or more sub-committees in accordance with this section.*

*(3) Regulations may make provision as to-*

- (a) the appointment, tenure and vacation of office of Chairs and members of committees and sub-committees (including the circumstances in which they cease to hold office or may be removed or suspended from office),*
- (b) the procedure of committees and sub-committees,*
- (c) the functions of committees and sub-committees, and*
- (d) the staff, premises and expenses of committees and sub-committees (including provision as to which person or body provides the staff and premises or meets the expenses).*

*(4) Regulations may provide that committees and sub-committees must include such representatives of such persons or bodies as may be prescribed or such other persons as may be prescribed.*

*(5) The Department may pay the Chairs of committees and sub-committees such remuneration and allowances as the Department may, with the approval of the Department of Finance, determine.*

*(6) Members of-*

*(a) committees may be persons who are not members of the Board;*

*(b) sub-committees may be persons who are not members of the Board or of a committee which established the sub-committee.*

*(7) Proceedings of committees or of sub-committees are not invalidated by any vacancy in membership or by any defect in a member's qualifications or appointment.*

*(8) Regulations may make provision as to the exercise by committees or sub-committees of any of their functions (including provision as to further duties to be imposed, procedures to be followed and the manner in which a committee or sub-committee is to exercise its functions).*

*(9) Each committee or sub-committee must, in exercising its functions, have due regard to any guidance given to it for the purpose by the Department or the Board.*

*(10) Each committee must, within such period after the end of each financial year as the Board may direct, prepare and send to the Board a report in such form, and containing such information, as may be prescribed.*

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Part 2 of the Adult Protection Bill (Clauses 30 to 37) establishes the Adult Protection Board for Northern Ireland and places it on statutory footing. Doing so gives the Board legal authority and permanence.

The objective of the Board is to co-ordinate and ensure the effectiveness of adult safeguarding across all relevant agencies. Its multi-agency structure ensures involvement of all key stakeholders across health, social care, policing, and housing. Despite this, Clause 33 gives the DoH sweeping power to issue binding directions to the Board. Consequently, the Board has a

statutory obligation to comply with such directions. Thus, there is an absence of legal protection for the Board's operational or strategic independence. COPNI recommends the Bill be amended to include a statutory duty for the Board to operate independently of the Department in its oversight role, in order to safeguard credibility and avoid conflicts of interest.

The Board has several functions, including the duty to produce a strategic plan and annual report, setting out the priorities for adult protection in Northern Ireland. This creates an important lever for transparency and progress monitoring in the sector. COPNI recommends adding an additional duty to publish safeguarding trends, systemic risks, and agency performance within its annual report to ensure public accountability and strengthen public confidence.

The Board also has a statutory duty to oversee, monitor and hold to account safeguarding performance and promote best practice. COPNI maintains that such a power would drive cultural and operational changes. However, the Bill stops short of allowing the Board to have formal sanctioning power. If the persons or bodies represented on the Board are non-compliant with their safeguarding responsibilities, the recourse is unclear. COPNI recommends that the Bill should provide the Board with a formal pathway to escalate concerns to the Minister, the Assembly or an independent regulator if safeguarding failings persist.

COPNI welcomes the inclusion of two to four independent lay members on the Board. Their involvement offers scope for lived experience, public interest and older person advocacy to inform decisions. However, the Bill does not create a statutory requirement for older people or their carers to be represented. This omission risks undermining inclusive, person-centered safeguarding governance. Older people and carers bring a vital perspective to discussions and a Board that lacks their direct insight could become disconnected from the realities on the ground. COPNI would recommend a requirement to appoint at least one lay member with lived experience, and a requirement for engagement with older people and carers as part of Clause 32(6).

The Bill also places Serious Case Reviews on a legal footing. This ensures reviews happen consistently and lessons learned are systematised, rather than discretionary. COPNI reiterates the NIHRC's recommendation that the Bill should set out "minimum procedural safeguards for serious case reviews, including requirements for independence, timeliness, public scrutiny and involvement of the next-of-kin, in accordance with Article 2 of the ECHR".<sup>106 107 108</sup> As currently drafted, the Bill does not contain an express duty to publish Serious Case Reviews.

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<sup>106</sup> Northern Ireland Human Rights Commission (2025) '[Submission to Committee for Health on the Adult Protection Bill](#)', page 7/8.

