

**West of Scotland Inter Agency
Adult Support and Protection
Practice Guidance**

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West of Scotland Inter Agency Adult Support and Protection Practice Guidance

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West of Scotland Inter Agency
**Adult Support and Protection
Practice Guidance**

INTRODUCTION

Most adults, who might be considered to be at risk of harm, manage to live their lives without experiencing harm. Often this is with the assistance of caring relatives, friends, paid carers, professional agencies or volunteers. However, some people will experience harm such as physical abuse, psychological harm or exploitation of their finances or property. The Adult Support and Protection (Scotland) Act 2007 was introduced to maximise the protection of adults at risk of harm.

There are also other relevant pieces of legislation designed to support and protect adults at risk of harm such as the:-

- Adults with Incapacity (Scotland) Act 2000 (the 2000 Act) [click here](#)
- Mental Health (Care & Treatment) (Scotland) Act 2003.(the 2003 Act) [click here](#)

The addition of the Adult Support and Protection (Scotland) Act 2007 (the 2007 Act) now means we have a concise legal framework to facilitate further the protection of adults at risk of harm through the new measures contained in Part 1.

A number of older reports have identified and promoted the development of adult protection issues, these include:

- Report on Vulnerable Adults: Scottish Law Commission No 158 (1997). [click here](#)
- No Secrets Report: Department of Health (2000). [click here](#)
- New Directions: Report on the Review of Mental Health (Scotland) Act 1984.
- Renewing Mental Health Law: Scottish Executive (2001). [click here](#)
- Protecting Vulnerable Adults – Securing their Safety: 3rd consultation paper Scottish Executive, July 2005. [click here](#)

The 2004 report into the Scottish Borders Council/NHS Borders Services for Learning Disability highlighted the need for procedures and guidance for interagency responses to adults at risk of harm to be in place. [click here](#) This was to emphasise that the protection of adults at risk is the responsibility of all the statutory agencies, voluntary and private providers and that good communication is key to prevention. The Mental Welfare Commission report, Justice Denied, provides further detail. [click here](#)

The West of Scotland Inter Agency Support and Protection Practice Guidance:

- Recognises existing legislation
- Focuses on the 2007 Act
- Contains information on the definition of harm and common indicators
- Outlines guidance for intervention
- Sets out guidance for, and emphasises the importance of, review of actions taken, indicators of good practice and final outcomes.

- Recognises existing systems to protect 'at risk' adults, such as the national Care Standards, sound recruitment practices and appropriate training and support of staff
- Is consistent with the European Convention on Human Rights and the Human Rights Act 1998

We all have responsibilities to ensure that adults who may be at risk of harm in our communities are safe, respected and included, with clear communication routes and fully involved in all decision making. Our aspiration, for all adults who may be at risk of harm in our communities in the West of Scotland, is that they are empowered, through support from the responsible public agencies, to be free from harm and enabled to make decisions and choices about their lives and to live as independently as possible in relation to their personal circumstances.

Changes in the way Community Care services are being provided, has resulted in a greater range of services available to those requiring help and assistance. This has allowed people additional choice and increased participation in decision-making. These changes have resulted in a changing model of care, utilising both paid and unpaid assistance.

It is acknowledged that the dispersal of care and the greater autonomy and choices available to adults can in itself also involve an increase in the potential for harm as the settings in which adults are cared for are becoming increasingly varied.

Care packages are also becoming increasingly complex with a range of statutory, voluntary and private providers involved. This is why good communication and effective joint working is vital between the people who make use of services, voluntary and private providers, and the statutory agencies to encourage early reporting and appropriate responses.

Demographic factors are also of significance. For instance there is a growth in the population of older people; people are living longer and disabilities and dependency can increase in severity with age. This means that the population of people who may be at risk of harm will continue to grow.

This makes it vitally important to ensure that people who are involved with the support and protection of adults at risk of harm have a clear sense of what signifies harm and what should happen when harm is suspected or discovered.

The aim is always to achieve a proper balance between working in partnership with adults and their carers and ensuring that the 'at risk' adult's right to be protected from harm remains paramount. It is important that people are empowered and given as much responsibility and information as possible in respect of the supports they require; also that services of high quality are provided that encourage and value the views and rights of people. The Self Directed Support: National Strategy for Scotland notes the shift to risk enablement and outcomes but acknowledges that this sits within the framework and principles of protective legislation.

All staff across agencies are expected to work within a clear procedural framework that recognises the exercising of professional judgement.

All relevant public bodies in the West of Scotland have agreed this Inter Agency Practice Guidance

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CHAPTER 1 – CONTEXT

This document aims to:

Assist in the prevention of harm occurring to adults who may be at risk of harm in the West of Scotland through building on good practice and a common understanding of the issues

To support adults who may be at risk of harm through having a joint understanding across each agency of:

- Their roles and responsibilities in responding to adult protection allegations or concerns
- The duty of cooperation of public bodies.
- Ensuring links between Child, Adult and public protection guidance.
- Better understanding of the lead role of social work in adult protection and the integral part that partner agencies play in the protection of adults who may be at risk.
- Identify the role of each council where cross-boundary issues arise.
- Support existing local operating procedures by providing a framework of the overall interagency response in terms of referrals, inquiries, investigations, actions and the monitoring and review of outcomes.
- Provide Procedural Forms (Appendix 1, 2, 3) which can be used by all agencies across the West of Scotland.
- Explain the role of Chief Officers Group and Adult Protection Committee.
- Provide an understanding of the legal basis for intervention
- Provide an understanding of the terminology used in adult protection
- Share the principles of good practice in adult protection

The West of Scotland Partnership consists of

Argyll and Bute Council	Strathclyde Police
Dumfries & Galloway Council	NHS Ayrshire & Arran
Inverclyde Council	NHS Dumfries & Galloway
North Lanarkshire Council	NHS Greater Glasgow & Clyde
South Lanarkshire Council	NHS Highland
North Ayrshire Council	NHS Lanarkshire
South Ayrshire Council	Care Inspectorate
East Ayrshire Council	
Renfrewshire Council	
East Renfrewshire Council	
West Dunbartonshire Council	

It is accepted that the partner agencies; Councils, Care Inspectorate, Police and NHS will

each retain their own more detailed Local Operating Procedures to guide their staff in relation to the actions required in adult protection within their agency.

The Procedural Forms AP1 to 3 (Appendix 1-3) [or a local variation of these] will be used across all agencies in the West of Scotland, with the exception of the Police who will use their own Referral Form VP1 (Appendix 7)

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Legal Context of Adult Protection

The West of Scotland Guidance focuses on the 2007 Act, its related Code of Practice and the Scottish Government Guidance for Adult Protection Committees. Other legislation is equally important in the protection of adults at risk and links have been provided to legislation, which may require to be referred to in the protection of adults at risk. Links to relevant national guidance and strategy can also be found in this section.

Appendix 4 contains more detail with regard to Adults with Incapacity (Scotland) Act 2000 and Mental Health (Care and Treatment) (Scotland) Act 2003. Additional information is available from The Scottish Government website www.scotland.gov.uk or by using the following links

Links to Legislation and Regulations

Legislation:[\[back to contents\]](#)

Social Work (Scotland) Act 1968 [click here](#)

Local Government (Scotland) Act 1973 [click here](#)

Local Government (Scotland) Act 1994 [click here](#)

Human Rights Act 1998 [click here](#)

Data Protection Act.1998 [click here](#)

Adults with Incapacity (Scotland) Act 2000 [click here](#)

Protection from Abuse (Scotland) Act 2001 [click here](#)

Regulation of Care (Scotland) Act 2001 [click here](#)

Community Care and Health (Scotland) Act 2002 [click here](#)

Mental Health (Care and Treatment) (Scotland) Act 2003 [click here](#)

Antisocial Behaviour etc. (Scotland) Act 2004 [click here](#)

Vulnerable Witnesses (Scotland) Act 2004 [click here](#)

Emergency Workers (Scotland) Act 2005 [click here](#)

Adult Support and Protection (Scotland) Act 2007 [click here](#)

Protection of Vulnerable Groups (Scotland) Act 2007 [click here](#)

Public Health etc. (Scotland) Act 2008 [click here](#)

Sexual Offences (Scotland) Act 2009 [click here](#)

Offences (Aggravation by Prejudice) (Scotland) Act 2009 [click here](#)

Equalities Act 2010 [click here](#)

Domestic Abuse (Scotland) Act 2011 [click here](#)

Forced Marriage etc (Protection and Jurisdiction) (Scotland) Act 2011 [click here](#)

Regulations:

Disability Equality Duty. [Click here](#)

Consultation on public sector regulations started on 9th Sept 2011 and ended Nov 2011.

[Click here](#)

Equality and Human Rights Commission information on Public Sector equalities duty [Click here](#)
Gender Equality Duty 2007 [click here](#)

Links to National Guidance:

[Adult Support and Protection \(Scotland\) Act 2007](#)

Adult Support and Protection (Scotland) Act 2007 Part 1 -Code of Practice October 2008 – [click here](#)

Adult Support and Protection (Scotland) Act 2007 Part 1 - Guidance for Adult Protection Committees [click here](#)

Self-Evaluation of Adult Support and Protection Activity: resource handbook- [Click Here](#)

National Guidance for Child Protection in Scotland 2010- [click here](#)

This guidance encourages co-ordination and collaboration between adult and child protection services at both individual case and wider service level.

As a minimum, it suggests that linking mechanisms should provide:

- opportunities for joint meeting between chairs and lead officers/ co-ordinators;
- opportunities for joint training for committees and relevant staff;
- arrangements for agenda planning and minutes sharing that will facilitate joint consideration of cross-cutting issues; and
- arrangements to identify and address any specific challenges or conflicts
- arrangements for transitional planning from child to adult services

Transition arrangements:

The national guidance identifies that Child and Adult Protection Committees should jointly develop robust procedures to ensure ongoing support for any young person about whom there are child protection concerns at the point where they move from children's into adult services. This will include determining if the young person is potentially an adult at risk or requires other statutory measures to be put in place.

Clear local arrangements for assessment and transition starting soon after the young person's 15th birthday should be made so that plans are put in place and any necessary legal steps pursued.

These arrangements will underpin the transition from child protection to adult services or adult protection processes. It is important that the procedures are clearly communicated to staff in both children and adult services.

These operational considerations clearly show that staff working in children's services require to have training to help them identify and act on adult protection issues; and vice versa. Child and Adult Protection Committees will be responsible for developing training plans to meet these needs.

Self-Directed Support: A National Strategy for Scotland- [click here](#)

This document includes discussion (Section 2.1) on the concept of risk enablement and protection and notes that the work of Adult Protection Committees, guidance and procedures should recognise the shift to self-directed support models. It makes reference to the Protection of Vulnerable Groups Act (Scotland) 2007 which new measures for protection through employment practice. It recognises that self-directed support operates within the framework of legislation.

Section 2.1 on risk- enablement and protection notes that:

The shift to co-production, outcomes monitoring and risk enablement will require training for staff across the social care and health sectors, and leadership from all levels of management. It will be all the more important that individuals and families understand risk and the responsibility for accepting levels of risk, if a culture that focuses on the failure of social work to intervene is to give way to enabling people to have control.

There will of course be some individuals who are subject to harm and exploitation. SDS sits within the framework of social and health care in Scotland where the principles of legislation require a proportionate response in situations where a person may require some protection from the State.

Since 2000, such legislation has included Adults with Incapacity (Scotland) Act, the Mental Health (Care and Treatment) (Scotland) Act, the Adult Support and Protection (Scotland) Act, and most recently the Protecting Vulnerable Groups (Scotland) Act.

SDS does not operate outwith these statutory obligations. Along with the inspection and monitoring of the new bodies created by the Public Service Reform Act, there should be sufficient opportunity to assess whether a person's chosen SDS package is delivering agreed outcomes whilst fulfilling social work's duty of care.

[Safer lives: Changed lives: A Shared approach to talking Violence against Women](#)
[click here](#)

The purpose of this document is to provide a shared understanding and approach which will guide the work of all partners to tackle violence against women in Scotland. While not all women to which this document applies will be adults at risk of harm under the Adult Support and Protection (Scotland) Act 2007, some will, and agencies should be aware of the potential for this.

This shared understanding and approach is underpinned by a shared commitment across all partners to tackle violence against women as a fundamental activity towards achieving National Outcomes.

A shared approach is necessary to achieve greater consistency of service provision across Scotland, an increase in integrated working across this agenda within and outwith the Scottish Government and improved outcomes for women, children and communities. Ultimately, it should enable swifter progress to be made towards bringing about the changes in Scottish society that are required to eradicate violence against women. Every area will develop their own action plans in order to be able to monitor and report on progress.

[Adult Support and Protection \(Scotland\) Act 2007](#) [\[back to contents\]](#)

Principles:-

The overarching principles that run through the Adult Support and Protection (Scotland) Act 2007, in relation to any intervention in the life of an adult, are set out as follows:

The principles must be taken into account at all stages of any intervention and emphasise the importance of striking a balance between an adult's right to freedom of choice and the risk of harm to that person. Any intervention must be reasonable, necessary and proportionate and legal.

A public body or office holder must be satisfied that any intervention will provide:-

- Benefit to the adult which could not reasonably be provided without intervening in the adults affairs and
- Is, of the range of options likely to fulfil the object of the intervention, the least restrictive to the adult's freedom

In addition, in considering a decision or course of action, the public bodies or office holders must also have regard to the following:-

- The adult's ascertainable wishes and feelings (past and present)
- Any views of the adult's nearest relative, primary carer, guardian or attorney and any other person who has an interest in the adults well being or property.
- The importance of the adult participating as fully as possible in the performance of the function and providing the adult with such information and support as is necessary to enable the adult to participate.
- The importance of the adult not being, without justification, treated less favourably than the way in which a person who is not an adult at risk of harm would be treated in a comparable situation
- The adult's abilities, background and characteristics.

In carrying out these principles, risk assessment and management will be central to the process:

- That any self-determination can involve risk, and that we will jointly ensure that such risk is recognised and understood by all concerned and minimised whenever possible.
- That we will ensure the safety of adults at risk is achieved by integrating strategies, policies and services relevant to abuse within the legislative framework.
- Thus, the 2007 Act places a statutory duty on councils to make inquiries about an adult's well being, property or financial affairs, where it is believed that the person

falls within the definition of an adult at risk, and to establish whether or not further intervention is required to stop or prevent harm occurring.

