



**Forth Valley Inter Agency
Adult Support and Protection
Practice Guidance and Procedures**

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Forth Valley Inter Agency Adults Support & Protection Practice Guidance & Procedures

CONTENTS

| | |
|--------------|----------|
| Foreword | Page 3 |
| Introduction | Page 4-5 |

CHAPTER 1- CONTEXT

| | |
|--|------------|
| Aims of Guidance | Page 6 |
| The Forth Valley Partnership | Page 6 |
| Legal context of Adult Protection and overview of the 2007 Act | Page 6-9 |
| Measures, definitions and protection orders | Page 9-10 |
| Council Officer/ Adult Protection Committee / Chief Officers Group | Page 11-13 |
| Child Protection and Multi Agency Public Protection | Page 13 |
| Flowchart for Intervention | Page 14 |

CHAPTER 2 – ADULT PROTECTION REFERRALS- DUTY TO REPORT

| | |
|--|------------|
| Public Agencies | Page 15-16 |
| Emergencies or where a crime may have been committed | Page 15 |
| Voluntary and private sector | Page 15 |
| Is the Adult's Consent required | Page 16 |
| Confidentiality and information sharing | Page 16-17 |
| Reporting form (AP1) – | Page 17 |

CHAPTER 3 – ADULT PROTECTION INQUIRIES

| | |
|---|------------|
| Adult Protection Inquiries | Page 18 |
| Multi- agency approach, Children involved, Council duty to inquire | Page 18-19 |
| Social Work Action / Social Care & Social Work Improvement Scotland | Page 19 |
| Inquiry decision | Page 19 |
| Role of the Police | Page 20 |
| Role of Social Care & Social Work Improvement Scotland | Page 20-21 |
| Initial Referral Discussion (IRD) | Page 21-22 |

CHAPTER 4 – ADULT PROTECTION INVESTIGATIONS

| | |
|--|------------|
| Planned investigation | Page 23-24 |
| Visits, Support Services- advocacy and communication, Adult's Rights | Page 24-26 |
| Access to records, Medical interventions and examinations | Page 26-27 |
| Access to property and adult refused- warrants | Page 27-28 |
| Risk assessment tool , Investigation decision and possible outcomes | Page 29 |

CHAPTER 5 – ADULT PROTECTION CASE CONFERENCES

| | |
|--|------------|
| Initial Adult Protection Case Conference Roles and Content | Page 30-35 |
| Protection Plan (AP3 & AP4) | Page 35-36 |
| Review Case Conference, Dissent/Dispute/Complaint | Page 36 |

APPENDICIES

| | |
|---|------------|
| Appendix 1- Cross boundary protocol | Page 37-39 |
| Appendix 2 – Adult Protection Referral Form - AP1 | Page 40-43 |
| Appendix 3 – Adult Protection Risk Assessment - AP2 | Page 44-52 |
| Appendix 4 - Adult Protection Plan (Standard) – AP3 | Page 54-55 |
| Appendix 5 - Adult Protection Plan (Comprehensive) – AP4 | Page 56-59 |
| Appendix 6 – Summary of Legislation - Adults with Incapacity(Scotland) Act 2000 & Mental Health (Care & Treatment) (Scotland)Act 2003 | Page 60-63 |
| Appendix 7 - Indicators of Harm | Page 64-69 |
| Appendix 8 - Findings of Borders Inquiry | Page 70-71 |
| Glossary of Terms | Page 72-73 |

**Forth Valley Inter Agency
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FOREWORD

This document builds on a tradition of effective inter-agency co-operation in providing Adult protection within the Forth Valley area. These guidelines conform to the Adult Support and Protection (Scotland) Act 2007 and the Act's accompanying Codes of Practice. These guidelines replace previous versions drawn up in 1994 and updated in 2004 and 2009 and are based on those developed by the West of Scotland partnership.

The purpose of these guidelines and procedures is to provide a framework within which all those responsible for the support and protection of adults at risk in Forth Valley can operate effectively, within the Law, whilst also complying with their own agency requirements and guidance.

Co-operation between Healthcare, Police, Local Authorities and voluntary and Independent providers is essential if the welfare and safety of adults at risk is to be assured. The effective implementation of these guidelines and procedures will contribute to an ethos where the dignity, independence, individuality and rights of adults at risk are respected in accordance with the ethics of each profession, for example, the Scottish Social Services Codes of practice for employers and employees.

These guidelines and procedures are supported by a programme of inter agency training which will help develop understanding and respect for each agency's work, increase awareness and understanding of the area of adult support and protection and most importantly contribute to effective intervention.

The operation of these guidelines is monitored by the Forth Valley Adult Protection Committee which is comprised of senior representatives from each of the relevant agencies and the local operational groups which review their implementation in practice.

The guidance and procedures will assist individual services, including independent care providers and voluntary organisations, to develop their own procedures and protocols which are consistent with this document.

Forth Valley Inter Agency Adult Support & Protection Practice Guidance & Procedures

INTRODUCTION

Most adults, who might be considered to be at risk of harm, live their lives without experiencing harm. Often this is with the assistance of 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 ensure that adults who experience such harm will be protected.

There are 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)
- Mental Health (Care & Treatment) (Scotland) Act 2003. (The 2003 Act)

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

The 2004 report into the Scottish Borders Councils/NHS Borders Services for Learning Disability also informs practice (Appendix 6) The Borders Report highlighted the need for procedures and guidance for interagency responses to adults at risk of harm to be in place. 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 Forth Valley Inter- Agency Adult Support and Protection Practice Guidance and Procedures

- Recognises existing legislation.
- Focuses on the 2007 Act.
- Contains information on the definition of harm and common indicators.
- Outlines the procedures 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 Forth Valley, 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 amount of options available to those requiring help and assistance. This has allowed people who make use of services greater options and choice and more participation in decision-making. These changes have also resulted in a changing model of care within the community, with a range of care arrangements in place, 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. Where possible, 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

These procedures and guidance are designed for use by staff employed in statutory, voluntary and private services across the Forth Valley area in people's homes, care centres and the wider community. They cannot, and do not, seek to replace sound professional judgement - after all, life is extremely varied and each situation is unique. These procedures and guidelines seek to provide a robust framework within which sound professional judgement can be exercised. Those working in accordance with these guidelines can be assured that they will receive the support of their agency.

Forth Valley Inter Agency Adult Support & Protection Practice Guidance & Procedures

CHAPTER 1 – CONTEXT

This document aims to:

Assist in the prevention of harm occurring to adults who may be at risk in the Forth Valley area through building on existing 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
- 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, investigation, Actions and the Monitoring and Review of Outcomes.
- Provide Procedural Forms (Appendix 1, 2, 3) which can be used by all agencies across the Forth Valley.
- 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 Forth Valley Partnership consists of

Clackmannanshire Council
Falkirk Council
Stirling Council
NHS Forth Valley
Central Scotland Police

It is accepted that the partner agencies; Councils, Police and NHS will each retain their own more detailed Local Operating Procedures, where appropriate, 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) will be used across all agencies in Forth Valley, with the exception of the Police who will use their own Referral Form (VPR)

Legal Context of Adult Protection

The Forth Valley 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 therefore links have been provided below to all the other relevant legislation which may require to be referred to in the protection of adult at risk.

Appendix 4 contains more detail with regard to Adults with Incapacity (Scotland) Act 2000 and Mental Health (Care and Treatment) (Scotland) Act 2003 to provide a quick guide. Further information is available

from The Scottish Government website www.scotland.gov.uk or by using the following links

Links to Legislation and Regulations

Legislation:

Human Rights Act 1998 [click here](#)
Social Work (Scotland) Act 1968 [click here](#)
Local Government (Scotland) Act 1973 [click here](#)
Adults with Incapacity (Scotland) Act 2000 [click here](#)
Mental Health (Care and Treatment) (Scotland) Act 2003 [click here](#)
Vulnerable Witnesses (Scotland) Act 2004 [click here](#)
Adult Support and Protection (Scotland) Act 2007 [click here](#)
Protection of Vulnerable Groups (Scotland) Act 2007 [click here](#)
Data Protection Act.1998 [click here](#)
Race Relations (Amendment) Act 2000 [click here](#)
Equalities Act 2006 [click here](#)
Regulation of Care (Scotland) Act 2001 [click here](#)
Public Services Reform (Scotland) Act 2010
Equality Act 2010

Regulations:

Disability Equality Duty 2006 [click here](#)
Gender Equality Duty 2007 [click here](#)

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](#)

Adult Support and Protection (Scotland) Act 2007

POLICY STATEMENT

The agencies who subscribe to these guidelines recognise that they each have an individual responsibility for the welfare of adults at risk. The principal objective is to protect adults considered to be at risk of harm by offering support which is appropriate to individual needs. Clearly the provision of care places important responsibilities on the agencies that deliver services to people living in the community and to those cared for in hospital and in care homes. All such care providers must promote the dignity, privacy, rights, fulfilment and choice of each service user. However, in addition, the agencies who have agreed these guidelines also subscribe to the principles of the ASP Act.

