



JOINT GUIDANCE ON THE INTERFACE BETWEEN CHILD PROTECTION AND ADULT PROTECTION

**Act
against
harm** |

Argyll and Bute Adult Protection Committee

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Child Protection & Adult Support & Protection

Protecting individuals who may be at risk of harm is a priority for Children and Families and Adult Care services. In most cases the child or adult at risk will be identified and protected through Child Protection or Adult Support and Protection processes. However there are occasions - such as situations where both children and adults are at risk, or where a child is in transition to adulthood - that the interface between Child Protection and Adult Support and Protection processes need to be clear to all those involved.

Child Protection

The National guidance for child protection in Scotland 2021 defines abuse or neglect may involve inflicting harm or failing to act to prevent harm. Children may be maltreated at home; within a family or peer network; in care placements; institutions or community settings; and in the online and digital environment. Those responsible may be previously unknown or familiar, or in positions of trust. They may be family members. Children may be harmed pre-birth, for instance by domestic abuse of a mother or through parental alcohol and drug use.

Assessments will need to consider whether abuse has occurred or is likely to occur. Concerns of actual and future risks will result in a child protection investigation and addressed in a child protection plan. It is helpful to understand the different ways in which children can be abused which includes:

- Physical abuse
- Emotional abuse
- Sexual abuse
- Criminal exploitation
- Child Trafficking
- Neglect
- Female genital mutilation
- Forced marriage

A clear and consistent understanding of the different concepts and terminology in child protection is essential if action to support and protect children is to be informed and effective there also has to be a clear definition of a child.

While child protection procedures may be considered for a person up to the age of 18 (*National guidance for child protection in Scotland 2021*), the legal boundaries of childhood and adulthood are variously defined. The Children (Scotland) Act 1995 defines a child in relation to the powers and duties of the local authority. Young people between the ages of 16-18 who are subject to a compulsory supervision order by a Children's Hearing can be viewed as a child. An individual who meets the

criteria for being considered an adult at risk is defined as such from the age of 16 upwards.

Young people between 16 and 18 are therefore potentially vulnerable to “falling between the gaps” and Children and Families and Adult Care staff should liaise to ensure that the most appropriate on-going support and protection is provided according to the needs of the individual.

In general:

- If the young person is at school, support and protection should be provided through Children and Families services
- If the young person has a current named worker then it should be that staff member who leads on offering support and protection in order to ensure continuity
- If the young person is over 16, not at school and not known to services, Adult care should undertake any necessary work to consider the risks to them and offer support

Adult Support and Protection

The Context for Adult Protection

Legislative responsibilities in relation to the support and protection of adults at risk of harm are contained within the Adult Support and Protection (Scotland) Act 2007. In addition, there are two other Acts which provide provision for the support and protection of adults, these are; the Adults with Incapacity (Scotland) Act 2000 and the Mental Health (Care and Treatment) (Scotland) Act 2003.

All three Acts have similar principals, including that any use of legislation must:-

- Provide benefit to the adult, be necessary and be the least restrictive option for the adult
- Take into account the past and present wishes of the adult, where this can be ascertained
- Ascertain the views of relevant others
- Respect the adult's individual abilities, background and characteristics
- Ensure the adult is not treated less favourably than any other person who does not meet the criteria for an 'Adult at Risk of Harm' would be treated in a comparable situation

An adult (aged 16 or over) is only considered to be an Adult at Risk of Harm in relation to the Adult Support and Protection legislation if they meet all of the following **three point** test criteria:

- are unable to safeguard their own well-being, property, rights or other interests,
- are at risk of harm, and
- because they are affected by disability, mental disorder, illness or physical or mental infirmity, are more vulnerable to being harmed than adults who are not so affected.

The types of harm covered by the Adult Support and Protection (Scotland) Act 2007 include:

- physical harm
- Property/financial harm
- Psychological/emotional harm
- sexual harm
- Self neglect/harm including Hoarding
- Neglect/failure to act
- Domestic abuse
- Forced marriage
- Human trafficking
- Modern slavery
- FGM
- Grooming
- Radicalisation/Extremism

This does not include general concerns for an adult's welfare, but situations where someone else is harming an adult who is unable to protect themselves and is more vulnerable because of illness, disability or frailty or where the adult is harming themselves.

Where an adult protection referral is received, social work staff, **together with health colleagues as appropriate**, will undertake inquiries to consider whether or not the 3 point test criteria is met and whether any action is required to protect the adult. When the inquiries demonstrate that the adult meets all three points adult support and protection procedures will be followed.

As described above, an individual who meets these criteria and is over 16 will be considered an adult at risk of harm. However, this does not mean that the adult support and protection legislation is the most appropriate and only way to offer services to them.

