

Conviction under the Mental Capacity Act - 7 Minute Briefing

1. Introduction

This briefing aims to explain how the safeguarding process and the **Mental Capacity Act 2005 (MCA)** was used successfully to protect adults at risk of abuse in a Salford Care Home and bring prosecutions against those responsible for the abuse.

2. Background

The MCA is designed to protect those who lack mental capacity (or who may have fluctuating capacity) and are unable to do things / make decisions for themselves. It provides a legal framework for decision making and sets out key principles which must be followed. Section 44 of the MCA makes it a criminal offence for a carer responsible for someone without mental capacity to ill-treat or neglect them.

3. What happened?

Members of staff in the Care Home alerted their manager to concerns that 2 of their colleagues were abusing residents. The abuse included mocking and taunting residents and throwing objects at them. A Safeguarding Concern was raised with Adult Social Care (ASC) who have a statutory duty to carry out safeguarding enquiries, in such circumstances.

4. What happened next?

Following duties under the Care Act 2014, ASC conducted an enquiry and involved the Police. This is because the Police were also conducting a criminal investigation in relation to the alleged criminal offences. The 2 care workers were charged with wilful neglect / ill treatment of several care home residents. Families of those affected were notified.

5. Outcome

The 2 workers were found guilty of wilful neglect and were both sentenced to 20 weeks in prison. The concern was raised as a result of whistleblowing systems in place at the care home and the enquiry was assured that all steps are in place to prevent an incident of this nature happening again.

6. Safeguarding Process

This case provides a good example of the important role that whistleblowing can play in identifying and responding to safeguarding concerns. It has seen successful prosecutions against the offenders, holding them to account for their behaviour, and preventing them from working in similar roles in future. It has also provided assurance that it was a 'one off' incident.

7. Further Information

[SSAB Website - Mental Capacity Act](#)

[Mental Capacity Act 2005](#)

[SCIE \(Social Care Institute for Excellence – Mental Capacity Act](#)

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