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 and proportionate.

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 **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 ensuring the adult is not treated **less favourably** than another adult (who is not 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 and harm 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 these multi agency procedures:-

- Every adult has a right to be protected from all forms of harm including 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.
- 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 to take forward the underpinning principles of the National Care Standards which are: dignity, privacy, choice, safety, realising potential, equality and diversity.
- Actively promoting the empowerment and well being of adults at risk through services provided.
- 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 self determination.
- Recognising people who are unable to make their own decisions and/or to protect themselves and their assets.

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 harm
- Have their money and property treated with respect.
- To be empowered through support to make choices about their lives.
- As appropriate, to be given information about keeping themselves safe and exercising their rights as citizens.

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.
- A duty to consider the importance of the provision of advocacy or other services.
- 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. 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. For further details (see appendix 1 Forth Valley Cross-Boundary Protocol)

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, no-one can 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 Code of Practice adds that this list is not exhaustive and no category of harm is excluded simply because it is not listed (above). Behaviours that constitute harm to others can also include **neglect (and self-neglect), emotional, sexual, institutional, human rights** or a combination of these. (Appendix 7) provides further detail on some indicators of harmful behaviour.

Where and how harm happens

Harm can happen anywhere but serious harm is more likely to happen secretly, where the perpetrator(s) or self-harmer has time in private, for example:

- At home within the family.
- Whilst in a hospital or a hospice.
- Whilst staying in a care home or supported accommodation.
- Whilst at a day centre or an educational place.
- At the adult's place of work or training.

Harm is often perpetrated by people the adult at risk already knows, where a trusting relationship of unequal power may exist. The perpetrator themselves may be another service user or adult at risk who may have experienced harm themselves. Harm can also be opportunistic and dependent on issues of low self-esteem, low social status or when people are isolated from contact with others. It can be caused with deliberate intent or arise from acts of omission but whatever the cause of reason the imperative to reduce harm is clear.

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 is summarised as being someone who:

- Is registered in the part of the SSSC register maintained in respect of social workers or is the subject of an equivalent registration;
 - Is registered in the part of the SSSC register maintained in respect of social service workers;
 - 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
 - Is a nurse; and
- (b) The person has at least 12 months post qualifying experience of identifying, assessing and managing adults at risk.

In the three councils in the Forth Valley area Council Officers are qualified (and registered) Social Workers, Occupational Therapists and Nurses (employed by the council e.g. as a Care Manager) who are suitably experienced and trained.

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, **seriously** harmed. 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

- A medical examination in private by a health professional nominated by the Council.

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, APC's 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(s), 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.

APC membership must include representatives of the relevant local authorities, NHS Board and Police Force. Social Care & Social Work Improvement Scotland (SCSWIS), the Mental Welfare Commission, Health Improvement Scotland and the Office of the Public Guardian also have the right to attend and must be informed of Adult Protection Committee Meetings.

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.

The Forth Valley APC reports directly to the Forth Valley Chief Executives Group (often referred to as the G5). This group comprises of the Chief Executives from the partner agencies.

Child Protection Committees and MAPPA

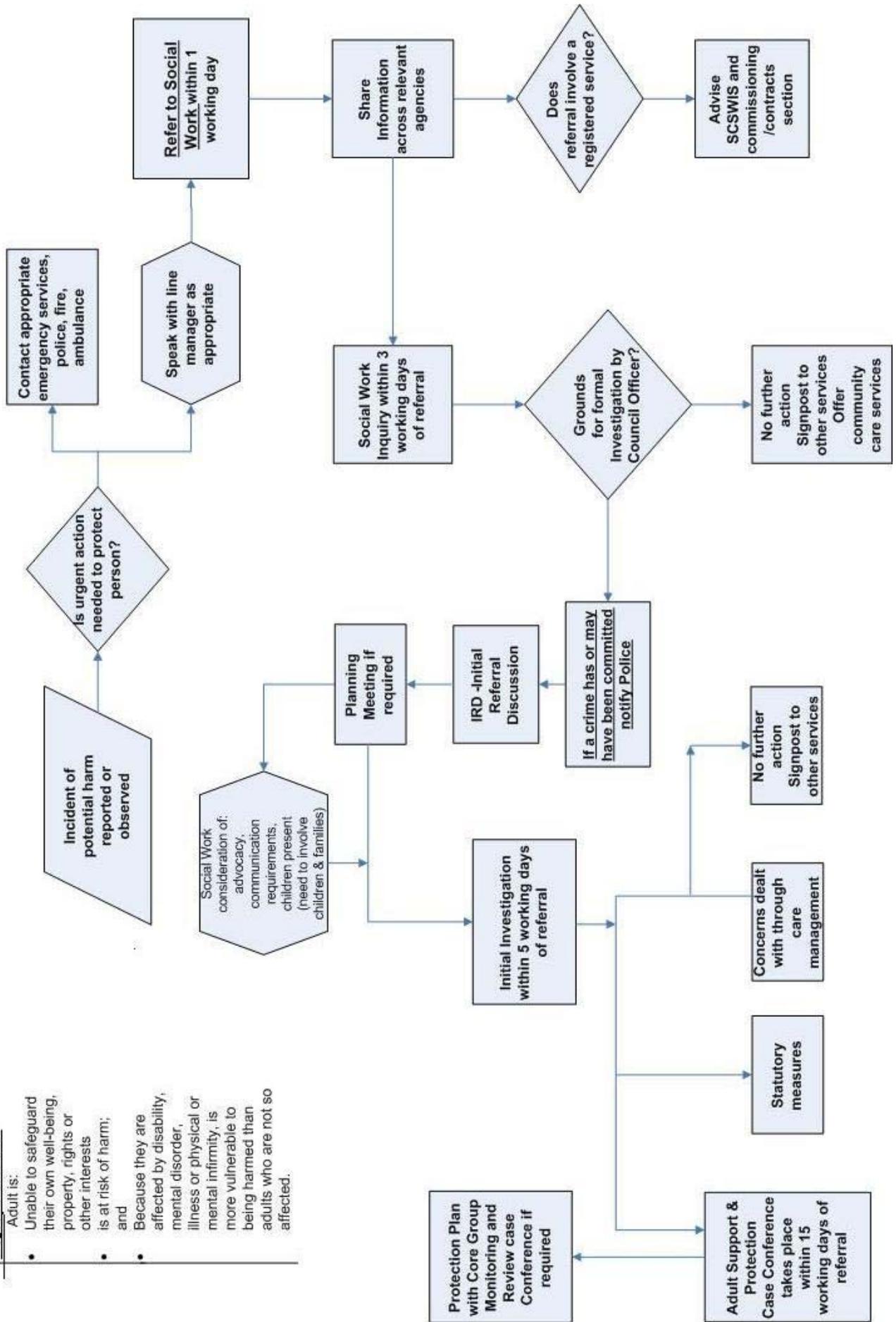
There may be some areas of cross-over between child protection and adult protection information when dealing with families which have both children and adults at risk. Although they may be investigated separately, a link between the two would require to be maintained.

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 Guidance for APCs 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.

Three Point Test

- Adult 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 or physical or mental infirmity, is more vulnerable to being harmed than adults who are not so affected.



Forth Valley Inter Agency Adult Support & Protection Practice Guidance & Procedures

CHAPTER 2 – ADULT PROTECTION REFERRAL

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 .

Reporting emergencies or when a crime may have been committed

If a person is in immediate physical danger or needs urgent medical treatment then a 999 call should be made to request urgent assistance or advice from the appropriate emergency services. Callers should 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

In an urgent situation, if it is suspected that a crime has been committed then the adult should be encouraged to report this to the Police and support offered to them to do this. If the adult will not report the matter to the Police, this should still be reported on their behalf and the Police advised 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 forensic evidence is not lost. Following a sexual assault try to discourage the victim from using the toilet, washing, drinking or laundering clothes and bedding. Clothes should not be changed if there is the slightest possibility that the clothing was worn at the time of the assault. The scene of the assault will also need to be preserved for Evidence and no-one should be allowed in. If this is where the victim is, nothing should be touched or moved whilst waiting for the Police to attend. Follow up with a referral to Social Work Services and advise them that the Police have been contacted.

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, often jointly with Social Work. The Police should ensure that all adults at risk of harm incidents are referred to Social Work Services. Police and Social Work Services should continue to liaise throughout to ensure appropriate support to the adult.