In general terms, the following values underpin any intervention in the affairs of adults deemed to be at risk and in need of protection under this multi agency guidance:-

- Every adult has a right to be protected from all forms of abuse, neglect and exploitation.
- The welfare and safety of the adult takes primacy in relation to any enquiry or investigation.
- Every effort should be made to enable the individual to express their wishes and make their own decisions to the best of their ability recognising that such self-determination may involve risk. The Scottish Government [National Self-Directed Support strategy](#) [section 2.1] recognises the balance between enabling risk and the need for protection from the state.
- Where it is necessary to override the wishes of the adult or make decisions on his/her behalf for their own safety (or the safety of others) this should be proportionate and be the least disruptive response to address the identified risks to health, welfare, property or finances of the adult consistent with the current legislative framework.

Partnership agencies subscribing to this guidance for the protection of adults at risk will also adhere to the values of:-

- Actively working together within the Care Inspectorate's value base of dignity, privacy, choice, safety, realising potential, equality and diversity.
- Actively promoting individual choice and the well being of adults at risk through services provision.
- Actively work together within an interagency framework to provide the best outcomes for adults at risk.
- Acting in a way which supports the rights of the individual to lead an independent life based on personal choice.
- Recognising people who are unable to make their own decisions and/or to protect themselves and their assets.
- Interventions should be legal, necessary and proportionate.

It is an expectation that all adults are entitled to:-

- Live in a home like atmosphere without fear of violence or harassment.
- Make informed choices about intimate relationships without being exposed to exploitation or sexual abuse.
- Have their money and property treated with respect.
- To be empowered through support to make choices about their lives.
- To be given information about keeping themselves safe and exercising their rights as citizens.
- Have access to justice.

What measures, definitions and protection orders does the Act contain?

Measures

The 2007 Act introduces measures to identify and to provide support and protection for adults who may be at risk of harm whether as a result of their own or someone else's conduct. These measures include:-

- A requirement that specified public bodies must inform and co-operate with councils and each other about adult protection.
- Clarifying the roles and responsibilities of the public bodies in relation to adult protection.
- Places a duty on councils to provide Advocacy or other services, as appropriate to an adult at risk. It is good practice that Advocacy be considered in all circumstances.**
- Placing a duty on councils to make the necessary inquiries and investigations to establish whether or not further intervention is required to protect the adult.
- The establishment of Adult Protection Committees.
- A range of Protection Orders.

The Act also provides definitions:-

Definitions

The council

Section 53 of the Act states “that references to a council in relation to any adult known or believed to be at risk, are references to the council for the area which the person is for the time being in”.

Adult Protection and cross-boundary practice.

In practice, this means that the council described above is responsible for conducting inquiries and investigations and making applications. For adults placed in care homes or in supported living arrangements funded by another council area (a cross-boundary placement), the host authority is responsible for undertaking inquiries into adults at risk. It is expected that where another council has a locus, for example, for care management and payment of costs, then this council will have a role in any activity under the 2007 Act.

Who is an adult?

The 2007 Act refers throughout to adult. In terms of Section 53 of the Act an adult means a person aged 16 or over.

Who is an adult at risk?

Adult at risk - 2007 Act - Section 3(1) defines an adult at risk as adults who:-

- 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 presence of a particular condition does not automatically mean an adult is an adult at risk. Someone could have a disability but be able to safeguard their well-being etc. It is important to stress that all three elements of this definition must be met or that there are grounds for believing all three elements may be met for an adult to be an adult at risk and for interventions to take place under the 2007 Act. It is the whole of an adult's particular circumstances which can combine to make them more vulnerable to harm than others.

Capacity in Law

The law in relation to adults (i.e. anyone over the age of 16), makes a distinction between those who are capable of managing their affairs and those who are not.

The assumption in law is that all adults have the capacity to make decisions about their own affairs until or unless they are recognised, in law, as being incapable. Where an adult can make decisions, social work staff cannot make or impose decisions regarding how he or she should behave or regarding what actions may or may not be taken.

Consent, capacity and risk will always be central to any assessment.

Where a situation of harm is suspected staff must consider, as early as possible in the investigative process, whether or not the adult has capacity. More detail with regard to Consent and Capacity has been included within Chapter 2.

What is meant by harm?

Harm: 2007 Act - Section 53 states harm includes all harmful conduct and, in particular includes:

- conduct which causes physical harm,
- conduct which causes psychological harm (for example by causing fear, alarm or distress),
- unlawful conduct which appropriates or adversely affects property, rights or interests (for example theft, fraud, embezzlement or extortion),
- conduct which causes self-harm.

Risk of harm: 2007 Act - Section 3(2) makes clear that an adult is at risk of harm if:

- another person's conduct is causing (or is likely to cause) the adult to be harmed, or
- the adult is engaging (or is likely to engage) in conduct which causes (or is likely to cause) self-harm.

The assessment of harm and the risk of harm are important elements under the 2007 Act. The definition of an adult at risk requires an assessment to be made about the risk of harm to the person at the outset.

The definition of harm in the 2007 Act sets out the main broad categories of harm; physical, psychological and finances, interests and property.

Financial Harm

Financial harm is becoming an increasing concern and constitutes a significant proportion of all adult protection referrals. Often those who become victims of financial abuse are not always recognised as “vulnerable” as they may have capacity or safeguards in place through appointee ships, powers of attorney or financial guardians. While in the most part these safeguards work well there are instances where these protective factors no longer meet the principle of best interest of the adult.

Literature and experience of agencies and practitioners highlight that the adult who may be subject to financial harm not only experience the loss of capital or property but can leave the person depressed, socially isolated and more vulnerable to financial exploitation.

When an adult protection referral is received relating to financial harm:

The Council has a duty to make inquiries under Section 4 of the Act in line with section Chapter 3 of this guidance.

The responsible manager will review the information and decide in accordance to their local procedures if:

- Immediate action is required in relation to the adult deemed at risk
or
- Further investigation should take place to inform any decision to support and protect the adult.

- Where it is suspected that a crime has been committed the police should be alerted.

- Where the adult has a power of attorney or financial guardian in place and they are suspected of breaching their “Fiduciary duty” the Office of the Public Guardian (OPG) should be alerted and all information passed to them for further investigation.

- Where the adult has an appointee the Department of Works and Pension (DWP) should be alerted for them to pursue further investigation and action. The DWP have agreed a form for Council Officers to use in respect of S10 requests for information. (Appendix 5 outlines the process for making application to the DWP)

- Local authorities should maintain regular contact with the DWP and OPG to confirm the outcome of their investigation and share information on how best to protect the adult from harm.

(Appendix 6) provides further detail on some indicators of harmful behaviour.

Serious harm: a council may apply to the sheriff for one of the available Protection Orders (i.e. Assessment Order, Removal Order or Banning Order). The Sheriff may grant an order

only if satisfied, amongst other things, that the person in respect of whom the order is sought is an adult at risk who is being, or is likely to be, seriously harmed.

There is no definition of 'serious harm' provided in the 2007 Act.

[For more information on Protection Orders – see page 15-16](#)

Who is a Council Officer?

The investigating officer has been given, within the 2007 Act, the title of **Council Officer**. The definition of a Council Officer within the 2007 Act at Section 53(1) is that a council officer is an individual appointed by a Council under Section 64 of the Local Government (Scotland) Act 1973. Section 53(1) also enables ministers to restrict the type of individual who may be authorised by a council to perform council officer's functions.

The exact definition of a Council Officer is defined in Sections 3 and 4 of SSI regulation 2008 No 306 2007 Act (Restrictions on the Authorisation of Council Officers, Order 2008) and reads as follows:-

[3 \(1\) A council shall not authorise a person to perform the functions of a council officer under sections 7 to 10 \(investigative functions\) unless that person meets the requirements set out in section 3, paragraph 2 of the SSI.](#)

Those requirements are– Section 3, Para 2:

3 (2) (a) The person:–

(i) Is registered in the part of the SSSC register maintained in respect of social workers or is the subject of an equivalent registration;

(ii) Is registered in the part of the SSSC register maintained in respect of social service workers;

(iii) Is registered as an occupational therapist in the register maintained under article 5(1) (establishment and maintenance of register) of the Health Professions Order 2001(5); or

(iv) Is a nurse; and

(b) The person has at least 12 months post qualifying experience of identifying, assessing and managing adults at risk.

[Restriction on the authorisation of council officers to perform functions under sections 11, 14, 16 and 18 reads as follows:-](#)

4. A council shall not authorise a person to perform the functions of a council officer under sections 11 (assessment orders), 14 (removal orders), 16 (right to move adult at risk) or 18 (protection of moved person's property) unless that person meets the requirements of article 3(2)(a)(i), (iii) or (iv) and (b).

Within these requirements, it will be for each council to determine who will act as a Council Officer within their area.

Protection orders

Because any protection order under the Act represents a serious intervention in an adult's life, a sheriff must be satisfied that the council has reasonable cause to suspect the person in respect of whom the order is sought is an adult at risk who is being, or is likely to be, at risk of serious harm. Where the adult has the capacity to make decisions, the application cannot be granted by the Sheriff if the adult does not consent to the order unless it can be proved that the adult has been subject to undue pressure to refuse consent.

Assessment Orders

The council officer can apply to the Sheriff for an *Assessment Order* which authorises the council, if necessary, to take the adult from a place being visited under the order to allow:

- the interview to be conducted in private and /or
- a private medical examination by a health professional nominated by the Council.

An assessment order does not contain powers of detention. An Assessment Order can be enacted for up to 7 days after the date specified in the order (this may not be the date on which order is granted). An assessment order does not contain powers of detention. The adult can refuse to be interviewed or examined despite the assessment order.

Removal Orders

The council officer can make application to the Sheriff (or Justice of the Peace in certain circumstances) for a *Removal Order*, which would allow the removal of the adult to another place primarily for the purposes of protection.

A removal order must be effected within 72 hours of being granted and can then last for a maximum of 7 days. A removal order does not contain powers of detention. The adult can refuse to be interviewed or examined despite the removal order.

Banning Orders or Temporary Banning Orders - banning of the person causing, or likely to cause, the harm from being in a specified place.

Application can also be made by **any** person, including the adult at risk of harm, to the Sheriff for a *Banning Order* in respect of a person or persons considered to be placing or likely to place an adult at risk of **serious** harm. Conditions can be placed on banning orders by the Sheriff, which includes the length of time of the order (up to 6 months) and contact. The Sheriff can also attach a power of arrest. There is an appeals mechanism.

Adult Protection Committee

The 2007 Act creates an obligation on councils to establish multi-agency Adult Protection Committees (APCs). The functions of the APCs include:-

- a) to keep under review the procedures and practices of the public bodies;
- b) to give information or advice to any public body in relation to the safeguarding of adults at risk within a council area, and
- c) to make, or assist in the making of, arrangements for improving the skills and knowledge of employees of the public bodies.

In performing these functions, APCs must have regard to the promotion and support of co-operation between each of the public bodies. The public bodies involved are the relevant council, the Care Inspectorate, the relevant Health Board, the Chief Constable of the Police Force in the council area, and any other public body as may be specified by Scottish Ministers.

The Mental Welfare Commission and Office of the Public Guardian also have the right to attend and must be informed of Adult Protection Committee Meetings.

Significant Case Review:

Guidance for Adult Protection Committees issued by the Scottish Government advises:

The Act does not require APCs to become involved in individual case reviews. APCs have a strategic and monitoring function rather than an operational role and therefore routine case review may well be seen as inappropriate. However, joint consideration of individual cases may help APC members to develop greater joint understanding of service user concerns and professional practice. While there is no duty to do so, APCs are encouraged to evaluate and learn from critical incidents.

To ensure that Adult Protection Committees are carrying out the designated functions, it is important that the agencies represented on the Committee, and who are subject to statutory duties under the adult protection legislation, give consideration to notifying the Independent Chair of any significant incident or event.

Committees may wish to develop procedures which would set out the agreed criteria for reporting any significant incident or event which would assist and support agencies in determining whether a specific incident or event should be notified to the Adult Protection Committee.

Scottish Government Guidance for ASP Committees [click here](#)

Chief Officers' Group

The Guidance for Adult Protection Committees advises APCs will require to be given the authority by local agencies to be able to carry out their functions effectively. The guidance also indicates that lines of accountability between the APCs and local Councils, NHS Boards and Police will require to be identified. It is expected that direct lines of communication between APCs and local Chief Officers' Groups will be established in each area.

Child Protection Committees and MAPPA

There may be some areas of cross-over between child protection and adult protection information when dealing with families which have both children and adults at risk. Although they may be investigated separately, a link between the two would require to be maintained.

A further area of overlap may exist where a person is aged 16 or 17 years and could be classed as both a child and an adult at risk. The duties outlined in the 2007 Act would require to be reflected in practice.

The APC Guidance published by the Scottish Government highlights the importance of procedural and practice links, which should be made between adult protection, child

protection and the public protection role of criminal justice services. The guidance indicates that monitoring and advising on these links will be a function for APCs.

There is a variety of guidance available to staff and all staff are encouraged to be aware of updates that may impact on agency practice.

