

**SAFEGUARDING &
DEPRIVATION
OF LIBERTY SAFEGUARDS**



WHAT DO WE MEAN BY SAFEGUARDING & DEPRIVATION OF LIBERTY SAFEGUARDS?

— SAFEGUARDING

Is a general term given to taking actions and raising awareness to help keep people safe from harm, abuse and neglect. Under Protection of Vulnerable Adult (POVA) guidance a vulnerable adult is an adult over the age of 18 in need of services and unable to protect themselves. To start the POVA process there would have to be evidence that a vulnerable adult is subject to an abuse of trust. It is a requirement of the POVA that there is a perpetrator. This does not mean that the perpetrator is necessarily conscious or malicious in their intent. For example a carer may be doing their best but inadequately trained. Self neglect cases do not currently fall under the remit of POVA nor do cases where there is high risk simply because of their complexity.

However, under the Social Services and Wellbeing (Wales) Act, the term 'vulnerable adult' has been replaced by 'Adult at Risk', this substantially lowers the threshold for social services intervention. An adult at risk:

- Is experiencing or is at risk of abuse or neglect
- Has needs for care and support (whether or not the authority is meeting any of those needs), and
- As a result of those needs is unable to protect himself or herself against the abuse or neglect of risk or it.

The emphasis has moved away from 'an abuse of trust' to incorporate self neglect and a recognition that someone is at risk of abuse or neglect and not at that stage necessarily subject to abuse or neglect. This reflect the Act's emphasis on the important of prevention in safeguarding.

One of the challenges currently facing safeguarding teams is how to integrate the two definitions into a working model. There is a duty when an adult at risk is identified to make enquiries within 7 working days. The POVA process also has clear timescales and expectations.

POVA is largely a response to an allegation of abuse whereas the adult at risk process is about prevention, identification and rapid response to people in a vulnerable situation. There is no reason the two processes cannot work alongside each other. There will inevitably be cross over and POVA referrals will be generated via the adult at risk process when appropriate.



DEPRIVATION OF LIBERTY SAFEGUARDS

The Deprivation of Liberty Safeguards (DoLS) can only apply to people who are in a care home or hospital. The Mental Capacity Act 2005 provides a statutory framework for acting and making decisions on behalf of individuals who lack mental capacity to do so for themselves. In 2007, the Deprivation of Liberty Safeguards (DoLS) was introduced to provide a legal framework to prevent breaches of the European Convention on Human Rights following the 'Bournewood' judgement.

On the 19th March 2014, the Supreme Court handed down its judgement in the case of "P v Cheshire West & Cheshire Council". The Supreme Court has now confirmed that to determine whether a person is objectively deprived of their liberty there are two key questions to ask, which is described as the 'acid test':

- ▶ This now means that if a person is subject both to continuous supervision and control and not free to leave they are deprived of their liberty. This has increased the number of Deprivation of Liberty Safeguard referrals ten fold.

DoLS remains a difficult area to plan for due to the ever changing direction of advice following case law and proposed reforms to the system. It has been described as a moving target and the process requires adequate resources to ensure that effective safeguards are in place so that people are not illegally deprived of their liberty and that deprivations are appropriate and proportionate. Our regional DoLS forum estimate that on average a best interest assessment should take 11 hours, an authorisation takes 3 hours. When consideration is given to the cost of a Section 12 doctor, administration, legal and Independent Mental Capacity Advocate costs this is a significant resource issue for any authority and one that is consistently under provisioned.



Since the publication of In Safe Hands: Implementing Adult Protection Procedures in Wales in 2000 Local Authorities have had the lead strategic responsibility for adult protection, including:

- The identification and prevention of abuse
- Ensuring staff receive adequate training in order to manage referrals and undertake investigations.
Co-ordinating the process of planning, investigation and case conferencing.
- Completing all actions their agency agrees to in Individual Protection Plans.
- Ensuring that agencies which have agreed to actions in Individual Protection Plans deliver on these.
- Ensuring that the alleged victim and his/her family and carers are as fully informed and involved throughout the adult protection processes as is possible and appropriate.
- Ensuring aftercare and support for victims of abuse.

In Safe Hands was superseded by the Wales Interim Policy and Procedures for the Protection of Vulnerable Adults (2013) which has become the guidebook for the management of adult protection in Wales.





