

Safeguarding adults – a safer and more secure future

GARY VAUX



One of the principles that CPAG espouses in its Secure Futures project is that social security should protect people in vulnerable circumstances. Recent tragedies highlight where the system is currently falling short, but what is being done to protect people and ensure they always have enough resources to avoid squalor, starvation and suicide?

For those of us who have been involved in social care for a long time, the names Tyra Henry, Victoria Climbié, Jasmine Beckford and Marie Colwell bring back haunting memories of abused children, ruined lives, public enquiries, wasted opportunities and the same clichés about ‘lack of communication between agencies’, ‘failures to work together’ and ‘lessons being learnt’. But slowly, things did change.

In 10–20 years’ time, we hope to be looking back at the cases of Errol Graham, Jodey Whiting and others as bringing about the same seminal changes, at least insofar as involving the Department for Work and Pensions (DWP) and their partners in safeguarding matters – matters that they have largely avoided until recently.

In 2018, Errol Graham died of starvation after his benefits were cut off for failing to turn up for an appointment. The DWP has been accused of failing to make sure that his mental health had improved before taking away his only source of income.



Errol Graham died of starvation in June 2018 after his benefits were cut off. According to his family’s lawyers, the DWP acted unlawfully and put him at risk by failing to put in place effective safeguards to protect vulnerable benefit claimants. Alison Turner, Mr Graham’s daughter-in-law, said: ‘The government owes it to Errol, his family and the country to explain why the DWP has failed repeatedly to learn from tragedies like these over many years. We need an independent public inquiry.’¹

The lawyers for Mr Graham’s family maintain that although the DWP knew Mr Graham was highly vulnerable, it failed to take reasonable steps to obtain evidence that his health had improved before removing his only source of income because he had failed to turn up to an appointment.

‘Over 20 months on from Mr Graham’s death (and nine months on from the inquest)... decisions carrying a risk of death continue to be made based on scant and insufficient information.’²

When the coroner, who had called the DWP to give evidence at the inquest, asked about the reasonableness of the decision to stop Mr Graham’s benefits, given they knew he had a long history of serious mental illness, a DWP official replied that by the terms of the safeguarding guidance at the time it was ‘the right decision... for us to have made’.³

To an outsider, that would indicate either faulty guidance or a faulty interpretation of existing guidance.

Domestic abuse involves one partner exercising power and control over the other, using coercion and threats, intimidation, economic abuse, emotional abuse and isolation, as well as minimising, denying and blaming. Domestic abuse also often involves physical and sexual violence. The Domestic Abuse Bill (2020) was reintroduced into parliament a few weeks before lockdown but has still not been enacted. The new requirements of the bill may well prove to be a litmus test of how far the DWP is able to go in engaging externally with other local safeguarding partners, such as health, social and child care and the police.
[Photo: Shutterstock]



‘Over 20 months on from Mr Graham’s death (and nine months on from the inquest) ... decisions carrying a risk of death continue to be made based on scant and insufficient information.’





Joy Dove campaigned at Labour's 2019 conference to raise awareness of DWP's safeguarding issues. Joy Dove, the mother of Jodey Whiting, has been campaigning for a new inquest since her daughter took her own life in February 2017 three days after receiving her last employment support allowance. The DWP stopped Ms Whiting's benefits after she failed to attend a work capability assessment, even though they had been informed by the claimant of her suicidal tendencies and her inability to attend an external appointment. Ms Whiting was a vulnerable woman with physical and mental health illnesses that left her housebound.

Jodey Whiting had her employment and support allowance (ESA) halted in 2017, after missing a capability assessment because she was in hospital with pneumonia. Shortly after, she died by suicide. An inquiry by the Independent Case Examiner (the final stage of the DWP complaints system) found that the DWP did not follow procedures, such as telephoning and visiting Ms Whiting after she missed the appointment.