<sup>107</sup> [European Convention on Human Rights](#).

<sup>108</sup> [Human Rights Act 1998](#).

Transparency may be lost unless regulations or guidance require publication and open learning. COPNI recommends amending Clause 32(5) to set out clear statutory triggers for Serious Case Reviews and to require public access to Serious Case Reviews, redacted as necessary for privacy. COPNI also recommends clarification on how Serious Case Reviews will operate alongside serious adverse incident processes.<sup>109 110</sup>

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<sup>109</sup> Department of Health (2025) '[Framework for Learning and Improvement from Patient Safety Incidents Consultation](#)'.

<sup>110</sup> COPNI (2025) '[COPNI Response to DoH's Serious Adverse Incident Redesign Programme - Framework for Learning and Improvement from Patient Safety Incidents consultation](#)'.

## Offences Involving Ill-Treatment or Wilful Neglect

### *Ill Treatment or Neglect: Care Worker Offence*

38. (1) *It is an offence for an individual who has the care of an adult by virtue of being a care worker to ill-treat or wilfully to neglect that adult.*

(2) *An individual guilty of an offence under this section is liable-*

- (a) on conviction on indictment, to imprisonment for a term not exceeding 5 years or a fine (or both);*
- (b) on summary conviction, to imprisonment for a term not exceeding 6 months or a fine not exceeding the statutory maximum (or both).*

(3) *“Care worker” means-*

- (a) an individual who, as paid work, provides health care or social care for an adult,*
- (b) a volunteer who provides health care or social care for an adult;*
- (c) an individual who, as paid work, supervises or manages persons mentioned in paragraph (a) or (b) providing such care or is a director or similar officer of an organisation which provides such care.*

(4) *For the purposes of subsection (3)-*

- (a) “a volunteer” means a person who volunteers for a body whose activities are not carried on for profit;*
- (b) an individual does something as “paid work” if he or she receives or is entitled to payment for doing it other than-*
  - i. payment in respect of the individual’s reasonable expenses,*
  - ii. a benefit under social security legislation, or*
  - iii. a payment made under arrangements under section 1 of the Employment and Training Act (Northern Ireland) 1950 (arrangements to assist people to select, train for, obtain and retain employment).*

(5) *References in this section to an individual providing health care or social care do not include an individual whose provision of such care is merely incidental to the carrying out of other activities by the individual.*



Clause 38 creates a criminal offence targeting the ill-treatment or wilful neglect of an adult by a care worker. It introduces a clear criminal sanction for abuse, serving as a strong deterrent, which is particularly important in regulated care environments. It captures a broad spectrum of harmful behaviours, from abuse to neglect or deliberate disregard of the adult's care needs, covering both action and inaction.

Whilst this is a welcome provision, COPNI is concerned by the absence of a statutory definition of 'wilful neglect'. This ambiguity could lead to inconsistencies across trusts. COPNI would welcome the development of statutory guidance on wilful neglect thresholds to ensure understanding among staff and prevent an inconsistent application of Clause 38.

Clause 38 captures a range of staff, including volunteers and supervisory staff. In doing so, it recognises the role of unpaid individuals in care delivery, particularly in community and third-sector contexts. However, it excludes those whose provision of health and social care is merely incidental to their main role. Such individuals may still exert control or have access to vulnerable adults, which could lead to a safeguarding gap.

Also, it is key that accountability extends to those in oversight or managerial roles, not just frontline staff. However, this clause criminalises individuals but does not catch organisations whose culture, staffing or systems permit abuse. Though this is covered by Clause 24 (Offences by bodies corporate) and Clause 39 (Ill-treatment or neglect: care provider offence), there is no joined-up provision. This risks a fragmented approach to accountability, where individuals are prosecuted but systemic failings in organisational culture, staffing or governance are not addressed in a joined-up way. COPNI recommends the Bill provide clearer connections between these provisions to ensure both individual and organisational responsibility are consistently enforced.