REFERRAL PROCEDURE FOR ALL AGENCIES

The Local Authority, as lead agency, is responsible for the overall co-ordination of adult protection concerns. All referrals received by any agency will be routed through the Local Authority to ensure consistency of practice, timescales are adhered to and that an informed decision is made in each case as to the most appropriate agency or combination of agencies to undertake any investigation

Duty to Report

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

The 2007 Act and the Code of Practice provides that 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.

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

- The Mental Welfare Commission for Scotland;
- Social Care & Social Work Improvement Scotland;
- 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)

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 local authority procedures and agencies through their contacts and service level agreements. These organisations 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 Forth Valley 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.

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:

<http://www.scotland.gov.uk/Publications/2008/02/01151101/0>

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. An information protocol has been developed by NHS Forth Valley to enable specific detailed information in relation to Adult Support and Protection to be shared with the councils (see attached link) [Click here](#)

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. The Adult Support and Protection (Scotland) Act 2007 provides that certain bodies and office holders (see 'duty to report' above) must, so far as is consistent with the proper exercise of their functions, co-operate with a council making inquiries. They must also co-operate with each other where this is likely to enable or assist the council making the inquiries and where this is consistent with the proper exercise of their functions.

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.

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, making a referral to social work services, should use the Forth Valley Adult Protection Referral Form - Appendix 2 Form AP1. While phone call referrals will be accepted, a referral form should normally also be completed in writing within **24 hours** and passed to Social Work Services. Concerns of a significant or immediate nature should be reported by telephone then confirmed in writing.

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 Team Manager (or ASP Lead Officer).

Forth Valley Inter Agency Adult Support & Protection Practice Guidance & Procedures

CHAPTER 3 - ADULT PROTECTION INQUIRIES

Inquiries should be made by Social Work Services within 3 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, care managers, 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.

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.

*NB The terms Social Work Services and Social Work manager are used as generic terms although different councils use different terminology e.g. Social care Services or Social services.

Council's duty to Inquire under 2007 Act

On receipt of a phone call or adult protection referral (Form AP1 or Police VPR) Social Work Services are required to make inquiries under the 2007 Act. The inquiries should begin on the same working day as the referral is received and normally be completed the same working day. **Social Work Services have 3 working days to complete an inquiry**. In the event of the inquiries not being complete on the same working day, consideration should still be given to the need to progress to the next stage (e.g. Initial Referral Discussion, see page 20).

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.

Inquiry stage

This is essentially the information gathering stage which will inform decisions about further actions based on whether the individual is an adult at risk of harm and whether the council may need to intervene in order to

protect them. The council will conduct preliminary inquiries by reviewing departmental case records and seeking information from other agencies and parties e.g. a health professional or family member. Visits and interviews with the adult at risk would not be undertaken at this stage as this would be part of the investigation stage using statutory powers.

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. Social Care & Social Work Improvement Scotland, 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.

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

Once inquiries are complete the responsible **Social Work manager** 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.

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 includes:

- No further action.
- Refer for assessment under care management.
- If an open case- continue with casework and review existing care plan.
- Refer to another appropriate agency e.g. Police.

In all cases Social work services will Inform referrer / agency of decision in writing and provide reasons.

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 Forth Valley procedures and the 2007 Act then the responsible **Social Work Manager** should consider the need to hold an Initial Referral Discussion with any other agency (or agencies) who may need to be involved in an investigation.

Role of the Police

The Police have a duty to investigate allegations of crime. Where it is believed that a crime has or may have been committed the details **must** be reported to the police at the earliest opportunity by the responsible **Social Work Manager**. If there is dubiety about the possibility of a crime contact should still be initiated as this decision will be made by the Police.

If a crime may have been committed against an adult at risk of harm, the Police will be the lead agency for this investigation. Central Scotland Police have dedicated officers for Adult Protection investigations; a Detective Inspector, a Detective Sergeant and two Detective Constables based at the Public Protection Unit in Larbert. The DI (or in their absence the DS) is the liaison person for all cases of adult protection and should be contacted in the event of such a case being reported. The information/referral is first notified to the Adult Protection administrator based at the Public Protection Unit.

The Police will always be responsible for the gathering and preservation of evidence but other agencies and individuals who have crimes reported to them have an important role in ensuring evidence is not lost. Similarly, the taking of statements should also be left to the Police and social work staff should take care not to compromise a criminal investigation.

Where there is an alleged physical or sexual assault the Police must be consulted immediately and any medical examination (other than essential emergency medical treatment) should be carried out under the direction of the Police. Evidence of injury may need to be examined and recorded by a Police Surgeon. Where appropriate, a trained Police photographer will photograph any injuries. Where the victim does not consent to examination by a Police Surgeon the Police may involve the victim's own G.P. (if consent is given for this). Examination will not be carried out unless consent has been given. Where there is concern about the victim's capacity to consent to examination the Adults with Incapacity procedures will be followed.

The harm that can happen to adults at risk varies greatly whilst the Law is necessarily more defined in application. In many cases there may be no bodily or physical evidence to be gathered, for example, where financial harm or psychological harm has happened, nevertheless, the investigation can still gather evidence and gain convictions, for example, through the corroboration of statements, paper records and agency records.

It is the responsibility of the Investigating Officer to ensure that details of the allegation or suspicion are entered into the Scottish Intelligence Database for the purpose of ensuring that current and accurate information is held regarding people who work with or may apply to work with children or adults at risk. An entry must be made on the Scottish Intelligence Database at the outset of the enquiry and additional information added as it comes to the notice of the investigating officer. This database can only be accessed by Police officers.

Police should liaise with Social Work Services over any action necessary to protect the adult at risk during any investigation. It is recognised 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 Police.

Role of Social Care & Social Work Improvement Scotland

If a registered care service is involved in the initial referral then the **responsible Social Work Manager** must inform Social Care and Social Work Improvement Scotland (SCSWIS). The role of SCSWIS in promoting the protection of adults, using registered care services, is enshrined in the Regulation of Care (Scotland) Act 2001 and the Public Services Reform (Scotland) Act 2010. SCSWIS has an adult protection procedure which can be accessed from their website. [Click here](#)

Registered Care Services and Social Work Services must also notify SCSWIS using their respective 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 Adult Support and Protection procedure of SCSWIS acknowledges that the responsibility for the investigation of allegations of adult harm falling within the 2007 Act rests with local authority social work department and the police. However, there may be circumstances in which it would be legitimate for

SCSWIS to become involved, i.e. where the allegation may impact upon a registered service as a whole. When a particular accusation, evidence of harm or e-notification is received which may involve one or more service users, a service level risk assessment will determine the scope of any possible risk of harm to other users of the service.

SCSWIS will maintain regular contact with the relevant **Social Work Manager or Contract Compliance section from the outset and will advise** whether any regulatory action is required.

If considering possible regulatory action, discussion should be held with the local authority involved and where appropriate, the police and/or Procurator Fiscal to ensure that any SCSWIS activity will not interfere with ongoing investigations and a collaborative approach should be maintained at all times.

INITIAL REFERRAL DISCUSSION (IRD)

When to hold an IRD

An Initial Referral Discussion (IRD) may be initiated by any of the statutory agencies in line with the local Adult Support and Protection procedures. IRDs are a vital stage in the process of joint information sharing, assessment and decision making about adults at risk of harm. This is not a single event, but takes the form of a series of discussions where information is discussed and a co-ordinated response agreed by the relevant agencies.

Who should be involved?

An IRD will usually take place by phone in relation to the adult at risk between the responsible Social Work Manager and one or more of the following: the relevant representative from Central Scotland Police (usually a Detective Sergeant), a relevant health representative or, if appropriate and where necessary, any other agency providing a service to the adult or with an interest in the adult's welfare. Where allegations have been made against a registered care provider the IRD should include the SCSWIS and the Council's senior Contracts Officer.

The IRD should normally take place within 24 hours of the referral and should not be delayed in the event of ongoing inquiries IRDs can take place both day and night. When an IRD takes place out with office hours, an appropriate member of the social work services emergency duty team (EDT) will undertake the IRD on behalf of the council's Social Work Services.

The Purpose of an IRD

- Establish what information agencies already have about the people Involved and what further information is required
- Share all available information in order that it can be determined whether a criminal investigation may be required
- To consider what kind of investigation should be undertaken, who should be involved and which agency has the lead role. This should include visits, interviews, medical examinations and examinations of records under the Adult Support and Protection (Scotland) Act 2007.
- To consider whether any urgent protection orders or warrants under the Adult Support and Protection (Scotland) Act 2007 or interventions under other legislation may be required.
- Decided whether a large scale inquiry is needed because potentially more than one adult at risk is involved (or adults and children).
- Agree an initial action plan and establish which agencies are to involved, identify the lead agency, investigating workers and roles e.g. who will be the 'Council Worker', who will lead the Investigation and who will be the second person involved.

