



Sage Advocacy
Submission to Garda Síochána Inspectorate

January 2022

Introduction

Sage Advocacy very much welcomes the fact that the Garda Síochána Inspectorate is carrying out an inspection into the effectiveness and efficiency of the Garda Síochána's response to domestic abuse. Sage Advocacy provides advocacy and support services to older people, adults who may be vulnerable and healthcare patients.

Sage Advocacy clients are typically people who are vulnerable as a result of reduced decision-making capacity, a disability, mental health difficulties or frailty associated with the ageing process. Many are also at greater risk because of their living environment related to living in a residential care facility (e.g. a nursing home) or in their own home in a situation where they are dependent on others for care and support in relation to daily living. Clearly, such people require full and easy access to policing support in order to feel secure and protected and to get assistance in situations where they have been victims of violence, abuse or crime.

It is noted that the inspection will examine the Garda Síochána's approach to tackling domestic abuse at both strategic and operational levels, with reference to the best standards of comparable police services. Its adoption of a victim-centred focus is important as is the direct engagement with victims of domestic abuse and organisations that work with them. Sage Advocacy works with both primary victims of abuse and crime (the individual against whom the crime has been perpetrated against) and secondary victims, such as family, friends indirectly affected by the crime.

Sage Advocacy notes the Garda Síochána's definition of domestic abuse as "the physical, sexual, financial, emotional or psychological abuse of one person against another who is a family member or is or has been an intimate partner, regardless of their gender or sexuality". While this definition reflects the provisions of the Domestic Violence Act 2018, it does not cater for the multiple situations and relationships where a vulnerable adult can be potentially abused, including situations where coercive control is being exercised by people other than close family members— the latter often in a subtle and manipulative manner.

In responding to the issue of criminal violence and abuse, it is critically important that due attention is paid to the group of people that broadly fit into the category of vulnerable adults or adults at risk.

This emphasis does not and should not in any way take from the need to maintain a strong focus on gender-based violence and abuse and on child abuse.

A “vulnerable person” is defined in Section 1 of the Criminal Justice (Withholding of Information on Offences against Children and Vulnerable Persons) Act 2012 as “a person (a) who— (i) is suffering from a disorder of the mind, whether as a result of mental illness or dementia, or (ii) has an intellectual disability, which is of such a nature or degree as to severely restrict the capacity of the person to guard himself or herself against serious exploitation or abuse, whether physical or sexual, by another person, or (b) who is suffering from an enduring physical impairment or injury which is of such a nature or degree as to severely restrict the capacity of the person to guard himself or herself against serious exploitation or abuse, whether physical or sexual, by another person or to report such exploitation or abuse to the Garda Síochána or both.”¹ The latter point is particularly relevant to Sage Advocacy clients, many of whom are not, on their own, able to instigate legal processes.

Sage Advocacy also notes the functions of An Garda Síochána as set out in Section 7 of the *Garda Síochána Act 2005*, which are to provide policing with the objectives, *inter alia*, of protecting life and property, vindicating the human rights of each individual, preventing crime, bringing criminals to justice, including by detecting and investigating crime and other matters. Vindicating the human rights of each individual is a particularly important function in relation to adults who are vulnerable to abuse and exploitation.

There are particular groups of people who use Sage Advocacy services with whom the Gardaí need to develop alternative and innovative ways of engaging with:

- People with reduced decision-making capacity
- People with a physical/sensory disability
- People who communicate differently (e.g., as a result of Stroke)
- People with an intellectual disability
- People experiencing mental health difficulties
- People deprived of liberty in residential care settings

Relevant factors

The following factors are identified by Sage Advocacy as relevant to the inspection being carried out by the Inspectorate:

- 1) There is a particular problem where the alleged abuser of a vulnerable adult is not an intimate or close family member in that only the latter relationships are covered by the Domestic Violence Act 2018.
- 2) The abuse of vulnerable adults and its various ramifications is an important issue in Irish society and has a clear and obvious policing dimension.
- 3) Domestic abuse is multi-faceted and extends to a wide range of individuals and living environments – in residential care facilities as well as in people’s own homes and in community settings.