Furthermore, there is no parallel duty requiring professionals to report witnessing the ill-treatment or neglect of an adult by a care worker. This weakens the safeguarding response, unless paired with Clause 4 of the Bill (Duty to report and co-operate in inquiries). COPNI would suggest amending the Bill or including in guidance that any person to whom Clause 4 applies must report suspected ill-treatment or wilful neglect, as defined under Clause 38, and clarify that this includes misconduct by colleagues. COPNI would also welcome a requirement for training, monitoring and whistleblowing protection to ensure the offence operates as a preventive measure, rather than a reactive sanction.

### *III Treatment or Neglect: Care Provider Offence*

39. (1) *A care provider commits an offence if-*

- (a) an individual who has the care of an adult by virtue of being part of the care provider's arrangements ill-treats or wilfully neglects that adult,*
- (b) the care provider's activities are managed or organised in a way which amounts to a gross breach of a relevant duty of care owed by the care provider to the adult who is ill-treated or neglected, and*
- (c) in the absence of the breach, the ill-treatment or wilful neglect would not have occurred or would have been less likely to occur.*

(2) *"Care provider" means-*

- (a) a body corporate or unincorporated association which provides or arranges for the provision of health care or social care for an adult, or*
- (b) an individual who provides such care and employs, or has otherwise made arrangements with, other persons to assist him or her in providing such care.*

(3) *An individual is "part of a care provider's arrangements" where the individual-*

- (a) is not the care provider, but*
- (b) provides health care or social care for an adult as part of health care or social care provided or arranged for by the care provider,*

*including where the individual is not the care provider but supervises or manages individuals providing health care or social care as described in paragraph (b) or is a director or similar officer of an organisation which provides health care or social care as described there.*

(4) *A "relevant duty of care" means-*

- (a) a duty owed under the law of negligence, or*
- (b) a duty that would be owed under the law of negligence but for a provision contained in a statutory provision under which liability is imposed in place of liability under that law,*

*but only to the extent that the duty is owed in connection with providing, or arranging for the provision of, health care or social care.*

(5) *For the purposes of this section, there is to be disregarded any rule of the common law that has the effect of-*

- (a) preventing a duty of care from being owed by one person to another by reason of the fact that they are jointly engaged in unlawful conduct, or*
- (b) preventing a duty of care being owed to a person by reason of that person's acceptance of a risk of harm.*

*(6) A breach of a duty of care by a care provider is a "gross" breach if the conduct alleged to amount to the breach falls far below what can reasonably be expected of the care provider in the circumstances.*

*(7) In this section-*

- (a) references to a person providing health care or social care do not include a person whose provision of such care is merely incidental to the carrying out of other activities by the person, and*
- (b) references to a person arranging for the provision of such care do not include a person who makes arrangements under which the provision of such care is merely incidental to the carrying out of other activities.*

*(8) References in this section to providing or arranging for the provision of health care or social care do not include making payments under regulations under section 8 of the Carers and Direct Payments Act (Northern Ireland) 2002.*

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Clause 39 introduces an offence aimed at care providers. It brings accountability to the organisational level, recognising that abuse often stems, not from isolated acts but from systemic failures in staffing, training, governance or culture. The Bill's wide scope of "care provider" to include companies, charities, and individuals who employ others to deliver care, applies to real world care structures seen in Northern Ireland. It captures subcontracting, outsourcing and layered staffing arrangements, common in adult care.

Clause 39 sends a clear message that ill-treatment and wilful neglect will not be tolerated. The provision of publicity orders, for instance, will act as a deterrent and work to drive improvement and accountability. By targeting the corporate responsibility of care providers, this clause reinforces the message that safeguarding is a leadership obligation, and providers must ensure safe, competent and compassionate care environments.

However, COPNI has a number of concerns with the clause as currently drafted. Firstly, there is a high evidential threshold. Providing evidence of a gross breach and a causal link between that breach and the harm caused may be difficult, particularly in cases where documentation is poor or whistleblowers are afraid to speak up. Statutory guidance should define what constitutes a “gross breach” in adult safeguarding contexts. It is also worth noting that COPNI has “repeatedly called for embedding a culture of openness, learning and improvement in the health and social care sector”.<sup>111</sup> We suggest adding a duty into the Bill to support staff raising safeguarding concerns, with penalties for retaliation or concealment.