- Consider the adult's level of capacity in regard to the concerns. Seek evidence to support this by ensuring that the appropriate health professional is involved in the IRD.
- Consider the possible need to use the Appropriate Adult Service for interviewing victims, witnesses or suspected persons.
- The IRD will examine the evidence available, and how further evidence will be obtained. What medical/forensic evidence is available and how further medical/forensic examination should be undertaken.
- 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 and any other requirements that would facilitate the Investigation.

There are several possible actions that can emanate from the IRD such as Single Agency Investigation, a joint investigation e.g. Police/Social Work, Social Work/SCSWIS, an Adult Support and Protection case conference, or indeed a decision that no further action is necessary under these procedures. At times the professionals involved may decide that immediate action is not the most effective way of responding. A decision may be taken that professionals continue to assess the situation. If more information comes to light that suggests criminal offences, the Police may then become directly involved.

PLANNING MEETING

Whilst an IRD will normally take place by phone, in complex situations, or where a number of professionals/agencies are involved a more detailed discussion may be required to share information and plan an investigation. In this situation a Planning Meeting should be held the same day as the IRD or no later than 3 days after the referral. The Planning Meeting will give consideration to all the areas identified above (as for an IRD).

For complex cases e.g. organised harm, more than one perpetrator etc or if allegations are in respect of any professionals or council employee, the ASP Lead Officer and Service Manager must be notified and in some circumstances, may wish to attend. The Head of Service must also be notified immediately.

A formal minute should be taken at the Planning Meeting, principally to confirm the actions agreed and their estimated timescales along with the roles and responsibilities of staff carrying out those actions. The Chair will ensure prompt distribution of these minutes (no later than 10 working days from the meeting).

Forth Valley Inter Agency Adult Support & Protection Practice Guidance & Procedures

CHAPTER 4 ADULT PROTECTION INVESTIGATIONS

Within 5 Working Days of the Referral being made.

Social Work Services have 5 working days from the date of the initial referral to carry out their duty to formally investigate concerns and complete an initial risk assessment.

Planning the Investigation

It is the task of the responsible Social Work Manager in discussion with other partner agencies/disciplines (usually during the IRD or Planning Meeting) or specialist services, where relevant, to agree the format of the investigation team. The adult at risk, where appropriate, should be interviewed within 3 working days of the referral. In situations of immediate or serious harm or sexual or physical harm, the adult at risk must be seen the same working day.

The investigation must be a planned process and the investigation team should consider the following areas

- The time and place of the visit - the visit must be made at reasonable times
- Timescales for completion of each task
- The need for advocacy services to be involved
- The need for an appropriate adult to be present
- Support for the adult's carer
- Communication requirements
- Is there a need to access other agency records
- Involvement of medical staff in the investigation
- The adults capacity to make decisions/identify proxy
- 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.

Briefing of staff

Prior to any visit or interview taking place the responsible Social Work Manager (or Detective Sergeant) leading the investigation will arrange a briefing meeting with investigating team e.g. Detective Constable and Council Officer or two Council Officers. This will normally be held immediately following the IRD/Planning meeting or later the same day.

The briefing will confirm roles and actions in relation to the investigative interview of the adult at risk and interviews with any relevant others including:

- Who will ask the questions

- Who will record the interview

It should also consider what information should be given to the adult at risk for the reason for the interview if notice of the visit is given. Where possible the investigating officers should also plan the interview before visiting the adult. The Social Work manager (or Detective Sergeant) leading the briefing will complete a briefing/debriefing form.

Appropriate Adult Service

Any Police interview with an Adult at Risk who may be considered to have a mental disorder (mental illness, personality disorder, learning disability, acquired brain injury, autism, or dementia) should not take place without the presence of an Appropriate Adult. The role of the Appropriate Adult is to facilitate communication and ensure that the Adult is not disadvantaged by any communication difficulties. It is the responsibility of the Police to arrange an Appropriate Adult and no staff member can act in this role without being formally recognised as an approved Appropriate Adult.

Investigative Visit

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 two members of staff. For Social Work only (single agency) investigations this should be **two council officers** and one will be identified as the lead worker.

A 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.

The council officer must show their ID badge and state the purpose of the visit. Visits should only normally be undertaken at "reasonable times". The council officer may be accompanied by another person which for the purposes of these procedures will be either a Police Officer or another council officer. A Health Professional can also accompany these staff e.g. for the purpose of undertaking a medical examination.

Support Services

Role of Advocacy Services

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.

http://www.rcslt.org/asp_toolkit/adult_protection_communication_support_toolkit/welcome

Useful guidance relating to communication and assessing capacity during interviews can also be found at:

<http://www.scotland.gov.uk/Publications/2008/02/01151101/0>

Interviews during investigation

The purpose of an interview is to:-

- Assist with the gathering of information.
- 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 or participate in an interview without their explicit agreement.

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. Under no circumstances should the alleged harmer be present during the interview.

Access to Records

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 will 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 whilst the council officer can obtain these only a registered health professional e.g. a doctor, nurse, midwife can be given the authority to inspect (read) them.

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. For access to NHS Forth Valley records the AR1 form should be used which Council Officers have access to..

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.

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 fuller details on access to records please refer to:-**Adult Support and Protection (Scotland) Act 2007 Part 1 -Code of Practice January 2009 (Chapter 8) – [click here](#)**

Is Medical Intervention Required?

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 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.

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

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 Investigation

Immediately following the investigative interview (and interviews with relevant others) the interviewing officers will report back in person for a debriefing to the Social Work manager or, after a joint police/social work investigation, to the Social Work Manager or the Detective Sergeant.

The Social Work manager (or Detective Sergeant) will record the briefing/debriefing form at the meeting and ensure all parties sign it and pass a copy to the investigating officer from the other agencies involved. If police are involved they will be passed the original form with a copy kept for the Social Care records. If

available, a photocopy of the police statement will be kept for Social Care records.

It is the responsibility of the investigating workers to make a professional recommendation as to the risks to the adult and what immediate steps may be needed to protect that person.

It is the responsibility of the Social Work manager (or Detective Sergeant) based on all available information and on the professional recommendations of the workers to make decisions about how best to immediately protect the Adult. The Social Work manager (or Detective Sergeant) will also consider the emotional impact of this work upon the staff member(s) and provide appropriate support.

Where the adult at risk has a mental disorder the Social Work Manager will ensure that the notification form is submitted to the Mental Welfare Commission.

At each stage of the investigative process the need for formal intervention under legislation to protect the adult at risk must be considered. Although the Adult Protection Case Conference will allow for a fully informed, multiagency discussion around legal intervention the need for more immediate action to protect must be considered if necessary.

Where the adult lacks capacity and is unable to give consent consideration must be given to the use of provisions under Adults with Incapacity (Scotland) Act 2000 and Mental Health (Care and Treatment) Act 2003 .

Investigation Decisions

Following the investigation the council officer and second investigating officer will discuss with the Social Work Manager 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.

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

- No further Action.
- Signpost or refer 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 arranged.
- Concerns dealt with through care management (if no further risk of harm).
- 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.

Completion of Risk Assessment Tool – Form AP2 Appendix 3

The council officer in conjunction with others will decide when to complete a Risk Assessment [appendix 3]. In circumstances where initial investigation of a referral reveals a risk of serious harm, or when needs interact to create serious risks, and when high levels of risk cannot be managed within a normal

care plan an Adult Protection Risk Assessment must be completed. In addition, one should always be completed for all investigations which proceed to a Case Conference in order to inform the discussion and decision making process.

The **Risk Assessment (Form AP2 -Appendix 3)** 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.

Forth Valley Inter Agency Adult Support & Protection Practice Guidance & Procedures

CHAPTER 5 Adult Protection Case Conference

Initial case conference is to be held within 15 Working Days of the Referral being made

Following the investigation, if a decision is made to proceed to case conference the **responsible social work manager** has **15 working days** from the time of the initial referral to ensure an Adult Protection Case Conference is held.

If there is a delay in holding the case conference then the circumstance and reasons must be recorded in social work records for later reference and those involved told the reason for the delay. It is also acknowledged that within 15 days of the referral, all the information required may not be available and a further case conference may be required before decisions can be finalised.

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 such as Risk assessment (AP2 – Appendix 3) should be submitted, where possible before the Case Conference. Where key partners/representatives are unable to attend a written report should be submitted. 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 Social Work manager and ought to be independent of the investigation. This role will usually be undertaken by the Lead Officer for adult support & protection or a Team Manager with no current involvement in the response.