¹ Criminal Justice (Withholding of Information on Offences against Children and Vulnerable Persons) Act 2012 <https://www.irishstatutebook.ie/eli/2012/act/24/enacted/en/pdf>

- 4) The Domestic Violence Act 2018 does not cover either coercive control by adult children over a vulnerable parent which Sage advocates come across regularly. Neither does it cover abuse in residential care settings.
- 5) Many vulnerable adults experience abuse and exploitation at the hands of individuals, organisations including by family members. Such abuse can be physical, financial, psychological or sexual.
- 6) Many vulnerable adults are subjected to abuse which remains hidden and unreported;
- 7) There is strong anecdotal evidence that some vulnerable adults have a “fear” of reporting abuse and crime perpetrated in the ‘private’ domain.
- 8) Some victims of crime do not know what to do or where to find support – this highlights the lack of a multi-disciplinary approach to supporting vulnerable adults who are victims of crime.
- 9) Adults who are reliant on others for care and support are likely to experience abuse to a greater extent than adults who are not reliant on others.
- 10) Domestic abuse has been widely referenced in the context of the restrictions necessitated by the Covid-19 pandemic – such abuse took place in a range of domestic settings.
- 11) Clearly there is a question about abuse in residential care service where the abuse may be perpetrated by people who are not close relatives – a staff member or another resident.
- 12) Abuse regularly occurs in situations where is an unequal power relationships and people are afraid to challenge or confront the perpetrator or involve outside agencies such as HSE Safeguarding and Protection Teams or the Gardaí.
- 13) Abuse of vulnerable adults (as in gender-based violence) is often associated with coercive control, especially in relation to financial abuse.
- 14) There is need for greater acknowledgement of the potential for abuse and exploitation associated with outside carers coming into a person’s home, particularly since there is currently no regulatory framework or standards for home care in Ireland.
- 15) Access to supports and services in Ireland for victims of crime is inadequate and this gap is almost certainly more pronounced in the case of older adults who are vulnerable and at greater risk of abuse and exploitation.
- 16) A Red C Poll carried out for Safeguarding Ireland² shows that, while two-thirds of people aware of the term ‘safeguarding’, only just over half of those polled said they already understood what it meant. An earlier poll³ found that doubt surrounding the need to report mistreatment exists

²<https://www.safeguardingireland.org/wp-content/uploads/2021/11/554421-Safeguarding-Ireland-Nov-2021-FINAL.pdf>

³<https://www.safeguardingireland.org/wp-content/uploads/2018/10/Red-C-Survey-Vulnerable-Adults-in-Irish-Society-060417.pdf>

for 2 in 3 of the population, with the same proportion being uncertain about the appropriate point of contact for such reporting.

Context within which abuse and coercive control takes place

There is clear evidence that there is widespread abuse and exploitation of adults at risk in Ireland which is additional to the high levels of gender-based domestic violence prevalent in Irish society. Reporting of abuse may not reflect the true nature and extent of abuse and exploitation for a variety of reasons, including, fear on the part of the person being abused of the consequences of disclosing abuse, a lack of awareness that what they are experiencing is abuse, a lack of clarity as to whom they should report abuse to, lack of capacity to understand and report abuse, fear of an alleged abuser, ambivalence regarding a person who may be abusive, limited verbal and other communication skills, fear of upsetting relationships, shame and/or embarrassment.

Much of the potential for abuse, neglect and exploitation of vulnerable adults, especially in subtle forms, is rooted in a culture that accepts and condones certain attitudes, practices and behaviours that deprive vulnerable people of their basic human rights. Challenging and changing this culture, both within institutions and across society as a whole, needs to be an integral part of the work of An Garda Síochána.

Controlling or coercive behaviour can be overlooked by outside observers due to the fact that victims can sometimes be seen as colluding or consenting to the behaviour. It may be the case that those exercising control may be viewed by outside observers as having what may be perceived as the 'best interests' of the 'victim' at heart when, in reality, the situation may be quite the opposite.

