

UCD DUBLIN

NCPOP NATIONAL CENTRE FOR THE PROTECTION OF OLDER PEOPLE (NCPOP)

NCPOP
National Centre for the Protection of Older People

Seminar Programme 2010

Elder Abuse and Legislation in Ireland

Imogen Lyons
Tuesday 16th February 2010

Feidhmeannacht na Seirbhíse Sláinte
Health Service Executive

Introduction

NCPOP NATIONAL CENTRE FOR THE PROTECTION OF OLDER PEOPLE (NCPOP)

- Legislation related to elder abuse and the protection of older people
- Sourced from:
 - Policy
 - Governmental Reports
 - Research Reports
 - Online Statute Book
 - Database Search
 - Grey Literature
 - General Internet Search
 - Expert Legal Advice

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Review 3, November 2009

Elder Abuse & Legislation in Ireland

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Overview

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      A((Protecting Older People)) --- B((Mental Capacity))
      A --- C((Mental Health))
      A --- D((Domestic Violence))
      A --- E((Criminal Law))
      A --- F((Civil Law))
      A --- G((Health and Social Care Regulation))
      A --- H((Equality & Age Discrimination))
      A --- I((Financial Regulation))
      A --- J((Human Rights))
  
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Human Rights Legislation

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- International Plan of Action on Ageing 2002
- UN Declaration of Human Rights 1948
 - rights to life, liberty and security of person; equality, freedom from discrimination and freedom from cruel, inhuman or degrading treatment
- UN Principles for Older Persons 1991
 - "older persons should have access to social and legal services to enhance their autonomy, protection and care" (Principle 12)
 - older persons should be able to live in dignity and security and be free of exploitation and physical or mental abuse" (Principle 17).
- Irish Constitution 1937
- European Convention on Human Rights Act 2003
- Human Rights Commission Act 2000 & 2001

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Mental Capacity and Mental Health Legislation

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- Wards of Court – Lunacy Regulation (Ireland) Act 1871
- Powers of Attorney Act 1996
- Mental Capacity Bill 2008
 - Principles – assumption of capacity, least restrictive alternative
 - Functional approach – time and issue specific
 - Assessment of capacity
 - Office of Public Guardianship
 - Offence for ill-treatment or willful neglect of an incapacitated person
 - Advanced care directives
- Mental Health Act 2001

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Domestic Violence Legislation

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- Domestic Violence Act, 1996
- Family Law (Miscellaneous Provisions) Act, 1997
- Domestic Violence (Amendment) Act, 2002
 - Spouse > domestic relationships
 - Physical and Psychological
 - Protection orders – Barring order, interim barring order, safety order, protection order
 - Criminal Offence to breach a protection order
 - Does not apply to professional carers

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Criminal and Civil Law

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- **Criminal Law**
 - Physical assault, sexual assault, rape, battery, robbery, burglary, harassment, theft or fraud
 - Non-Fatal Offences against the Person Act 1997
 - Criminal Law (Rape) Act 1981, 1990
 - Criminal Damage Act 1991
 - Criminal Justice (Theft and Fraud Offences) Act 2001
- **Civil Law**
 - Negligence or neglect, wrongful interference, duress and undue influence, misrepresentation, deceit and injurious falsehood, and negligent misrepresentation

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Health and Social Care Regulation

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- **Health Act 2007**
 - Health Information and Quality Authority (HIQA)
 - Office of the Chief Inspector of Social Services
 - Health Act 2007 (Care and Welfare of Residents in Designated Centres for Older People) Regulation 2009 (S.I.236)
 - Excludes domiciliary care services
- **Health and Social Care Professionals Act, 2005**
 Medical Practitioners Act, 2007
 Pharmacy Act, 2007

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Reporting Abuse

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- **Mandatory Reporting**
- **Health Act 2007, Section 103, Part 14**
 - Protected Disclosure
- **Coroner's Bill 2007**

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Financial Support for Nursing Home Care

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- Nursing Home Subvention
- A Fair Deal - Nursing Home Support Scheme Act 2009

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Financial Regulation and Consumer Protection

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- Central Bank and Financial Services Authority of Ireland Acts, 2003 & 2004
- Consumer Protection Code 2006
- Consumer Protection Act 2007
- Markets in Financial Instruments and Miscellaneous Provisions Act, 2007
- Consumer Credit Act 1995
 - EU – Unfair Commercial Practices

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Equality and Age Discrimination

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- Employment Equality Acts, 1998 & 2004
- Equal Status Acts, 2000 & 2004
- Equality Act 2004
- Disability Act 2005
- Civil Law (Miscellaneous Provisions) Act 2008

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Further Information



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NATIONAL CENTRE FOR THE PROTECTION OF OLDER PEOPLE (NCPOP)

- www.ncpop.ie

- Resources

- Irish Legislation

- www.oireachtas.ie

- www.irishstatutebook.ie

- www.lawreform.ie



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