The chairperson will:-

- Ensure that appropriate arrangements are in place to enable the adult to attend and have support to represent their views (including advocacy services).
- Ensure communication with 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 request 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 the adult and care/representative understands the purpose and process of the case conference and explain if necessary.
- 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 10 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. Reasons for exclusion of any person must be recorded by the council officer and the Chairperson asked to rule on this prior to the case conference. 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 any appropriate leaflet.

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. However, in some circumstances, it may be appropriate to have a professionals-only part to the Case Conference where for example information is sub-judice.

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 the council officer/designated worker has discussed these issues with the adult and their representatives.
- That the report prepared by the council officer will be shared and discussed with the adult prior to the case conference.
- When someone is unable to attend through lack of capacity, appropriate alternative representation is provided e.g. Advocacy Worker.
- 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 SCSWIS.
- Care provider organisations directly involved with the adult.
- Legal Services.
- Independent advocacy.
- 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 usually sufficient reason to exclude a carer or family member, but this may be judged unnecessary by the chairperson if their presence would not 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 Content and Purpose 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 the inquiries and investigation undertaken. This should include time to read any written reports not previously circulated.
- To determine the degree of risk and likelihood of reoccurrence (**AP2 Risk Assessment – Appendix 3**).
- Consideration of legislation.

Legislation

Consideration of 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^{1,2}

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 issues 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 disagreement can only be acknowledged.
- The unrestricted information shared at the case conference is summarised by the chairperson.

¹ In consideration of legal protective measures of intervention due consideration **must** be given to the **Principles** underpinning the various Acts

² 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 which focuses on:

- Extent of the alleged harm and any previous allegations.
- Whether the harm was a one-off event, sporadic or ongoing.
- Impact of the alleged harm or self-harm on the adult at risk.
- Impact of the suspected or actual harm on other people.
- Intent of any person(s) allegedly responsible for the harm.
- Risk of the harm being repeated against other adults at risk.

Decisions

- The case conference needs to decide whether the adult and/or any other person is believed to be at risk of being harmed 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 a risk of further/continued harm an adult protection plan must be agreed and if so whether this is a standard or comprehensive one. **(AP3 & AP4– Protection Plans - Appendix 4 & 5)**
- Make arrangements for the completion, implementation and reviewing the protection plan
- Clarify the roles and responsibilities of the various professionals involved in the protection plan
- Appoint a case co-coordinator/lead worker who should normally be a council officer.
- Identify a core group who will work with the case coordinator and agree date of first meeting
- Set a review case conference date which must take place within three months initially and then within every six months.

Case Conference Minutes

- The Chairperson 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 Conference 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 Support and Protection (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 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 normally only 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. The minutes should therefore be kept safely and securely so that their confidence is preserved.

Protection Plans – Form AP3 & AP4 (Appendix 4 & 5)

The Chair of the Case Conference has 10 working days, from the Case Conference being held, to distribute the signed Minutes of the Case Conference and the written Adult Protection Plan.

There are two types/levels of protection plan which can be used, standard and comprehensive.

Standard Protection Plan (Appendix 4 - Form AP3)

This protection plan can be used where the initial response or case conference identifies the need for increased support and some protective measures but the risks are not complex or appear to involve risk of serious harm.

The format includes the area of risk, the measures to support and protect and who is responsible for carrying out those measures within which timescale.

Comprehensive Protection Plan (Appendix 5 - Form AP4)

This has been designed for use when allegations of harm/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 a Protection Plan might include:

- Community or other support requirements.
- Decision to apply for Banning Order.
- 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.

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 as and no later than 6 months after the last Review Case Conference.

The purpose of the Review Case Conference is to:-

- Summarise support and outcomes to date and to confirm the current situation.
- Review risk management/protection 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.

The Review Case Conference Minutes and any new or amended Protection Plan must be distributed within **10 working days** of the Review Case Conference taking place and should be signed by the Chairperson

1. Introduction

- 1.1 This protocol provides supplementary guidance to the Forth Valley Interagency procedures for the support and protection of adults at risk, dated 26th August 2009.
- 1.2 These arrangements recognise the complexity for adults who may be at risk of harm, whose care arrangements are complicated by cross boundary considerations. These may arise, for example, where funding/commissioning responsibility lies with one local authority and where concerns about an adult at risk of harm subsequently arise in another. This would apply where the adult lives or otherwise receives services in another council area.
- 1.3 This protocol aims to clarify the responsibilities and actions to be taken by local authorities (councils) with respect to people who live in one council area, but for whom some responsibility remains with the council area from which they originated.

2. Background

- 2.1 Section 53 of the Adult Support and Protection (Scotland) Act 2007 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.**
- 2.2 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 an interest or role in any activity under the 2007 Act.

3. Definitions

Host Authority – The council where the adult is currently located.

Placing Authority – The council with funding responsibility.

4.0 Responsibilities of Host Authorities

- 4.1 The authority where the harm occurs should always take the initial lead on investigations following local procedures. This will include liaison with the police and co-ordinating immediate protective action, if appropriate.
- 4.2 The host authority will co-ordinate initial information gathering, background checks and ensure a prompt notification to the placing authority and all other relevant agencies.
- 4.3 It is the responsibility of the host authority to co-ordinate any investigation of institutional harm. If the alleged harm took place in a residential or nursing home, other people could potentially be at risk and enquiries should be carried out with this in mind.
- 4.4 SCSWIS should be notified using the e-notification process or by phone and should be included in investigations involving regulated care providers. Enquiries should make reference to their guidance regarding arrangements for the protection of adults who may be at risk of harm.
- 4.5 There will be instances where allegations relate to one individual only and in these cases it may be appropriate to negotiate with the placing authority their undertaking certain aspects of the investigation. However, the host authority should retain the overall co-ordinating role throughout the investigation.

5.0 Responsibilities of Placing Authorities

- 5.1 The placing authority will be responsible for providing support to the adult at risk and planning their future care needs.
- 5.2 The placing authority will provide any necessary support and information to the host authority in order for a prompt and thorough investigation to take place.
- 5.3 The placing authority should nominate a link person for liaison purposes during the investigation. They will be invited to attend any Adult Protection meetings and/or may be required to submit a written report.

6.0 Responsibilities of Provider Agencies

- 6.1 Provider agencies are responsible for ensuring all their staff can identify and respond appropriately to situations where harm is alleged.
- 6.2 Provider agencies should have in place suitable adult protection procedures to prevent and respond to harm which link with the local inter-agency policy and procedures set out by the host authority.
- 6.3 Providers should ensure that any allegation or complaint about harm is brought promptly to the attention of Social Work Services, the Police, and/or SCSWIS in accordance with local inter-agency policy and procedures.
- 6.4 Provider agencies will have responsibilities under the Care Standards Act 2000 to notify their local SCSWIS office of any allegations of harm/abuse or any other significant incidents.
- 6.5 Provider agencies who have services registered in more than one local authority area will refer to the SCSWIS office relevant to the area in which the alleged harm took place.

7.0 Referral Process

- 7.1 Where it is identified (known or believed) that an adult is at risk of harm, the facts and circumstances of the concern must be reported to the council for the area where they believe the person to be located.
- 7.2 Within the Forth Valley area the contact details are;

| | | |
|---------------------|---|--------------|
| Clackmannan Council | - | 01259 727010 |
| Falkirk Council | - | 01324 506400 |
| Stirling Council | - | 01786 471177 |

Contact details for other councils can be found on the Scottish Government's website www.actagainstharm.org by clicking on the link 'where to get help'.

- 7.3 On receipt of the referral the appropriate manager (team manager/team leader) for the host authority should notify the placing authority (or placing authorities if more than one service user is an adult at risk). The host authority should ask for their agreement that the relevant host will undertake the initial inquiries or investigation. NB initial inquiries should not be delayed whilst waiting for a response from the placing authority.
- 7.4 Whilst the Act confirms that overall the responsibility for inquiries and investigations rests with the host authority, it may sometimes be appropriate and good practice to consider a joint investigation is undertaken with the placing authority. However, the lead responsibility will remain with the host authority.
- 7.5 In Forth Valley the 3 councils; Clackmannan, Falkirk and Stirling all operate within the Forth Valley interagency procedures. In exceptional circumstances it may therefore be appropriate for the initial inquiries and investigation to be undertaken by the placing authority providing agreement has been given by the host authority, who will retain overall responsibility.

8.0 Hospitals

Where the individual is in hospital at the time that the concern is identified, any adult protection concerns should be referred to the Local Authority where the individual is ordinarily resident.

