

The background of the slide is a light gray gradient with several realistic water droplets of various sizes scattered across it. The droplets have highlights and shadows, giving them a three-dimensional appearance.

ASKING FOR HELP: DOES ADULT CARE LAW HELP OR HINDER RELATIONSHIP BUILDING?

ROBERT LOMAX AND RACHEL HUBBARD

UWE BRISTOL

INTRODUCTIONS

ROBERT LOMAX

- SENIOR LECTURER IN SOCIAL WORK AT UWE BRISTOL
- AMHP PROGRAMME LEADER
- COMPLEX DECISION-MAKING MODULE LEADER
- CURRENTLY DOCTORAL STUDENT AT CARDIFF UNIVERSITY
- PRACTICE BACKGROUND AS SOCIAL WORKER IN MENTAL HEALTH AND AMHP PRACTICE

RACHEL HUBBARD

- SENIOR LECTURER IN SOCIAL WORK AT UWE BRISTOL
- SOCIAL WORK CPD PROGRAMME LEADER, BEST INTERESTS ASSESSMENT AND CONTEMPORARY THEMES IN MENTAL HEALTH MODULE LEADER, SPECIALISES IN TEACHING ON ADULT CARE LAW AND POLICY ESPECIALLY ADULT SAFEGUARDING, THE MENTAL CAPACITY ACT AND DEPRIVATION OF LIBERTY SAFEGUARDS/LIBERTY PROTECTION SAFEGUARDS
- CO-WROTE BIA PRACTICE HANDBOOK (HUBBARD AND STONE, 2018), WROTE ARTICLE ON BEST INTERESTS ASSESSOR (BIA) ROLE PUBLISHED IN PRACTICE: SOCIAL WORK IN ACTION IN 2018 AND CURRENTLY CO-WRITING ADULT SAFEGUARDING PRACTICE HANDBOOK WITH KATE SPREADBURY FOR POLICY PRESS TO BE PUBLISHED IN 2020
- CURRENTLY PROFESSIONAL DOCTORATE STUDENT AT CARDIFF UNIVERSITY
- PRACTICE BACKGROUND AS SOCIAL WORKER IN ADULT SOCIAL CARE, MENTAL HEALTH AND BIA PRACTICE

ASKING FOR HELP: DOES ADULT CARE LAW HELP OR HINDER RELATIONSHIP BUILDING?

- **RACHEL:** HOW CAN THE CARE ACT AND THE MENTAL CAPACITY ACT BE OF HELP TO THOSE WHO CHOOSE TO ASK FOR IT?
- **ROB:** WHAT IMPACT DO THE MENTAL CAPACITY ACT, MENTAL HEALTH ACT AND SECTION 42 OF THE CARE ACT HAVE WHEN INTERVENTION IS NOT ASKED FOR?
- **THE ART OF ASKING**
- DISCUSSION QUESTIONS FOR GROUPS: REFLECTIONS AND EXPERIENCES OF ASKING FOR HELP
- FEEDBACK FROM GROUPS: WHAT CAN OUR INSIGHTS INTO ASKING (OR NOT ASKING) FOR HELP OFFER FOR PRACTICE USING ADULT SOCIAL CARE LAW?