Secondly, as seen in Clause 38 (Ill treatment or neglect: care worker offence), there is no statutory duty on professionals to report suspected abuse within their organisation. This could weaken early detection of safeguarding failings. There is also no explicit role for RQIA or trusts in triggering or supporting prosecution under this clause. It may be worth exploring lowering the burden on professionals for action. Perhaps a duty to notify RQIA or trusts where serious risk of harm is identified could be introduced, enabling regulatory action short of criminal prosecution. COPNI recommends that the Bill be amended to clarify referral responsibilities and to ensure that reporting mechanisms capture organisational, as well as individual ill treatment or wilful neglect.

Thirdly, Clause 39 does not directly attach liability to directors or trustees unless they are charged separately under Clause 24 (Offences by bodies corporate). The Bill needs to ensure that senior staff and directors cannot evade accountability. As drafted, Clause 39 limits its deterrent effect on these individuals.

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<sup>111</sup> COPNI (2025) '[COPNI Response to DoH's Serious Adverse Incident Redesign Programme - Framework for Learning and Improvement from Patient Safety Incidents consultation](#)', page 1.

## Regulation of CCTV Systems on Certain Establishments

### *Establishments to which this Part applies*

43. (1) *This Part applies to the following establishments-*

- (a) a day care setting;*
- (b) a nursing home;*
- (c) a residential care home;*
- (d) a mental health unit.*

*(2) In this Part-*

*“day care setting”, “nursing home” and “residential care home” have the same meaning as in the 2003 Order;*

*“mental health unit” means a hospital, or part of a hospital, managed by an HSC trust which is maintained wholly or mainly for the reception and treatment of adults suffering from mental disorder (within the meaning of the Mental Health (Northern Ireland) Order 1986);*

*“the 2003 Order” means the Health and Personal Social Services (Quality, Improvement and Regulation) (Northern Ireland) Order 2003.*

### *Regulation of CCTV Systems in Establishments to which this Part applies*

44. (1) *Regulations may, in relation to the establishments to which this Part applies, make provision about the installation and use of a CCTV system on the premises of the establishment for the purpose of safeguarding adults at risk who reside in, or use the services provided in, those premises.*

*(2) Regulations may make provision-*

- (a) for prescribed assessments and other procedures to be carried out before a CCTV system is installed on any premises;*
- (b) about the need to inform and seek the consent of those residing or accommodated in, or using the services provided in, those premises (including provision about cases where consent is refused or a person lacks capacity to consent);*

- (c) prohibiting or restricting the installation or use of a CCTV system in areas or locations of a prescribed kind or description;*
- (d) for the publication of information about any CCTV system installed on the premises of an establishment;*
- (e) about the use and maintenance of the CCTV system;*
- (f) about the use and processing of information obtained by the system and access to and disclosure of that information;*
- (g) for the issue by the Department of guidance about the content of the regulations.*

*(3) In this Part “CCTV system” means-*

- (a) a closed circuit television system; and*
- (b) any associated system for storing, processing or retrieving images obtained by that closed circuit television system.*

#### *Contravention of Regulations under Section 44*

*45. (1) Regulations under section 44 may provide that a contravention of any prescribed provision of the regulations is an offence.*

*(2) A person guilty of an offence under the regulations is liable on summary conviction to a fine not exceeding level 3 on the standard scale.*

*(3) Proceedings in respect of an offence under the regulations must not, without the consent of the Director of Public Prosecutions for Northern Ireland, be taken by any person other than RQIA.*

*(4) Proceedings for an offence under the regulations may be brought within a period of 6 months from the date on which evidence sufficient in the opinion of the prosecution to warrant the proceedings came to its knowledge; but no proceedings may be brought by virtue of this subsection more than 3 years after the commission of the offence.*

#### *Enforcement Powers of RQIA*

*46. (1) It is a function of RQIA to monitor and enforce compliance with regulations under section 44.*

*(2) The following provisions of this section confer powers on RQIA which are exercisable only for the purposes of its function under subsection (1); and the powers conferred on RQIA by Articles 40 and 41 of the 2003 Order are not exercisable for those purposes.*

*(3) In this section “the responsible authority” means-*

- (a) in relation to a mental health unit, the HSC trust responsible for the management of the unit or the person employed by that trust who is responsible for the management of the unit;*
- (b) in relation to any other establishment to which this Part applies, the person who carries on or manages the establishment.*