9.0 Communication

- 9.1 Integral to any effective response to an adult support and protection referral is the need for good communication, co-operation and collaboration.
- 9.2 The host authority should ensure regular discussion with and participation by the placing authority including invitations to planning meetings, case conferences etc.
- 9.3 The host authority (or on occasion, see 7.5, the placing authority) will provide to the placing authority regular written information on the progress on the inquiries or investigation e.g. emails or letters, copies of case notes, minutes of meetings, reports etc.
- 9.4 The host authority will provide a written update to the placing authority on the conclusion of the Adult Support and Protection process including the basis for any decision that no further action is required.

10.0 Disputes

The local authority lead officers for Clackmannan, Falkirk and Stirling Councils can provide advice and clarification on any aspects of this protocol. Any disagreement between host and placing authorities should be referred to the lead officer(s) in the first instance but may need to be escalated to a more senior manager if required.

Multi Agency Adult Protection Referral form [AP1]

FOR USE BY ALL AGENCIES & CARE PROVIDERS (EXCEPT POLICE)

Adult Protection Referral Form & Actions (AP1)

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.

- *All sections of Part A of the Referral Form require to be completed within 1 Working Day from becoming aware of the suspected or actual harm.*
- *Concerns of a significant or immediate nature should be reported by telephone and can then confirmed in writing if required.*

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.

This form may also be used by Social Work Intake and other staff to record internal referrals or Intake calls

| | |
|---|---------|
| 1. ADULT AT RISK DETAILS: | |
| Name: | |
| Address: | |
| Telephone Number | |
| Date of Birth: | Gender: |
| Ethnic Origin: | |
| Religion: | |
| Any known communication difficulties: YES/NO | |
| If YES, give details: | |
| Living Situation e.g. lives alone, with spouse etc., type of accommodation, any known supports, carers details Etc. | |
| | |

2. REFERRAL DETAILS:

Name of Referrer:

Job Title:

Address:

Contact Telephone Number:

In what capacity do you know the adult at risk you are referring?

Do you suspect a crime has been committed and have you informed the Police? (date & time and any actions taken by the Police)

Who else have you informed of this referral to Social Work Services? (date & time and any actions taken)

3. WHAT ARE THE DETAILS AND NATURE OF THE SITUATION LEADING TO THIS 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?

| |
|--|
| |
|--|

Have you obtained the adult at risk consent to make this referral? If not please give the reason for referring without consent.

| |
|--|
| |
|--|

4. WHAT ACTION, OTHER THAN THIS REFERRAL, HAVE YOU TAKEN TO ENSURE THE ADULT AT RISK IS NOW SAFE?

| |
|--|
| |
|--|

5. GENERAL PRACTITIONER: give details if known

Name:

Telephone No:

Address:

6. OTHER HEALTH PROFESSIONALS KNOWN TO BE INVOLVED:

Name/s:

Contact No./s

| | |
|--|--|
| | |
|--|--|

7. DETAILS OF PERSON'S PHYSICAL AND MENTAL HEALTH: Confidentiality is important but for the purposes of allowing Councils to undertake inquiries and investigations information to protect an adult at risk of harm relevant information should be shared. Please refer to your agency guidelines and Adult Protection procedures.

8. IS THE ADULT AT RISK SUBJECT TO LEGAL MEASURES UNDER THE MENTAL HEALTH CARE AND TREATMENT ACT OR ADULTS WITH INCAPACITY ACT

YES/NO

If YES give details

9. DETAILS OF THE ALLEGED ABUSER – WHERE KNOWN

Name:

Relationship to person:
Address:

Telephone number :

10.DETAIL OF ANY PREVIOUS CONCERN/INCIDENT (to include dates, times, actions taken and outcomes)

Signature of Person completing the form:

Print /Type Name:

Date & Time completed:

DATE & TIME RECEIVED BY COUNCIL:

RISK ASSESSMENT ADULT SUPPORT & PROTECTION

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

Core Information

DETAILS OF SUBJECT

| | | | |
|---|--|-------------------------|--------|
| First Names: | | Surname: | |
| Also Known as: | | Date of Birth | |
| Gender: | | Ethnic Group: | |
| Address: (incl. postcode) | | | |
| Home Tel: | | Mobile Tel: | |
| Housing Status: (underline appropriate) as | Own Home/Tenancy/Temporary/Homeless/Roomless/Care Home/ Supported Accommodation/Lives Alone/With Family | | |
| Social Work ID No: | | CHI No: | |
| Legal Status: (e.g., Adults with Incapacity Act Guardianship, Mental Health Act Compulsory Order) | | | |
| Date of Order | | | |
| Name of Guardian or Attorney: | | | |
| Care Programme Approach: | Yes/No | Risk Workers: to | Yes/No |

ASSESSING WORKER

| | |
|---------------------------------|--|
| Name: | |
| Designation: | |
| Work Address: | |
| Postcode: | |
| Tel No: | |
| Email Address: | |
| Date of Risk Assessment: | |
| Date of SSA: | |

Communication 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 & Designation | Involved & aware of current situation? | Contributed to this risk assessment? | Informed of assessment outcome? (date or N/A) |
|-------------------------|-------------------------------|---|---|--|
| Care Manager | | | | |
| Mental Health Officer | | | | |
| Criminal Justice | | | | |
| Social Worker | | | | |
| Social Work Other | | | | |
| Support Worker | | | | |
| Support Agency | | | | |
| Community Nurse/CPN/D/N | | | | |
| Addiction Services | | | | |
| GP | | | | |
| Consultant | | | | |
| Other Health | | | | |
| Police | | | | |
| Housing/Landlord | | | | |
| Nearest Relative | | | | |
| Unpaid Carer | | | | |
| “Named Person” | | | | |
| Guardian/Attorney | | | | |
| SCSWIS/SCSWIS | | | | |
| 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)

1 COMMUNICATION, CAPACITY AND INVOLVEMENT

DATE:

| | |
|--|--------|
| 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 wellbeing. (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

DATE:

Chronology of relevant events/significant event history. (Attach if available **or** list significant relevant events below.)

| 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 all you consider may apply) | Risk of serious harm to <u>Subject</u> ? | Risk of serious harm to <u>Others</u> ? If so, whom? | Immediate danger/ Imminent crisis? | Subject Agrees? | Carer Agrees? |
|---|--|---|---------------------------------------|--------------------|------------------|
| Physical injury | | | | Yes/No | Yes/No |
| Violence/ aggressive behaviour | | | | Yes/No | Yes/No |
| Sexual harm/ exploitation | | | | Yes/No | Yes/No |
| Sexual ill health | | | | Yes/No | Yes/No |
| Pregnancy | | | | Yes/No | Yes/No |
| Progressive illness | | | | Yes/No | Yes/No |
| Harassment/ exploitation/racial abuse | | | | Yes/No | Yes/No |
| Psychological/ emotional distress | | | | Yes/No | Yes/No |
| Mental/cognitive impairment | | | | Yes/No | Yes/No |
| Mental health problem | | | | Yes/No | Yes/No |
| Alcohol use | | | | Yes/No | Yes/No |
| Drug use | | | | Yes/No | Yes/No |
| Suicidal intend | | | | Yes/No | Yes/No |
| Self harm | | | | | |
| Self neglect | | | | | |
| Reduced social functioning/isolation | | | | | |
| Financial/Material harm/theft | | | | | |
| Homelessness | | | | | |
| Loss of employment | | | | | |
| Harm by acts of omission | | | | | |
| Institutional harm | | | | | |
| Harm by paid carers | | | | | |
| Risk to/concerns for children | | | | | |
| Other (specify) | | | | | |

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 harm, the specific areas of self neglect (eating, medication, wandering, etc)) |
| |
| Who is the source of concern and who is involve in the risk events? |
| |
| When does this/do these circumstances occur and how often? (Evenings/weekends/every day/mealtimes, etc and rarely, frequently, occasionally, etc) |
| |
| Where does this/do these circumstances occur? (Day centre, at home, on the streets, travelling, etc) |
| |
| 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) |
| |

5 RISK ASSESSMENT

DATE:

| |
|--|
| 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**DATE:**

| | |
|---|--------|
| 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 be taken to reduce the risk or protect the adult being assessed? | |
| (E.g., increased support, view 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, 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 risk to other adults, carers, children, and alleged abuser. Consider actions such as police and/or SCSWIS investigation of allegations, Carer's Assessment, alert to home or centre managed 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: | |
| Date: | |
| If no signature, say why: | |
| | |

| | |
|--|--------|
| Risk assessment discussed with manager? | Yes/No |
| Date: | |
| Agreed immediate actions to be taken: | |
| | |
| Communication Requirements – please ensure completion of final column of page 2 | |

| | |
|-------------------------------|--|
| Signature of Assessor: | |
| Date: | |
| Signature of Manager: | |
| Date: | |