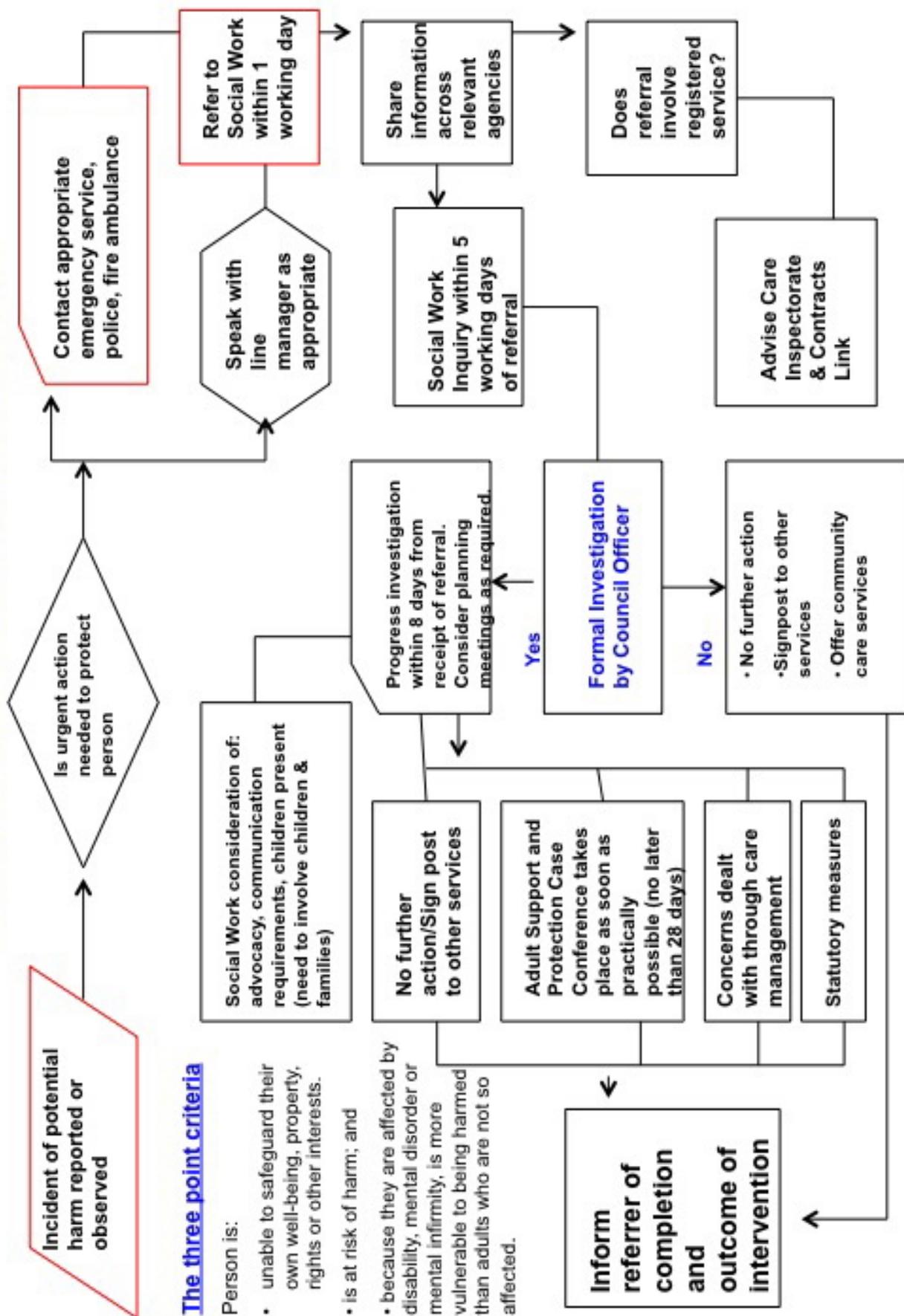
Most recently, updated guidance was issued relating to Schedule 1 offenders to assist local authorities, Scottish Prison Service and others protect children when someone is sentenced to a Schedule 1 Offence (Criminal Procedure (Scotland) Act 1995). Council staff involved in adult protection inquiries and investigations should ensure that information coming to their attention in the course of their duties relating to a Schedule 1 offender is recorded and shared with the relevant agencies.

Many Adult Protection Committees are acting to ensure co-ordination in public protection activities and social work services may develop referral systems that link child, adult and criminal justice services where appropriate. This should help ensure a robust public protection service to children and adults at risk. Agencies with concerns that relate both to children and adults should refer to their local social work service for guidance on process.

[It is crucial that agencies state their concerns about children and adults at risk of harm at the point of referral.](#)

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Adult Support and Protection Outline Flowchart revised 2012



The three point criteria

Person is:

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

CHAPTER 2

ADULT PROTECTION REFERRALS

Complete Within 1 Working day of the concerns being raised

Information about adult protection concerns may come to agencies from different sources and these procedures should be followed even when a referrer refuses to give their name or on receipt of anonymous letters. Where referrers do give their name, but request that their identity should be not be disclosed, they may be advised that any information given will be treated with discretion and that their identity will not be revealed unless the protection of the welfare of the adult or any court proceedings arising requires this.

REFERRAL PROCEDURE FOR ALL AGENCIES

- Referrers should also consult local council operating procedures and their own agency referral procedures.

Duty to Report

Public Agencies have a duty to report any suspected or actual harm to an adult at risk of harm within 1 working day.

The 2007 Act and the Code of Practice provides that certain bodies and office holders must, so far as is consistent with the proper exercise of their functions, co-operate with a council making enquires under Section 4 of the Act.

The bodies and office holders listed in Section 5 of the Act are:-

- The Mental Welfare Commission for Scotland;
- The Care Inspectorate;
- The Public Guardian;
- All Councils;
- Chief Constables of police forces;
- The relevant Health Board, and
- Any other public body or office-holder as the Scottish Ministers may by order specify. (Scottish Ministers have not specified any other bodies at the time of writing)

Where a named public body or office-holder knows or believes that a person is an adult at risk and action needs to be taken in order to protect that person from harm, then that public body or office-holder must report the facts and circumstances of the case to the council for the area where they believe the person to be located. Staff should also be clear who they have a duty to report to within their own organisations.

Voluntary and Private Sector

Whilst the 2007 Act does not give voluntary and private sector providers the same duty of cooperation, Social Work Contracts and Commissioning Sections will seek to ensure that providers adopt adult protection procedures that are compatible with the council procedures and agencies are encouraged to obtain a copy of local procedures for comparison and future reference.

Legislation allows information to be shared in specific circumstances and agency procedures should be clear on the procedures to follow where adult [or child] protection concerns have been identified.

Voluntary and Private sector agencies in the West of Scotland area are expected to report adult protection concerns within the same timescales as public bodies i.e. referrals should be made within 1 working day. Registered services are required to inform the Care Inspectorate and their council's contracts section.

Reporting emergencies or when a crime may have been committed

If a person is in immediate physical danger then a 999 call should be made to request urgent assistance or advice from the appropriate emergency services. Callers may follow this with a call to local Social Work Services to advise them of the situation or, outside of office hours, make a referral to the Emergency Social Work Services Team

If you suspect a crime has been committed then you should encourage the adult to report this to the Police and offer to support them to do this. If the adult will not report the matter to the Police, you should make the report yourself and advise the Police that it relates to someone who may be an adult at risk in terms of the 2007 Act and if the adult has consented to the report being made or not consented. In the case of physical or sexual harm, immediate referral to the Police is essential. This is to ensure that the person receives appropriate medical attention and that vital evidence is not lost. Follow up with a referral to social work services and advise them that a referral has also been made to the Police.

The Police will log the referral and take appropriate action to ensure the victim is safe. The Police will make enquires and /or investigate the incident further. The Police will use their own referral form VP1 Appendix (7) to refer adults at risk of harm to social work services. Police and Social Work Services should continue to liaise throughout to ensure appropriate support to the adult.

Does the adult need to consent to the referral?

If possible discuss with the adult at risk their view of the situation. Inform them that you will report concerns to your line manager and that these will be recorded. It is preferable that the adult consents to further action being taken but even without the adult's consent public bodies have a duty to report under the 2007 Act. Voluntary and private sector agencies are expected to report actual or suspected harm to an adult at risk. When making a referral to the Police or Social Services under the 2007 Act you should advise if the adult has consented to the referral or not.

The law in relation to adult capacity (i.e. anyone over the age of 16) makes a distinction between those who are capable of making decisions and managing their own affairs and those who are not. Social work services consider capacity and incapacity in every referral they receive including referrals relating to adults at risk of harm when deciding the most

appropriate action to support or protect the adult. If you think the adult may lack capacity to make decisions about welfare or financial matters this should be mentioned in your referral.

Useful guidance on assessing capacity may be found at: [Click here](#)

Will reporting harm breach a duty of confidentiality?

A proper function of a public body making a referral may include being bound by a duty of confidentiality. It is noted however under Section 5(3), if the public body or office holder knows or believes that person is an adult at risk of harm and that action is needed to be taken under Part 1 of the 2007 Act to protect them from harm then the facts and circumstances of the case must be reported to the council for the area in which it considers the person to be located.

[If NO Consent given](#) - Even without the consent of the adult, public agencies and office holders are required to take further action as you have a legal and professional duty to report harm to adults at risk. Voluntary and private sector agencies should consider if Data Protection Act 1998 exemptions apply.

Sharing information and the Data Protection Act 1998

The Data Protection Act 1998 sets out the terms under which sensitive personal information can be shared without consent. All agencies should have an information sharing procedure in place and staff should follow this when disclosing information without consent.

Information sharing is permitted:-

- to protect the vital interests of the data subject or another person, for the administration of justice, or
- for the exercise of any functions conferred on any person by or under an enactment, or for medical purposes

NHS Boards are required to ensure that their staff are aware of and operate local procedures for sharing of information with the police to promote the prevention and detection of crime, while respecting and safeguarding the interests of patients and the public in the confidentiality of personal health information

Whilst confidentiality is important, it is not an absolute right. Co-operation in sharing information is necessary to enable a council to undertake the required inquiries and investigations.

Information should only be shared with those who need to know and only if it is relevant to the particular concern identified. The amount of information shared should be proportionate to addressing that concern. Adults who may be subject to harm may be anxious about the information being shared with others. It is the record holder's responsibility to determine what information should be passed to the Council Officer.

There may be some areas of crossover between child protection and adult protection information, particularly when dealing with families, where there may be children and adults at risk.

Harm from paid staff towards an adult at risk

All Agencies should have an adult protection and/or disciplinary procedure that takes account of harm occurring from a paid [or volunteer] member of staff. In all cases agencies should follow this procedure while recognising that social work services / Care Inspectorate and/or the Police may also be involved dependent on the nature of the harm alleged or evidenced. Agencies should work with together to ensure that information is shared and that actions taken are coordinated and managed appropriately.

Reporting form AP1.

The collation of relevant information on a referral is crucial for the application of professional judgement. Wherever possible, information should be sought and recorded at the point of referral. If it is practical, describe the concerns as detailed by the adult.

Agencies, with the exception of the Police, who use a VP1 form, making a referral to social work services, should use the West of Scotland Adult Protection Referral Form – (Appendix 1 Form AP1) or a local equivalent variant. While phone call referrals will be accepted, a written referral form must be completed in writing within **24 hours** and passed to Social Work Services.

If you do not have all the information asked for in the form please do not delay and send the referral information you have. Social Work Services will follow up on the referral and make their own enquiries for missing information.

Referrers should follow their agency procedures for recording the referral made to Social Work Services bearing in mind that the agency may need to refer to this at some point during an investigation or in future legal proceedings.

Social Work Services should log the date and time of the referral and will acknowledge receipt of an adult protection referral within 5 days. Social Work Services may ask for cooperation in supporting the adult at risk and may request access to your records in writing. Following a request of this nature you should follow your agency procedures.

Social Work staff will make a decision regarding informing the Police about the referral, if a referral has not already been made, and the adult at risk or alleged harmer will be advised of this. If the Police are to be informed this will be done by a Social Work Manager.

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CHAPTER 3

ADULT PROTECTION INQUIRIES

**Inquiries should be made within
5 Working Days of the referral being received**

Multi-disciplinary approach to Inquiries

What one person or public body may know may only be part of a more concerning picture. Good practice would be that all relevant stakeholders would co-operate with assisting inquiries, not only those who have a duty to do so under the Act.

Many different professionals in statutory agencies and other organisations have contact with adults at risk of harm including social workers, medical and nursing staff and other health professionals, staff delivering care services, Procurators Fiscal, the police and staff of voluntary organisations. A multi-agency and multi-disciplinary approach is therefore appropriate.

When should a council make inquiries?

The Code of Practice for the Act states that:

Section 4 of the Act places a duty on councils to make inquiries about a person's well-being, property or financial affairs if it knows or believes:

- that the person is an adult at risk; and
- that it might need to intervene (under the Act or otherwise) in order to protect the person's well-being, property or financial affairs. (see p14 for social work action on financial harm)

A council may be assisted in its duty to inquire through various sources, for example unpaid carers, independent sector providers and statutory bodies.

Any report that an adult may be at risk of harm, including anonymous referrals, should be taken seriously. Cases must be considered with an open mind without assuming that harm has, or has not, occurred. All referrals warrant a carefully considered and measured response. Such referrals should be acted upon as a source of information that may or may not lead to this being used as evidence at a later stage.

Inquiries under Section 4 of the Act will be carried out by the council's social work services and should follow adult protection procedures. The council may consult and/or work in partnership with other agencies and conduct preliminary inquiries to establish where there is genuine cause for concern or intervention. Other professionals, such as the police, the Care Commission or health professionals, may be asked to assist.

Are there any Children involved?

It is a common responsibility across all agencies to remember the needs of any child who may reside or have contact with an adult[s] involved in any form of harm. This is especially relevant if the child/children live in same household as an alleged perpetrator(s). Where a referral is made to Social Work Services and a child or children may reside or have contact with adult(s) at risk or an alleged perpetrator then the responsible social work manager will inform Children and Families Social Work Services and a decision made if child protection procedures should also be initiated.

Agencies with concerns that relate both to children and adults should state this at the point of referral

Council's duty to Inquire under 2007 Act (Section 4)

On receipt of a phone call or adult protection referral (Form AP1 or Police Referral form) Social Work Services are required to make inquiries under the 2007 Act. Social Work Services have 5 working days to complete an inquiry.

The responsible social work manager will review the referral to decide if:-

- Immediate action is required in relation to the adult deemed to be at risk to make them safe.

OR

- Further inquiry is required to inform any decision to support and protect.

As part of this process Social Work Services will:-

- acknowledge receipt of referral in writing
- decide if medical intervention is required
- maintain multidisciplinary liaison during inquiries
- inform other external agencies of the referral e.g. Care Inspectorate, Police etc. if appropriate.
- offer appropriate support to the external agency / referring author

If Emergency Action is required

If the level of risk is such that immediate action is required, which cannot be achieved on a voluntary basis, Social Work Services will discuss with the Police and/or Council Legal Services, to determine whether there are any statutory powers which can be invoked to protect the adult under the 2007 Act or other appropriate legislation.

Where there is subsequent Police involvement

Social work services may decide on the information available to inform the Police of the referral. Social work services will continue to support the adult at risk and his/her carer in coordinating and monitoring any agreed interim protection plan.