The DWP said in a statement: 'We fully accepted the ICE's findings ... and have since reviewed and strengthened our procedures to ensure all vulnerable claimants are safeguarded.'¹⁴

A National Audit Office report published in January 2020 found the DWP had investigated at least 69 suicides linked to benefits problems since 2014. The report said that despite this investigation, there was no evidence the DWP had learned from its reviews or improved its processes.

Statutory requirements and guidance

The DWP has always had a somewhat peculiar relationship towards its welfare responsibility, or what could be classed as its 'duty of care'. For example, under the old Citizen Charter and 1991 DSS framework document, the DSS (Department of Social Security as the DWP was then called) was guided to be proactive in exploring a person's circumstances and identifying and securing potential benefit entitlement. Following the death of a claimant in 2000, the DWP introduced safeguarding 'minimum requirements', which were publicised to the advice sector in 2015. These requirements were designed to ensure that the DWP is 'not found to be neglectful in [its] duty of care' towards claimants with a 'known background of mental illness'.⁵ The minimum requirements include escalating decisions on withdrawing benefit to managers, liaising closely with social services and communicating with psychiatric units.

Other guidance required DWP to conduct home visits before withdrawing benefits or imposing a sanction. One version of this home-visit guidance also requires that if DWP staff have been unable to visit the claimant at home, the DWP should liaise

with third parties such as GP surgeries and social services departments before making a decision on sanctioning a claimant. The guidance says this notification is required because the DWP has a 'moral obligation to make organisations aware of potential incidents around vulnerable claimants'.⁶

Unfortunately, this guidance had no legislative backing and was only obtained by freedom of information (FOI) requests, rather than being widely published.⁷ It is clear, however, as with the cases cited above, that existing safeguards are either inadequate or not followed consistently.

Current DWP 'approach to vulnerability' guidance refers to 'an individual who is identified as having complex needs and/or requires additional support to enable them to access DWP benefits and use our services'.⁸ Complex needs are described as 'difficult personal circumstances and/or life events that affect the ability of the individual to access DWP benefits and use our services',⁹ which is a wider approach than the earlier focus on mental health. The concern is that this broader approach may dilute that focus, especially when visiting officer resources are under extreme pressure (both before and during COVID-19 pandemic especially).

The DWP approach to vulnerability aims to move away from using the term 'vulnerable customer' in favour of a focus on life events and/or personal circumstances. Guidance states that claimants may move in and out of situations where they do/do not require support. It goes on to state that some individuals may not require support even though they are experiencing difficult life events and/or complex personal circumstances, health issues or disability. Work coaches are expected to apply discretion in evaluating cases, which raises issues of whether or not individual coaches are trained to correctly apply guidance. One could almost be forgiven for thinking that safeguarding, and the need for intervention, can be defined in whatever way an individual DWP decision maker chooses.

Such a broad approach does not seem to be reflected in statutory guidance initially created to support the 2014 Care Act.¹⁰ This guidance is far more detailed and prescriptive in not only identifying ten types of abuse but explaining how they should be addressed:¹¹

- physical abuse
- domestic violence or abuse
- sexual abuse
- psychological or emotional abuse
- financial or material abuse
- modern slavery
- discriminatory abuse
- organisational or institutional abuse
- neglect or acts of omission
- self-neglect

The safeguarding issue seems, therefore, to fall into two distinct areas:

Firstly, there are the times when DWP staff, or the contracted disability assessment partners such as Centre for Health and Disability Assessments (CHDA), Independent Assessment Service (IAS) and Capita, become aware of circumstances in which a client is at risk.

Secondly, there are the situations in which it is the actions or inactions of the DWP itself that cause or contribute to the need for multi-agency safeguarding.

DWP awareness and witnessing

Awareness of abuse could be anything from realising there is domestic violence, to witnessing bruising or to being aware of self-neglect. In such cases, there are issues of financial abuse and mismanagement

as well as the ways in which the DWP approves, monitors and cancels appointeeships, often with scant regard to principles of empowerment, consent, capacity, or Care Act principles.¹²

In relation to the 'DWP as witness', the DWP has put considerable training and other resources in place to make staff aware of possible situations that could give rise to the need for safeguarding investigation or action. In addition, in a significant move, the DWP

is in the process of building a safeguarding team across the country that will see the recruitment of 25 senior safeguarding leaders, who will be the DWP's local representative on all appropriate multi-agency boards.

