Safeguarding emotions really matters.

Safeguarding practice is all too often risk averse and detrimental to people’s well-being. **David Sheard** calls for a new ‘Era of Maturity’

A safeguarding approach based on risk aversion is severely limited as it can restrict people’s liberty and fail to take account of the effect on their emotional well-being. An approach that simply looks at people’s expressions of feeling and behaviour, without taking into account the context of the culture of care in which they live, is seriously flawed.

The excesses of ‘health and safety’ provide a steady stream of material for the world of comedy. There is a plethora of jokes on the subject in adult social care, for example the one about the two professionals who, faced with a huge manual on risk assessments, comment that “there is certainly a risk, but if you want to write down all the risks no one will read it any more.” These jokes act as a mirror to society of the dangers in taking the process of safeguarding people to an extreme, where a medicum of common sense and the need to protect people’s rights have been overtaken by dogma.

The need to safeguard vulnerable adults, fuelled by the evidence of government inquiries into the failings of care services, continues to dominate the health and social care services agenda. The Francis inquiry into the Mid Staffordshire NHS Trust (Francis 2013) reported on an estimated 400-1200 patients who died as a result of poor care between January 2005 and March 2009. The inquiry revealed an organisational culture of forceful management and bullying, target-driven priorities and disengagement of staff from management. Similarly the Care Quality Commission (CQC) posted evidence that “there are cultures in place where the unacceptable becomes the norm” (CQC 2014).

In particular, the CQC’s concerns focused on tasks being done to suit the service and not the person, and people being talked over or having things done to and not with them. Following a BBC Panorama exposé, a Department of Health review on the abuse of vulnerable people at Winterbourne Hospital revealed criminal abuse, illegal restraint, a dysfunctional culture of care and failure to protect people alongside poor quality assurance and questionable recruitment policies (Department of Health 2012). Failings like these have been in the background of a swath of government legislation aiming to protect and safeguard vulnerable adults.

**Legislative responses**

More than a decade ago, publication of the **No secrets** guidance on protecting vulnerable adults in care (Department of Health 2000) heralded a new era of safeguarding. This approach to safeguarding practice has been invaluable in highlighting a range of vulnerabilities to abuse which living with the experience of a dementia can present. **No secrets** defined abuse as:

> …a violation of an individual’s human and civil rights by any other person or persons. Abuse may consist of single or repeated acts. It may be physical, verbal or psychological, it may be an act of neglect or an omission to act or it may occur when a vulnerable person is persuaded to enter into a financial or sexual transaction to which he or she has not consented or cannot consent.

It is recognised in the guidance that abuse includes physical, sexual, emotional and verbal acts as well as neglect and discrimination such as ill treatment or harassment.

The Mental Capacity Act 2005 established in law for the first time five main principles that people must follow in supporting or making decisions on behalf of someone who may lack mental capacity. In 2006, the Safeguarding Vulnerable Adults Act had the Protection of Vulnerable Adults (POVA) list at its centre, where care workers who have harmed or risked harm to vulnerable adults and are deemed unfit to work with them are placed on the list. The change of name from POVA to SOVA marked a shift from ‘protection’ to ‘safeguarding,’ putting the emphasis on early intervention and prevention of abuse.

In 2009, the Deprivation of Liberty Safeguards came into effect. This provided for the lawful deprivation of liberty of those people who lack the capacity to consent to arrangements made for their care or treatment in either hospitals or care homes, but who needed to be deprived of liberty in their own best interests to protect them from harm. This required all care homes and hospitals as well as local authorities to keep clear and comprehensive records of every person deprived of their liberty.

**Nothing ventured, nothing gained**

National clinical director for dementia care Alistair Burns summarised the importance of balance in his foreword to the Department of Health’s best practice guidance **Nothing ventured, nothing gained** (2010). He said: “It is a challenge to tread the line in being over-protective in an attempt to eliminate risks altogether while respecting individual freedoms. The trick is giving people the opportunity to live life to the full, while at the same time making sure they are properly safeguarded.” The guidance was innovative in pointing out that “risk enablement goes beyond the physical components of risk, such as the risk of falling over or of getting lost, to consider the psychosocial aspects of risks, such as the effects on well-being or self-identity if the person is unable...
to do something that is important to them.”

The risk enablement framework in _Nothing ventured, nothing gained_ offered creative guidance to professionals in considering “quality of life gains as well as potential harm... and support for making the most of the decision making capacities that the person with a dementia often retains.”