If it is decided that a criminal investigation is to be undertaken this will be undertaken by the Police. The Police will decide if a referral to the Procurator Fiscal is appropriate. Social Work Services and the Police should liaise over action necessary to protect the adult at risk during a Police investigation.

There is acknowledgement that the alleged harmer may also be the adult's carer and social work services may need to take action to ensure the adult's support needs continue to be met during any investigation by the Police.

Role of the Care Inspectorate in Referrals and Inquiries

Care Inspectorate - Initial inquiries

If a registered care service is involved in the initial referral then the **responsible Social Work Manager** must inform the Care Inspectorate and the council's contracts link person/ section. The Care Inspectorate's role in promoting the protection of adults, using registered care services, is enshrined in the principles set out in the [Regulation of Care \(Scotland\) Act 2001](#). The Care Inspectorate has an adult protection procedure which can be accessed from their website.

[Registered Care Services must also](#) notify the Care Inspectorate using an e-notification referral system or by telephone when an accusation or evidence of harm is received which may involve one or more service users. If a verbal referral is made this should be followed up with an e-notification to ensure an audit trail of tracking incidents.

The Care Inspectorate should discuss the outcome of any intervention or risk assessment they carry out with the responsible Social Work Manager or Contracts Section to clarify whether any regulatory action is required from the outset.

If considering possible regulatory action, discussion should be held with the council involved and where appropriate, the police and/or Procurator Fiscal to ensure that any Care Inspectorate activity will not interfere with ongoing investigations.

Once inquiries are complete the responsible **social work manager in discussion with senior managers** will decide if the allegation of harm requires to be investigated under the 2007 Act and, if not, what further action requires to be taken.

Conclusion of Inquiry – Social Work Services will decide how to proceed

The responsible **Social Work** manager will decide, using professional judgement, liaison with other agencies and the information gathered following referral, on how to proceed.

There are 2 possible outcomes of an inquiry.

Inquiry Decision –

- 1. The adult does not meet Adult Support and Protection criteria as an adult at risk.**

Action that may be taken:

- No further action.

- Refer for assessment under care management.
- If an open case- continue with casework and review existing risk assessment and care plan.
- Refer to another appropriate agency.

Where an adult has capacity and meets the criteria of the Act but indicates that they do not wish support this does not absolve the council and partners of their responsibilities to cooperate and consider protective measures for the adult. While the adult has the right not to engage with the process, the appropriate partners should still meet to consider what action could be taken in the best interest of the adult at risk of harm; this could include a Care or Protection Plan or advice or support with the individual where possible, to manage identified risks. Therefore, it may be that social work services will continue further investigation without the adult's consent or involvement.

In all cases Social work services will inform referring individual/agencies of the outcome in writing. Where the referrer is a member of the public a letter of acknowledgement of the referral should be sent however no other information should be given without the adult's consent. For professionals e.g. GPs this provides confirmation of action taken under the Act and the adult's current status i.e. is not an adult at risk, so that this can be recorded. This also encourages referrers to make a further referral if concerns persist.

The National Strategy for Self Directed Support aims to set out a cultural shift around the delivery of support and it recognises that people have the right to choice. This suggests that a care / support plan may aim to manage risk in as a safe a way as it possible while still accepting that adult has the right to self determine how he/she lives their life. In this case the support plan requires to be monitored and reviewed under Adult Protection to ensure that the plan is effective or if there is a need to revisit the risk/ harm to the adult again [click here](#)

2. The Adult at Risk criteria are met under the 2007 Act and an investigation is required.

If a decision is reached that further action is to be undertaken under the 2007 Act then the following actions must be recorded and actioned by the responsible Social Work Manager:-

- Agree who will be the 'Council Officer' who will lead the Protection Investigation and who will be the second person involved.
- Agree the plan and timing for the Adult Protection Investigation including consideration of Advocacy and other services, communication needs, and involvement of other appropriate services e.g. health, children and families services, legal guardian, for black and minority ethnic groups as well any other requirements that would facilitate the investigation.

Set a date for an Adult Protection Case Conference as soon as is practicable by agreement with Managers but no later than 28 days from the date the initial referral is received by social services.

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CHAPTER 4

ADULT PROTECTION INVESTIGATIONS

**Within 8 Working Days
of the Referral being made.**

Social Work Services must commence an investigation within **8 working days** of the initial referral being received if an inquiry has not concluded.

Investigations

It is the responsibility of the relevant Social Work Services to lead on adult protection investigations through the setting up of interagency planning meeting/s and leading on any subsequent ongoing investigations. Other agencies may be asked to become involved at this point if their action or contribution is required to forward the investigative process i.e. Housing/Health/Police or a Specialist Service.

Planned Investigation

It is the task of the responsible Social Work Manager in discussion with their line manager and other partner agencies/disciplines or specialist services, where relevant, to agree the format of the investigation team.

Social Work services may convene planning meetings as required during the investigation process but these do not take the place of case conferences.

The investigation must be a planned process and roles and remits of the investigation team agreed beforehand as to –

- the time and place of the visit - the visit must be made at reasonable times
- who will ask the questions
- who will record the interview
- timescales for completion of each task
- the benefit of involving Advocacy Services
- support for the adult's carer
- communication requirements
- is there a need to access other agency records
- involvement of medical staff in the investigation

- involvement of Mental Health Officer services in the process, especially at case conferences, to ensure that their specialist training, experience and skill is used for adults with mental disorder.

Investigative Visit (ASPA 2007 section 7)

Given the complexity of such investigative situations and in the interests of support and health and safety responsibilities for staff, it is recommended that investigative visits should always involve **a council officer and second person**.

The **council officer** is permitted to enter any place where the adult normally resides, e.g.

- the adult's home
- the home of any relative, friend or other with whom the adult resides
- supported or sheltered accommodation staffed by paid carers
- temporary or homeless accommodation
- a care home or other residential accommodation

Any place can also be where the Adult is residing temporarily, or spends part of their time, e.g.

- a day centre
- a place of education such as a school, college, university
- a place of employment or other activity
- temporary respite or permanent residential accommodation
- a hospital or other medical facility
- private, public or commercial premises

Access is also allowed to any adjacent places such as sheds, garages and outbuildings.

Support Services

Role of Advocacy Services (ASPA 2007 Section 6)

The 2007 Act Section 6 places a duty on the Council, if it considers that it needs to intervene in order to protect an adult at risk of harm, to consider the provision of appropriate services, including independent advocacy services, to the adult concerned, after making inquiries under Section 4 of the Act.

Other services are not defined in the Act but consideration should be given to practical and emotional support provided by other professional workers.

Independent advocacy aims to help people by supporting them to express their own needs and make their own informed decisions. Independent advocates support people to gain access to information and explore and understand the options available to them.

Independent advocacy can also provide support to a carer or service user to alleviate stressful or conflict situations and the potential for harm, in particular where the adult has capacity and does not wish any protective action to be taken.

It is important that any assistance or intervention must be well planned so that wherever practicable the adult is provided with the right kind of support and that the situation does not escalate to the point where they feel that their perspective is not being actively considered.

A link to the Scottish Independent Advocacy Alliance webpage is included for further information.

<http://www.siaa.org.uk/>

Are there Difficulties in Communication?

Social Work Services will ensure that the adult is provided with assistance or material appropriate to their needs to enable them to make their views and wishes known.

The Royal College of Speech and Language Therapists has developed a communication toolkit. The toolkit is for practitioners in Scotland with responsibilities under Adult Support and Protection. It provides communication access guidelines, advice and practical resources for those implementing the Act - so that people with communication support needs who are at risk of harm or who are being harmed can more easily access protection afforded by the Act. A link to the toolkit is attached below. [Click here](#)

Useful guidance relating to communication and assessing capacity during interviews can also be found at: [click here](#)

Interviews during investigation (ASPA 2007 section 8)

An interview with the adult may, or may not, have taken place during an inquiry under s4 and Council Officers undertaking an investigation may interview a number of people during the course of the investigation, they may be accompanied by another council officer or other appropriate person.

The purpose of an interview is to:-

- assist with inquiries
- establish if the adult has been subject to harm
- establish if the adult feels his or her safety is at risk and from whom
- establish whether action is needed to protect the adult and
- discuss what action, if any, the adult wishes or is willing to take to protect him or herself.

What are an adult's rights during an interview?

The 2007 Act Section 8(2) provides that the adult is not required to answer any questions, and that the adult must be informed of that fact before the interview commences. The adult can choose to answer any question put to them but the purpose of this section is to ensure that they are not forced to answer any question that they choose not to answer.

Can an adult be interviewed with others present?

The 2007 Act Section 8 allows a council officer and any person accompanying the officer, to interview the adult in private. Whether or not the adult should be interviewed in private will be decided on the basis of whether this would assist in achieving the objectives of the investigation. The council officer or persons accompanying them may decide to request a private interview with the adult where:-

- a person present is thought to have caused harm or poses a risk of harm to the adult
- the adult indicates that they do not wish the person to be present
- it is believed that the adult will communicate more freely if interviewed alone, or
- there is a concern of undue influence from others

However, where practicable, it would be good practice to ask an adult whether they would wish another person to be present during the interview, for example a family member, paid carer or an independent advocate.

Access to Records (ASPA 2007 Section 10)

The 2007 Act gives authorised council officers a statutory right to seek and obtain records including medical records from any source (NHS, public, voluntary, private, commercial) during the time of a visit to the person holding the records or at any other time. The council officer should provide documentary evidence that they are authorised to access records. The council officer can inspect the records or arrange for any other appropriate person to inspect records e.g. someone with financial expertise. In the case of health records only a registered health professional e.g. a doctor, nurse, midwife can be given the authority to inspect records or copies of records.

Good practice would be for the council to nominate persons of a suitable seniority and have procedures, agreed with relevant bodies which hold records, regarding accessing and proper disposal of records. This decision should be made in discussion with the agency responsible for keeping the records.

If a request for information is made at a time other than during a visit, it must be made in writing, electronic requests are acceptable as long as they can be used for subsequent reference.

Usually, only the relevant parts of a record should be copied for access by the council officer and the use of original records is discouraged. Copy records should be treated with the same degree of confidentiality as the original records.

The 2007 Act Section 49 provides that it is an offence for a person to fail to comply with a requirement to provide information under Section 10, unless that person has a reasonable excuse for failing to do so.

The Department of Works and Pensions have agreed a form that Council Officers should use when requesting information. (see appendix 5 for process and copy form)

Councils should make reasonable efforts to resolve disagreements when record holders refuse to disclose them. Informal or independent conciliation might be considered, depending on the circumstances and reasons given for refusal.

For additional details on access to records please refer to:-

Adult Support and Protection (Scotland) Act 2007 Part 1 -Code of Practice October 2008 (Chapter 8) – [click here](#)

Is Medical Intervention Required? (ASPA Section 9)

The 2007 Act states a medical examination may only be carried out by a health professional as defined under Section 52(2) as a: -

- doctor
- nurse
- midwife

It is normally the case that doctors would carry out a “medical examination”, nurses and midwives would carry out an assessment of current health status.

Medical examination may be required as part of an investigation for a number of reasons including:-

- the adult’s need of immediate medical treatment for a physical illness or mental disorder
- to provide evidence of harm to inform a criminal prosecution under police direction or application for an order to safeguard the adult
- to assess the adult’s physical or mental health needs
- to assess the adult’s mental capacity.

If the council officer believes that medical intervention is required, wherever possible, all courses of action must first be agreed with the adult. In situations of extreme risk or urgency the council officer may need to take immediate action, i.e. involve emergency services without prior consent.

If the adult has been subjected to sexual harm a medical examination may be necessary and this should be arranged by the responsible social work manager in consultation with the Police.

An adult must give consent to medical examination and treatment unless he/she lacks capacity. Where it is not possible to obtain the adult’s informed consent or they have difficulty communicating to provide consent, the council should contact the Office of the

Public Guardian to ascertain whether a guardian or attorney has such powers. If not, consideration may be given to whether it is appropriate to use the provisions in 2000 Act or 2003 Act.

What about a Refusal of Medical Examination

In an emergency and where consent cannot be obtained doctors can provide medical treatment to anyone who needs it, provided that the treatment is necessary to save life or avoid significant deterioration in a patient's health.

For fuller details on medical examinations please refer to:-

Adult Support and Protection (Scotland) Act 2007 Part 1 -Codes of Practice October 2008 (Chapter 7) – [click here](#)

Refusal of Entry - Warrant Application (ASPA 2007 Section 37)

- if the council officer is refused entry to the premises to conduct the investigation, then in accordance with the principles of the 2007 Act, in the first instance there is a need to consider how entry may be achieved without the need for an application for a warrant but if this fails then the council will make the application to the Sheriff to seek a Warrant of Entry. This authorises a council officer to visit any place specified in the warrant accompanied by a Police Constable. If the council needs to open any lockfast place, it is the responsibility of the council, in most cases the council officer, to take all reasonable steps to ensure that the person's property and premises are left secured and consideration must be given to the use of a joiner to assist with entry and securing premises.

Completion of Risk Assessment Tool – Form AP2

The council officer in conjunction with others will decide when to undertake a Risk Assessment. It is anticipated that this will be completed before a case conference in order to inform the Chairperson in advance.

The Risk Assessment (Form AP2 -Appendix 2) starts with a focus on the person who is being assessed and various key factors in relation to their involvement in the assessment and subsequent decision making.

The form requires assessors to determine whether the person assessed has special communication needs or requires support from an advocacy service. The form is designed to ensure that individual rights are recognised at the beginning of a risk assessment and that capacity is considered at this stage. The question of information sharing is included both at the beginning and end of the risk assessment, to ensure that a service user's views about this are sought at both points, although assessors may decide information-sharing is required against the person's wishes.

The importance of the views of the person being assessed are emphasised in the requirement to note these views in sections 3, 5 and 6 of the Risk Assessment form. Public inquiries and practice audits have identified a lack of attention to histories of significant events, failures to make comprehensive assessments of all possible risks and risk factors. The Risk Assessment form seeks to deal with all of these issues in sections 3, 4 and 5, and also to provide for a balanced view between risk and protective factors.