The Code of Practice* to accompany the Adult Support and Protection (Scotland) Act 2007 was produced in 2013. This document is complemented by the West of Scotland Inter- Agency, Adult Support and Protection Practice Guidance and Argyll and Bute Health and Social Care Partnership Adult Support and Protection Procedures.

*The ASP Act Code of Practice is currently being reviewed – new version expected summer 2022

Consideration of risks to others

It is important that when a child protection or adult protection referral is received, consideration is also given to whether there are others who may be at risk.

Staff in Children and Families who are responding to concerns about children should always consider whether there are any adults in the household or closely associated with the children and who may also be at risk. Where it appears that a vulnerable adult may be at risk full information about the individual and the concerns should be shared with Adult Care staff by the appropriate practice lead for the Children and Families team

Staff in Adult Care who are responding to concerns about an adult who may be at risk should always consider whether there are any children in the household or closely associated with the adult and who may also be at risk. Where it appears that a child or children may be at risk full information about them and the concerns should be shared with Children and Families staff by the appropriate team leader in Adult Care

Where investigations for a child who may be at risk and an adult who may be at risk are to be undertaken in parallel, each should be the responsibility of appropriate social work managers within Children and Families and Adult Care Services. Initiating and maintaining close liaison between the teams will be the responsibility of the practice lead in Children and Families and the team leader in Adult Care. They will ensure that a case discussion takes place prior to the start of the investigation so that all those involved have the available information about the individuals and the concerns.

Transition

The definition of an adult at risk includes people aged 16 and over with a disability, illness, or physical or mental infirmity that make them more vulnerable to harm than those without these conditions.

There will be children who have been supported through child protection procedures who do not fall within this definition despite on-going concern about harm to them, often because they have no disability. If this is the case they will not be dealt with as adults at risk of harm, but continuing support to them will be provided through Children and Families services in accordance with procedures.

Young people who have continued to receive services from children's services, or as 'looked after' children as they approach adulthood will be the subject of a transition pathway and will have an allocated through care and after care support worker. Where the young person is harmed by someone else or self-harms, they will not be considered an adult at risk unless they meet the other criteria above, but should be offered support through their existing lead professional or named worker who may assist them to access appropriate services within the local area.

Those children who have a significant disability and will require care and support provided through social work when they reach adulthood will be referred to the appropriate adult social work team as part of the transitions process. This is to ensure that multi-agency support is as seamless as possible.

There will be a small number of children who have been identified as having a disability, illness or disorder and who are identified as at risk of harm. In such cases the young person should be identified as an adult at risk of harm at the earliest possible stage as they approach 16 so that on-going support and protection can be provided through adult support and protection procedures. Information sharing about the potential risks to the young person should take place throughout the transitions process, and if the young person lacks capacity a consideration of Guardianship should take place alongside these discussions.

- If the young person is able to make decisions about their own care, support and future options but is considered at risk, then a protection plan should be agreed with them as they transfer to adult care.
- If the young person is assessed as lacking capacity it may be that the Adults with Incapacity Act provides a more appropriate legal framework to ensure that decisions can be made to provide their on-going protection.

It is important in all cases that the young person receives the most appropriate support available to them by the worker best placed to provide or access this for them.

Case examples:

1. A 16 year old who is not currently subject to a compulsory supervision order by a Children's Hearing and has never had social work involvement is physically abused by her mother. The girl attends mainstream school and

does not have an illness, disability or frailty that makes her more vulnerable to harm than another 16 year old. She does not meet the 3 criteria to be considered an adult at risk of harm, so follow up to the concern should be through child protection procedures.

2. A 16 year old with a complex learning disability is in the process of Transition. He tells his teacher that his father hit him. Because of his disability he is unlikely to be able to safeguard himself, he has a known disability and is alleging harm. He therefore meets the criteria for an adult at risk and an adult protection investigation should be started with a view to developing an appropriate protection plan. The responsibility for the adult protection investigation will be undertaken by the appropriate LD team in liaison with Children and Families staff who know him.
3. An 18 year old who is care experienced is found to have self-harmed and an adult protection referral is received for them. The adult care team who receives the referral checks if the young person has an allocated worker in a social work team and if so passes the AP referral form to them for completion. If the named worker states that the young person has an illness, disability or frailty that makes them more vulnerable to harm than other adults, then they will discuss with the appropriate team leader the need to consider an adult protection investigation, or liaise with other professionals working with the adult to check whether an appropriate risk assessment or care plan is already in place for them. If the young person does not meet the 3 criteria for an adult at risk of harm, ongoing support to them will continue to be provided through their named worker.