Nature and extent of abuse

Domestic abuse generally has been widely reported⁴ as increasing during Covid-19. The levels of personal isolation coupled with restricted access to support services placed many vulnerable people in situations of heightened danger of abuse. For example, Women's Aid Annual Impact Report 2020⁵ finds that the pandemic made the crisis level of domestic violence in Ireland more visible, with Women's Aid support workers hearing more than 30,000 disclosures of domestic violence, including coercive control during 2020. From March to December 2020, there was a 38% increase in calls responded to by the 24hr National Freephone Helpline in comparison to the same period in 2019. Also, a higher number of older women availed of Women's Aid services in 2020 as the toll of living with an abusive partner for many years became too much because of being forced to spend all their time at home and away from friends, family and social networks.

The HSE National Safeguarding Office Annual Report of 2020 stated that, for persons over the age of 65, the most frequently reported categories of alleged abuse are psychological abuse and financial abuse (consistent with previous years).⁶

Research⁷ carried out by Sage Advocacy in 2021 indicates that the reasons for referral to the service included:

- Financial abuse

⁴ See for example <https://www.irishtimes.com/news/social-affairs/covid-19-restrictions-have-led-to-shadow-pandemic-of-abuse-1.4718553>

⁵ <https://www.womensaid.ie/about/policy/publications/womens-aid-annual-impact-report-2020/>

⁶ <https://www.hse.ie/eng/about/who/socialcare/safeguardingvulnerableadults/nationalsafeguardingofficereport2020.pdf>

⁷ Breaking the Wall of Silence <https://www.sageadvocacy.ie/media/2202/6376-sage-voc-report-fa-for-web.pdf> This research was supported by the Department of Justice.

- People being deprived of the basics for daily living, including food, electricity, heating
- People being denied access to support services, including medical services
- Relatives making threats and engaging in intimidation, for example, threatening people to 'put' them in a nursing home

The Sage Advocacy research also highlighted the fact that, while a high proportion of crimes were reported as being perpetrated by partners, in 15% of cases, the perpetrator was an extended family member. Abuse occurred in intergenerational households or within complex household structures where a vulnerable adult shared the house with an adult child and their family or other relatives.

Between 2019 and 2020, there was an increase (for both men and women) in the number of referrals to Sage Advocacy relating to vulnerable adults aged 65+ who were experiencing financial abuse and/or domestic violence. The highest level of abuse occurred in vulnerable adults who were reliant on others for care. Over half (54%) of referrals relating to possible criminal abuse occurred in intergenerational households or complex household structures where an older person shared the house with an adult child and their family or other relatives with a slightly smaller proportion (46%) being older people living alone or in long-term care.

The research showed that the reasons for making a referral to Sage Advocacy included people feeling isolated from friends and family. A lot of the referrals were from people or professionals that noticed clients were deprived from access to support services, including medical services. Frequently, the main reason for making a referral was alleged financial abuse. The majority of complaints made against carers were related to intimidating threats to 'put' the person into a nursing home.

The alleged perpetrator of abuse was most commonly a family member such as a son or daughter or a husband or wife. Adult children were found to be more likely to be perpetrators of abuse than other categories. Sage Advocacy has found from its referrals that there is a connection between vulnerable adults experiencing financial abuse when they have to depend on family or carers for help with spending or managing their money (see Case Example 1/Appendix).

Sage Advocacy's casework suggests that a person's dependency on a carer increases the risk of abuse. Some family carers have indicated to Sage Advocacy that they were burnt out from caring, were resentful of being forced to carry a heavy burden of care on their own and, therefore, perhaps, engaging in behaviour that they acknowledged was totally inappropriate. In some cases, a long history of poor family relationship may worsen as a result of increasing carer stress when a frail older person becomes more care dependent. However, on the latter point, it should be noted that research shows that carer stress is not the main contributory factor in the abuse of vulnerable adults and that broader social and cultural factors are more significant.⁸

A Red C Poll carried out for Safeguarding Ireland⁹ in October 2020 found that:

- Around one-in-eight have experienced abuse since the start of the Covid-19 pandemic.
- Women (especially younger women) are more likely to have ever experienced abuse than men.