WHO IS AFFECTED AND HOW?

SAFEGUARDING CHILDREN AND YOUNG PEOPLE

Safeguarding is a term which is broader than 'child protection' and relates to the actions taken to promote the welfare of children and protect them from harm.

Safeguarding is everyone's responsibility. Anyone who works with children or adults has a responsibility to ensure the safety of anyone who may be considered vulnerable that they may come across during the course of their work, and to take action by talking to their designated safeguarding lead or by making a referral.

The robust, 'corporate' safeguarding arrangements, procedures and systems, in place across the region are overseen and monitored by Western Bay Safeguarding Children Board.

DEPREIVATION OF LIBERTY SAFEGUARDS AND YOUNG PEOPLE

The Supreme Court Judgment in Cheshire West (2014) also related to 2 cases:

-  MIG (aged 18) is placed with a foster family.
- |
-  MEG (aged 17) is in a small residential home.

They have moderate/severe learning disabilities. Both are under continuous supervision and control, for their own care, and both lack capacity to make decisions about their care arrangements and residence.

Once children reach the age of 16, they are presumed in law to be competent. In many respects they should be treated as adults and can give consent for their own care and treatment, and refuse help, including admission to hospital.

Where possible, families or carers are fully involved in decisions where a child or young person's consent is sought.



If a child lacks the capacity to consent, they may be treated without their consent under the Mental Capacity Act (2005) as long as the treatment does not involve a deprivation of liberty.

There is likely to be an increasing use of DoLS to ensure best interests of the young person are served in law and within their care and support arrangements.

If abuse of a vulnerable adult is alleged, disclosed or suspected a referral can be made to the police, social services, health or the Care and Social Services Inspectorate Wales (CSSIW). If there is no immediate physical danger and no crime is suspected an initial evaluation is undertaken by the POVA Team.

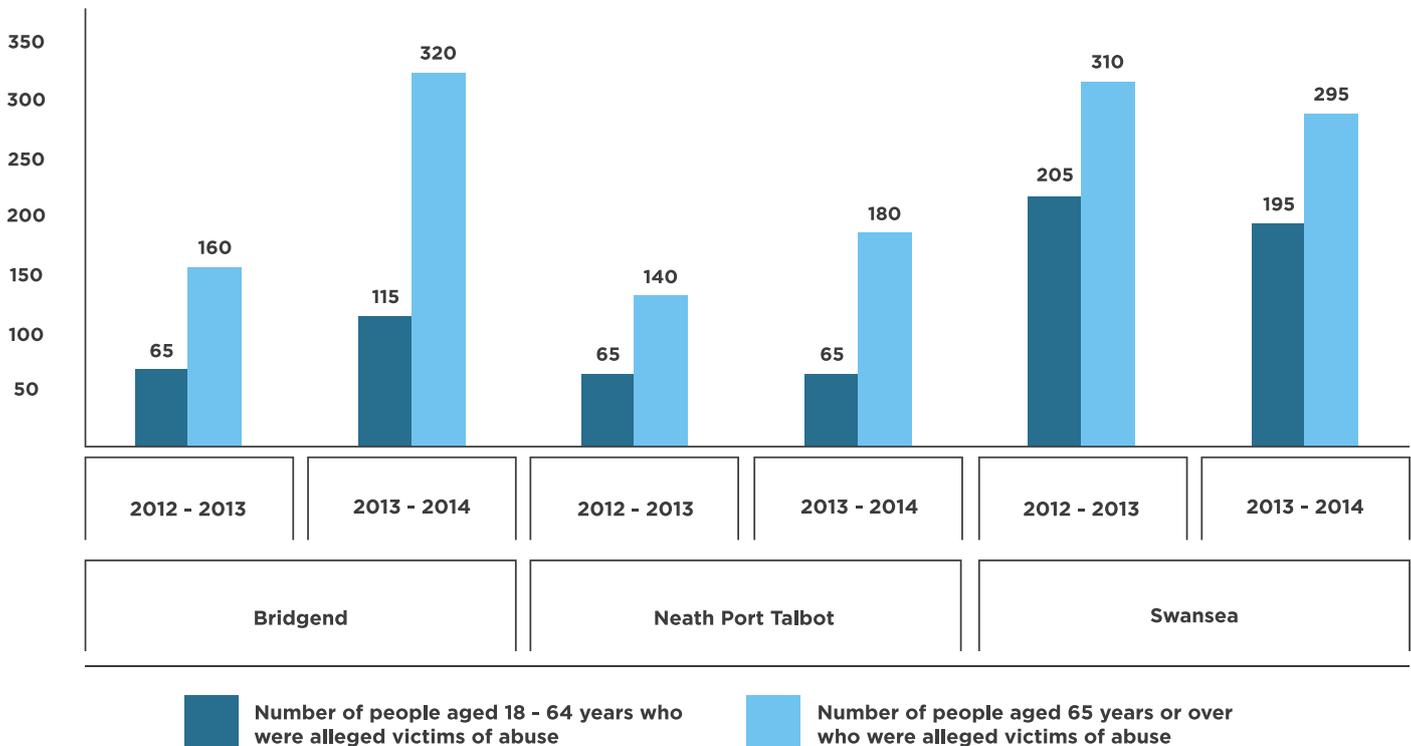
	Number of referrals / concerns received that met the threshold of significant harm		Number of referrals/concerns received that did not meet the threshold of significant harm		Number of inappropriate referrals received	
	2013 - 2014	2014 - 2015	2013 - 2014	2014 - 2015	2013 - 2014	2014 - 2015
Bridgend	395	185	235	240	>5	>5
Neath Port Talbot	230	245	125	35	15	10
Swansea	730	555	620	460	60	40
Western Bay	1,355	985	980	735	<75	<50

