

Consultation on New Safeguarding Power

Thank you for inviting our comments on this consultation. The Optical Confederation represents the 12,000 optometrists, the 6,000 dispensing opticians and 7,000 optical businesses in the UK who provide high quality and accessible eye care services to the whole population. The Confederation is a coalition of the five optical representative bodies: the Association of British Dispensing Opticians (ABDO); the Association of Contact Lens Manufacturers (ACLM); the Association of Optometrists (AOP); the Federation of Manufacturing Opticians (FMO) and the Federation of Opticians (FODO). As a Confederation, we work with others to improve eye health for the public good.

Q1: Do you agree that there is a gap in the proposed legislative framework for people with mental incapacity, which this power would address?

A1: Yes.

Q2: What are your views on the proposals that there should be a new power of entry, enabling the local authority to speak to someone with mental incapacity who they think could be at risk of abuse and neglect, if a third party prevents them from doing so?

A2: We support the proposals.

Q3: (For care and support professions working and in adult safeguarding): How many times in the past 12 months, have you been aware of a situation where, had this power existed, it would have been appropriate to use it? What were the circumstances?

A3: No comment.

Q4: What safeguards would we need to ensure local authorities use such a power effectively and appropriately?

A4: We support all the proposed safeguards given as examples. As described below, we would further propose that local authorities never see a person covered by this consultation alone, but always in the presence of a qualified independent advocate to ensure that the individual, who may already be subject to coercion in one aspect of their life, is not equally subjected to counter-veiling coercion from local authority staff, however well-intentioned.

Q5: Do you have any other comments?

A5: Yes. We agree with the Department of Health that, “This is a very complex issue... at the interface between issues of protection and Civil Liberties” (paragraph 14). We therefore support the aim of the Department not to over-ride the choices of people with capacity who make decisions that professionals may disagree with – [but rather] about circumstances where the ability to make a choice is believed to be restricted by the behaviour of another person” (ibid).

We believe that the Department is right not to distinguish between people with mental capacity and those without. People with mental capacity can be just as easily coerced, bullied, confused and misled, especially when they are elderly or in other ways vulnerable, as those without. Even well-meaning families and carers, with the best of intentions, can fall into this trap.

Moreover coercion, bullying, bureaucratic approaches, and disregard for the legitimate views of individuals, carers and supporters, are also far from unknown behaviours amongst bureaucracies and local authorities, particularly in safeguarding situations.

We feel it is very important therefore, as noted in our response to Q4 above, that the local authority should not, in the circumstances covered by the consultation, “speak with that person alone” (paragraph 10). The local authority should always ensure that an independent advocate is part of the process to ensure that the individual’s rights and freedoms are not overridden, inappropriately channelled or restricted by limited bureaucratic options or by the overwhelming force of professional views.

In the optical sector, through the Optical Confederation, we have worked closely with the Department of Health’s safeguarding teams to develop optical practice specific guidance on safeguarding both children and adults. Whilst we do not have defined clinical roles in safeguarding as doctors, dentists and possibly pharmacists do, we do have observational roles including when we are providing services either on a regular or occasional basis to people in residential settings, care homes or individuals living at home with family or other support.

We would therefore welcome a continuing dialogue with the Department to ensure that when these new powers are taken, which we hope they will be, we are fully involved in developing appropriate guidance to ensure that the optical professions can play their full part both in safeguarding individuals and in protecting their civil liberties.

Submitted by Ben Cook on behalf of the Optical Confederation