⁸ See Amanda Phelan, *A socio-ecological approach to elder abuse and adult safeguarding*
https://link.springer.com/chapter/10.1007/978-3-030-25093-5_14

⁹ <https://www.safeguardingireland.org/wp-content/uploads/2020/10/Incidence-of-Adult-Abuse-in-Ireland-during-COVID-19-5.10.20-FINAL.pdf>

- There is a higher incidence of abuse among lower social class groups, the unemployed and those that are widowed/divorced/separated.
- Women are more likely to have experienced emotional and sexual abuse, while younger people are more likely to have experienced sexual and cyber abuse.
- 1 in 4 feel more vulnerable to abuse due to Covid-19 restrictions.
- Of those that have ever experienced abuse, one quarter have experienced emotional abuse since the onset of the Covid-19 pandemic.
- Both younger men, younger women and single people are more likely to feel vulnerable to suffering abuse as a result of the Covid-19 lockdown and restrictions.

There is some anecdotal evidence that Covid-19 may have resulted in a decrease in the reporting and detection of domestic and intimate partner abuse. This is highly relevant in that the Red C Poll referred to above found that both younger men, younger women and single people are more likely to feel vulnerable to suffering abuse as a result of the Covid-19 lockdown and restrictions.

Sage Advocacy case evidence strongly suggests that where there is potentially abusive behaviour, often the alleged abuser is unaware that their behaviour is abusive.

Shortcomings of current legislation

Sage Advocacy acknowledges that the work of the Gardaí relating to domestic abuse generally and the abuse of vulnerable adults in particular is hampered by current legislative provisions that focus primarily on intimate partner domestic abuse. The various legal safeguarding and protection mechanisms that are available, e.g., barring orders are inadequate in many cases.

A significant shortcoming of the current legislation is the restrictive scope of the Domestic Violence Act 2018. For example, Section 39(4) of the Act restricts the application of the offence to intimate relationship and specifically excludes the possibility of prosecuting a sibling, adult child, or other relative, or carer of an adult at risk for the offence of coercive control. The work of Sage Advocacy demonstrates clearly that this is entirely unsatisfactory as abuse in the form of coercive control arises regularly and consistently in non-intimate relationships.

A typical example of a coercive control not covered under the 2018 Act is where a vulnerable person is living with their niece, nephew, brother, sister or cousin and there is alleged emotional, physical and/or financial abuse. For example, it may be that coercion is used to access a vulnerable person's Bank Account or ATM card or that coercion is used to get them to transfer property or assets.

There is a lack of legislation to support a vulnerable person living under such circumstances that may want an extended family member or friend to leave their home. For example, the Domestic Violence Act 2018 set provisions for safety orders, protection orders and barring orders for spouses and civil partners, cohabiting couples and parents but does not cover extended family such as; brothers and sisters and nieces and nephews. The Act states; that safety orders can be obtained for "others". A safety order is an instruction from the court which stops the violent person (the respondent) from committing further violence or threats of violence. The respondent does not have to leave the home.

Also, the 2018 Act does not define what sort of conduct is controlling and coercive. Neither does the Non-Fatal Offences Against the Persons Act 1997 address this regulatory gap. For example, Section 9 of the Act requires the use of violence or intimidation, or damage to property, or that the perpetrator persistently follows the victim (stalking), or watches and besets the premises in which the victim lives, works or carries on business. This is an exhaustive and prescriptive list which does not necessarily cater for the subtle manipulation often involved with coercive control.

Clearly these gaps in legislation places the Gardaí at a distinct disadvantage when they are attempting to prosecute people for the abuse of vulnerable adults and results when a situation where much of the violence and abuse that occurs cannot be addressed through legal processes.

While the Domestic Violence Act 2018 performs a very important task in criminalising coercive control in the context of close relationships, it does not provide the protection of the law to the full range of vulnerable adults who are subjected to coercive control.