The POVA process is very structured and works through multi-agency, formal strategy meetings. POVA is for high risk and complex cases.

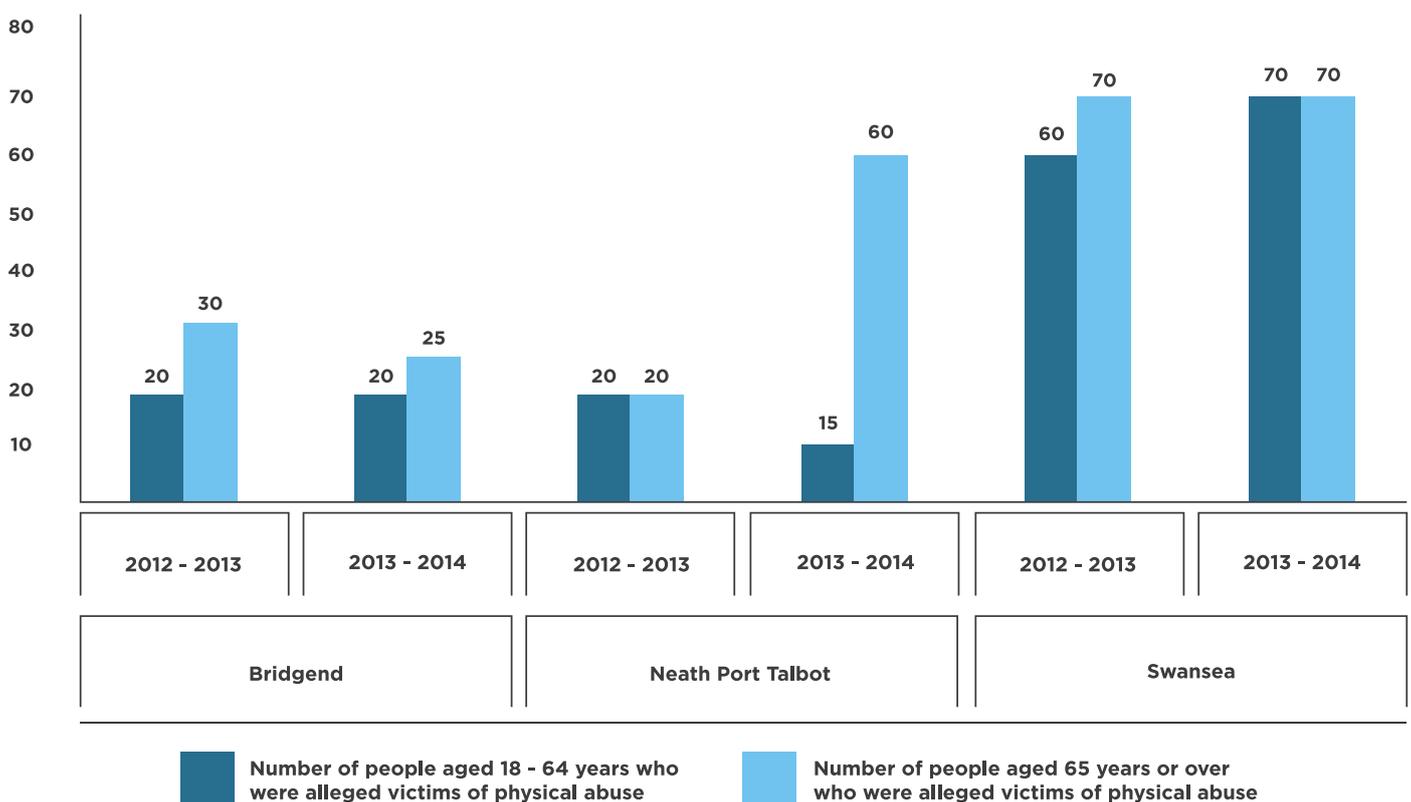


Below is a breakdown of data collected by each Local Authority and reported to the Welsh Government for the different categories of alleged abuse.