Whilst the Risk Assessment provides a format for bringing together comprehensive, relevant information, the form reflects an expectation that professional opinion/judgement is required about the risk and any protective action which might be needed. The form does not provide any arithmetic scales or matrix to calculate levels of risk – those involved in the development of the form were aware of such features in use in certain places, but concluded that they pretended to a scientific basis which was not present, and they were not aware of any which had been devised and tested properly

Conclusion of Investigation – make a decision on how to proceed

Following the investigation the council officer and second person will complete a report and discuss with line management further action to be taken. There are a range of possible outcomes and one or more of the following may be initiated. Please note that each adult's circumstance is different and may require an alternative measure not listed here.

Investigation decision-

1. The adult does not meet Adult Support and Protection criteria as an adult at risk

- no further Action
- signpost to another appropriate service
- concerns dealt with through care management
- use of other relevant legislation

2. The adult at risk criteria are met and harm is established or suspected

- case conference proceeds as planned
- concerns dealt with through care management
- immediate application for Statutory measures under Adult Support and Protection e.g. Warrant of Access, Removal or Assessment order
- intervention under 2000 Act or the 2003 Act
- use of other relevant legislation

Where an adult has capacity and meets the criteria of the Act but indicates that they do not wish support this does not absolve the council and partners of their responsibilities to cooperate and consider protective measures for the adult. While the adult has the right not to engage with the process, the appropriate partners should still meet to consider what action could be taken in the best interest of the adult at risk of harm; this could include a Care or Protection Plan or advice or support with the individual where possible, to manage identified risks.

In all cases Social work services will inform referring individual/agencies of the outcome of the investigation in writing. Where the referrer is a member of the public, and has not received a letter at inquiry stage, a letter of acknowledgement should be sent however no

other information should be given without the adult's consent. For professionals e.g. GPs who may have been involved with an inquiry / investigation this provides confirmation of action taken under the Act and the adult's current status i.e. is, or is not, an adult at risk, so that this can be recorded. This encourages referrers to make a further referral if concerns persist.

The National Strategy for Self Directed Support aims to set out a cultural shift around the delivery of support and it recognises that people have the right to choice. This suggests that a care / support plan may aim to manage risk in as a safe a way as it possible while still allowing the adult the right to self determine how he/she lives their life. In this case the support plan requires to be monitored and reviewed under Adult Protection procedures to ensure that the plan is effective or to revisit the risk again. [click here](#)

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CHAPTER 5

Adult Protection Case Conference

**Initial case conference to be held as soon as possible
but no later than
28 Days
of the Referral being made**

When a decision is made to proceed to investigation then a provisional date will be set for a case conference to discuss the outcome of the investigation and to decide on the intervention required to support and protect the adult. Following the investigation, if a decision is made to proceed to case conference the responsible social work manager should convene a case conference as soon as practical, but no later than 28 days from the initial referral received by social work.

There are no statutory provisions relating to case conferences.

Purpose of a case conference

An Adult Protection Case Conference is a multi-agency forum, held to share information and make decisions about how to support and protect an adult deemed to be at risk in circumstances where harm has occurred or is suspected. The adult should, where possible, be invited to contribute as fully as possible.

Case conference decisions will always seek to protect an adult by the use of informal protection measures but will also consider the need for statutory protection measures under the 2007 Act or other relevant legislation. All relevant reports should be submitted before the case conference and the AP2 Risk Assessment will have a completed chronology of significant events to inform the Multi Agency Forum and assist with Protection Planning. The adult or their representative may also wish to submit a report or viewpoint for consideration at the case conference and the responsible social work manager should ensure that all information is passed to the Chairperson as soon as possible.

Responsibilities of the Chairperson

The chairperson will be an experienced manager, likely a designated council officer and ought to be independent of the investigation.

However, it is acknowledged that as some social work services become part of CHCPs, operational managers may have different professional backgrounds. This may make it difficult to ensure that ASP case conferences are chaired by managers who are also social worker/council officers. It is recommended that any manager chairing an ASP case conference should have completed the ASP level 3 training in line with local requirements [2 days minimum]. They must have experience in risk assessment and protection planning, and have a working knowledge of the Adults with Incapacity (S) Act 2000 and the Mental Health Care and Treatment (S) Act 2003 to ensure that decision making is informed by an appropriate legislation knowledge base. Where the Chair lacks this knowledge then an appropriately trained team manager or member of legal services should be in attendance to give advice. Local Authorities may organise specific training in Chairing ASP Case Conferences to take account of local requirements .

The chairperson will:-

- meet professionals attending the case conference prior to its commencement to share updated information.
- ensure that the principles of the 2007 Act are observed.
- ensure that any communication aids/systems (e.g. loop system) are in place.
- rule on requests for a family member and/or carers to be excluded from the case conference and ensure that reasons for this are recorded in the minute.
- check that the adult and carer/ representative understands the purpose and process of the case conference and explain if necessary.
- advise all present of the facility to ask for an adjournment at any time during a case conference.
- where a family member and/or carer has been excluded from the case conference the chairperson must ensure that the decisions are fed back to them as soon as practicable after the case conference.
- ensure that the minutes of the meeting are distributed to the appropriate agencies and, where appropriate, the adult, family and/or carer within 5 working days of the case conference.
- ensure that all present have the opportunity to contribute to the protection plan discussions.
- take responsibility for decision making within the case conference and subsequent review case conferences.

In the case of any serious dispute/dissent or complaint that cannot be resolved within the case conference the chairperson will require to refer to the **Head of Service** (see section on Dispute/ Dissent/ Complaint) and follow local social work procedures to ensure that the issue is appropriately managed.

Invitations to Adult Case Conference

The **chairperson** will ensure that all relevant people are invited e.g. GPs, Police district nurses, care staff, and social workers and, where appropriate, the adult subjected to harm, their advocacy worker, and /or carer should be invited unless there are grounds to exclude them. If the Chairperson is asked to exclude anyone the reasons for this must be formally recorded by the council officer and the Chairperson and a decision made before the meetings starts The Chairperson's decision should also be recorded in the minute. In the first instance invitations may be by phone call but will be confirmed by standard letter or e-mail and appropriate leaflet provided.

Good Practice in Adult Protection Case Conferences

Case conferences should be an inclusive process involving the adult at risk of harm and all relevant agencies with an interest where reasonable and practicable.

Consideration as to how the [adult or relatives](#), [carers](#) etc might most effectively participate. Consideration should be given to ensuring that -

- the purpose and process of the Case Conference has been fully explained, the venue is not intimidating to the adult or carer and is accessible. It is the role of the responsible Social Work Manager to ensure that a designated worker has discussed these issues with the adult and their representatives.
- when someone is unable to attend through lack of capacity, appropriate alternative representation is provided.
- appropriate ethnic translation/sensory impairment services are provided where required.
- attendance for part of the meeting is an option where agreed if there are areas an individual will find too distressing and there is the facility for the adult to be consulted out with the meeting and their views appropriately represented if preferred.
- adults should not be required to confront alleged harmers where this may be distressing
- where the alleged perpetrator is also seen as a person at risk, consideration should be given to holding a separate case conference about their needs.
- attendance should be at the discretion of the chairperson. The chairperson should ensure that where there are substantive grounds to believe that the involvement of someone in the conference would undermine the process or serious conflict is liable to emerge, or where sub-judice information is being presented, that person is excluded.

[Attendance at the adult protection case conference should include where appropriate:](#)

- Investigating officers
- the adult at risk of harm and/or their representative if they do not feel able to attend
- carer or relative (having regard to wishes of the adult).
- if the adult has identified a named person in relation to the 2003 Act, the adult may seek the attendance of the named person.
- any other person the adult wishes to name instead as their representative
- G.P.
- Police
- Staff from any regulatory bodies such as the Care Inspectorate
- Care provider organisations directly involved with the adult
- Legal Services

- Independent advocacy where involved
- Proxy decision makers (attorney or guardian)
- MHO for specialist advice if there are potential for issues arising in relation to mental disorder or lack of capacity
- Housing / homelessness organisation

Exclusion from Case Conference

Practice in this area should be characterised with a genuine wish for involvement of carers/family and the adult who is thought to be at risk. It is only where there are substantive grounds to believe that the involvement of carers/family would undermine the process and purpose of the case conference that they should be excluded throughout.

Grounds for exclusion could be when:

- a level of conflict or tension exists within the carers/family
- when there is substantive evidence to believe that there is a likelihood of violent or serious disruption of the process of the case conference
- carers/family may also be excluded when third party or sub-judice information is being presented to the case conference
- being an alleged abuser is not sufficient reason in itself to exclude a carer or family member, but this may be judged necessary by the chairperson if their presence would seriously affect the consideration of the risk to the adult concerned
- where the carers/family has been excluded throughout the case conference it is the responsibility of the chairperson to ensure that they are informed of the outcome

The process and content of the Case Conference

The case conference should be needs led in focus and the content of the meeting should include: -

Introductions

Fact Gathering

- the professionals share information beginning with the circumstances of the referral and conduct of inquiries
- to determine the degree of risk and likelihood of reoccurrence (AP2 Risk Assessment – Appendix 2)¹

¹ The Risk Assessment (AP2 – Appendix 2) is not intended as a substitute for consideration and decision-making in an Adult Protection Conference, but the format is intended to provide a means by which such Conferences can be fully informed about the findings and views of the assessor and the person being assessed, both in relation to past events and possible future actions

- consideration of legislation

Legislation

Consideration should be given to current protective legislative measures required to implement a Protection Plan e.g. Adults with Incapacity (Scotland) Act 2000, Mental Health (Care and Treatment) (Scotland) Act 2003 and Adult Support & Protection (Scotland) Act 2007^{2,3}, however consideration should be given to any other relevant legislation that offers protection. Council Legal Services should be consulted when appropriate, to explore other legislation that may provide protection where the Adult Support and Protection Act is thought to have left a gap.

Discussion

The terms of the risk assessment are also intended to provide not only for a balanced response to individual rights and agency responsibilities, but also a balanced view about the potential gains and losses from future protective action.

- to discuss whether any protection measures require to be sought or discuss measures which were sought at the investigation stage
- moving to discuss relevant background information only once all the information relating to the current enquiry has been shared
- to discuss what the strengths / weaknesses are in the current support arrangements, and to discuss any advocacy issues and the important issue of the ability of the adult to consent and capacity to understand
- to consider the significant event history
- the chairperson briefly summaries each contribution at the time it is made to ensure that the contribution has been properly understood. This process should facilitate the taking of the minute of the meeting
- it is particularly important that the carers/family understand the information being shared and that they have an opportunity to make their own contribution
- if there are disagreements about the information then there should be an attempt to resolve these at the time. However, it may be that some disagreements can only be acknowledged
- the unrestricted information shared at the case conference is summarised by the chairperson

² In consultation of legal protective measures of intervention due consultation *must* be given to the *Principles* underpinning the various Acts

³ Where issues of lack of capacity are identified and intervention under the Adults with Incapacity (Scotland) Act 2000 is necessary council procedures in relation to the 2000 Act should be followed. *In such circumstance the Adult Protection Case Conference can take the place of the Adults with Incapacity case conference and there is no requirement to duplicate this process*

Interpretation and Assessment

The chairperson should lead the discussion that focuses on:

- the strengths of the carers/family and what are the threats to the **adult's** wellbeing
- the specific dangers to the adult and/or carers and family members
- what extended family, professional and community supports could be offered

Decision

The case conference needs to decide whether the adult and/or any other person is believed to be at risk of being abused and if so:

- consideration of a referral to the police, if not already done so in the course of the referral and investigation, where it is now believed that a crime may have been committed
- where there is harm an adult protection plan must be agreed. (AP3 – Protection Plan - Appendix 3)
- make arrangements for implementing and reviewing the protection plan
- clarify the roles and responsibilities of the various professionals involved in the protection plan
- appoint a case co-ordinator who ought be a social worker who is designated as a council officer.
- identify a core group who will work with the case coordinator
- set a review date, which must take place within three initially and then every six months.

Case Conference Minutes

The **Chair** has the responsibility to ensure an accurate record of the discussion and key decisions by way of case conference minute is undertaken and to ensure that appropriate administrative support in the form of a specialist minute taker is available for this purpose.

The person who will take the minutes of the meeting should be identified in advance and should not be the chairperson.

It is important that an accurate record of the salient features of the discussions and of the decisions reached at the Adult Protection Case Conferences is made and kept. These records will form part of the basis of defensible decision-making. It is advisable for minutes to make clear -

- that they are a record of a meeting held under the auspices of Adult Protection and Support (Scotland) Act 2007 and therefore that those attending understand the basis upon which the meeting is held –including the confidential nature of the proceedings and the minutes
- who attended the meeting and in what capacity
- the identity of the adult at risk
- those issues which are relevant to the assessment and the management of risk
- for each risk factor identified there should be a corresponding response as to how that factor will be managed
- the actions to be taken as a consequence of the discussion, who will take them, in what timescale and how these actions are intended to reduce/manage the risk
- action points from the meeting will be reflected in a focussed and clear Minute and completed Protection Plan

The minutes of the meeting should be treated as confidential. The minutes should be given to those attending the meeting and should be seen only by those persons who have the authority and duty to consider what was discussed and decided. It is the Chairpersons responsibility to ensure that confidential information is only shared with appropriate parties. The minutes should therefore be kept safely and securely so that their confidence is preserved.

Protection Plan – Form AP3 -Appendix 3

Responsible Member of Social Work has up to 10 working days, from the Case Conference being held, to distribute the Minutes of the Case Conference and the written Adult Protection Plan.

The Protection Plan (Appendix 3 - Form AP3) has been designed for use when allegations of abuse/exploitation have been made and an Adult Protection Case Conference has agreed that there is a risk of serious abuse or harm; or when high levels of risk cannot be managed within a normal Care Plan.

The format for the Protection Plan assumes that, reflecting good practice, there will be a Lead Worker to co-ordinate protection work and that, in most cases, there will also be a core group of workers from different agencies and services as appropriate. Core group meetings can take place between case conference and review and will be subject to local arrangements. These meetings are important and all members of the multi -agency group are expected to attend. Thus, a multi-agency approach is implemented throughout the whole process, including regular liaison between more formal review meetings.

As indicated earlier, the Protection Plan form can be used as a stand-alone document and updated as part of an ASP review process.