The broadening of the groups to whom the legislation applies would also help to ensure that the general public can be made more aware of this form of abuse and of its unacceptability. This would help to ensure that all those charged with enforcing, prosecuting and applying the law would be better placed to deal with the matter.

Notwithstanding the limitations of current legislative provisions and the need to change the legislation as a matter of urgency, Sage Advocacy believes that through engagement with stakeholders at local community level, An Garda Síochána can make a positive and necessary contribution to increasing public awareness and understanding of the nature and extent of abuse of vulnerable adults. Such an engagement could make a significant contribution to bringing about a fundamental change required in culture and public attitudes to abuse and coercive control as well as strengthening the case for legislative change.

People in residential care facilities who may be victims of crime

Sage Advocacy is particularly concerned about the practice by An Garda Síochána when dealing with complaints of criminal victimisation made by or on behalf of persons who live in residential care settings such as nursing homes. While it would appear that in the generality of cases, when a person complains to the Gardaí (e.g., at a Garda Station) that they have been a victim of crime (e.g., theft, sexual assault), the normal practice is for the Gardaí to take particulars, prepare a report and seek guidance as to the course to be followed at that point. The complainant, as is their legal entitlement, is presumed to have decision-making capacity but if it becomes apparent that there are good grounds to doubt the complainant's capacity, that is something which would naturally form part of progressing the matter as its implications in terms of further investigation of the complaint would need to be assessed at that stage of the process.

However, the foregoing is not, in Sage Advocacy's experience, the practice followed by the Gardaí where the alleged crime victim is resident in a care setting. In such cases, the presumption of decision-making capacity is not made at the outset.

The position of An Garda Síochána¹⁰ is that where a suspicion exists that a person's memory recall is impaired, due to age, disease or injury it is without question, the duty of the investigating Garda to determine in advance of taking any formal account of the allegation the level of impairment. This approach fundamentally ignores the presumption of capacity principle. While practice by the Garda

¹⁰ Communication to Sage Advocacy from the Garda National Protective Services Bureau (GNPSB), 16th September 2021

may involve engagement with the victim at an informal level, a capacity assessment is required before any formal statement can be taken.

The Sage Advocacy view is that such practice is not in keeping to the presumption of capacity principle which underpins the UN Convention on the Rights of Persons with Disabilities and the Assisted Decision-Making (Capacity) Act 2015. This approach totally fails to take into account the functional approach to decision-making provided for in the Assisted Decision-Making (Capacity) Act 2015 and its provisions for supported decision-making. It is reasonable to suggest that some of the principles of supported decision-making relating to, for example, forms of communication appropriate to the individual concerned, should be applied in such situations in order to eliminate or confirm doubts about a person's decision-making capacity.

Sage Advocacy strongly suggests that this a matter that should be considered by the Garda Síochána Inspectorate in the course of its current inspection into the effectiveness and efficiency of the Garda Síochána response to domestic abuse. This should take into account the fact that a residential care setting is the *de facto* home of people resident in such settings.

Stronger law enforcement and preventative measures

There is a clear need for stronger law enforcement in respect to abuse of and violence against adults at risk. While the problem of domestic violence has to be dealt with in the wider policy and legislative context, a proactive targeting and prosecution of people who abuse vulnerable adults needs to be promoted by An Garda Síochána. A decision in a recent court case by Judge John O'Connor to convict a person in relation manipulative financial abuse of a vulnerable adult is significant.¹¹

Sage Advocacy is aware that An Garda Síochána are currently carrying out a review of victims' experiences with An Garda Síochána related to cancellation of calls made to 999 in a 22-month period between 2019 and 2020, of which some 3,000 were domestic violence calls. While the failure to respond adequately to such calls is a matter of grave concern, an equally important point is the number of vulnerable adults who are victims of abuse and do not even attempt to contact the Gardaí.

Abuse in residential care facilities

Dealing with abuse within institutions presents significant challenges for society as a whole. While An Garda Síochána respond when cases of abuse are brought to their attention, there is scope for a much more proactive approach in respect of, for example, highlighting the potential criminal aspect of much of this abuse and publicising the fact that it is a policing issue and Gardaí are available to help bring the perpetrators to justice.