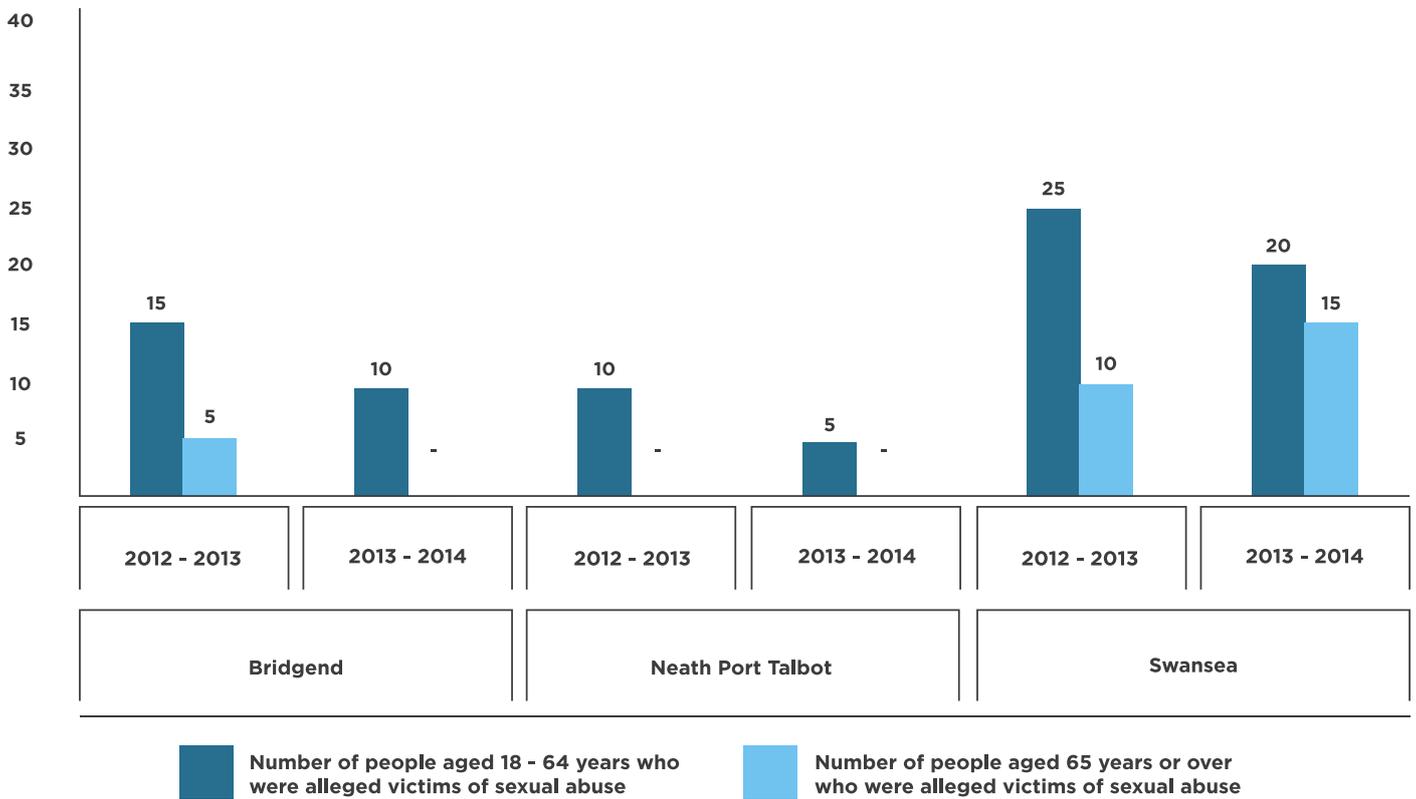
ALLEGED VICTIMS OF ABUSE



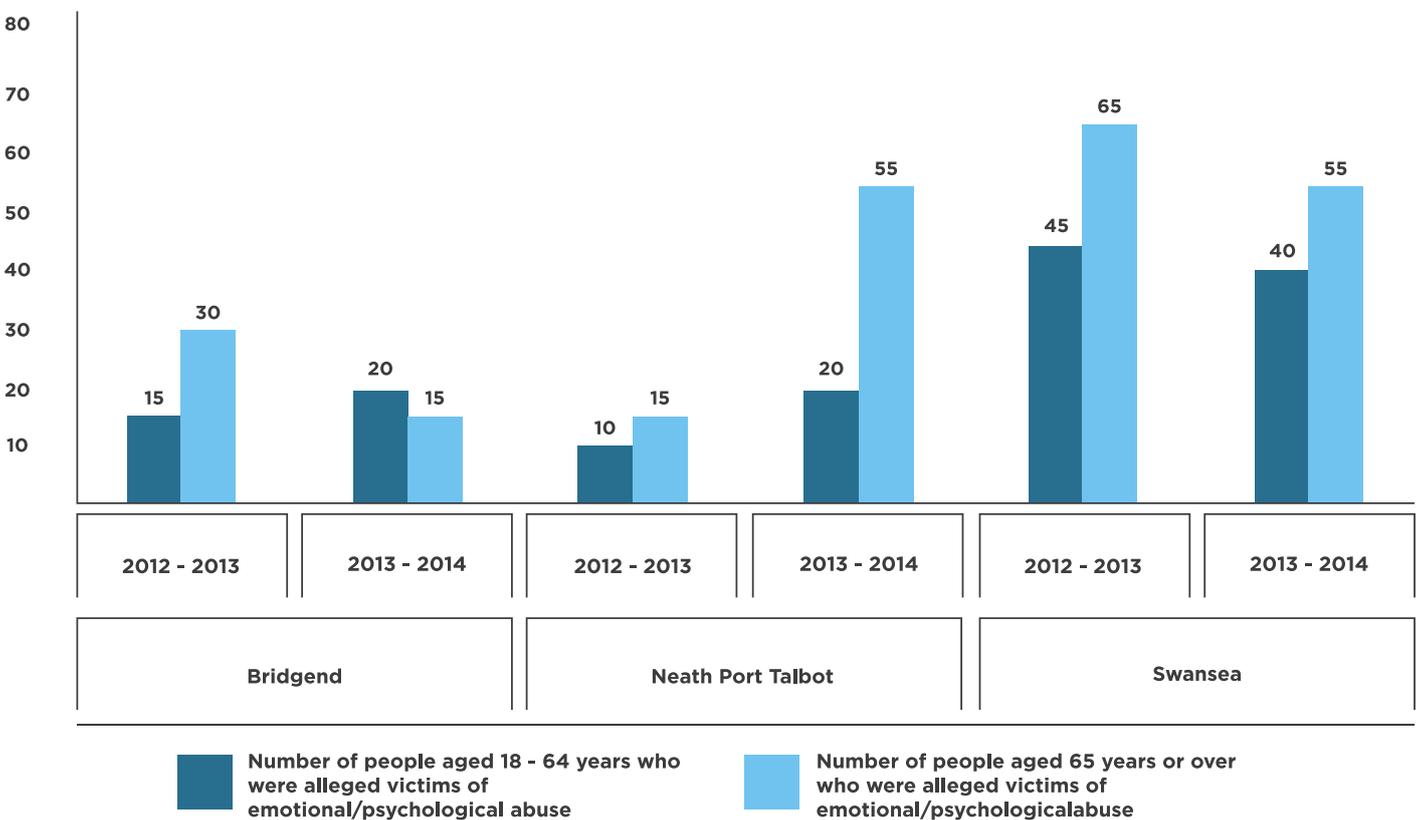
ALLEGED VICTIMS OF PHYSICAL ABUSE



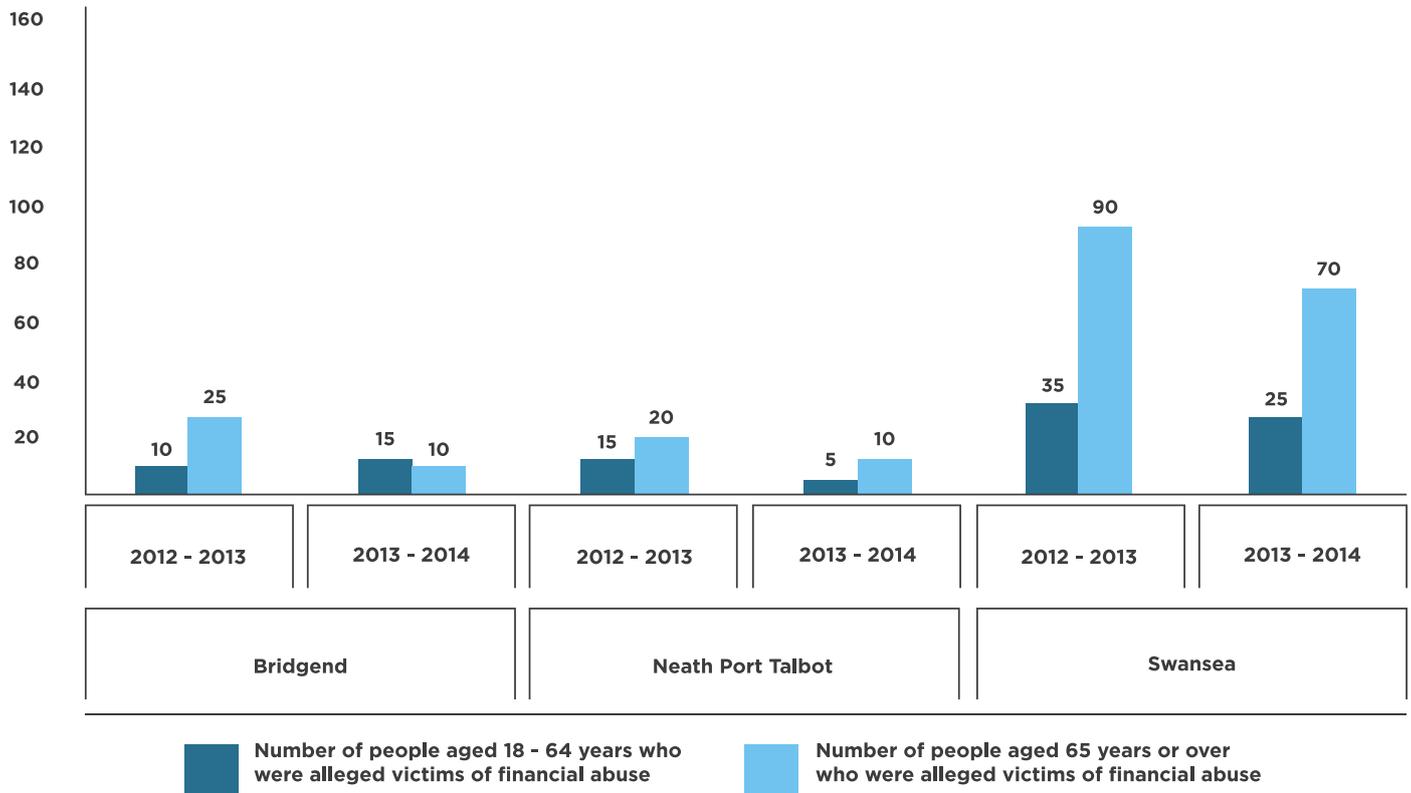
ALLEGED VICTIMS OF SEXUAL ABUSE