Although welcome, that team is still a thinly spread resource. Given that the DWP and its disability-assessment partners are in direct contact with hundreds of thousands of disabled people, low-income families and isolated older people every week, it is worth noting that the Care Quality Commission do not even list the DWP as a potential partner in local safeguarding practices.¹⁴ The new requirements of the Domestic Abuse Bill 2020 (not enacted at the time of writing) may well prove to be a litmus test of how far the DWP is able to go in engaging externally with other local safeguarding partners, such as health, social and child care and the police.

Each local authority must establish a Domestic Abuse Safeguarding Board to oversee individual serious cases. It will be interesting to see how well the DWP cooperate with these boards. Cooperation should be highly participatory, however, given that in each job centre the DWP has embedded points of contact who have been upskilled by Women's Aid to support the needs of anyone experiencing domestic abuse. The DWP could act as an invaluable early warning and as a portal into the support on offer locally. These points of contact will allegedly 'work closely with local services to share knowledge, signpost victims and survivors to expert external support and be a source of support for work coaches,'¹⁵ so the signs are promising.

The Care Quality Commission's vision for adult social care and health services is one in which the vulnerable person has choice and control over what happens – 'no decision is made about me without me' – yet the DWP does not appear on the list of potential partners in local safeguarding practices. Actions taken should be shaped by the best outcome for the person who has suffered abuse and neglect and should fully involve that person, or their representative or advocate, in decisions.

It is instructive, and an example of 'good practice' that could be followed in the rest of the UK, that guidance on safeguarding claimants with appointees under the Scottish social security system is to be placed on a statutory footing.

Amending the Social Security Administration and Tribunals Membership (Scotland) Bill, cabinet secretary for social security, Shirley-Anne Somerville, set out a set of safeguarding principles, including those drawn from the United Nations Convention on the Rights of Persons with Disabilities. The measures recognise that the current rather ad-hoc and unmonitored use of appointeeships is not satisfactory and can lead to financial abuse:¹³

- **When deciding to make or terminate an appointment, Scottish ministers must take into account the views of individuals (or the wishes and feelings of those without capacity) as well as the views of other interested persons.**
- **Enable a person to query an appointeeship at a First-tier Tribunal for a decision.**
- **Introduce a third-party certification process of appointees for adults with capacity; the third party will act in a professional capacity to provide an additional safeguard against the possibility of coercive situations arising.**



Also, as mentioned the DWP's partners have their own safeguarding policies. CHDA's is comprehensive,¹⁶ but includes some areas in which it seems at odds with both the DWP's safeguarding duties and the requirements of the 2014 Care Act. For example, there is no mention of CHDA referring cases to, or sharing information with, the DWP about financial abuse or serious self-neglect. CHDA's policy takes as its starting point the definition of a vulnerable adult as contained in *No Secrets*¹⁷ (Department of Health guidance from 2000), even though *No Secrets* was repealed in April 2015 by the statutory Care Act. People who work in local government, or use FOI requests, might find it useful to ask the local Safeguarding Adult Board on how many occasions has the DWP been in attendance at board meetings, and how many times has the DWP referred cases to the board. Of course, that may be a two-way fault even in cases where the DWP is the main or only source of a person's income, or financial abuse of benefits is involved.

Safeguarding the DWP?

