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OPAN
Older Persons Advocacy Network

Supported decision making and individual advocacy as tools to assist older persons experiencing elder abuse

ADACAS

Content

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Introduction

In recognition of the experience and reach of OPAN members the Department of Health has provided additional funding in 2017-2018 to undertake activities which respond to elder abuse and inform future abuse responses. This project consists of three distinct and interrelated stages; Part one is the research into supported decision making and individual advocacy as tools to assist older persons experiencing elder abuse. This is currently being undertaken by the University of Canberra research team who were awarded the contract after a rigorous tender process. Part two is the Action Learning process which is the subject of this document. Part three of the project involves the development of resources for advocates and older people in relation to the use of SDM in advocacy and elder abuse issues.

Aim

The aim of this paper, which includes a glossary of terms, is to begin a dialogue in relation to our advocacy practice and the conscious and active incorporation of supported decision making as a tool to provide assistance to older persons experiencing elder abuse.

Methodology

For part two of this project the OPAN Board decided that the best methodology is Action Learning Model (AL). Every SDO participating will be asked to identify at least two people experiencing elder abuse and use SDM in the advocacy process. We would then reflect on and share the learnings.

AL is a continuous process of learning and reflection that happens in small groups of professionals with the purpose of resolving a particular issue[1]. It is a collaborative process where success relies on voluntary active participation in the process, sound reflective practice skills, willingness to engage in an active learning process and thrives in environments and situations where they are challenged out of their comfort zone.

Central to the AL model is the role of the facilitator to which, on this occasion, we have added the responsibility of coach and mentor to advocates. At its most basic, this role acts as a recorder and collator of group and one-one discussions. The collated information gained will be included in the final report and distributed to all advocates and SDOs. Ongoing support and access to resources will be through this role for the project duration as requested by advocates.

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[1] McGill, Ian and Brockbank, Anne (2004) The Action Learning Handbook, Routledge Taylor & Francis Group, London and New York.

A crucial component will be to meet face to face for two workshops:

1st Workshop

Date and time 13 July 2018

Location Ashgrove, Queensland. Details TBA.

Draft agenda

- Common language

- Advocacy

- Supported Decision making

- The Network model (SDM)

- Conversation on privacy

- Using SDM as a tool to assist older persons experiencing abuse

- Boundaries of our work

- Commencement of the Action Learning Model

- Record keeping and information sharing

2nd Workshop:

Date and time TBA at the 1st workshop

Location

Draft Agenda

- Feedback summary on advocacy using SDM with older people experiencing abuse

- Discussion on Research's findings

- Reflection on shared learnings from the experience of collaboration on proposed practice model for SDM and advocacy.

- Resources

- What is next?

Violence against a person

Abusive environments and situations erode power, authority, autonomy and confidence to name a few key individual resources (part of being resilient) that we need to make decisions about our activities of daily living and life in general. Compounding these consequences of abuse, we also have the normal developmental changes expected of aging - a process we all experience differently. General examples might include increased leisure time, increased financial constraints, changes in mobility, increased number of health issues, changes in cognitive abilities, etc. Acknowledging these changes as a stage of life, however they might be experienced, those with insight and/or supports and resources will enact safeguards to mitigate risks. For instance, if mobility becomes an issue, people might install grab rails in key areas of the house, if becoming forgetful about appointments, request reminders be sent, etc (see safeguard table for more examples).

Living in abusive situations interrupts the safeguarding process (please note that people have the right to take risks too). Due to the insidious nature of violence and abuse, people that experience it become isolated from family and community thus reducing their network of supports. With consideration of all effects of abuse, each individual has their own forms of resistance that should be explored and highlighted as a strength. It is well recognised that strength based recovery, solution focused therapy and resistance awareness[2] are effective frameworks for survivors.