The content of an AP3 might include:

- Community or other support requirements
- Decision to apply for Banning Order – Senior Manager level

- Contingency/relapse plan
- Key worker/care manager responsibilities
- Partner agency interventions and responsibilities

Case Conference Dissent/Dispute/Complaints

Any agency, adult or their carers have the right of access to complaints procedures should they disagree with any decision or outcome arising from the case conference process. Similarly all parties retain the right to request a review of their care provision at any time

Under the Adult Protection Case Conference procedures any dissent/dispute or complaint occurring, within the proceedings of the case conference **must** be recorded in the relevant minute. The Chair of the Case Conference holds ultimate responsibility for decision making within the Adult Protection Case Conference and subsequent Review Case Conferences. However, any serious dissent/dispute or complaint must be reported to the Head of Service and local procedures followed to deal with disputes and complaints.

The Protection Plan and Case Conference Minutes must be distributed in writing within **10 working days** of the Adult Protection Case Conference taking place and should be signed by the Chairperson. This is also the case for any subsequent Review Meetings.

Adult Protection - Review Case Conference

A Review Case Conference should be held within **3 months** or less of the initial Adult Protection Case Conference. Future reviews should be held as required and in line with council procedures.

The purpose of the Review Case Conference is to:-

- summarise support and outcomes to date and to confirm the current situation
- review risk management plans and establish current level of risk
- ensure agreed duties and responsibilities across partner agencies have been fulfilled and agree any remedial action where a shortfall has been identified
- review and if necessary up-date the Protection Plan and associated service provision
- ensure intervention or legal powers exercised in relation to the Principles remains proportionate and are the least restrictive option in terms of maximising benefit and offering effective protection to the adult.

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CHAPTER 6

Quality Assurance Framework

Each public body will have its own requirement and process to monitor and audit its responsibilities and performance when carrying out interventions under the 2007 Act.

The Scottish Government has funded the development of a framework for a multi agency adult support and protection self-evaluation process. [Click here](#)

Adult Protection Committee (APC) functions include a responsibility for monitoring and evaluating local practice. This will involve data collection and data analysis, including the measurement of outcomes. APCs will require to consider what information systems should be in place and what form of regular audit is required.

The Independent Chair of the APC is also required to produce a biennial report for approval by the Committee, which will thereafter be submitted to the Scottish Government. The first reports were completed in September 2010 and every 2 years thereafter.

The content of the biennial report should analyse, review and comments on APC functions, and will include reference to:-

- management information on activity, trends, inputs and outcomes in relation to the protection of adults at risk, and
- communication and co-operation between agencies

The Independent Chairs have agreed a dataset for an annual statistical return to commence at the end March 2012. Local authorities will provide this information to Scottish Government for analysis and subsequent reporting back to the Independent Chairs for inclusion in local reports.

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APPENDICES

Appendix 1

FORM AP1

Adult Protection Referral Form & Actions (AP1) ALL AGENCIES

All agencies use the AP1 with the exception of the Police who will use their own Referral Form at Appendix 8

- *You must immediately report suspected or actual harm to your line manager and you have a legal duty to report any concerns to the Council Social Work Services if it is known or believed that a person is an adult at risk and that protective action is needed. The duty to report concerns about an adult at risk is not dependent on the adult's consent, although this is always preferable.*
- *All sections of **Part A** of the Referral Form require to be completed within **1 Normal Working Day** from the time of adult at risk consent or decision that there is sufficient evidence to prove a lack of capacity to consent.*

NB: - If you do not have all the information required in **Part A** please do not delay and send the Referral information you have. Social Work Services will follow up on your referral and add any additional relevant and required information.

Part A

1. ADULT AT RISK DETAILS:

Name:

Date of Birth:

Social Work number:

Agency reference number:

Address:

Post Code

Tel number

Gender:

Ethnic Origin:

Religion:

Any known communication difficulties: YES/NO

If YES, please provide details including aids to communication that the adult may use

Living situation, e.g. lives alone, with spouse etc., type of accommodation, any known supports, caregivers there details. etc

2. REFERRAL DETAILS

Name of referrer:

Address:

Telephone number:

Email Address:

Relationship to the adult being referred:
Is it suspected that a crime has been committed and have the police been informed? (date & time and any actions taken)
Who else have you informed of this referral to Social Work Services? (date & time and any actions taken)
DETAILS OF THE SITUATION LEADING TO REFERRAL? (to include details of any specific incidents – dates, times, injuries, witnesses, evidence such as bruising)
Do you believe the adult at risk is capable of understanding what has happened to them?
Has the adult given consent to this referral?
What action, other than this referral, have you taken to ensure the adult at risk is now safe?
GENERAL PRACTITIONER:
Name:
Telephone No:
Address:

OTHER HEALTH PROFESSIONALS KNOWN TO BE INVOLVED:	
Name/s:	Contact No/s:
<p>Details of person's physical and mental health as known to Health Professional: <i>Confidentiality is important but for the purposes of allowing Councils to undertake the required inquires and investigations information to protect an adult at risk of harm relevant information should be shared. Please refer to your agencies procedures under Adult Protection legislation.</i></p>	
<p>ADULT AT RISK LEGAL STATUS AT TIME OF REFERRAL e.g. MHCTA, AWI, CHILD CARE LEGISLATION</p>	
<p>DETAILS OF THE ALLEGED ABUSER – WHERE KNOWN</p>	
Name	
Relationship to person	
Address	
<p>DETAIL OF ANY PREVIOUS CONCERN/INCIDENT (to include dates, times, actions taken and outcomes)</p>	
Referrer Signature	
Print Name	
Date	

SECTION B

ACTION TAKEN BY SOCIAL WORK SERVICES ON RECEIPT OF REFERRAL AND INQUIRY.

THIS FORM DOES NOT REPLACE THE USE OF AN AP2 WHERE APPROPRIATE.

Letter of acknowledgement to be sent immediately to referrer /organisation

Form AP1 received (date):-

Form AP1, letter of acknowledgment sent (date):-

Response / Action Taken

Other Agencies / Individuals Consulted

Protective Factors in Place

Investigating Officer's Recommendation

Manager Decision.

Note Primary Category of Harm

Date Referrer advised in writing of the outcome of their referral

1.

Date -

2.

Codes

Codes

<p>All information from AP1 Form Section A to be transferred to the Council Social Work electronic recording system. Part B may be completed electronically instead if this is the local process. Information gained from Police Referral Form also to be recorded.</p>	<p>Date Completed :-</p>
<p>ALL QUESTIONS COMPLETED AND ACTION DECISION RECORDED ON INITIAL REFERRAL</p>	
<p>Manager's Signature</p>	
<p>Print Name</p>	
<p>Date</p>	

Form AP 2
Risk Assessment

(Core Information should be completed in all cases in which an assessment is to be carried out under Adults at Risk Procedures; Communication Requirements identifies who is to be involved in that risk assessment and confirms who has been informed of the outcomes; the Risk Assessment then follows; the Protection Plan form should be completed in cases in which an Adult Protection Case Conference agrees a Protection Plan and should be updated by Review)

CORE INFORMATION

DETAILS OF SUBJECT			
First Names:		Surname:	
Also known as:			
Date of Birth:			
Gender:		Ethnic group:	
Address:			
Postcode:			
Home Phone:		Mobile Phone:	
Housing Status:	Own home / Tenancy / Temporary / Homeless / Roofless / Care Home / Supported Accommodation / Lives alone / With family (underline as appropriate)		
ID Number:		CHI No:	
Legal Status (e.g. Adults with Incapacity Act Guardianship, Mental Health Act Compulsory Order) and Date of Order		Name of Guardian or Attorney?	
Care Programme Approach?	Y/N	Risk to workers?	Y/N (<i>Risk Alert flag?</i>)

ASSESSING WORKER

Name:			
Designation:			
Work Address:			
Postcode:			
Phone No:		E-mail Address:	
Date of Risk Assessment:			
Date of SSA:			

COMMUNICATIONS REQUIREMENTS

(Good risk assessment is a shared, multidisciplinary, multi-agency effort in which information must be shared to ensure informed, defensible, shared decisions)

Role	Name and Designation	Involved and aware of current situation?	Contributed to this risk assessment?	Informed of assessment outcome? <i>(date, or N/A)</i>
Care Manager				
Mental Health Officer				
Criminal Justice				
Social Worker				
Social Work Other				
Support Worker				
Support Agency				
Community Nurse/CPN/D/N				
Addiction services				
G.P				
Consultant				
Other health				
Police				
Housing/Landlord				
Nearest Relative				
Unpaid carer				
“Named person”				
Guardian/Attorney				
Care Inspectorate				
Other				
Other				

RISK ASSESSMENT

This form should be used when a Single/Specialist Shared (needs) Assessment (SSA), a Review, circumstances, or initial investigation of a significant incident reveals a risk of serious abuse or harm; or when needs interact to create serious risks; and when high levels of risk cannot be managed within a Care Plan. (see local Procedures for definitions and process)

Date:

1. COMMUNICATION, CAPACITY, AND INVOLVEMENT

First Names		Surname	
a) Has the person being assessed any particular communication and support needs? (e.g. for interpreter, advocate, appropriate adult, Makaton, sign, speech and language therapist; or as a result of dementia, head injury etc?)			
b) Comment on the person's ability to make his/her own decisions about risk and to safeguard his/her own well-being? (Evidence any limitations, if possible; refer to any examples of undue pressure if relevant)			
c) Has there been a recent formal Assessment of Capacity? Yes/No If yes, detail outcome in relation to identified areas of risk			
d) Is a formal assessment of capacity required in relation to specific risks identified? Yes/No Has this process been initiated? Yes/No			
e) Has there been a discussion with the person about information sharing Yes / No Any comments? (See local procedures and local Information Sharing Protocols)			

2. CHRONOLOGY OF SIGNIFICANT EVENTS

Chronology of relevant events/significant event history (*Attach if available; **or** list significant relevant events under: date, brief detail, agencies/people involved, and outcome/consequences*)

Date of event	Brief detail of event	Agencies/people involved	Outcome/consequences

3. CURRENT RISKS OR CONCERNS

Date:

Subject is considered to be at risk of serious harm from: (Tick <u>all</u> you consider <u>may</u> apply)	Risk of serious harm to <u>subject</u> ?	Risk of serious harm to <u>others</u> ? Whom?	Immediate danger/ Imminent crisis	Subject agrees? Yes/No	Carer agrees? Yes/No
Physical injury					
Violence/aggressive behaviour					
Sexual abuse/exploitation/					
Sexual ill health					
Pregnancy					
Progressive illness					
Harassment/exploitation/racial abuse/ homophobic abuse					
Psychological/emotional distress					
Mental/cognitive impairment					
Mental health problem					
Alcohol use					
Drug use					
Suicidal intent					
Self harm					
Self neglect					
Reduced social functioning/isolation					
Financial abuse/theft					
Homelessness					
Loss of employment					
Abuse by omission					
Institutional abuse					
Abuse by paid carers					
Risk to/Concerns for Children					
Other (specify)					

Date:

4. CURRENT RISK DESCRIPTION

Date:

What behaviour, allegation, complaint, circumstances or event has prompted this risk assessment? *(detail the nature of the behaviour or incidents which put the person at risk, e.g. the nature and extent of sexual/physical/financial abuse; the specific areas of self neglect (eating, medication, wandering))*

Who is the source of concern, and who is involved in the risk events?

When does this/do these circumstances occur - and **how often**?
(Evenings/weekends/every day/mealtimes etc: rarely, frequently, occasionally, etc)

Where does this/do these circumstances occur? *(Daycentre, at home, on the streets, travelling)*

Medical assessment and/or clinical diagnosis of mental or physical illness, *relevant to this risk assessment*

Particular triggers or risky circumstances that heighten the risks? *(e.g. when person is alone; if home carer is late; if relative makes contact/does not make contact; arrival of benefit; contact with specific person/staff member etc)*

Protective factors, or circumstances, that have protected the subject, or reduced the risk in the past? *(include here any change in subject's ability to manage these risks)*

Date

5. RISK ASSESSMENT

a) What is your assessment of the risk? How severe might the consequences/injuries/harm/damage be if no action is taken to reduce the risk, or increase protection? How probable is it that these circumstances will recur? What is your view and any agreed view about the degree of risk and urgency of action?

b) Your assessment will include the contributions of other agencies/services. Indicate here if there is any disagreement:

c) What is the adult's assessment of the risk? Does he/she agree with your assessment? *(if not - explain)*

d) What is the unpaid carers' assessment of the risk? *(explain if not available or not appropriate,)*

6. RECOMMENDATION/ACTIONS

a.) Is an Adult Protection case conference recommended? Yes/No

b.) Detail any immediate actions that have already been taken in order to protect, or reduce the risk *(include whether this situation/risk/concern been referred to another service, or agency, and if so, with what result)*

c.) What future action do you recommend is taken to reduce the risk, or protect the adult being assessed? *(e.g. increased support; review of Care Plan; further needs assessment; change of environment/ service, legal action etc)* Clearly indicate who should do what and when.

d.) What advantages and disadvantages, gains or losses to the adult's quality of life, or freedom, or independence might result from these actions (e.g. in the event of increased supervision, change of home, statutory intervention)

e) Risks to other people - Recommended Actions (*Consider risks to other adults, carers; children, alleged abuser. Consider actions such as police and/or Care Inspectorate investigation of allegations, Carer's Assessment, alert to Home or Centre management in respect of other service users, additional risk assessments, referral to child protection or criminal justice*)

Any further comment from the person being assessed?

Does the person consent to share information in this assessment? (Yes/No)
Any conditions or limitations?

Signature of assessed person:
(If no signature, say why)

Date:

Risk Assessment discussed with Manager?

Date:

Agreed immediate actions to be taken:

Communication Requirements - Please ensure completion of final column of page 2

Signature: (Assessor) date

Signature: (Manager) date

Notification Requirements

Agency/Person	Requirement to notify?	Date notified
Care Inspectorate		
Mental Welfare Commission		
Office of Public Guardian		
Senior Manager/Director		
Critical Incident Review Group		

FORM AP 3 - PROTECTION PLAN

This form must be used when allegations of abuse/exploitation have been made and an Adult Protection Case Conference has agreed that there is a risk of serious abuse or harm; or when high levels of risk cannot be managed within a normal Care Plan. The Protection Plan should be completed within two weeks of an Adult Protection Case Conference.