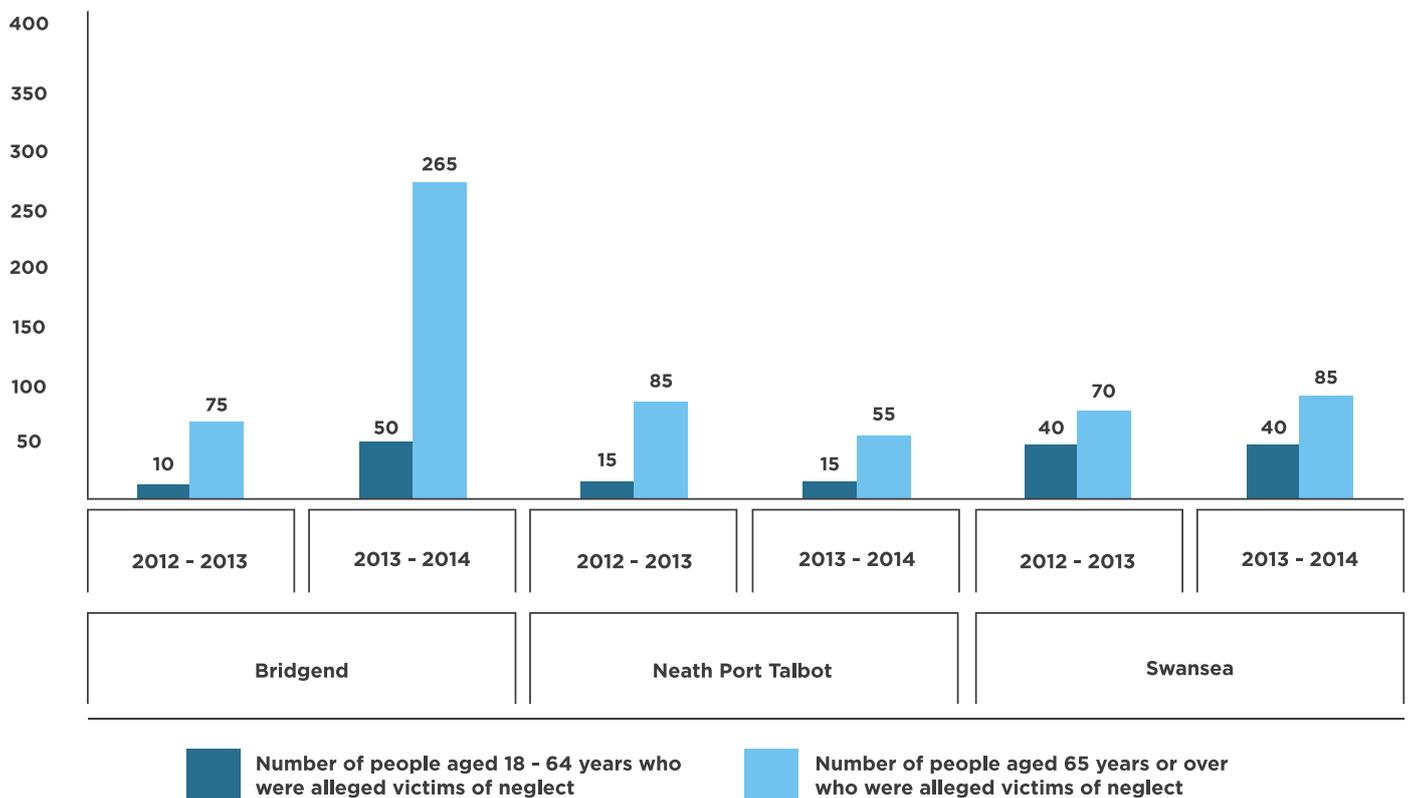
ALLEGED VICTIMS OF EMOTIONAL/PSYCHOLOGICAL ABUSE



ALLEGED VICTIMS OF FINANCIAL ABUSE



ALLEGED VICTIMS OF NEGLECT



Allegations of domestic abuse by those receiving social services are also recorded but there is little data recorded for this category across Western Bay. Similarly, incidents of racial abuse should also be recorded but there is no information about this in Western Bay from 2012-2014. Western Bay Safeguarding Adult Board have recognised more awareness needs to be raised around these issues with staff and the public. POVA teams across Western Bay have now started to record this data, so this information will be available in future.