Due to the pervasive and debilitating effects of experiencing and surviving abuse some people may need assistance to go through intricate processes in order to stop the abuse and get on with their lives. Therefore, having understood the issues about violence, it is important that we then consider the compounding effect of our negative cultural attitudes towards older people. For instance, but not limited to ageist stereotypes where older adults are depicted as frail, weak and dependent, system of inheritance and land rights affecting the distribution of power and material goods within families (in Australia this has been coined as 'inheritance impatience'), and lack of funds to pay for care[3]. Thus creating (unintentionally) a difficult situation to help someone overcome entrenched barriers in order to be safe and protected from abuse.

We know that many older people are in need of advocacy in order to have someone assist them access their rights, help them to amplify their voice and protect them from abuse. As advocates we have been doing a very good job and we are working at the grassroots with people. Supported Decision Making is a tool that places the person at the centre, it allows the individual to direct the changes they want to make thus creating a good life for themselves. Through this process of strengthening a person's view of themselves and their capacity to forge a future for themselves; empowering their existing abilities and creating new ones, SDM is a tool that can assist survivors of violence as well as can be used as a safeguard against future violence.

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[2] http://www.faaas.org/assets/cwesresistancebookletfinalweb.pdf
[3] http://www.who.int/news-room/fact-sheets/detail/elder-abuse

Advocacy

Advocacy is a process that at its core aims to resolve an unwanted circumstance or problem while working to ensure advocacy is directed by the expressed wish of the person the advocate is working with.

Our advocacy services have various components and purposes:

- Individual advocacy and Self-Advocacy: When we advocate for someone we are also providing them with resources to 1) identify when they need assistance (instilling/validating assistance seeking behaviours), 2) build capacity to self-advocate initially supported by the skills and resources of the advocate 3) recognise they have rights and responsibilities and skill them to exercise their rights.

- Systemic advocacy and Education: It is aimed at the general community to raise awareness about the rights of elder people.

- Information and Referrals: As part of the advocacy process we provide information as needed and requested by the person we are working as well as provide referrals to other services.

Supported Decision Making (SDM)

SDM is about the process of supporting a person to make a decision, the outcome (decision) is not as relevant as the process. Support is decision specific and interdependent.

The National Decision Making Principles are recommendations from the Australian Law Reform Commission and provide a framework for States and Territories to review legislation and they can certainly be used a tools to review policies and procedures and individuals' practices:

Principle 1: All adults have an equal right to make decisions that affect their lives and to have those decisions respected.

Principle 2: Persons who require support in decision making must be provided with access to the support necessary for them to make, communicate and participate in decisions that affect their lives.

Principle 3: The will, preferences and rights of persons who may require decision-making support must direct decisions that affect their lives.

Principle 4: Laws and legal frameworks must contain appropriate and effective safeguards in relation to interventions for persons who may require decision-making support, including to prevent abuse and undue influence[4].

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[4] https://www.alrc.gov.au/publications/3-national-decision-making-principles/national-decision-making-principles

ADACAS has developed The Network Model of decision support and resources to assist the decision making process. This model has been independently evaluated [5] and it is proposed that the project further test the model through the AL approach.

SDM advocacy and Elder Abuse

We have briefly explained advocacy and SDM individually, now we must explore our practice carefully and embed the SDM process from the beginning of our advocacy engagements. The SDM process complements the outcome driven advocacy interaction.

For advocates to consciously incorporate SDM into their practice, we should have a common understanding of basic tenets:

1. The person:

a. is at the centre of the process

b. makes the decisions

c. directs advocacy

d. is informed of all the options and consequences (even the ones that will upset them)

e. identifies the nature of support

f. identifies desired outcomes

2. Privacy rights must be respected with consideration of the legislation of States and Territories as well as policies and procedures of our respective organisations when working with people who are victims of crime (assault, theft, etc).

3. We must not act in any way that may place person in a worse situation and/or at risk of further harm.

4. Acknowledge that most elder persons have had a lifetime of decision making experience.

5. Use the resources provided to make notes about the decision making process to assist with note taking, reporting and AL.

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[5] Ramcharan, Paul. (2018) Evaluation Report of the Link and Learn Supported Decision Making Project, Office for Disability Community Services Directorate, ACT.