Yet more measures were contained in the Care Act 2014, implemented for the most part on 1 April 2015, which replaced _No secrets_ with a set of mandatory requirements. It contains a clear legal framework for how the health and social care system should operate and strengthens local authority safeguarding duties. But the Act does not use a specific definition of abuse and refers more generally to adults at risk of abuse or neglect including financial abuse. It also strengthens Safeguarding Adults Boards by giving more powers than the previous arrangements established under _No secrets._

**Risk aversion**

This rigorous climate of safeguarding, however, has led to many complex dilemmas in its practice and implementation. Often social workers and care managers with a responsibility for it are accused of being over-zealous and applying old culture dementia care concepts to safeguarding practice. Last year the House of Lords review of the Mental Capacity Act (House of Lords 2014) heavily criticised the way in which care homes and hospitals deprive vulnerable people of their basic freedom, stating:

_Evidence suggested that thousands, if not tens of thousands, of individuals are being deprived of their liberty without the protection of the law and therefore without the safeguards which parliament intended. Worse still, safeguarding procedures, far from being used to protect individuals and their rights, are sometimes used to oppress individuals, and to force upon them decisions made by others without reference to the wishes and feelings of the person concerned._

The Lords’ report blamed an attitude of “paternalism” in the NHS and “risk aversion” in the care sector for the wide-ranging use of restraint. They went on to comment: “All too often ‘best interest’ is interpreted in a medical/paternalistic sense which is wholly at odds with that set out in the Act.”

The House of Lords recognised that the process of safeguarding, vital in the prevention of abuse and implemented with good intent, is in danger of becoming a controlling form of care. It risks pathologising individuals and their expression of feelings, underestimated actual capacity and legitimising families’ infantilisation of relatives who have a dementia. To all appearances it often omits to take account and appropriately measure the potential effects of restrictive decision-making on people’s emotional well-being. In the future, the focus of safeguarding should switch from policies, procedures, systems and mandatory training to safeguarding vulnerable people from old cultures of care where abuse occurs moment by moment.

Given the concerns expressed by the Lords only last year, it is clear that the aspirations of _Nothing ventured, nothing gained_ guidance require reinforcement. The Care Act offers a new opportunity to get this right, putting “an emphasis on sensible risk appraisal, not risk avoidance which takes into account individuals’ preferences, histories, circumstances and lifestyles to achieve a proportionate tolerance of acceptable risk” (Skills for Care/National Skills Academy 2014).

**Safeguarding from Safeguarding?**

Safeguarding is no easy task and places a heavy and significant duty on those responsible for its implementation. Safeguarding teams have a delicate balance to strike in considering the feelings, views and human rights of individuals. They are required to weigh up decisions where more than one vulnerable person is involved, to analyse staff perceptions of safeguarding procedures and their real life implementation alongside ensuring there is thorough consultation with the person, the person’s family and any other carers. All of this assessment has to be done in a way which thoroughly takes account of the relative power imbalance which the person living with a dementia will be experiencing when surrounded by families and care professionals.

However it could be asserted that people living with a dementia are on the cusp of needing safeguarding from safeguarding. Safeguarding is in danger of veering towards becoming a...
Responding to feelings and behaviours as complaints is standard practice in Butterfly Care Homes, and it has been a powerful mechanism in contributing to a new culture of care

restrictive process where the greatest priority is given to protection from physical harm. It risks failing to grasp the need to balance the emotional consequences of restricting a person’s life, particularly in a context where people living with dementia are more feeling beings than thinking beings. A lack of emotional well-being is the greatest hazard facing someone living with dementia and good safeguarding should be about ensuring that the person really matters.

Dichotomy in safeguarding
We have now undertaken over 700 Qualitative Observational Audits in care homes. These 700 audits still show people living with a dementia spending 70% of their time in neutral care where their majority experience is of boredom, lethargy, large-scale communal living, being herded into dining rooms and staring blankly into space. In its original design the Quality of Interactions Schedule, published in our book Enabling: quality of life – an evaluation approach, identified six levels of outcome following a Qualitative Observational Audit (Sheard 2008). A Level 1 outcome was where exceptional person-centred dementia care was evidenced. A Level 6 outcome indicated that a service needed a radical action plan for culture change. It is therefore with sadness over the last three years that we have had to create new levels 7-10 on this observational tool. These extra levels have been required where the level of “malignant social care” has reached or connected to on the inside. In this situation it is hardly surprising if, as a person with dementia, you express your complaint about the service through feelings or behaviour. Even so, rarely in a care home will your expressions be formally treated as a complaint. In contrast, responding to feelings and behaviours as complaints is standard practice in Butterfly Care Homes and it has been a powerful mechanism in contributing to a new culture of care.