▼ ALLEGED VICTIMS OF EMOTIONAL/PSYCHOLOGICAL ABUSE

	2013 - 2014	2014 - 2015	2015 - 2016
Bridgend	12	325	443
Neath Port Talbot	7	448	706
Swansea	33	1076	938
Western Bay	52	1849	2087

It has been acknowledged that the increase of DoLS referrals across Western Bay area has increased significantly since the “P v Cheshire West and Cheshire Council” judgement on the 19th March 2014. Although additional funding from Welsh Government has been received there is still a significant shortfall in resources to meet the current demand.

The DoLS have been criticized since they were introduced for being overly complex and excessively bureaucratic. In March 2014, a House of Lords Select Committee published a detailed report concluding that the DoLS were “not fit for purpose” and recommended that they be reviewed and replaced. The review of DoLS aims to streamline the procedure and extend protections to settings beyond care homes and hospitals, such as supported living and extra care sheltered accommodation. A final report with recommendations and a draft Bill is due to be published in March 2017.





WHO IS RECEIVING HELP AND WHAT SUPPORT IS AVAILABLE

In some safeguarding cases referrals are made to paid Independent Mental Capacity Advocates (IMCA) but this is normally after the abuse has occurred.

The POVA team monitor the well-being of people in care homes but do not work directly with vulnerable adults during the POVA process. At the end of the POVA process case conferences are offered to the family and the victims of the abuse to ensure the rights of the individual have been considered and actions are agreed to improve their situation.

At the moment the POVA process measures a number of outcomes but these are considered very technical and do not relate to the personal outcomes of the individual receiving a service. It has been identified that more work needs to be undertaken to improve this.





WHAT CHANGES DO WE HAVE TO PLAN FOR?

It is difficult to predict the demand for safeguarding services in the future as different types of abuse continue to emerge, such as: human trafficking, radicalisation, hate crime and mate crime. However, there are some changes services can anticipate, such as: the increasing age of the population of Western Bay indicates that the demand for more health and social care services and Adult at Risk referrals will also rise.

- ▶ This now means that if a person is subject both to continuous supervision and control and not free to leave they are deprived of their liberty. This has increased the number of Deprivation of Liberty Safeguard referrals ten fold.

Need to explore how the two frameworks of 'Adult at Risk' and 'Vulnerable Adult' can be merged to work effectively.

The current demand for DoLS has significantly increased since 2013-2014 and the "P v Cheshire & Cheshire West" judgement. In fact, Bridgend and Neath Port Talbot already have a backlog of DoLS assessments awaiting completion. However, the Law Commission is proposing a change to how DoLS is implemented in the future. It is not known at present whether this will be more or less effective.

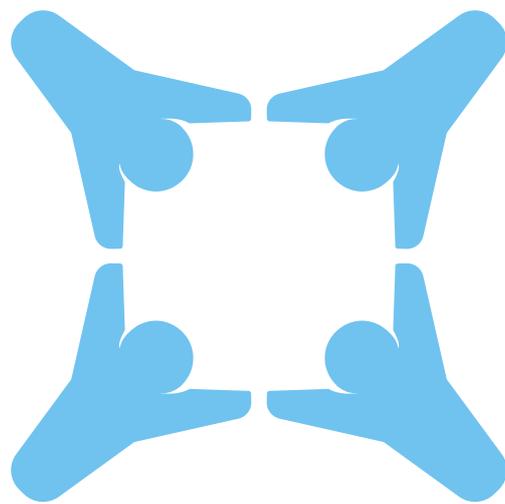
Continue work to promote sound judgement and analysis in practice and learn lessons from cases that come into the safeguarding arena. We must continue to work on a multi-agency way to promote prevention across all service areas.

Need to simplify access to advocates for adults at risk. Further work could be undertaken to explore the possibility of commissioning an advocate in each area who could work with all residents in a designated number of care homes. There is a need for more advocacy services in general.

The settlement of more Syrian refugees in the region may also impact on demand placed on the service.

It has been recognised that more work is required to capture the personal outcomes of those who have gone through the POVA process.





WESTERN BAY

POPULATION ASSESSMENT REPORT

www.westernbay.org.uk