In Practice

There are many ways to incorporate SDM into advocacy practice and it would be very difficult to judge if one way is better than others since it depends on the delivery and reception. The following is one way of thinking about the process and the considerations that one must have along the way.

Please have in mind that from the moment we begin working with the person we are supporting them to make decisions and obtaining their views and wishes on their objectives and ways to solve their problem.

When the advocacy service receives a referral regarding alleged abuse the service will undertake their usual intake process, and will also consider some additional elements. The order in which each of these elements occurs, will depend upon the circumstances of the older person, however cases which are included in the AL process will include all of these elements.

Exploration Phase 1

- Does the person need SDM

- Does the person need advocacy

- Does the person think that they have a problem

- Do they view what is happening to them as elder abuse

This process may take more than one conversation and require assertive outreach by the advocate in some cases.

Safeguarding

- Is the person at an immediate risk

- Do they need to be connected to specialist domestic violence, legal, mediation, or intervention (police) services

Activation of support network

- Does the person identify someone/s in their life that could provide support for decision making. Noting that the network does not necessarily replace advocacy but given the short term nature of advocacy we begin activating the persons natural support networks.

Assessment of suitability for the SDM Project

- Do they require support for decision making due to a cognitive impairment (from whatever cause) that is impacting on their current ability to make decisions

- Does the person agree to their information being shared with the OPAN SDM project team

- Do they wish their information to be de-identified

Exploration Phase 2

- In the context of the particular circumstances of the case, including the issues being faced, communication style and preferences, and the natural support network that has been identified, what support for decision making is the person seeking or in need of?

- Determine what the person wants to have happen

Provide advocacy and supported decision making

- Assist them to fully understand the decision they are making using supported decision making skills and working in a way that is consistent with the role of independent decision supporter.

- Provide advocacy as required

Action Learning

- Work with the mentor/coach to develop skills in SDM and reflect on the advocacy and supported decision making processes

- Participate in record keeping consistent with the agreed processes for the project

- Participate in workshops to progress project outcomes

A little about me

Since we are all going through this learning process, I thought it would be important for you to know a little about me. I am passionate about advocacy and I have been a professional advocate for 11 years, advocating for the rights of people with disabilities and specialised in the area of mental health working with people of all ages from children to seniors. ADACAS has been part of the avant-gard on SDM practice in Canberra from 2012, as a result, we have been going through our own process of AL by discussing and reflecting how can we incorporate supported decision making in our advocacy practice in accordance with the UNCRPD.

I look forward to meeting with you face to face in our workshops.

Glossary

Advocacy: act of encouraging and supporting people to speak on their own behalf or where necessary, to amplify their expressed wish with vigour, commitment and without conflict of interest.

Abuse of Older People: includes a single or repeated act or failure to act, including threats that result in harm or distress to an older person. This occurs where there is a relationship or an expectation of trust and where there is a power imbalance between the party responsible and the older person.

Best interest: to take action or make decisions on behalf of another in accordance with your own values often with best intent.

Boundaries: the role delineations created by individuals or organisations as a safeguard to the created relationships between people in service provision.

Conflict of interest: is a situation where there a person is in a position of trust that has a competing professional or personal interest. The competing professional or personal interest might cloud the person's decision and/or might cast a shadow over the process even by a perception that the decision maker was influenced by their own professional or personal interests.

Decision making ability: with reference to decision making in legal terms is defined and measured in varying ways but usually including indication of the following abilities:

1. To understand the specific situation, relevant facts or basic information about choices

2. To evaluate reasonable implications or consequences of making choices

3. To use reasoned processes to weigh the risks and benefits of the choices

4. To communicate relatively consistent or stable choices

Decision: the process of exploring options, weighing consequences and reaching an outcome which can be expressed

Decision maker: individual involved in a time specific decision making process exercising their decision making right.

Decision supporter: an individual that provides support to someone else making a decision.

Delegations of decision making: it is an individual conscious act to allow someone else to make a decision for them.