*(4) RQIA may at any time require the responsible authority of an establishment to which this Part applies to provide it with any information relating to the establishment which RQIA considers it necessary or expedient to have for the purposes of its function under subsection (1).*

*(5) A person authorised by RQIA may at any time enter and inspect the premises of an establishment to which this Part applies; but that person may not enter and inspect premises used wholly or mainly as a private dwelling unless the occupier consents.*

*(6) A person authorised by virtue of subsection (5) to enter and inspect premises may-*

- (a) make any examination of the premises (including in particular CCTV equipment on the premises) which the person considers necessary or expedient;*
- (b) inspect and take copies of any documents or records required to be kept in accordance with regulations under section 44;*
- (c) interview in private the responsible authority of the establishment;*
- (d) interview in private any person employed there;*
- (e) interview in private any person residing or accommodated in, or using the services provided in, the premises who consents to be interviewed.*

*(7) The powers under subsection (6)(b) include-*

- (a) power to require the responsible authority of the establishment to produce any documents or records, wherever kept, for inspection on the premises; and*
- (b) in relation to records which are kept by means of a computer, power to require the records to be produced in a form in which they are legible and can be taken away.*

*(8) A person who proposes to exercise any power of entry or inspection conferred by this section must, if so required, produce some duly authenticated document showing that person's authority to exercise the power.*

*(9) Any person who-*

- (a) intentionally obstructs the exercise of any power conferred by this section, or*
- (b) fails without a reasonable excuse to comply with any requirement under this section,*

*is guilty of an offence and liable on summary conviction to a fine not exceeding level 4 on the standard scale.*

*(10) A person authorised by virtue of this section to enter and inspect any premises may seize and remove any document or other material or thing found there which the person has reasonable grounds to believe may be evidence of a failure to comply with any requirement of regulations under section 44.*

*(11) A person so authorised-*

- (a) may require any other person to afford the authorised person such facilities and assistance with respect to matters within the other person's control as are necessary to enable the authorised person to exercise his or her powers under this section;*
- (b) may take such photographs and make such recordings as the person considers necessary to enable him or her to exercise those powers.*

*(12) A person authorised by virtue of this section to inspect any records is entitled to have access to, and to check the operation of, any computer and any associated apparatus which is or has been in use in connection with the records in question.*

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The Adult Protection Bill enables the DoH to make future regulations on when and how closed-circuit television (CCTV) can be installed and used in a number of care settings. The aim of Clauses 43 to 47 (Part 4), as well as the subsequent development of the regulations, is to strengthen safeguarding by establishing a statutory framework for surveillance.

One of the key strengths of Part 4 is that it allows targeted use of CCTV where the evidence justifies it. Rather than forcing every care setting to install cameras, the Bill creates this safeguarding tool without the need for a blanket mandate. COPNI therefore emphasises the



NIHRC's recommendation that "the installation and use of any CCTV camera in a health and social care setting must be assessed on a case-by-case basis".<sup>112</sup> This approach also ensures CCTV is not used as a proxy for human contact.

COPNI welcomes that the regulation-making power in the Bill is expressly linked to consent and capacity and bans cameras in sensitive areas. This aligns with Article 8 of the ECHR, right to respect for private and family life.<sup>113 114</sup> However, consent can be illusory in institutional settings. Power imbalances could mean residents feel unable to refuse the use of CCTV, especially where cameras are presented as a condition of admission. COPNI recommends that consent safeguards are strengthened to ensure that refusal of CCTV cannot be used to disadvantage or refuse admission to a resident, unless DoH grants an explicit waiver.

Issues around consent also present when considering communal places. COPNI wonders how the regulations will account for some residents giving consent and some not when living in the same setting. This argument is furthered by the NIHRC who stated that "Article 8 is a qualified right, meaning limitations are allowed if they are lawful, proportionate, and necessary for the protection of one of the objectives set out in the text of Article 8(2)...Therefore, statutory actors, including those working in private organisations performing a public function, must consider all possible alternatives before determining that surveillance measures are necessary".<sup>115</sup> In practice, decisions around CCTV should therefore be guided by a human rights-based approach.