ADULT SOCIAL WORK LAW: INTERVENTION BY CHOICE

CARE ACT 2014

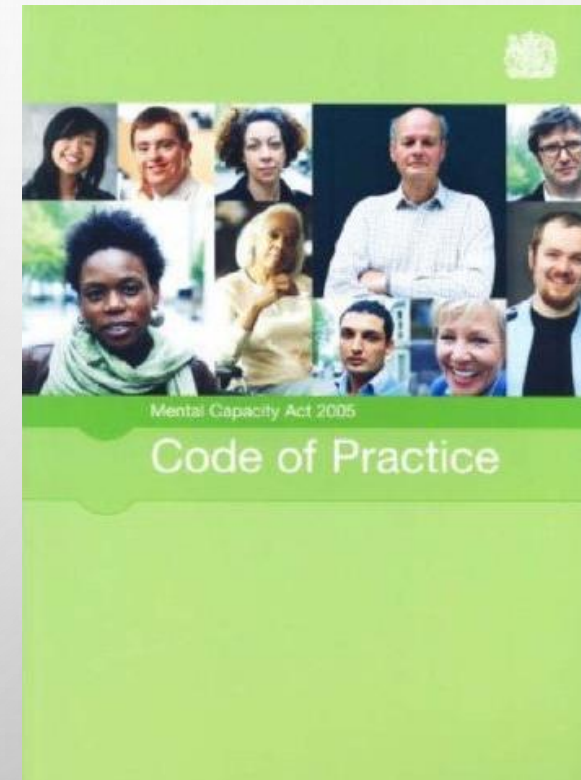
- WELL-BEING PRINCIPLE
- DUTY TO PUT THE ADULT'S WELL-BEING AT THE HEART OF ALL ADULT SOCIAL WORK, INCLUDING PHYSICAL, MENTAL AND EMOTIONAL WELL-BEING
- STRENGTHS-BASED AND ASSET-BASED APPROACHES
- “THREE TIER” OR “THREE CONVERSATIONS” MODEL (SCIE, 2017)

Conversation	Needs assessment and care planning questions
1.Initial contact	<ul style="list-style-type: none"> •How can I connect you to things that will help you get on with your life – based on your assets, strengths and those of your family? •What do you want to do?
2.If people are at risk	<ul style="list-style-type: none"> •What needs to change to make you safe and regain control? •How can I help make that happen?
3.If long term support is needed	<ul style="list-style-type: none"> •What is a fair personal budget and what are the sources of funding? •What does a good life look like? •How can I help you to use your resources to support your chosen life?

ADULT SOCIAL WORK LAW: SUPPORTING DECISION MAKING

MENTAL CAPACITY ACT 2005

- DESIGNED TO SUPPORT THE INDIVIDUAL RIGHTS TO CHOOSE
- THE FIVE PRINCIPLES ENCOURAGE US TO ASSUME THE PERSON CAN DECIDE FOR THEMSELVES, SUPPORT THEM TO LEARN AND UNDERSTAND EVERYTHING POSSIBLE ABOUT THE DECISION AND TO NOT ASSUME THAT RISKY DECISIONS SHOULD BE AVOIDED
- THE MCA ENCOURAGES US TO THINK ABOUT THESE BEFORE WE EVER GET TO THINKING ABOUT MAKING A DECISION INSTEAD OF THE PERSON DOING IT
- WHAT IMPACT DOES THE LAW HAVING A ROLE IN PRIVATE DECISION MAKING HAVE?
- IF YOU KNOW THAT SOCIAL WORKERS (WITH THE LAW ON THEIR SIDE) MIGHT DECIDE FOR YOU IF YOU “FAIL” AN ASSESSMENT, IS IT LIKELY TO FEEL LIKE AN UNPRESSURED CHOICE? CAN YOU BE HONEST ABOUT THE TIMES YOU HAVE STRUGGLED OR NEED HELP IF YOU THINK THERE IS A RISK THIS MIGHT MEAN YOU WILL BE SEEN AS UNABLE TO DECIDE?



ADULT SOCIAL WORK LAW: COMPELLED TO ENGAGE

MENTAL HEALTH ACT 1983 (2007)

- DETENTION
- TREATMENT
- (2)AN APPLICATION FOR ADMISSION FOR ASSESSMENT MAY BE MADE IN RESPECT OF A PATIENT ON THE GROUNDS THAT—
- (A)HE IS SUFFERING FROM MENTAL DISORDER OF A NATURE OR DEGREE WHICH WARRANTS THE DETENTION OF THE PATIENT IN A HOSPITAL FOR ASSESSMENT (OR FOR ASSESSMENT FOLLOWED BY MEDICAL TREATMENT) FOR AT LEAST A LIMITED PERIOD; AND
- (B)HE OUGHT TO BE SO DETAINED IN THE INTERESTS OF HIS OWN HEALTH OR SAFETY OR WITH A VIEW TO THE PROTECTION OF OTHER PERSONS