Failings of safeguarding
Safeguarding practice has so far failed to address the problems of task orientation, controlling care, the prevailing ‘them and us’ culture, and features of institutionalisation. We often hear that, if you assert yourself by expressing your strong feelings through ‘behaviours’ or your strong need for closeness through sexual expression, restrictive safeguarding responses can come into effect. Rather than analysing the culture of care that is restricting you as a person, what care homes often do is conclude that other people, more compliant and less ‘disruptive’ than you, need safeguarding from you. It can appear to be more about the protection of services through removing all physical hazards without having to evidence that people’s emotional quality and experience of life is equally unharmed. The fact that you complain through expressions of behaviour that other people find unacceptable will heighten the risk that you are asked to leave your ‘home,’ making you more susceptible to the perils of a move with the unfamiliarity, insecurity and lack of belonging that go with it.

All this flies in the face of the Care Act. We can only hope that, where the Act is being implemented well, there will be a different result based on six principles enshrined in it (Skills for Care/National Skills Academy 2014):
• empowerment – presumption of person-led decisions and informed consent
• prevention – it is better to take action before harm occurs
New safeguarding culture

See how different people’s lives can be
Alter attitudes to harm reduction
Focus on freedom as a basic human right
Enable people first to live
Guard each person from abuse
Understand who someone really is
Acknowledge people need achievements in life
Reach every person on the inside
Develop your own emotional connections
Include people’s identity in decision making
Nurture people’s spirit
Gather momentum on culture change.

This acrostic was the idea of Eve Carder, senior nurse manager at Landermeads Nursing Home in Nottingham.

- proportionality – proportionate and least intrusive response appropriate to the risk presented
- protection – support and representation for those in greatest need
- partnerships – local solutions through services working with their communities
- accountability – accountability and transparency in delivering safeguarding.

Genuine safeguarding depends on an acknowledgement by the whole care sector that there is a balance to be found between people’s safety and happiness. As Lord Justice Munby said in the House of Lords report, manageable or acceptable risks should be tolerated “as the price appropriately to be paid in order to achieve some other good – in particular to achieve the vital good of the elderly or vulnerable person’s happiness.” He added: “What good is it making someone safer if it merely makes them miserable?”

All of us make choices about the degree of physical and emotional risk we are prepared to take to achieve the level of happiness we need to emotionally survive and thrive. The right balance in safeguarding is to measure the degree of risk against how the person concerned sought to live their life in the past and how they are seeking to experience their life now. Avoiding emotional harm to quality of life is just as important as avoiding physical harm. This is what person-centred practice is founded on and what respect for the individual is all about.

Safeguarding emotions

We have launched a new supporting tool for those with a safeguarding responsibility called ERA – Emotions and Risk Assessment. The tool follows the requirements of any risk assessment approach but includes a method of measuring the way in which people’s life story, experiences and interests in the past affected their approach to hazards and risk taking. It recognises that confronting hazards can be part of meeting social and psychological needs.

In particular, ERA has a rating scale for the social and psychological needs potentially met by confronting a hazard and takes into account the following key factors:
- views and wishes of the person in relation to the specific hazard
- what is known about this person’s life story, experiences and interests which might relate to the hazard
- the potential benefits of this hazard to the person’s well-being and its contribution to their quality of life
- the actual evidence or not regarding the likelihood that the hazard will lead to harm
- the emotional hazards in this person not being able to undertake the physical hazard
- how a person can be supported to experience the benefits of the hazard.

Different ‘Eras’

Commissioners and regulatory bodies will have a pivotal role in implementing a new culture of safeguarding through service specifications, contracting, regulation and inspection (see ‘New safeguarding culture’ box, setting out qualities of this culture). They will have to demonstrate that safeguarding individuals is balanced with zero tolerance of old cultures of care. You could say that we have had different “eras” of care over the last five decades. In the 1970’s we had the “Era of Local Authorities,” which held strong values but generally had poor quality council-owned care home environments that did not match the values they aspired to. In the 1980’s in came the “Era of Bureaucracy,” which promoted a detached managerialism in statutory services that sat alongside the spreading privatiation of the care home sector. At this point individual people as ‘service users’ got lost in this era of managerial culture change. In the 1990’s came the “Era of New Theory” led by Professor Tom Kitwood. His revolutionary theories of person-centred care advocated for the removal of malignant cultures and their associated environments (Kitwood 1997).

In the first decade of this century we had the “Era of Regulation,” whose focus was on quality of service accompanied by poor regulatory measures that dwelt too much on policies, procedures and systems without any balance to take account of quality of life. Now we have the “Era of Safeguarding” with the overly bureaucratic protection of services disguised as protection of individuals from physical harm. In the next decade Dementia Care Matters hopes for an “Era of Maturity,” where true deinstitutionalisation, real culture change, and an equal focus on quality of life and quality of service, leads to the actual safeguarding of individuals. In our hoped-for era, emotional well-being will be given just as much priority as protection from physical harm because health and social care services will finally have understood that feelings matter most in life.

References


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