NOTIFICATION REQUIREMENTS

| Agency/Person | Requirement to Notify? | Date Notified |
|---|------------------------|---------------|
| SCSWIS | Yes/No | |
| Mental Welfare Commission | Yes/No | |
| Office of Public Guardian | Yes/No | |
| Service Manager/Director/ASP Lead Officer | Yes/No | |
| Critical Incident Review Group | Yes/No | |

PROTECTION PLAN (STANDARD) FORM AP3

| | | |
|--|--|--|
| NAME: | SW ID NO: | DATE OF BIRTH: |
| OBJECTIVES: | | |
| IDENTIFIED OUTCOMES | ACTIONS TO MEET OUTCOMES | BY WHOM, HOW AND WHEN |
| | | |

DATE OF COMPLETION:

LEAD PROFESSIONAL:

DESIGNATION/AGENCY:

DATE FORM ISSUED:

DATE OF REVIEW:

SEE SEPARATE SHEET FOR DETAILS OF ALL INVOLVED

PROTECTION PLAN (STANDARD) FORM AP3

Details Of All Involved

| NAME | DESIGNATION | CONTACT DETAILS |
|-------------|--------------------|------------------------|
| | | |

**PROTECTION PLAN (COMPREHENSIVE) FORM AP4
ADULT SUPPORT & PROTECTION**

Protection Plan

This form must be used when allegations of harm/exploitation have been made and an Adult Protection Case Conference has been 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 | |
|-------------|--|

1 PERSONAL DETAILS – ADULT AT RISK

| | | | |
|----------------------|--|----------------|--|
| First Names: | | | |
| Surname: | | | |
| Date of Birth | | | |
| PID No: | | CHI No: | |

2 AGENCY/STAFF INVOLVEMENT

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

3 ACTIONS

DATE:

Support & Protective Services

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, with adult, advocates, unpaid carers, attorneys and guardians, as appropriate

| Actions & Roles | Responsibility | Timescales/ Deadlines | Intended Outcomes |
|--|----------------|--------------------------|-------------------|
| Support, treatment, therapy (specify services) | | | |
| Control measures (including any legal action) | | | |
| Direct contact with person | | | |
| Risk management with perpetrator | | | |
| Information sharing arrangements | | | |
| Risk management co-ordination | | | |
| Other actions | | | |
| Other actions | | | |

4 VIEWS & ROLES OF ADULT AT RISK & OTHERS

DATE:

| |
|---|
| 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 is 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 | Names & Designation | Sent Copy of Protection Plan | Date |
|------------------------|---------------------|------------------------------|------|
| Adult at Risk | | Yes/No | |
| Nearest relative/carer | | Yes/No | |
| Named person | | Yes/No | |
| Advocate | | Yes/No | |
| Social work staff | | Yes/No | |
| Support agency | | Yes/No | |
| Community health | | Yes/No | |
| GP | | Yes/No | |
| Consultant | | Yes/No | |
| Police | | Yes/No | |
| Housing | | | |
| Legal representative | | | |
| Attorney/Guardian | | | |
| Other | | | |
| Other | | | |

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: | |

APPENDIX 6

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.

Principles of the 2000 Act

All decisions made on behalf of an adult with impaired capacity must

- Benefit the adult.
- Take advantage of the adult's wishes.
- Take account of the wishes of the nearest relative or primary carer, and any guardian or attorney.
- Restrict the adult's freedom as little as possible while still achieving the desired benefit.
- Encourage the adult to use or develop their existing skills in the relevant areas of decision making.

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 Act places responsibility on a number of different agencies who are concerned with the welfare of adults who are incapacitated.

- In relation to medical treatment and research a medical practitioner has the authority to provide treatment to “safeguard or promote physical and mental health”.
- A Local Authority has a duty to apply for an **Intervention Order** or **Guardianship Order** to protect the property, finances or welfare of an adult if no-one else will do so.
- A Local Authority has a responsibility to investigate the circumstances of any individuals at risk who come under the powers/functions of the Act.
- A Local Authority can apply for an Intervention Order to resolve short term issues such as financial, on a one off basis.
- Power of Attorney can assist in preventing financial Harm.

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.

The **Mental Welfare Commission** protects the interests of adults who lack capacity as a result of mental disorder.

Intervention Order (2000 Act)

It is the duty of the Local Authority to apply for Intervention Order when

6.1 Section 53(3) provides that where it appears to the local authority that;

- a) The adult is incapable as mentioned in section 53(1); and
- b) No application has been made or is likely to be made for an order under this section in relation to the decision to which the application under this section relates; and
- c) An intervention order is necessary for the protection of the property, financial affairs or personal welfare of the adult,

They shall apply for an intervention order under this section.

Guardianship Order (2000 Act)

6.17 Section 57(2) of the 2000 Act provides that where it appears to the local authority that:

- a) An adult is incapable in relation to decisions about, or of acting to safeguard or promote his or her interests in his or her property, financial affairs or personal welfare, and is likely to continue to be so incapable; and
- b) No other means provided by or under the 2000 Act would be sufficient to enable the adult's interests in his or her property, financial affairs or personal welfare to be safeguarded or promoted; and
- c) No application for guardianship has been made or is likely to be made; and
- d) A guardianship order is necessary for the protection of the property, financial affairs and/or personal welfare of the adult.

They shall apply under this section for an order.

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

Sections 25-27 place **duties** on the local authority to provide:

- Care and support services.
- Services to promote well-being and social development.
- Assistance with travel.

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.

Section 34 gives the local authority powers to request the assistance of a range of agencies, in carrying out enquiries. These include Health Boards, SCSWIS, The Public Guardian, the Mental Welfare Commission, and a National Health Service Trust.

Section 35 provides power for a Mental Health Officer to apply to a Sheriff or Justice Of the Peace for warrants to support the purposes of Section 33 enquires if required. These warrants can only be applied for by a Mental Health Officer.

There are 3 different powers that can be requested within a Section 35 warrant.

These are:

- To authorise entry, with the assistance a police constable.
- To authorise the detention of the person in situ for up to 3 hours for the purposes of medical examination by a medical practitioner named in the warrant.
- To authorise a specified medical; practitioner to access and inspect medical records.

In addition to authorising the MHO and police constable the warrant can authorise specified persons, and this may include a medical practitioner or health staff.

Section 203 allows a Mental Health Officer to apply to a Sheriff for a Removal Order.

A Removal Order authorises a police constable to enter premises and it authorises the removal of a person aged 16 or above to a place of safety for a period not exceeding 7 days.

Section 292 permits any person authorised under the Act to apply for a warrant to enter premises and to take a patient who is already subject to the Act to any place or into custody.

Sections 36 and 44 provide a person with a mental disorder to be admitted and detained in a psychiatric hospital for assessment and treatment.

Section 63 allows for application to be made to the Mental Health Tribunal, for a compulsory treatment order, that can either authorise care and treatment in hospital or in the community.

.If required advice should be sought from a Mental Health Officer.

The Adults with Incapacity (Scotland) Act 2000 and the Mental Health (Care and Treatment) (Scotland) Act 2003 have been further amended by the Adult Support and Protection (Scotland) Act 2007.

Safeguarders

Under Section 41(6) of the 2007 Act, the sheriff has discretion to appoint a person to safeguard the interests of the affected adult at risk in any proceedings relating to an application. It may be that the sheriff will instruct the safeguarder to report on the issue of consent.

For further details on safeguarders please refer to:-

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

Appropriate Adult Service

The role of the appropriate adult is to facilitate communication between a mentally disordered person and the police and, as far as is possible, ensure understanding by both parties. The use of an appropriate adult is extended to all categories of interview - witness, victim, suspect and accused. Mental disorder is defined in the Mental Health (Care and Treatment) (Scotland) Act 2003 as any mental illness, personality disorder or learning disability however caused or manifested. It is the responsibility of the police to determine if someone is vulnerable and to initiate the appropriate adult scheme.

Appropriate adults are selected for their experience in the field of mental health, learning disabilities, and dementia and/or acquired brain injuries. It is their role to pick up on clues and indicators that a person has not fully understood what they are being told or what they are being asked. The presence of the appropriate adult is about trying to ensure equality for the person being interviewed. It is not about advocacy or speaking on behalf of a person with a mental disorder, rather it is about an independent third party checking that effective communication is taking place and that the person being interviewed is not disadvantaged in any way due to their mental disorder.

Further information can be obtained from: [Click here](#)

Support for unpaid carers

It may be that adult's carer requires support to enable them to continue to support the adult. The Community Care and Health (Scotland) Act 2002 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.

