

## Chapter 14: Mental capacity, adult safeguarding and domestic abuse

### Mental capacity

There are a number of useful books covering the law on mental capacity—though the Code of Practice is an excellent starting point. These include R. Jones, *Mental Capacity Act Manual* (3rd edn, Sweet & Maxwell, 2008) (targeted at lawyers) and R. Brown, P. Barber, and D. Martin, *The Mental Capacity Act 2005: A Guide for Practice (Post-Qualifying Social Work Practice)* (3rd edn, Learning Matters, 2015).

Two essays in Braye and Preston-Shoots edited collection *The Care Act 2014 : Wellbeing in Practice*, published by Sage in 2020 may be of interest to readers. The first is by the editors and concerns Adult safeguarding and the second is by Laura Pritchard-Jones, *The Care Act 2014 and the Mental Capacity Act 2005: learning lessons for the future?*

The Small Places blog contains useful discussions of these issues: [thesmallplaces.wordpress.com](http://thesmallplaces.wordpress.com).

There are some useful youtube videos available on best interests decision making under the Mental Capacity Act— see for instance

<https://www.youtube.com/watch?v=LS52LbdPjmw> and <https://www.bing.com/videos/search?q=making+a+best+interests+decision+you+tube&docid=608034465742194906&mid=A49EF1A58C237C7545ADA49EF1A58C237C7545AD&view=detail&FORM=VIRE>

### Adult safeguarding

A special issue of the *British Journal of Social Work on Elder Abuse: Research, Theory and Practice* (2018) 48(4) includes five excellent, up-to-date research-based articles on Elder abuse in England and Wales and beyond.

Professor Jill Manthorpe and Dr Stephen Martineau write about their research into Adult Safeguarding Reviews in 'Engaging with the new system of safeguarding adults reviews concerning care homes for older people' (2017) *British Journal of Social Work* 47(1): 2086–99.

Other law related articles around adult safeguarding include:

- D. Galpin, 'Policy and the protection of older people from abuse' (2010) *Journal of Social Welfare and Family Law* 32(3): 247.
- T. Spencer-Lane, 'Reforming the legal framework for adult safeguarding: The Law Commission's final recommendations on adult social care' (2011) *Journal of Adult Protection* 13(5): 275. These articles describe in useful detail the current state of the law and proposals for reform.
- S. Hussein et al., 'Accusations of misconduct among staff working with vulnerable adults in England' (2009) *Journal of Social Welfare and Family Law* 31(1): 17. This article examines explanations and mitigation provided in response to accusations of misconduct amongst care staff.

- J. Manthorpe, 'Local responses to elder abuse: building effective prevention strategies' in A. Wahidin and M. Cain (eds), *Ageing, Crime and Society* (Willan Publishing, 2006), 139–53. This chapter of an edited collection discusses local responses to the problems of elder abuse.

The *Journal of Adult Protection* provides regular articles and digests of information about practice and law in this area.

There are some interesting youtube videos discussing Adult Safeguarding. See for instance

<https://www.bing.com/videos/search?q=you+tube+adult+safeguarding&docid=608024823568272275&mid=5792DEC9A4BC7E933B9E5792DEC9A4BC7E933B9E&view=detail&FORM=VIRE> and <https://www.youtube.com/watch?v=VUUUInGExnQ>

## Domestic Abuse

There is extensive literature available on domestic abuse. A leading practitioner's book is Roger Bird *Domestic Violence: Law and Practice* published in 2018 by Family Law.

Recent academic commentary includes L Bates & M. Hester (2020) 'No longer a civil matter? The design and use of protection orders for domestic violence in England and Wales', *Journal of Social Welfare and Family Law*, 42:2, 133-153. In this article the authors suggest an increasing civil-criminal 'hybridisation' of protection orders in England and Wales, and argues that a dual regime has developed, with orders issued by police and/or in criminal proceedings increasingly privileged (and enforced) over victim-led civil orders. Whilst protection orders are being used – as intended – flexibly to protect domestic violence victims, the way they are applied in practice risks downgrading domestic violence in criminal justice terms.

The Journal of Social Welfare and Family Law in 2018 published a special issue on international best practices in domestic abuse - See Volume 40(4)

The UK government website includes a lot of useful information and links <https://www.gov.uk/guidance/domestic-abuse-how-to-get-help?qclid=COfomc3EvesCFRWbGwodqB8C0g&gclsrc=ds> as does the Welsh government - <https://gov.wales/live-fear-free/domestic-abuse-wales>

The websites of Refuge -<https://www.refuge.org.uk/> and Women's Aid <https://www.womensaid.org.uk/> have a wide range of useful resources including resources relating to Covid-19 and abuse.