

# EXECUTIVE COUNCIL

## PUBLIC

**Title:** Safeguarding Adults Board

**Paper Number:** 72/18

**Date:** 12 December 2018

**Responsible Director:** Director of Health & Social Services

**Report Author:** Crown Counsel, Civil & Safeguarding

**Portfolio Holder:** MLA Ian Hansen

**Reason for paper:** This paper is submitted to Executive Council:  
For policy decision (including budgetary policy)

**Publication:** Yes

**Previous papers:** 28/16 - Vulnerable Adults Policy

**List of Documents:** None

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### 1. Recommendations

Honourable Members are recommended to approve:

- (a) That the Director of Health and Social Services be authorised to finalise instructions to the Attorney General for a Bill to be prepared regarding the establishment and role of a Safeguarding Adults Board.
- (b) That a working group be established to consider the development of proposals for a general “Care Ordinance” comprising the Director of Health and Social Services, and such other persons as she thinks fit, and that a further report be submitted in due course setting out the issues and options for further legislation.

### 2. Additional Budgetary Implications

- 2.1 There are no direct additional budgetary implications if the recommendations in this report are agreed. A formal Safeguarding Adults Board will be capable of operating within the existing budget of each of the organisations which are proposed to be represented on the Board.

2.2 In the event of the establishment of the Board in the manner suggested, additional resources might be required in the event that a Serious Case Review is required, and this is required to be completed by an independent reviewer. It is not considered that specific budgetary provision should be made for this purpose. There would be the ability to seek approval to additional expenditure. This would be determined on a case by case basis, with funds being approved in the normal way.

### **3. Executive Summary**

3.1 Executive Council is being asked to support the setting up of the Safeguarding Adults Board (SAB). The SAB will provide an opportunity for oversight and advice of various functions delivered by members of the Board, to improve delivery of assessment care and support services.

3.2 This Board will have representatives of all in Government Departments, and agencies at MPC, who have any involvement with adults who have care and support needs. The overarching purpose of the Board is will be to help and protect those adults who have needs for care and support, are experiencing or are at risk of abuse and neglect and as a result of those needs are unable to protect themselves against the abuse or the risk of it.

3.3 It is considered that the SAB should be established by means of an Ordinance specifically for this purpose, in order to make clear the role and responsibilities of the SAB.

3.4 It is proposed that a Bill be prepared with the following key aims:

- a) Promote collaborative working to prevent abuse and neglect where possible.
- b) Ensure that Government departments, and agencies outside Government, give timely and proportionate responses when abuse or neglect has occurred or is suspected.
- c) Provide assurance that safeguarding practises are continuously improving and enhancing the quality of life of adults in the Falkland Islands
- d) Allow for enquiries of vulnerable adults and for assessments to take place.
- e) Provide for reviews where a vulnerable adult has died, or is alive and there is a suspicion of abuse or neglect, and there is a concern that the SAB members failed to help and protect the adult, whether that was a failure of one professional or a failure of all professionals to work effectively together ( Serious Case Reviews).

3.5 Consideration has been given to the preparation of a more comprehensive “Care Bill”, setting out a general duty of care and making provision for the how such a duty would be defined, and how it would be met. It is clear, however, that this is a substantial piece of work, and requires careful thought and policy development. It is recommended that this work be commenced by the establishment of a working group. It is not considered, however, that the formal establishment of a SAB should be delayed. Once formally established, the SAB could help develop more general “Care” legislation, for the benefit of vulnerable adults.

#### **4. Background and Links to Islands Plan and Directorate Business Plan/s**

- 4.1 In the Islands Plan, under the theme of Health and Community Wellbeing, the Assembly said that it will:  
“Progress safeguarding activities for vulnerable people of all ages”  
The proposals in this report will help achieve that objective.
- 4.2 An effective SAB will also help achieve other objectives in the Islands Plan in relation to support for vulnerable persons.
- 4.3 In March 2016, the Executive Council considered a paper which proposed that a Vulnerable Adults Policy be approved. The recommendation was accepted and the Policy approved.
- 4.4 The policy sets out the way the Government will approach dealing with people who have needs, or apparent needs, for care and support. In particular, it sets out how we will approach dealing with those who are “vulnerable”
- 4.5 The policy set out a definition of when a person would be considered “vulnerable”. It committed the Government to carry out an holistic assessment of an individual’s care needs. It was built on the promotion of “wellbeing”, and “person-centred care”.
- 4.6 The Vulnerable Adults Policy operates in accordance with the following principles:
  - a) Prevention
  - b) Protection
  - c) Mobilisation of Community Support
  - d) Promotion and recognition of the values of independent living
- 4.7 The Policy recognises and values the role of carers (including family and friends). It also has regard to issues such as mental capacity and safeguarding. It was a good starting point, but it is considered right to put key provisions on a statutory footing.