COPNI welcomes the clear enforcement structure provided under Clause 46. Given that RQIA already inspects these settings and their services, it is fitting that they monitor and enforce compliance with CCTV regulations. Doing so avoids creating yet another regulator. However, COPNI has several recommendations aimed at RQIA's enforcement role. Firstly, we suggest that RQIA be obliged to publish anonymised statistics on CCTV inspections, breaches and enforcement actions to enable DoH and the Adult Protection Board to monitor effectiveness. Secondly, Clause 44(2)(a) enables the DoH to make regulations requiring providers to carry out assessments before installing or using CCTV systems. COPNI believes this power should be used to require providers to complete and lodge an impact assessment with RQIA before installation of cameras, and to review same annually or in response to a change in circumstances. Under the Bill, privacy impact assessments are optional until the regulations arrive. This means there is no immediate obligation on providers to weigh proportionality before

<sup>112</sup> Northern Ireland Human Rights Commission (2025) '[Submission to Committee for Health on the Adult Protection Bill](#)', page 8.

<sup>113</sup> [European Convention on Human Rights](#).

<sup>114</sup> [Human Rights Act 1998](#).

<sup>115</sup> Northern Ireland Human Rights Commission (2025) '[Submission to Committee for Health on the Adult Protection Bill](#)', page 9.

switching on existing cameras. The Bill acknowledges that CCTV can affect people's privacy, but it delays safeguards, such as formal assessments and consent rules, until DoH makes the regulations. COPNI would therefore welcome mandatory privacy impact assessments before the installation and use of CCTV. Similarly, we support the NIHRC's recommendation to require a human rights impact assessment before the installation and use of cameras, as well as their call for a requirement that RQIA should monitor the "necessity and proportionality of CCTV systems", to ensure human rights compliance.<sup>116</sup>

As with several other provisions in the Adult Protection Bill, these clauses lack any link to independent advocacy. Older residents lacking capacity, for example, may need an advocate to express their views on the use of surveillance. Part 4 contains no cross-reference to the advocacy duty in Clause 26 (Independent advocates). COPNI maintains that the Bill should be amended to require the appointment of an advocate under Clause 26 when the use of CCTV is being considered for someone who lacks capacity or feels coerced into giving their consent.

Another concern of COPNI is that Clause 45 sets the criminal penalty for contravention of regulations at "a fine not exceeding level 3 on the standard scale". Clause 46 dictates that obstruction of RQIA in its enforcement role can attract a level 4 fine. COPNI is concerned that these penalties may not be a sufficient deterrent for a corporate provider if widespread unlawful monitoring occurs. COPNI would encourage consideration of higher fines or civil penalties for corporate breaches, and a link between repeated non-compliance to enforcement powers under the Health and Personal Social Services (Quality, Improvement and Regulation) (Northern Ireland) Order 2003.<sup>117</sup> At present, Clause 46(2) expressly disappplies RQIA's usual powers under that Order for the purposes of enforcing CCTV regulations. This means that CCTV compliance sits outside the wider care standards enforcement framework. In effect, the Bill proposes creating a standalone CCTV framework regime not integrated with the existing care standards framework. As such, the overall effectiveness of these provisions will depend heavily on the content of the future regulations, as well as the content of practice guidance on CCTV for service users, their relatives and providers.

DoH will develop and consult on the regulations for installment and use of CCTV. The Adult Protection Bill allowing for this update by secondary legislation offers a degree of flexibility to address future risks, ensuring the regime can evolve without amendments being made to primary law. However, for now, the benefits of the CCTV regulations remain uncertain. COPNI is hopeful that DoH will ensure the involvement of key stakeholders in the development of

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<sup>116</sup> Northern Ireland Human Rights Commission (2025) '[Submission to Committee for Health on the Adult Protection Bill](#)', pages 12 and 13.

<sup>117</sup> [Health and Personal Social Services \(Quality, Improvement and Regulation\) \(Northern Ireland\) Order 2003](#).

regulations to ensure the rights and views of adults at risk are respected and reflected in the legislation.

## Conclusions and Recommendations

The Adult Protection Bill represents an important milestone. Many of the provisions discussed in this review are positive steps towards a more consistent response to adult safeguarding in Northern Ireland. COPNI wholeheartedly welcomes the Bill after continuous calls for its introduction.