That leads to the second key safeguarding area – the DWP's responsibility when it is mainly their actions that are causing or exacerbating the problem. This self-critical awareness is not something that the DWP appear to have a strong history of since the DWP operates within the confines of narrow definitions of benefit eligibility. There are indications of change, however. For example, recent DWP guidance to the organisations that provide personal independence payment (PIP) assessments gives much clearer instructions about establishing a claimants need for additional DWP support when making or renewing a PIP claim.¹⁸

DWP's high regard for confidentiality can sometimes tip-over into secrecy and a failure to share information vital to the understanding of any safeguarding concerns. Safeguarding disclosures are permitted under Section 45 of the 2014 Care Act and largely override concerns about sharing information. As the above-mentioned Care Act guidance states: 'principles of confidentiality designed to safeguard and promote the interests of an adult should not be confused with those designed to protect the management interests of an organisation. These have a legitimate role but **must** never be allowed to conflict with the welfare of an adult'.¹⁹ [emphasis in original]

In July 2020, the DWP's permanent secretary, Peter Schofield, told MPs on the Work and Pensions Select Committee that vulnerable people had sometimes 'fallen between the cracks' in the social security system and been left without support.²⁰ Schofield told MPs that new guidance was coupled with the introduction of regional safeguarding officers and a new top-level DWP serious case panel. He stated:

*'We genuinely want to listen and learn and make sure that when we see things that have gone wrong we make changes and make sure that they do not happen again. ... What we have not been great at is pooling the information that we have.'*²¹

These words could have been lifted verbatim from any of those 1980s child death inquiries.

Mr Schofield clarified that in the past, when a claimant failed to take part in a mandatory intervention such as a work capability assessment, a range of attempts, including two home visits, were made to contact the claimant but if that failed then a decision maker would be likely to stop payment of benefit. Mr Schofield advised, however, that, following the meeting of the serious case panel on 19 March 2020:

*'The change now is that if we tried all of that, we would then take that case back and have a case conference about the individual. Particularly if it's someone with a vulnerability that we know about, then we would seek to involve other organisations that might have a different way of knowing about that individual. So it might be that we could involve the social landlord ... local adult social services ... there may be all sorts of organisations that we could work with. ... And then we would seek to understand what do they know about that individual and how can we support them. If that fails, that could then be escalated to the safeguarding leads and, in that way, what we would seek to do is provide support and not remove benefits.'*²²

The serious case panel is to consider serious systemic issues from serious cases involving people using the benefits system, including cases in which people have died.

Work and Pensions Select Committee chair Stephen Timms said:

*'The workings of the serious case panel have been shrouded in secrecy until now, so it is welcome that the department has finally agreed that some information can see the light of day. ... The department is making steps in the right direction, but it still has a long way to go to prove that it has learned lessons from its past failures. The committee will be keeping a very close eye on this.'*²³



'The changes outlined today should have been standard procedure years ago'.²⁴

Alison Turner,
Errol Graham's
daughter-in-law.

Secretary of State, Dr Thérèse Coffey MP, gave evidence to the Work and Pension Select Committee on 30 September 2020 about the DWP's response to the coronavirus outbreak. She was asked by Labour MP Debbie Abrahams whether the DWP had a legal duty to safeguard vulnerable claimants. Dr Coffey replied:

'I do not actually think it is the responsibility of DWP to have that statutory duty. We are not the local council, social services, the doctors and other people. ... I want to be clear ... I don't want it to be construed by the committee or by parliament that ... we have a legal duty in that regard.'

