

**The Challenges and Opportunities to
upholding older persons' legal and human
rights when abuse occurs**

**- A Social Work Perspective
considered through the lens of Safeguarding
Vulnerable Adults from Abuse**

HSE Safeguarding Policy, 2014



Publicly declared “No Tolerance”

Some of the principles underpinning the policy include:

- Respect for human rights
- A person centred approach to care and services
- Promotion of advocacy
- Respect for confidentiality
- Empowerment of individuals
- A collaborative approach

What is the role of the Safeguarding and Protection Team?



Feidhmeannacht na Seirbhíse Sláinte
Health Service Executive

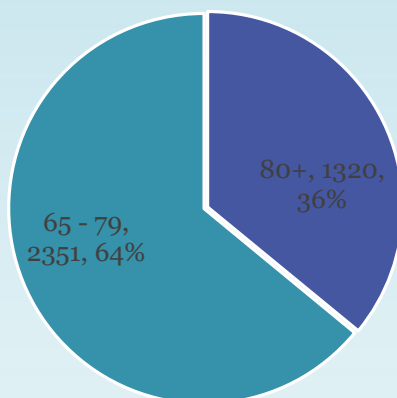
- **Oversight of Safeguarding within services**
 - Receive preliminary screening and concerns
 - Support services and professional to assess and investigate concerns/ complaint
- **Social Work Casework**
 - Directly assess complex cases/cases with conflict of interest and co-ordinate service responses
- **Training and Information**
 - Support best practice and positive culture around the welfare of vulnerable person via training etc.
 - Maintain records and data
 - Information and Advice



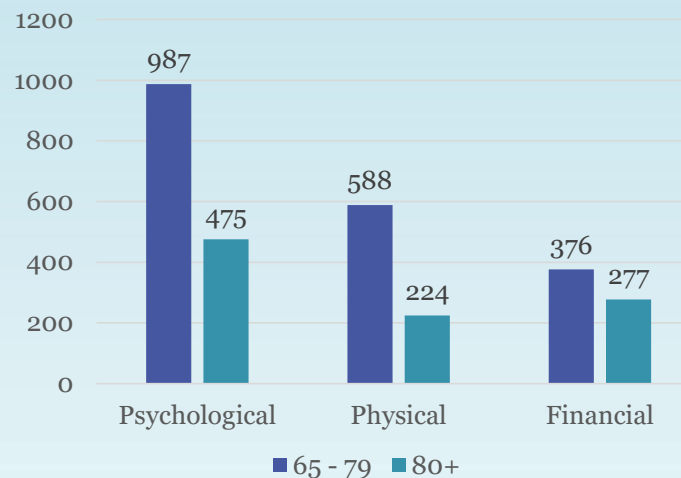
How common is abuse?

- In 2021 11640 safeguarding cases reported
- Approx. 33% of these for people 65 (3671)
- Tip of the iceberg – under reported

Age

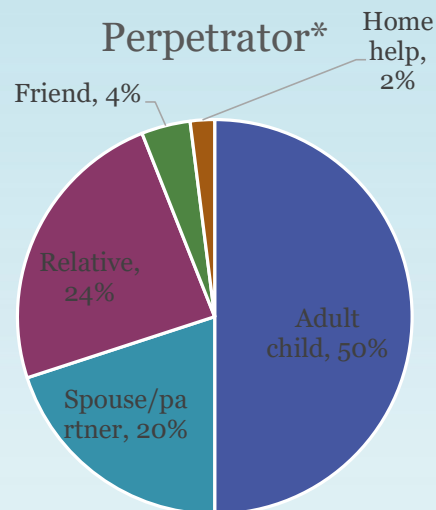


Most common abuse



Where & by whom?

- Well publicised institutional scandals e.g. Leas Cross, Aras Attracta
- However, more likely to be abused at home by people known to person



- Adult children – Financial /Interpersonal
- Spouse/partner – Interpersonal
- Relatives – Financial

Risk factors - Perpetrator

Unemployment

Substance misuse

Mental Health

Co-habiting

Dependant on Older Person economically

*Naughton et al. (2010) - Report on the National Study of Elder Abuse and Neglect

Human Rights

- Human rights are moral principles or norms for certain standards of human behaviour and are regularly protected in municipal and international law. Human rights are basic rights that belong to all of us simply because we are human. They embody key values in our society such as fairness, dignity, equality and respect. They are an important means of protection for us all, especially those who may face abuse, neglect and isolation.
- A human rights-based approach to care and support is underpinned by a legal framework and human rights treaties which states have agreed to uphold. This legal framework places a responsibility on health and social care providers at an organisational and individual practitioner level to uphold the human rights of people using their services.