The Bill places a clear duty on bodies to act where there may be an adult at risk. It provides stronger accountability and a more consistent framework for protecting adults at risk of harm. However, COPNI is concerned about the practical implementation of these duties. Without strong enforcement measures, bodies that do not fulfil their safeguarding responsibilities risk undermining the very protections the Adult Protection Bill is seeking to establish. It is therefore essential that robust accountability mechanisms are embedded into practice. Doing so will ensure the rights and safety of the adults concerned are never compromised by inaction.

COPNI recognises that the Bill is applicable to all adults. Having said that, in practice, older people will constitute a large proportion of those impacted. The way in which the Bill is implemented on the ground must take into consideration the needs, behaviours and vulnerabilities of older people. Many older people experience physical frailty, cognitive impairment, loneliness and social isolation, and chronic health conditions which can make navigating and participating in safeguarding processes particularly challenging. This is further compounded by the dynamics of how many older people interact with professionals. Older people frequently view professionals such as doctors, the police, and social workers as authority figures. Consequently, they may be reluctant to question or challenge the advice of these professionals. Such behaviour can lead to compliance rather than true consent, undermining the older person's autonomy. For professionals, this risks promoting a paternalistic approach where decisions may be made that overlook the adult's values, preferences and wishes. Reasons such as these are why COPNI has repeatedly recommended mandatory independent advocacy for all adults facing safeguarding processes. The right to an independent advocate is especially important for older people who, without one, may accept decisions without a full understanding of their implications.

Without attention to these realities, older people in particular may continue to face barriers to having their voices heard, their preferences considered, and their rights respected.

COPNI also remains concerned about the resourcing of the Adult Protection Bill. The Mental Capacity Act (Northern Ireland) 2016 has only been partially implemented. In our experience, its phased implementation has presented real challenges for professionals right across the health and social care sector. COPNI maintains that this experience cannot be repeated with the implementation of the Adult Protection Bill. However, we understand that the business case has been approved by the Department of Finance (DoF) on the condition that it will not be implemented until the necessary funds are available. This lack of clarity is concerning. COPNI reiterates that vulnerable adults cannot afford for this Bill and its protections to be delayed any longer.

## Key Recommendations

Throughout this review, COPNI has made several recommendations in response to specific clauses and provisions. While all are important, there are a number of issues that have emerged repeatedly, which COPNI considers central to strengthening the Bill's ability to safeguard older people.

- Independent advocacy should be automatically provided to all adults facing safeguarding processes.
- The Bill should expressly clarify the consequences for public bodies for non-compliance with their statutory duty to report a suspected adult at risk and cooperate in inquiries.
- Because of power imbalances between older people and professionals, consent should be formally documented and, where practicable, independently witnessed to ensure the adult's wishes are respected.
- The Bill must ensure coordination with existing legislation such as the Mental Capacity Act (Northern Ireland) 2016,<sup>118</sup> the Family Homes and Domestic Violence (Northern Ireland) Order 1998,<sup>119</sup> as well as consider safeguarding legislation in other jurisdictions.<sup>120 121 122</sup> It should also be emphasised and appreciated how complex all these pieces of legislation are, and how the implementation of the Bill will require straddling of knowledge and referencing.

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<sup>118</sup> [Mental Capacity Act \(Northern Ireland\) 2016](#).

<sup>119</sup> [Family Homes and Domestic Violence \(Northern Ireland\) Order 1998](#).

<sup>120</sup> [Care Act 2014](#).

<sup>121</sup> [Adult Support and Protection \(Scotland\) Act 2007](#).

<sup>122</sup> [Social Services and Well-being \(Wales\) Act 2014](#).

- The Bill should introduce an appeal route for production, assessment and removal orders, as well as warrants for entry.
- The relevant persons or bodies (trusts, social workers, magistrates' courts) should perform a proportionality test to ensure all measures are necessary and proportionate.
- The Bill should strengthen language such as 'have regard to' or 'reasonable cause to suspect' to ensure statutory weight and should include statutory definitions for terms such as 'undue pressure', 'wilful neglect', 'consent', 'connivance' or 'neglect' in safeguarding contexts.
- The Bill should include a requirement for training, monitoring and whistleblowing protection to ensure provisions act as preventive measures, not reactive ones.
- The Bill should provide clearer connections between related clauses. As an example, Clauses 38 (Ill-treatment or neglect: care worker offence), 39 (Ill-treatment or neglect: care provider offence) and 24 (Offences by bodies corporate).



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