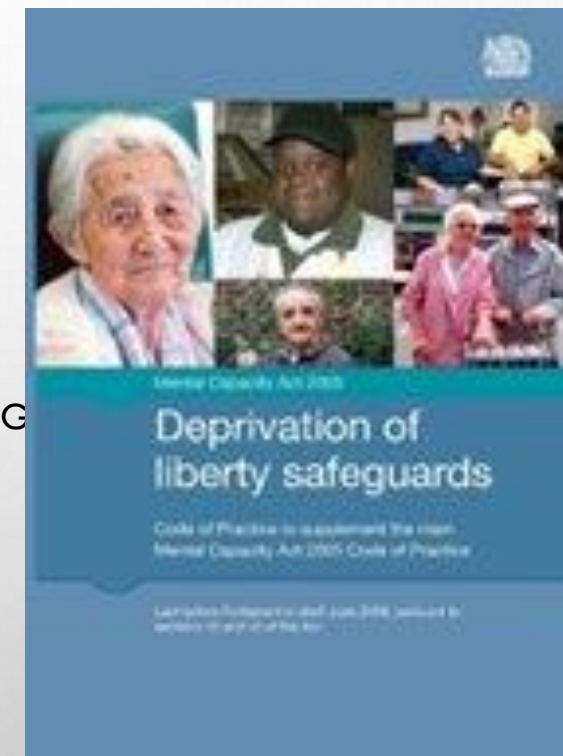
Mental Health Act 1983 Code of Practice



ADULT SOCIAL WORK LAW: ACTING IN BEST INTERESTS

MENTAL CAPACITY ACT 2005

- BEST INTERESTS DECISIONS
- SHOULD ENGAGE WITH THE PERSON'S VIEWS AND WISHES
- CONTEXT OF MAKING DECISIONS FOR RATHER THAN WITH
 - **DEPRIVATION OF LIBERTY SAFEGUARDS**
 - BIA ROLE – RULES ON CONFLICTS OF INTERESTS PUSH AGAINST BEST INTERESTS ASSESSORS HAVING EXISTING RELATIONSHIPS WITH PEOPLE ASSESSED
 - RIGHTS TO PRIVACY OFTEN INTERFERED WITH BY DEPRIVATION OF LIBERTY AND THE DOLS LEGAL FRAMEWORK DOES NOT ENGAGE WITH THIS
 - **LIBERTY PROTECTION SAFEGUARDS**
 - WILL NOT CHANGE THE DECISIONS BEING MADE BUT BY MOVING THE BEST INTERESTS DECISION MAKING TO THOSE CARE PLANNING, RATHER THAN SPECIALIST ASSESSORS, MAY IMPROVE THE ABILITY TO FORM WORKING RELATIONSHIPS AND ENABLE BETTER KNOWLEDGE OF THE PERSON IN DECISION MAKING
 - HOWEVER, SAFEGUARD OF EXTERNAL SCRUTINY OF CARE DECISION MAKING LOST