Legislation

Legal sources of human rights and equality obligations are found in:

- the Irish Constitution 1937
- the European Convention on Human Rights Act 2003
- the Charter of Fundamental Rights of the European Union 2000
- the Equal Status Acts 2000-2015
- the Irish Human Rights and Equality Commission Act 2014.

Legislation

Recent Changes

- The United Nations Convention on the Rights of Persons with Disabilities (UNCRPD) 2006, which was ratified in Ireland in 2018
- The introduction of the Assisted Decision-Making (Capacity) Act 2015 (commencement date 2023)

European Convention of Human Rights

- Article 2: Right to life
- Article 3: Freedom from torture and inhuman or degrading treatment
- Article 4: Freedom from slavery and forced labour
- Article 5: Right to liberty and security
- Article 6: Right to a fair trial
- Article 7: No punishment without law
- Article 8: Respect for your private and family life, home and correspondence
- Article 9: Freedom of thought, belief and religion
- Article 10: Freedom of expression
- Article 11: Freedom of assembly and association
- Article 12: Right to marry and start a family
- Article 14: Protection from discrimination in respect of these rights and freedoms

Specific Legislation as it relates to Safeguarding Older People

- The Lunacy Act 1871 –Wardship
- Domestic Violence Act 2018 (updating 1996 Act)– includes coercive control within intimate relationships
- Criminal Justice (Withholding of Information on Offences against Children and Vulnerable Persons) Act 2012
- Assisted Decision-Making Capacity Act 2015 – commencement due 2023
- Data Protection Act 2018
- Data Sharing and Governance Act 2019

Policies and Legislation Continued...

- Trust In Care Policy
- Protection of Persons Reporting Abuse
- HIQA standards for Disability, Safeguarding, residential services and care of older persons
- *2019 Guidance on a Human Rights-based Approach in Health and*
- *Social Care Services (HIQA and SI)*