#### **5. Options and Reasons for Recommending Relevant Option**

##### **Option One (Recommended)**

- 5.1 This report recommends a route that will introduce legislation to provide a statutory definition of a vulnerable person and an assessment process, undertaken by Social Services. The report further proposes the introduction of the Safeguarding Adults Board, which will have the statutory objective to help and protect vulnerable adults, and will seek to achieve its objective by coordinating and ensuring the effectiveness of what each of its members does.
- 5.2 It is suggested that the definition of a vulnerable person in the proposed Bill be adopted from the provisions of the UK Care Act 2014 dealing with safeguarding adults at risk of abuse or neglect, adapted as appropriate. A vulnerable person is someone who;
  - a) Has needs for care and support( whether or not FIG is meeting any of those needs)
  - b) Is experiencing, or is at risk of, abuse or neglect, and

- c) As a result of those needs is unable to protect himself or herself against the abuse or neglect or the risk of it.
- 5.3 The definition of abuse will include financial abuse, and for that purpose financial abuse includes:
- a) Having money or other property stolen,
  - b) Being defrauded
  - c) Being put under pressure in relation to money or other property, and
  - d) Having money or other property misused
- 5.4 The Bill will propose the introduction of a statutory duty to carry out an assessment when it is suspected that an adult is vulnerable, and to determine what action, if any, is required, and by whom. The Bill will not propose the introduction at this stage of a duty for the Government to care for vulnerable adults directly. It is considered that this is a proportionate next step in the journey towards improving the prospects for vulnerable adults.
- 5.5 Introducing a SAB will provide a formal setting for ensuring cooperation between different departments and others, a forum for resolving issues, and a means to ensure everyone draws lessons from experience. The Bill will seek to ensure that serious incidents are properly reviewed.
- 5.6 The Bill will make provision for the holding of Serious Case Reviews. The SAB will be able to advise, and, in some cases may be able to co-ordinate and undertake the review. The decision as to whether an independent review is to be commissioned will initially fall to the Chief Executive, who will be able to appoint someone to undertake the review.

**Option Two (not recommended)**

- 5.7 Another option is require the preparation of a comprehensive Care Bill. This would require much additional work. It is agreed that there is value in beginning this work (hence recommendation (b), but, on balance, it is not considered that it should delay further the introduction of a formal SAB.

**Option Three (not recommended)**

- 5.8 There is also the option of not proceeding with this work at all. This is not recommended. It is considered important that the needs of vulnerable persons be recognised and addressed. To not proceed to put in place statutory structures around the care of vulnerable persons runs counter to the commitments in the Islands Plan.

## **6. Resource Implications**

- 6.1 Financial Implications: As noted above, there are no direct financial implications if the recommendations in this paper are agreed, as the Bill will be prepared using existing resources, as will the working group looking at wider proposals around care and vulnerable persons.
- 6.2 Human Resource Implications: There are no direct human resources implications if the recommendations in this paper are agreed, as the Bill will be prepared using existing

personnel. The SAB, when established, is similarly unlikely to require additional staffing.

- 6.3 Other Resource Implications: There are no other resource implications arising from this report.

## **7. Legal Implications**

- 7.1 The proposed Bill is compatible with the fundamental rights and freedoms established by the Constitution. The Bill will begin the process of developing legislation around responsibilities for vulnerable adults, and will make the law in this area more transparent. It will clarify what the Government is required to do, and will make provision for reviews if serious incidents occur. There will need to be clarity as to the membership, role and responsibilities of the SAB, as well as of the Government and others in relation to the assessment of vulnerable persons, as well as what happens following any assessment.
- 7.2 The proposals in this report are fairly broad. It will be important, when setting out the detailed role and responsibilities that these have been thought-through in detail, so that they are capable of implementation, and are clear for all those who will be involved.

## **8. Environmental & Sustainability Implications**

- 8.1 There are no environmental or sustainability implications arising from this report.

## **9. Significant Risks**

- 9.1 As it stands, the duties and responsibility for the assessment and care of vulnerable adults is not clear. This lack of clarity could have consequences for individuals in terms of what care is provided to them to meet their individual needs, and by whom. The Government is at risk of criticism, especially if a serious incident occurs.

## **10. Consultation**

- 10.1 There has been internal consultation amongst professionals who would contribute to the work of the SAB. Members have also been briefed on the proposals as these have evolved. There will be a need to publicise proposals when these have been finalised.

## **11. Communication**

- 11.1 There will need to be a clear communication plan as the draft legislation is prepared and brought forward, in order to raise community awareness of the issues identified and the proposals.