GARY VAUX is head of the Money Advice Unit at Hertfordshire County Council

Footnotes

1. P Butler, 'UK: 'Judge me fairly': man who starved to death's plea to welfare officials', *The Guardian*, 27 February 2020, available at: [theguardian.com/society/2020/feb/27/errol-graham-man-starved-death-benefits-cut-letter-welfare-officials](https://www.theguardian.com/society/2020/feb/27/errol-graham-man-starved-death-benefits-cut-letter-welfare-officials)
2. J Brown, 'How can the circle be squared?', *On Probation Blog*, 4 March 2020, available at: probationmatters.blogspot.com/2020/03/how-can-circle-be-squared.html
3. See note 2
4. M Brown, 'DWP writes to Jodey Whiting's mum listing changes they've made after tragic suicide', *Teesside News*, June 2019, available at: [gazettelive.co.uk/news/teesside-news/dwp-writes-jodey-whiting-mum-16481417](https://www.gazettelive.co.uk/news/teesside-news/dwp-writes-jodey-whiting-mum-16481417)
5. See note 7
6. JCP Guidance: 05 Jobcentre Offer, 08 Failure to Attend/Failure to Participate
7. For more information, see: O Stevens and C Hammersley, 'Safeguarding guidance: a tool for practitioners', CPAG, available at: cpag.org.uk/welfare-rights/resources/article/safeguarding-guidance-tool-practitioners
8. DWP, 'Approach to Vulnerability guidance', Operations FOI Requests, March 2015, para 2, available at: whatdotheyknow.com/request/259586/response/635763/attach/html/4/Vulnerability%20guidance.pdf.html
9. See para 4 of note 8
10. Department of Health and Social Care, *Care and Support Statutory*

Guidance, 2014, Chapter 4, available at: gov.uk/government/publications/care-act-statutory-guidance/care-and-support-statutory-guidance
11. A more accessible guide on the local authority perspective is available at: scie.org.uk/safeguarding/adults/introduction/types-and-indicators-of-abuse
12. For a broad overview, see: N Bond, K Evans and M Holkar, *A little help from my friends: tools to support financial decision-making for people with mental health problems*, Money and Mental Health Policy Unit, 2019, available at: moneyandmentalhealth.org/thirdpartyaccess
13. The Scottish Parliament, 'Social Security Administration and Tribunal Membership (Scotland) Bill', 2020, available at beta.parliament.scot/bills/social-security-administration-and-tribunal-membership-scotland-bill
14. Care Quality Commission, *Safeguarding adults - Roles and responsibilities in health and care services*, available at: cqc.org.uk/sites/default/files/20140416_safeguarding_adults_-_roles_and_responsibilities_-_revised_draf...pdf
15. Letter to LGA Social Security Advisers Group, August 2020
16. Centre for Health and Disability Access, *Safeguarding Children and Vulnerable Adults Policy and Procedure*, 2019, available at: data.parliament.uk/DepositedPapers/Files/DEP2019-0239/Safeguarding_Children_and_Vulnerable_Adults_Policy_and_Procedure.pdf
17. Department of Health, *No Secrets*, March 2000, available at: [gov.uk/government/publications/no-secrets-guidance-on-protecting-](https://gov.uk/government/publications/no-secrets-guidance-on-protecting-vulnerable-adults-in-care)

[vulnerable-adults-in-care](https://gov.uk/government/publications/no-secrets-guidance-on-protecting-vulnerable-adults-in-care)
18. DWP, 'PIP assessment guide part 1: the assessment process', 17 September 2020, available at: gov.uk/government/publications/personal-independence-payment-assessment-guide-for-assessment-providers/pip-assessment-guide-part-1-the-assessment-process#identifying-claimants-who-require-additional-support-with-the-pip-process
19. Department of Health and Social Care, *Care and Support Statutory Guidance*, 2014, para 14.160, available at: assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/506202/23902777_Care_Act_Book.pdf
20. House of Commons, *Oral evidence: Safeguarding vulnerable people*, Work and Pensions Committee, 22 July 2020, available at: committees.parliament.uk/oralevidence/759/default
21. See note 20
22. P Butler, 'DWP to increase support for vulnerable claimants after series of suicides', *The Guardian*, 22 July 2020, available at: [theguardian.com/society/2020/jul/22/dwp-to-increase-support-for-vulnerable-claimants-after-series-of-suicides](https://www.theguardian.com/society/2020/jul/22/dwp-to-increase-support-for-vulnerable-claimants-after-series-of-suicides)
23. Work and Pensions Committee, *Serious Case Panel: Terms of Reference and Minutes of March and July 2020 meetings*, DWP, 22 July 2020, available at: committees.parliament.uk/publications/2146/documents/19944/default
24. See note 22