Sage Advocacy is particularly concerned about people with an intellectual disability living in long-stay residential facilities (see Case Example 2/Appendix). The experiences publicly reported in recent years, e.g., Leas Cross, Áras Attracta, the 'Grace' case and the more recent 'Brandon' case, highlight the need for vigilance in this area. There is, we believe, a significant policing aspect to this matter and, therefore, scope for a more proactive involvement by An Garda Síochána in both highlighting the issue and developing surveillance methods.

¹¹ Conroy vs. O Ceallaigh -- see <https://www.thejournal.ie/taxi-driver-seamus-conroy-disputed-will-court-5636620-Dec2021/>

Information sharing

There is a clear need to prioritise safeguarding of vulnerable adults in the context of information sharing and collaborative working between the various stakeholders involved. It has been consistently highlighted that effective information sharing is an integral aspect of the multi-agency and multi-disciplinary approach required to adequately safeguard vulnerable adults at risk of abuse.¹² Sage Advocacy acknowledges that data sharing is a highly complex matter and one which requires further consideration in relation to data sharing legislation, policy and actual practice. It is critically important that all agencies dealing with vulnerable adults, including An Garda Síochána, develop clear protocols for data sharing in circumstances where people may be suffering from abuse, neglect, and/or exploitation. There is a stakeholder group currently examining the matter of information sharing in the context of dealing with abuse of vulnerable adults. Both the GNPSB and Sage Advocacy are involved this stakeholder group.

Human rights awareness

Safeguarding adults who are at risk of abuse and exploitation is an integral part of implementing a human rights approach. To this end, An Garda Síochána must ensure that all Gardaí are fully cognisant of the provisions on the UN Convention on The Rights of Persons with Disabilities and the Assisted Decision-making (capacity) Act 2015. In particular, Gardaí need to understand and to be familiar with the functional approach to capacity and related supported decision-making processes. This should be made a central component of Garda education, training and continuing professional development (CPD).

Summary of main points

Pending the necessary changes being made to the legislation on domestic violence, abuse and coercive control, An Garda Síochána should seek to become more fully attuned to the multi-faceted nature of abuse perpetrated on vulnerable adults, many of whom are unable to speak up for themselves.

Sage Advocacy fully acknowledges the significant challenges faced by An Garda Síochána in the Ireland of today where the nature of criminal activity is ever changing. The new challenges for An Garda Síochána include dealing with new forms of crime, including cyberbullying, hate crime, as well as the more traditional forms of drugs-related, organised crime and white-collar crime. Gender-based crime presents a significant ongoing challenge as is evidenced in the recent spate of cases relating to violence against women. Sage Advocacy strongly believes that abuse of vulnerable adults, which to date has remained somewhat under the policing radar needs to be brought to the forefront and acknowledged for what it is in the same as gender-based abuse and violence.

Sage Advocacy is strongly of the view that An Garda Síochána should highlight the limitations of the Domestic Violence Act 2018 with particular emphasis on the fact that it leaves a significant cohort of vulnerable adults largely unprotected by legislation. All people who are victims of crime or who are being abused clearly should have the same legal protections irrespective of their living situation or their relationship with the perpetrator of abuse. Sage Advocacy further believes that there is potential for An Garda Síochána at national level to work more collaboratively with other agencies working with vulnerable groups, e.g., Safeguarding Ireland, the HSE Safeguarding and Protection Teams and the proposed National Adult Safeguarding Authority ((when established) in dealing with

¹² See, for example, Donnelly S and O'Brien M (2019), *Falling Through the Cracks: The case for change. Key Developments and next steps for Adult Safeguarding in Ireland*. Dublin: University College Dublin.
https://researchrepository.ucd.ie/bitstream/10197/11242/1/Falling%20Through%20the%20Cracks_Full%20Report_Donnely%20and%20O%27Brien_2019.pdf

and preventing abuse of vulnerable adults which is more prevalent throughout Irish society than is sometimes understood.