Dignity of Risk: the acknowledgement of risk as part of life and the equitable right of all to consider risk taking in their own good life necessary for normal human growth and development

Duty of care: In tort law, a duty of care is a legal obligation which is imposed on an individual requiring adherence to a standard of reasonable care while performing any acts that could foreseeably harm others. It is the first element that must be established to proceed with an action in negligence (Donoghue v. Stevenson (1932) also known as the Snail in the bottle case). Each of us has a duty of care not to take action that will cause harm that is reasonably foreseeable to another person.

Empowerment: A term that has been overused and misused, no one can empower a person, but we can teach and or provide resources for someone to become stronger and more confident, especially in relation to controlling their life and exercise their rights.

Expressed wish: the stated intent, goal or decision of an individual which may have been recorded with explicit support.

Functional Capacity Assessment: the functional approach to capacity assessment focuses on the functional decision making abilities relevant to a specific decision, in order that their will, preferences and rights can be given effect. It is not dependent on whether the person's decision is 'wise' or 'unwise'. Or the presence of a particular disability condition[6]

Good life: a description coined by the Disability Rights Movement to express a demand for rights on an equal basis regardless of ability.

Impairment: based on WHO guidelines a descriptor for the barriers which may exist to an individual having their own good life with equitable recognition of rights.

Independence: To have a choice and control about our own environment (NDIS).

Individual Advocacy: to represent or stand beside someone to achieve their expressed wish or goals, working with, rather than for, them supporting them to know, understand and exercise their rights.

Legal Capacity: acknowledgment of the universal right to equitable access before the law and assumed for all adults

Reflective Practice: the process of considering, reviewing and learning from experiences, particularly used in human services provision

Restrictive practices: the use of interventions restrict the rights or freedoms of movement of a person initiated often in a protective way

Risk enablement: the process of working with service users to train and/or build their capacity in order to manage risks.

Safeguards: planned and managed actions to mitigate risk of harm to individuals.

Self-determination or Autonomy: When a person exercise control over their life.

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[6] Australian Law Reform Commission (2014) Equality Capacity and Disability in Commonwealth Laws, Sydney.

Supported Decision Making: the action of offering or receiving support to come to a decision. Applicable to day to day, legal and pervasive decisions, it exists on a spectrum and is both decision specific and time specific. It may include informal support or formal support which is explicit, documented and recorded.

Substitute decision: the action of making a decision on behalf of another. This action can be voluntary when a decision maker defers or requests a decision to be made by another trusted person. It can be involuntary, when someone is assessed as lacking ability to make a decision on an issue and a Guardian is appointed through a formal act or when the expressed wish of a decision maker is neither sought or is ignored.

United Nations Convention on the Rights of People with Disability (UNCRPD): convention acknowledging that people with disability have the same rights as those who do not, to be enjoyed on an equal basis with others

Undue Influence: a legal concept referring to the specific circumstances of coercion or subversion of will in the will-making process.

Will and Preference: Identifying the expressed wish or, if not possible interpreting the same through the lived values or preferences people have indicated. It is at the heart of the paradigm shift away from 'best interests' as a standard.

Safeguard examples table

Personal	Social	Financial	Technology	Legal	Health
Open and post your own mail	Stay sociable and involved with friends	Keep possessions organised	Keep up with technology	Nominate an Enduring Power of Attorney	Get regular medical and dental care
Keep a list of emergency phone numbers handy	Keep in touch with friends and family even if you move	Do not leave cash or valuables visible	Know how to use your telephone or mobile	Seek assistance before signing documents that relate to your care or possessions	Stay active
Keep an up to date list of next of kin or emergency contacts	Stay involved with neighbours, community	Keep your money securely (usually in a bank)	Use online services such as banking, seek assistance to learn skills if necessary	Make a Will and communicate your wishes to the significant people in your life	Care for yourself - eat and drink healthfully
Know where and who to ask for help	Maintain or increase social network as you age	Actively participate in your financial decisions	Be aware of online security and safety – seek assistance if necessary	Store your important documents securely perhaps with another person as backup	Consider advance care planning