DATE OF PROTECTION PLAN:

1. PERSONAL DETAILS – ADULT AT RISK

First Names:		Surname:	
Date of Birth:			
ID Number:		CHI No	

2. AGENCY/STAFF INVOLVEMENT

Agency/staff involved in risk management, co-ordination and review	
Lead Worker's Name	Post and Agency
Names of Core Group Members	Post and Agency

Date:

3. ACTIONS

SUPPORT AND PROTECTIVE SERVICES			
<p><i>Actions and Roles, which define services to be in place and procedures to be followed, with responsibilities, timescales and outcomes identified involving service users, carers, members of the core group and all other agencies involved in the Protection Plan. These should include immediate or longer term actions; both benefit enhancing and harm reducing measures, and roles of services, the adult, advocates, unpaid carers attorneys and guardians, as appropriate.</i></p>			
Actions and Roles	Responsibility	Timescales/ Deadlines	Intended Outcomes
a) Support, treatment, therapy <i>(specify services)</i>			
b) Control measures <i>(including any legal action)</i>			
c) Direct contact with person			
d) Risk management with perpetrator			
Support And Protective Services (continued)			

Date:

Action	Responsibility	Timescales Deadlines	Intended Outcomes
e) Information sharing arrangements			
f) Risk management coordination			
g) Other Actions			
h) Other Actions			

4. VIEWS AND ROLES OF ADULT AT RISK AND OTHERS

Adult's view of Protection Plan:
Advocate's view of Protection Plan:
Unpaid Carer/s view/s of Protection Plan:
Guardian/Attorney's view/s of Protection Plan:
Agencies dissenting from Protection Plan:

5. CONTINGENCY PLAN (*identify significant changes which might occur and what additional or alternative action should be taken in that event, such as case conference or legal action*)

Significant changes suggestive of additional risk/harm	Action if significant change occurs	Responsibility

6. DISTRIBUTION OF PROTECTION PLAN

(Distribution to be identified which takes account of confidentiality and third party information issues)

Person/Agency	Name and Designation	Sent copy of Protection Plan (date, or N/A)
Adult at risk		
Nearest relative/carer		
Named person		
Advocate		
Social Work staff		
Support Agency		
Community Health		
G.P		
Consultant		
Police		
Housing		
Legal Representative		
Attorney/Guardian		
Others		

7. REVIEW ARRANGEMENTS

Review Date:	Review Location (if known):
--------------	-----------------------------

Protection Plan approved as accurate and confirmed copied to set agencies and Core Group members

Signed by Case Conference Chair:

Date:

Legislation

The Social Work (Scotland) Act 1968 (as amended by the NHS and Community Care Act 1990 and the Community Care and Health (Scotland) Act 2002)

The Act identifies a general duty to assess needs in relation to the provision of community care services and to give carers a right to have their needs assessed by the Council. It is expected that wherever possible intervention will take place under the Social Work (Scotland) 1968 as amended or will revert to this legislation whenever practicable.

Adults with Incapacity (Scotland) Act 2000

The Adults with Incapacity (Scotland) Act 2000 is concerned with 'adults' aged 16 or over who are defined as being:

'Incapable of acting, making decisions, communicating decisions, understanding decisions or retaining the memory of decisions, by reason of mental disorder or physical disability'

An adult with an inability to communicate which can be "made good" by human or physical aid does not fall within the definition of the Act.

Capacity is not an 'all or nothing' state: an adult may be able to make decisions relating to some aspects of their life, but not others.

The Local Authority has a responsibility to investigate the circumstances of any individual at risk who comes under the powers/functions of the Act and the Local Authority also has a duty to investigate any circumstance made known to them in which the personal welfare of an adult seems to them to be at risk.

Mental Health (Care & Treatment) (Scotland) Act 2003

The 2003 Act defines mental disorders as any mental illness, personality disorder or learning disability, however caused or manifested

For people who have a mental disorder.

Section 33 of the Act places a duty on the local authority to make inquiries where it appears that a person aged 16 or over in their area has a mental disorder and:

- The person may be or may have been subject or exposed to ill-treatment; neglect; or some other deficiency in care or treatment
or
- the person's property may be suffering or have suffered loss or damage; or may be at risk of loss or damage
or
- the person may be living alone or without care and unable to look after themselves or their property or financial affairs
or
- because of the mental disorder the safety or some other person may be at risk.

[Adult Support and Protection \(Scotland\) Act 2007 Part 1 -Codes of Practice October 2008 \(Chapter 3\) – click here](#)

Community Care and Health (Scotland) Act 2002

It may be that adult's carer requires support to enable them to continue to support the adult. The above Act amends the Social Work (Scotland) Act 1968 to give carers a right to have their carer needs assessed by the council. It would be good practice to bring this assessment right to the notice of any carer providing a substantial amount of care where the carer appears to have unmet caring needs.

Vulnerable Witnesses (Scotland) Act 2004

The Act provides support measures to help vulnerable adults participate more fully in court proceedings. A vulnerable witness is a witness in respect of whom there is a significant risk that the quality of their evidence may be diminished by reason of fear or distress in connection with giving evidence at a trial. Special measures are intended to help vulnerable witnesses by providing appropriate support when they give their evidence to reduce any anxiety and pressure. It should be noted however that the final decision on whether to use special measures rests with the sheriff in court.

The definition of vulnerability used in this Act goes beyond the definition used within Adult Protection procedures but is likely to include all those covered within these procedures.

The factors listed within the draft guidance in deciding if special measures are required include:

- Mental disorder (including learning disability)
- Communication difficulties
- Behavioural indicators
- Age and maturity (including old age and frailty);

As well as more general factors which may apply in adult abuse cases, including;

- Risk of intimidation
- Elder abuse
- Serious or repeated sexual offences or extreme violence
- Domestic violence
- Any power imbalance between the witness and the accused at the time of the offence
- Where the accused is a significant family member
- Where the witness was dependent on the accused

The special measures for which adult witnesses may be eligible are;

- Live television link from another part of the Court building or place outwith that building
- Prior statements as evidence in chief (in criminal cases only)
- Taking statements on commission
- Use of a screen
- Having a supporter present when evidence, or combination of the above.

Forced Marriage (Protection and Jurisdiction) (Scotland) Act 2011

A forced marriage is one where one or both parties are coerced into a marriage against their will and under duress. A forced Marriage is recognised as a form of

gender based violence .

Duress includes both physical and emotional pressure. Victims can suffer many forms of physical and emotional damage including being held unlawfully captive, assaulted and repeatedly raped.

Forced marriage is an abuse of human rights and cannot be justified on any religious or cultural basis. It is very different from arranged marriage, where both parties give their full and free consent to the marriage. The tradition of arranged marriages has operated successfully within many communities and many countries for a very long time.

The Forced Marriage Unit can provide [information for victims](#), leaflets and support and may be contacted on **0207 008 0151**

Trained professionals offer confidential advice and assistance to:

- those who have been forced into marriage
- those at risk of being forced into marriage
- people worried about friends or relatives
- professionals working with actual or potential victims of forced marriage.
[click here](#) for links to the Forced Marriage Unit

[Scottish Government Multi agency guidelines for responding to Forced Marriage – click here](#)

This guidance has a service specific guidance for different agencies including:

Adult Protection Staff; Children and Families Social Work Staff; Health Workers; Local Authority Housing staff; Schools College and University; and Police Officers.

[Additional statutory guidance issued by the Scottish Government may be accessed by clicking here](#)

Chapter 6 deals with the specific issues to be considered by agencies working with, or providing services, to adults and adults at risk.

The guidance states that the [Adult Support and Protection \(Scotland\) Act 2007](#) sets out the roles and responsibilities of all agencies involved in protecting adults at risk and is the main point of reference for Adult Protection Committees. Each local Adult Protection Committee is responsible for developing its own guidance and training using the [Adult Protection Code of Practice](#) This code of practice fulfils the obligation placed on Scottish Ministers by Section 48 of the 2007 Act, to prepare a code of practice containing guidance about the performance of functions by councils and their officers and health professionals under the Act.

It provides information and guidance on the principles of the Act, about the measures contained within it, including when and where it would normally be appropriate to use such powers. The code should be used in conjunction with other relevant codes of practice as appropriate, such as the codes of practice for the:

- Mental Health (Care and Treatment) (Scotland) Act 2003,
- The Adults with Incapacity (Scotland) Act 2000

- Code of practice for Social Service Workers and Employers of Social Service Workers.

[For further information on Forced Marriages issued by the Scottish Government- click here](#)

Appendix 5

DWP Form for Council Officers

ADULT SUPPORT AND PROTECTION

Overview

DWP's policy for disclosure of personal information for "vulnerable adults" is that as long as a requester can provide sufficient informative detail as to the indicators of the person's vulnerability and risk to DWP we can disclose factual and relevant information in order to ensure the safety of the person. Applications must be dealt with on a case-by-case basis and when necessary seek disclosure advice and guidance.

In Scotland, the Adult Support and Protection (ASP) (Scotland) Act 2007 Act gives councils and other public bodies working with them various powers to support and protect adults at risk (as defined by the Act).

For the purposes of the Act, an adult at risk is someone who is:

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

Section 10 of the Act requires any person holding health, financial or other records relating to a particular individual to give the records, or copies of them, to a council officer. Information requested under section 10 of the Act is used to allow the council to decide whether the individual is an adult at risk of harm and whether it needs to do anything to protect them from harm. An adult protection investigation may also lead to criminal action, depending on what the information reveals. Under section 49(2) of the Act it is an offence to fail to comply with a requirement made under section 10, without reasonable excuse.

While the ASP Act is not recognised as an enactment by the Social Security Administration Act 1992, it is a key tool for safeguarding adults at risk in Scotland. Co-operation between organisations which hold information about people who may be adults at risk is central to the ethos of the Act, and is necessary to ensure that steps can be taken to support and protect adults from harm.

DWP is able to share data on a case-by-case basis when disclosure is deemed to be in the public interest. Such information requested under section 10 of the ASP Act will be used only for the purpose of establishing whether the individual is an adult at risk of harm and determining whether the council needs to take action to protect the adult.

Local Authority Process for Section 10 requests to DWP

If a request for information is made at a time other than during a visit, it must be made in writing; electronic requests are acceptable as long as they can be used for

subsequent reference. (Local Authority application for disclosure of information under ASP, Health, Financial and other records).

Local Authority application for disclosure of information under Adult Support and Protection (Scotland) Act 2007

The Department of Works and Pensions (DWP) has, in conjunction with, the Scottish Government, developed a form- Local Authority disclosures of information under ASP(Scotland) Act 2007 – to seek relevant information. The Council Officer must submit the form to the DWP who will complete and return to the Council Officer. A telephone conversation with the relevant area DWO office prior to submission will confirm if the request can be submitted electronically, by fax, or need to be in letter format.

Request for information under section 10 of the ASP Act

DWP Contact Name and telephone number:

Date form sent to DWP:

Method of delivery: FAX EMAIL POST [Circle as appropriate]

I would like to request disclosure of information under section 10 of the Adult Support and Protection (Scotland) Act 2007 as follows:

Name of person	
National Insurance Number * and/or Date of Birth & Address (* National Insurance Number preferred identifier)	
Brief reason why the information is requested and the use that will be made of it	
Information that is requested	
Requestor's name, position, organisation, address and telephone number.	

For DWP use:

Form completed and returned to Local Authority Council Officer on date:

DWP Officer Name:

For Council Officer use:

Form returned by DWP and received by Council Officer on date:

Appendix 6

Some Indications of Harmful Behaviour towards an Adult at Risk.

These can include one or a combination of the following harmful actions. The following indicators however can be used as a guide only as most of the signs could also be explained by a variety of reasons. It is important therefore not to make assumptions about the reasons for such signs and to place them in context of what is known about the individual and their particular circumstances.

Also the foregoing recognition and signs should not be used as a checklist or an arithmetical aid or a predictor kit. Using it in this way could be detrimental to adults at risk of harm and their carers. It is an aid to the exercise of professional judgement and assessment

Physical Abuse – involving actual or attempted injury to an adult defined as at risk e.g.

- Physical assault of punching, pushing, slapping, tying down, giving food or medication forcibly, denial of medication.
- Use of medication other than as prescribed
- Inappropriate restraint

Bruises

- Black eyes are particularly suspicious if, both eyes are black (most accidents cause only one) there is no bruise to the forehead or nose or suspicion of skull fracture (black eyes can be caused by blood seeping down from an injury above)
- Bruising in or around the mouth
- Grasps marks arms – or chest
- Finger marks (e.g. you may see three or four bruises on one side of the face and one on the other)
- Symmetrical bruising (especially on the ears)
- Outline bruising (e.g. belt marks, hand prints)
- Linear bruising (particularly on the buttocks or back)
- Bruising on soft tissue with no obvious explanation
- Different age bruising (especially in the same area)
- Abrasions, especially around wrists and /or ankles

NB Most falls or accidents produce one bruise on an area of the body - usually on a bony protuberance. An adult who falls downstairs generally has only one or two bruises. Bruising in accidents is usually on the front of the body as most people

generally fall forwards. In addition, there may be marks on their hands if they have tried to break their fall.

The following are uncommon areas for accidental bruising, back of legs, buttocks (except, occasionally, along the bony protuberance of the spine), neck, mouth, cheeks, behind the ear, stomach, chest, underarm, genital and rectal area.

Bites

These can leave clear impressions of the teeth.

Burns and Scalds

It can be very difficult to distinguish between accidental and non accidental burns, but as a general rule burns or scalds with clear outlines are suspicious. So are burns of uniform depth over a large area. Also slash marks about the main burn area (caused by hot liquid being thrown)

NB Concerns should be raised where a carer responsible for an adult at risk of harm has not checked the temperature of the bath.

Scars

Many adults have scars, but notice should be taken of exceptionally large numbers of differing aged scars (especially if coupled with current bruising), unusually shaped scars e.g. round ones from possible cigarette burns or large scars from burns or lacerations that did not receive medical treatment

Fractures

Should be suspected if there is pain, swelling, discolouration over a bone or a joint
The most common non accidental fractures are the long bones i.e. arms, legs, ribs

Emotional/Psychological Abuse – (resulting in mental distress to the adult at risk e.g.