Dealing with the issue of coercive control perpetrated on vulnerable adults is challenging and complex and will require an integrated local community response with An Garda Síochána playing a central role.

The voices of vulnerable adults who have been victims of abuse or who live in potentially abusive situations needs to be fully heard. How to effectively engage people with mental health difficulties, people with addiction problems and people with intellectual disability in making policing accessible and relevant in their lives is an ongoing challenge for An Garda Síochána. Building a stronger connection based on trust and transparency between the Gardai and adults who are at a high risk of abuse is a matter that requires further consideration.

Notwithstanding the concern raised in this submission about the approach taken by Gardaí to people resident in a nursing making an allegation of a crime against them, the general experience of Sage Advocacy in its dealings with An Garda Síochána (including the GNPSB) is generally positive. As an advocacy organisation supporting vulnerable adults, Sage Advocacy believes that it is essential that we highlight such concerns where these arise.

Vulnerable adults in abusive situations need to have easy access to policing support and protection. Sage Advocacy would welcome an opportunity to discuss with the Garda Síochána Inspectorate how a collaborative approach might be developed so as to ensure that the multi-faceted abuse of vulnerable adults is identified and addressed appropriately and that prevention strategies and adequate legal remedies are put in place.

Appendix

Two Indicative Case Examples

Case Example 1: Coercive Control and Abuse

Mary spent 6 weeks in an acute hospital setting after a fall at home. Her family encouraged her to go to a local nursing home for convalescence. Without Mary's knowledge or consent, Mary's family had arranged with the nursing home for her to remain there long term. After two months, Mary's family refused to discuss her return home with her and continually told her 'to wait another while'. Mary's neighbour informed her that her son had changed the locks to her home, again without her knowledge or consent. Mary's son had also set up a direct debit to pay the nursing home, using her back account, again without her knowledge and consent. The nursing home contacted Sage Advocacy as they were concerned that Mary is in the nursing home against her expressed wishes.

In this case, Sage Advocacy's role was to support Mary to assert her right to make their own decision, have her voice heard and make a planned discharge home. Mary has arranged for the locks to her home to be changed to facilitate her return home and has asked the local Garda station for support in case her family challenge same.

Engagement by An Garda Síochána

In such cases, An Garda Síochána can be a really useful ally for the vulnerable adult older person, particularly, when they seeking to uphold the person's human and legal rights and recognise the lack of rights for family members, or 'next of kin' to make decisions for people. In the experience of Sage Advocacy, it is not always the case that An Garda Síochána are aware of, or understand these legal rights.

Case Example 2: Domestic Abuse in a Long-Term Care setting

Michael is a long stay resident of a private nursing home. He is a single man, he has some family contact and involvement. He has limited mobility and requires assistance with a range of personal care needs. He also has a history of mental health difficulties and has a diagnosis of a mild cognitive impairment. At times, Michael has behaviours that challenge, behaviours included shouting, threatening staff and visitors. He has been named as the person allegedly causing concern (PACC) in safeguarding screenings of other residents.

The Director of Nursing and owner of the facility have had a number of complaints from other residents and their family members about Michael's behaviour. Previously, there was a serious physical altercation with another resident when Michael entered this resident's room without permission and attempted to take a number of his personal items and assaulted the other resident. A Safeguarding plan for the other resident is in place following this incident.

Michael more recently is alleged to have assaulted a female resident in the nursing home. The alleged sexual assault was interrupted by staff and some parts of the incident were captured on CCTV. The female resident has significant cognitive impairment and is unable to recall details of the incident. The Director of Nursing contacted An Garda Síochána to report the incident. Following this interaction, An Garda Síochána required a capacity assessment prior to meeting with Michael.

Engagement by An Garda Síochána

In this case, An Garda Síochána did not operate on the presumption of decision making capacity as enshrined in the Assisted Decision-Making (Capacity) Act 2015. It is also necessary to take into account the fact that, in this instance, the nursing home is the person's *de facto* home and that incidents of alleged abuse should be dealt with and responded to in line with current domestic violence legislation and policies.