Underpinning principles



Hi, I'm **FREDA**



Fairness



Respect



Equality



Dignity



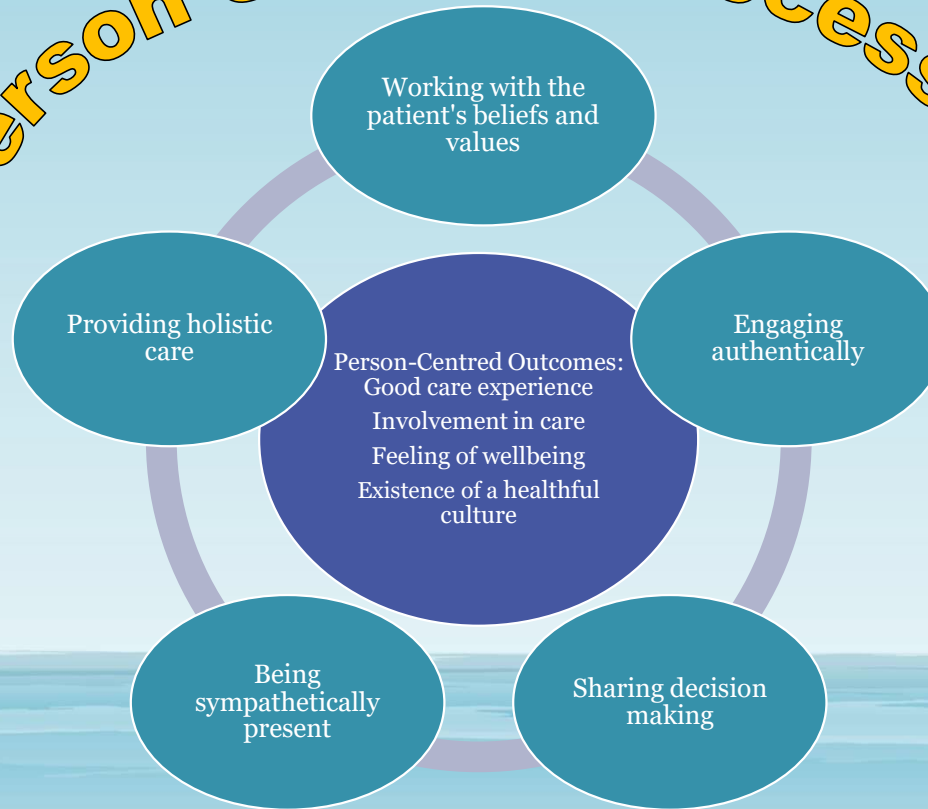
Autonomy



Freda Principles

BEING PERSON CENTRED

Person Centred Processes

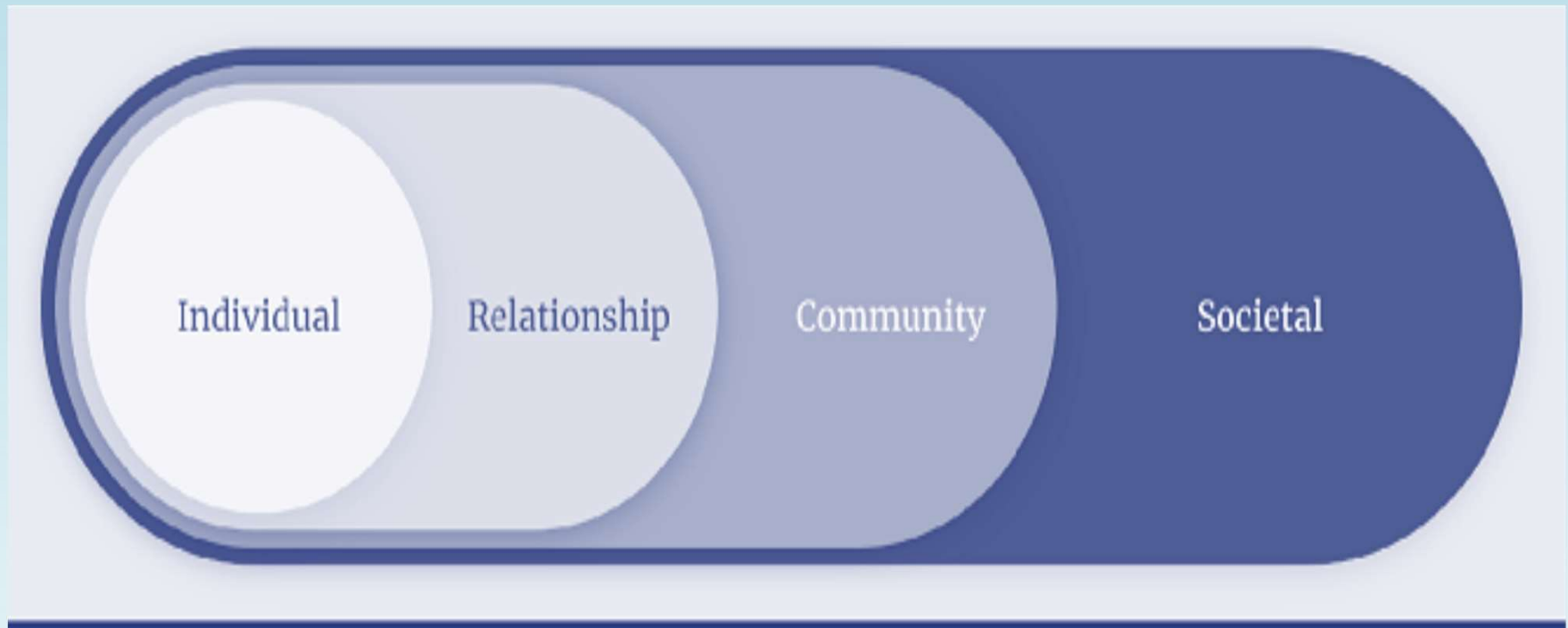


(Adapted from McCormack & McCance 2010)

Typical Referrals to the Safeguarding Team

- Lady with progressive dementia admitted to hospital with extensive injuries due to physical assault from her husband. Woman expressing wish to move to Long Term Care then requested to move home after visit from her husband.
- Gentleman in his 60's wheelchair dependent and reliant on others for care alleging he is being physically and emotionally abused by his daughter.
- Report of carer withholding pension of lady in her 80's who has mobility issues and mild cognitive impairment.
- Delivery of care being blocked by son of gentleman with high care needs. Gentleman has a mild cognitive impairment. Other siblings experiencing difficulties accessing father. Father has stopped attending day services.
- Report that elderly resident did not have call bell responded to after faecal and urinary incontinence.
- Nursing Home reporting alleged financial abuse of resident by her son. Resident has capacity to manage her financial affairs but is physically frail and.

Social Work Response – Considerations from a Social-Ecological Perspective



In Practice

- **Family history and functioning**
 - **Wider family Functioning**
 - **Support network**
 - **Housing situation**
 - **Employment/Income**
 - **Community Resources and Supports**
- **What are the strengths?**
 - **What are the vulnerabilities?**
 - **What would happen if you didn't intervene?**
 - **What has worked well?**
 - **What has been a challenge?**
 - **Do they want you to intervene?**
 - **What is the will and wishes of the individual?**

Who we work with and who refers to us

- Service User/Client/ Individual.
- Family/ Friends/ Trusted Support Persons.
- Professionals- PHN, Hospitals, Gardaí, GP's, Allied Health Professionals, Legal Services, Disability Services, Older Persons Services, Nursing Home Support Scheme, Hospitals, Disability services, Advocacy services, Financial Institutions, Local County Councils.
- Services- Day Care Settings, Nursing Homes, Residential Settings, Training Centres, Home Care Providers.

Contact Details:

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