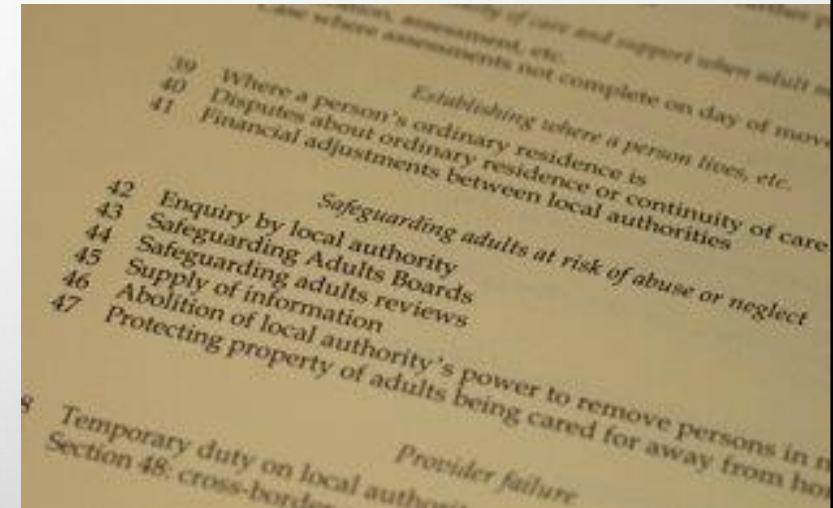
ADULT SOCIAL WORK LAW: INTERVENING TO SAFEGUARD

CARE ACT 2014 SECTION 42

- DUTY TO ENQUIRE MAY OVERRIDE PERSON'S VIEWS ON WHETHER NEEDED OR NOT

ADULT SAFEGUARDING PRINCIPLES

- **EMPOWERMENT:** PEOPLE BEING SUPPORTED AND ENCOURAGED TO MAKE THEIR OWN DECISIONS AND GIVE INFORMED CONSENT
- **PREVENTION:** IT IS BETTER TO ACT BEFORE HARM OCCURS
- **PROPORTIONALITY:** THE LEAST INTRUSIVE RESPONSE APPROPRIATE TO THE RISK PRESENTED
- **PROTECTION:** SUPPORT AND REPRESENTATION FOR THOSE IN GREATEST NEED
- **PARTNERSHIP:** LOCAL SOLUTIONS THROUGH SERVICES WORKING WITH THEIR COMMUNITIES
- **ACCOUNTABILITY:** ACCOUNTABILITY AND TRANSPARENCY IN SAFEGUARDING PRACTICE



THE ART OF ASKING

- LET'S LOOK AT THIS FROM A DIFFERENT ANGLE
- WHAT HAPPENS WHEN SOMEONE LOOKS FOR ADULT SOCIAL CARE?
- ARE PEOPLE USUALLY LOOKING FOR AN ASSESSMENT / A CARE PACKAGE / A SUPPORT PLAN?
- MORE LIKELY, THEY ARE STRUGGLING WITH A PROBLEM THEY DO NOT HAVE A SOLUTION TO (OR ARE AWARE OF) AND THEY ARE ASKING FOR HELP
- [HTTPS://YOUTU.BE/XMJ P 6H69G](https://youtu.be/xmJP6H69G)

DISCUSSION QUESTIONS

- DO YOU PERSONALLY LIKE ASKING FOR HELP?
- AT WHAT POINT WOULD YOU CONSIDER IT?

CHOICE

- WHEN WORKING WITH LEGISLATION THAT PROMOTES THE CHOICE OF PEOPLE TO BE INVOLVED IN DECISION MAKING:
- WHAT BARRIERS REMAIN TO RELATIONSHIP BUILDING?
- WHAT CAN SOCIAL WORKERS DO TO ADDRESS THESE?

COMPULSION

- WHEN STARTING FROM A POINT WHERE LEGISLATION COMPELS INVOLVEMENT RATHER THAN COMING FROM THE PERSON, WHAT YOU DO AS AN INDIVIDUAL SOCIAL WORKER TO PROMOTE POSITIVE RELATIONSHIPS?
- HOW CAN YOU ADDRESS THE BARRIERS?
- HOW CAN YOU ENSURE THAT YOU DO NOT DESTROY THE RELATIONSHIPS THAT YOU HAVE ALREADY BUILT?

FEEDBACK AND CONCLUSIONS

MESSAGES FOR PRACTICE

- HOW DOES THINKING ABOUT CHOICE, COMPULSION AND ASKING FOR HELP AID RELATIONSHIP BUILDING WHEN USING THE LAW IN ADULT SOCIAL WORK?

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