- Excessive shouting, bullying, humiliation
- Manipulation or the prevention of access to services that would enhance life experience
- Isolation or sensory deprivation
- Denigration of culture or religion, sex, gender status, sexuality and disability.
- Exploitation through prostitution

The following indicators should be considered by workers when concerns regarding emotional abuse arise. In some situations the following will be applicable

- Carers' behaviour
- Carers' history

- Pressure exerted by family or professional to have someone committed to care
- Weight change- loss of appetite or overeating
- Withdrawal confusion (could be caused by dehydration which produces toxic confusion)
- Loss of confidence
- Extreme submissiveness or dependence in contrast with known capacity
- demonstration of fear of another person by the vulnerable adult
- Sudden changes in behaviour in the presence of certain persons.
- Rejection
- Denigration
- Scapegoating
- Denial of opportunities for appropriate socialisation
- Under stimulation
- Sensory deprivation
- Isolation from normal social experiences, preventing the adult at risk from forming friendships
- Marked difference in material provision in relation to others in the household
- Unrealistic expectations of the vulnerable adult
- Asking for an adult at risk to be removed from home, or indicating difficulties in coping with a adult at risk, about whose care there are already doubts
- Fear of carers
- Refusal to speak
- Severe hostility/aggression towards other adults.

Financial or Material Abuse - involving the exploitation of resources and belongings of the adult at risk e.g. (see p 14 for further information)

- Theft or Fraud
- Misuse of money, property or resources without informed consent
- Important documents are reported to be missing

- Unexplained or sudden withdrawal of money from accounts
- Contradiction between known income and capital and unnecessary poor living conditions especially where this has developed recently
- Personal possessions of valuables going missing from the home without satisfactory explanation
- Someone has taken responsibility for paying rent, bills, buying food etc – but this is not happening
- Unusual interest taken by relative, friend, neighbour or other in financial assets, especially if little real concern shown in other matters
- Next of kin refuse to follow advice regarding control of property via continuing/welfare power of attorney
- Where care services, including residential care, are refused under clear pressure from or other potential inheritors
- Unusual purchases unrelated to the known interests of the adult at risk

Homophobia.

NHSGGC in their campaign against homophobia note that "... people experiencing discrimination on the grounds of their sexuality have poorer health and that their recovery from health problems can be adversely affected". Stonewall provide information on recognising and reporting homophobic and transphobic hate crime. [click here for more information](#)

Sexual Abuse – involving activity of a sexual nature where the adult at risk cannot or does not give consent e.g.

- Incest
- Rape
- Acts of gross indecency
- Sexual Abuse can occur when adults at risk of harm are involved in sexual relationships or activities which they have not consented to or are pressured into consenting to or they cannot understand.
- Such activities could include unwanted sexual contact such as rape or incest, inappropriate touching including sexual harassment either verbal or physical, indecent exposure, displaying pornographic material and inappropriate sexual material
- Exploitation through prostitution. This includes women with a learning disability who may be subject to exploitation through prostitution.

Physical indicators of sexual harm:

The possibility that the following behaviour or injury could be as a result of the Adult at Risk of Harm normal observed behaviour over a substantial period of time should always be taken into account. It is noted changes in an adult at risk of harms out with their normal behaviour that is significant not the presence of the following in isolation

- Adult aversion to being touched.
- Tendency to withdraw and spend time in isolation
- Deliberate self harm
- Depression and withdrawal
- Wetting or soiling, day or night
- Sleep disturbances or nightmares
- Anorexia or bulimia
- Unexplained pregnancy
- Phobias or panic attacks

The following are more specific indicators

- Recurrent illnesses, especially venereal disease
- Injuries in genital area
- Infections or abnormal discharge in the genital area
- Complaints of genital itching or pain
- Presence of sexually transmitted diseases
- Excessive washing

Neglect and acts of omission by others charged with care of adult at risk – including ignoring medical or physical care needs. It is recognised from many recent reports that harm in care homes is an issue that should be recognised and that age discrimination by professionals and staff can contribute to risk and harm not being recognised.

Age discrimination is also a risk factor that may contribute to harmful conduct, and institutional harm can take many forms and the recent English report *Enquiry into Home Care* published in 2012 provides considers this in further detail. [click here](#)

The following indicators, singly or in combination, should alert workers to the possibility that adult at risk needs are being neglected:

- Failure to provide access to appropriate health, social care, or educational services

- Withholding necessities such as nutrition, appropriate heating etc
- lack of appropriate food or poor quality food
- lack of adequate clothing
- circulation disorders
- unhygienic home conditions
- lack of protection or exposure to dangers including moral danger, or a lack of supervision appropriate to the adults ability to manage harm or
- Failure or delay in seeking medical attention
-
- A adult at risk is found at home or in a care setting in a situation of serious but avoidable risk
- Unnecessary delay in staff responses to residents requests
- Serious or persistent failure to meet the needs of the adult at risk
- Non attendance at arranged care service
- Isolation
- Staff regularly change and/or poor management

Self-neglect and acts of omissions by adult at risk

Multiple forms of harm

This may occur in an ongoing relationship or service setting or to more than one person at a time. It is important therefore to look beyond single incidents and consider underlying dynamics and patterns of harm.

Random Violence

An attack by a stranger on an adult defined, as at risk is an assault, a criminal matter, and should be reported to the police. However where there is the possibility that the violence may be part of a pattern of victimisation in a community or neighbourhood, Adult Protection Procedures may apply in respect of effective multi-agency intervention.

Domestic Violence

Violence against women is wrong and women should be offered support and protection, but the key factor in relation to activating adult protection procedures in such situations is dependant on an assessment of “adults at risk” as defined earlier.

Strathclyde Police define domestic violence as “any form of physical, non physical or sexual abuse which takes place within the context of a close relationship committed either in the home or elsewhere”. In most cases this relationship will be between

partners (married, cohabiting or otherwise) or ex-partners. The similarity between the above acts of harm in relation to adult protection is recognised.

Violence Against Women Safer Lives :Changing Lives

The Scottish Government Definition of Violence against Women

For the purposes of this approach, Scottish Government define violence against women as actions which harm or cause suffering or indignity to women and children, where those carrying out the actions are mainly men and where women and children are predominantly the victims. The different forms of violence against women - including emotional, psychological, sexual and physical abuse, coercion and constraints - are interlinked. They have their roots in gender inequality and are therefore understood as gender-based violence.

Scottish Government's approach is **informed** by the definition developed by the National Group to Address Violence Against Women based on the United Nations Declaration on the Elimination of Violence Against Women (1993) which follows:

Gender based violence is a function of gender inequality, and an abuse of male power and privilege. It takes the form of actions that result in physical, sexual and psychological harm or suffering to women and children, or affront to their human dignity, including threats of such acts, coercion or arbitrary deprivation of liberty, whether occurring in public or private life. It is men who predominantly carry out such violence, and women who are predominantly the victims of such violence. By referring to violence as 'gender based' this definition highlights the need to understand violence within the context of women's and girl's subordinate status in society. Such violence cannot be understood, therefore, in isolation from the norms, social structure and gender roles within the community, which greatly influence women's vulnerability to violence.

Accordingly, violence against women encompasses but is not limited to:

- *Physical, sexual and psychological violence occurring in the family, within the general community or in institutions, including: domestic abuse, rape, incest and child sexual abuse;*
- *Sexual harassment and intimidation at work and in the public sphere; commercial sexual exploitation, including prostitution, pornography and trafficking;*
- *Dowry related violence;*
- *Female genital mutilation;*
- *Forced and child marriages;*
- *Honour crimes.*

Activities such as pornography, prostitution, stripping, lap dancing, pole dancing and table dancing are forms of commercial sexual exploitation. These activities have been shown to be harmful for the individual women involved and have a negative impact on the position of all women through the objectification of women's bodies. This happens irrespective of whether individual women claim success or empowerment from the activity. It is essential to separate sexual activity from

exploitative sexual activity. A sexual activity becomes sexual exploitation if it breaches a person's human right to dignity, equality, respect and physical and mental wellbeing. It becomes commercial sexual exploitation when another person, or group of people, achieves financial gain or advancement through the activity.

In recognising this definition, there is no denying or minimising the fact that women may use violence, including violence against a male or female partner. Although less common this is no less serious and requires to be addressed.

Scottish Government note that the definition they offer differs from the dictionary definition of violence which generally requires some form of exertion of physical force. Inclusion of these behaviours or activities as part of the spectrum of violence against women, and indeed the use of this term itself, is accepted internationally as evidenced by a number of definitions developed by the UN and EU, and, where necessary, Scottish Government will make clear the distinction between this definition and normal and legal usage of the term 'violence'.

RESTRICTED

ADULT AT RISK REFERRAL DETAILS

Division:

Office:

Date:

VPD Incident No:

Crime Report No:



SECTION 1 SUBJECT'S DETAILS (All sections must be completed)

NAME:

Gender:

Age:

DOB:

Preferred Language:

Occupation:

Home Address

Postcode:

Tel No:

Ethnicity:

Injuries:

Primary User Group:

SECTION 2

NATURE OF INCIDENT ADULT AT RISK

Type of Abuse reported

Time/Day/Date of Incident

Locus of Incident

SECTION 3 Details of Principal Carer (if applicable)

NAME:

Age:

DOB:

Occupation:

Address:

Postcode:

Tel No:

Nature of Relationship:

SECTION 4 Details of Suspect/Accused (if applicable)

NAME:

Age:

DOB:

Occupation:

Address:

Postcode:

Tel No:

Agency Referred To:

SECTION 5 Details of Person Sharing Information

NAME:

RANK/POSITION:

Station:

Tel No:

Email:

Fax:

by

RESTRICTED

ADULT AT RISK REFERRAL DETAILS

Division:

Office:

Date:

VPD Incident No:

Crime Report No:



SECTION 6 Children within Household

NAME:

ADDRESS:

AGE:

DOB:

School Attended:

POSTCODE:

Being Referred: YES / NO Grounds for Referral:

SECTION 7 Other relevant Adults

NAME:

ADDRESS:

AGE:

DOB:

Occupation:

POSTCODE:

Being Referred: YES / NO Grounds for Referral:

RESTRICTED

ADULT AT RISK REFERRAL DETAILS

Division:

Office:

Date:

VPD Incident No:

Crime Report No:



SECTION 8 Summary of Updates

Update	02/01/2009 11:54	Type	INITIAL INCIDENT SUMMARY
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Update	02/01/2009 14:36	Type	ALLOCATION
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Update	05/01/2009 12:10	Type	SUPERVISOR
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Update	05/01/2009 13:07	Type	APR COORDINATOR
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Appendix 8

Glossary

Introduction

This glossary is for illustrative purposes only and is not intended to be prescriptive. Full statutory definitions of many of the terms are contained in Section 53 of the Act and it is those that should be used in any process or situation where precise definition is required.

Adjacent place: A place near, or next to any place where an adult at risk may be, such as a garage outbuildings etc.

Adult (Section 53): An individual aged 16 or over.

Adult at risk: *(Please refer to Chapter 1 for further information for an explanation of the full definition)*

Adult Protection Committee (Section 42) (APC): A committee established by a Council to safeguard adults at risk in its area.

Assessment order (Section 11): Order granted by a sheriff to help the Council to decide whether the person is an adult at risk and, if so, whether it needs to do anything to protect the person from harm.

Banning order (Section 19): Order granted by a sheriff to ban a person from being in a specified place or area. The order may have specified conditions attached. The banned person can be any age, including a child.

Care Commission (now Care Inspectorate) Section 53: The Scottish Commission for the Regulation of Care.

Child (Section 53): A person under the age of 16.

Conduct (Section 53): Includes neglect and other failures to act.

Council (Section 53): A council constituted under the Local Government (Scotland) Act 1994. References to a council in relation to any person known or believed to be an adult at risk mean the council for the area which the person is for the time being in.

Council nominee (Section 11(1)(a) and 14(1)(a)): An individual who is not a council officer under Section 52 of the Act, nominated by the council to either interview the adult under an assessment order or to move the adult under a removal order.

Council officer (Section 53): An individual appointed by a council under Section 64 of the Local Government (Scotland) Act 1973 (c. 65) but the term must, where relevant, also be interpreted in accordance with any order made under Section 52(1).70

Court day (Section 53): A weekday (Monday to Friday) unless it has been designated a 'court holiday' (usually a bank holiday or a local holiday).

Harm (Section 53): Includes all harmful conduct. This includes conduct that causes physical or psychological harm, unlawful conduct that adversely affects property, rights or interests possessions, conduct that causes self-harm.

Health professional (Sections 52(2) and 53): The person is a doctor, nurse, midwife or other type of individual prescribed by the Scottish Ministers.

Inquiry: An inquiry is any process that has the aim of gathering knowledge and information. This could include inquiries of any relevant party and the co-operation of the public bodies and office holders under Section 5 of the Act. The purpose of making inquiries is to ascertain whether adults are at risk of harm and whether the council may need to intervene or provide any support or assistance to the adult or any carer.

Investigation: An investigation follows on from an inquiry. Investigations are carried out for the purpose of supporting or assisting the adult or making necessary interventions, whilst acting in accordance with the principles of the Act.

Parental responsibilities and rights (Section 53): As provided for in Sections 1 and 2 of the Children (Scotland) Act 1995.

Power of arrest (Section 25): Can be attached to a banning order at the time when the order is granted or at the same time as an application is made to vary the order.

Relevant Health Board (Section 53): In relation to any council, means any Health Board or Special Health Board constituted by order under Section 2 of the National Health Service (Scotland) Act 1978 (c.29) which exercises functions in relation to the council's area.

Removal Order (Section 14): An order granted by a sheriff authorising a council officer or council nominee to move a named person to a specified place within 72 hours of the order being made and the council to take reasonable steps to protect the moved person from harm. The order can be for any specified period for up to 7 days.

Responsible Social Work Manager: for the purposes of this guidance this term has been used as a generic term to describe the person charged with managing the adult protection procedures following a referral to a Council. (WOS Councils use various terms to describe this person i.e. Senior Social Worker/Team Leader etc.)

Subordinate legislation: Statutory legislation (usually in the form of regulations) which may be made by Ministers under enabling powers within an Act of the Scottish Parliament to clarify and implement the details of an Act?

Temporary Banning order (Section 21): An order granted by a sheriff pending determination of an application for a banning order. The order may specify the same conditions as a banning order.

The 2007 Act: The Adult Support and Protection (Scotland) Act, 2007.

Visit: A visit by a council officer under Sections 7, 16 or 18 (including warrant entry) unless the contrary intention appears.

Warrant for entry (Section 37): A warrant that authorises a council officer to visit any specified place under Section 7 or 16 together with a constable. The constable may do anything, including the use of force where necessary.