For fuller details on vulnerable witnesses please refer to:-

Adult Support and Protection (Scotland) Act 2007 Part 1 -Codes of Practice January 2009 (Chapter 3) – [click here](#)

Other Legislation - Where the person has a mental disorder, action under the Mental Health (Care and Treatment) (Scotland) Act 2003 may be appropriate. Where a person has impaired capacity, an order or the appointment of a proxy under the Adults with Incapacity (Scotland) Act 2000 may be appropriate. It may be that it would be appropriate to provide care and support under the Social Work (Scotland) Act 1968. In some cases, particularly in those where the adult has capacity, assistance may be provided to the adult by, for example, ensuring that they have access to suitable advice and support, should they wish to access it.

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 Harm – 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 Harm – (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.

The following indicators should be considered by workers when concerns regarding emotional harm 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 an 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 Harm - involving the exploitation of resources and belongings of the adult at risk e.g.

- 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.

Sexual Harm – 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 Harm 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.

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 omissions by others charged with care of adult at risk – including ignoring medical or physical care needs

- Failure to provide access to appropriate health social care or educational services.
- Withholding of the necessities of life such as nutrition, appropriate heating etc.

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

- Lack of appropriate food.
- Lack of adequate clothing.
- Circulation disorders.
- Unhygienic home conditions.
- lack of protection or exposure to dangers including moral danger, or lack of protection or exposure to dangers including moral danger, or lack of supervision appropriate to the adults ability to manage harm or
- Exposure to dangers including moral danger, or lack of supervision appropriate to the adults ability to manage harm.
- Lack of protection or exposure to danger including moral danger, or lack of supervision appropriate to a adults age and ability which have arisen due to familial abuse of substances.
- Failure to seek appropriate medical attention.
- A delay or failure in seeking medical treatment which is obviously needed.
- 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 resident's requests.

- Serious or persistent failure to meet the needs of the adult at risk.
- A prolonged interval between illness/injury and presentation for medical care.
- Non attendance at social care or educational service.
- Evidence of withholding of necessities of life such as medication, adequate nutrition and heating.

Self harm by adult at risk

- Refusal to eat or drink.
- Cutting, burning, scalding or hitting parts of own body.
- Swallowing harmful substances or objects.
- Overdosing.

Self neglect and acts of omissions by adult at risk

- Lack of ability to care for own basic needs e.g. food, clothing, personal hygiene.
- Lack of ability to care for living environment e.g. dirty or unsafe living conditions, inadequate heating or lighting.
- Loss of weight or being constantly underweight.
- Inappropriate dress for the conditions or time of day.
- Not requesting medical assistance and/or failing to attend appointments.

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 Abuse

Association of Chief Police Officers Scotland (ACPOS) and Crown Office Procurator Fiscal Service (COPFS) Joint Protocol defines domestic abuse as –

Any form of physical, sexual or mental and emotional abuse which might amount to criminal conduct and which takes place within the context of a relationship. The relationship will be between partners (married, cohabiting, civil partnership or otherwise) or ex-partners. The abuse can be committed in the home or elsewhere.

While available evidence suggests that the most prevalent instances of domestic abuse are male violence towards women, this definition acknowledges and includes female violence towards men and violence between partners or ex-partners in close, same-sex relationships.

The similarity between the above acts of harm in relation to adult protection is recognised. However the key factor in relation to activating adult protection procedures in such situations is dependant on assessment of “adults at risk”.

The Facts of the Borders Investigation and Lessons to be Learned

On 1 March 2002, a woman was admitted to Borders General Hospital after she had gone to the house of a friend who found her to be badly injured and called an ambulance. She was taken to hospital with multiple injuries from physical and sexual assault. A police investigation revealed a catalogue of abuse and assaults over the previous weeks and possibly much longer. Three men were convicted of the assaults later in 2002.

The woman was considered to have a learning disability. A series of events had led to her being cared for by one of the convicted offenders. Over many years, there were events and statements in records held by social work, health services and the police that raised serious concerns about this person's behaviour toward this woman.

Other individuals were receiving care under the same circumstances. They had varying degrees of learning disabilities, physical disabilities and mental health needs, which were largely neglected, to the point of becoming potentially life-threatening for some. Health and social work records contained numerous statements of concern about their care, including allegations of serious abuse and exploitation that were not acted upon. From late 2000, the lives these individuals became increasingly chaotic. They were neglected, lived in unsuitable and unsanitary conditions and were financially and sexually exploited.

The people involved had numerous contacts with:

- Social Workers.
- General Practitioners.
- District Nurses.
- The local Learning Disability Specialist Team.
- General Hospital Services.
- Dieticians.
- Police.

In June 2003, the Minister for Education and Young People asked the Social Work Services Inspectorate (the Inspectorate) to carry out an inspection into the social work services provided to people with learning disabilities by Scottish Borders Council's Department of Lifelong Care.

Within a similar timescale, the Mental Welfare Commission (the Commission) carried out an investigation into the involvement of health services in this case, paying particular attention to joint working between health and social work services.

In order to protect the identities of the individuals involved, the Mental Welfare Commission does not usually publish full reports of its investigations. Reports are provided to the key agencies, in this case NHS Borders and Scottish Borders Council and in anonymous form to Scottish Ministers.

Despite the different scope and remit of the Inspectorate's investigation and the Commission's inquiry, the two organisations liaised closely throughout their respective investigations to ensure appropriate information-sharing and avoidance of duplication wherever possible. Set out below is a summary of the main findings of both investigations, followed by their recommendations in full. Border Inquiry Findings.

THE FINDINGS OF THE INVESTIGATIONS

Listed below are the main findings from both investigations. Although some of the findings are common to both investigations and some are directed at the relevant service, they are listed together to emphasise the importance of joint working in cases such as this one.

- Failure to investigate appropriately very serious allegations of abuse.
- An acceptance of the poor conditions in which the people involved lived and the chaos of their lives.

- Lack of comprehensive needs assessments, including carers' assessments, or assessments of very poor quality, despite clear and repeated indications of need from the earliest point of agency contact.
- Lack of information-sharing and co-ordination within and between key agencies (social work, health, education, housing, police).
- Disagreements between agencies at frontline and middle management level, with no mechanism for resolving these.
- Unsustained contact with the individuals by the specialist Learning Disability service.
- Failure by some members of the Primary Care Team (GPs and District Nurses) to act on information about poor home conditions and to make these concerns known to the social work service.
- Lack of risk assessment and failure to consider allegations of sexual abuse.
- Very poor standards of case recording, falling well below acceptable practice.
- Lack of care plans identifying the purpose of contact with individuals.
- Lack of understanding of the legislative framework for intervention and its capacity to provide protection.
- Failure to consider statutory intervention at appropriate stages.
- Failure to understand and balance the issues of self-determination and protection.
- Failure to protect the finances of vulnerable individuals.
- Inability and/or unwillingness to confront aggression and staff's consequent collusion with aggressors to the detriment of victims.
- Lack of understanding of the complexities of child/adult protection and of the need to explore all allegations of abuse and the possible reasons for retraction of these.
- Failure to communicate with service users or to engage them effectively in assessing their needs.
- Lack of compliance with procedures.
- Infrequent, unstructured and poorly recorded supervision of frontline staff by managers.
- Serious deficiencies in training and development.
- Lack of clarity of roles and reporting responsibilities.
- Uninformed and inaccurate assumptions of individual staff expertise in particular areas and consequent dangerous reliance on this.
- Lack of senior management and leadership.
- Ineffective management of poor practice.
- Breaches of the Scottish Social Services Council Code of Practice for employers.

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.

Advance Statement: A statement made under the provisions of Section 275 of the Mental Health (Care and Treatment) (Scotland) Act 2003 setting how a person would, or would not, wish to be treated should they subsequently require care and treatment under that Act.

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 (Section 53): The Scottish Commission for the Regulation of Care- now known as Social Care & Social Work Improvement Scotland.

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 where the person is currently located.

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).

Curator ad litem: Person appointed by the sheriff to protect the interests of the person who is the subject of proceedings relating to an application.

Disapply/Disapplication (Section 41): To dispense with.

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 enquiries 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.

Nearest relative: Section 254 of the Mental Health (Care and Treatment)(Scotland) Act 2003, as applied by Section 53 of the Act, sets out a list of the people who will be considered in identifying a person's nearest relative.

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

Primary carer (Section 53): A primary carer is the individual who provides all or Most of the care and support for the person concerned. This could be a relative or friend but does not include any person paid to care for the person. Section 329 of the Mental Health (Care and Treatment) (Scotland) Act 2003, as applied by Section 53 of the Act, defines primary carer.

Proxy: A continuing or welfare attorney, or a guardian under the Adults with Incapacity (Scotland) Act 2000. More commonly known as a proxy. Can have a Combination of powers – welfare, property and/or finance.

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 (Sections 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.

Safeguarder (Section 41(6)): Person appointed by the sheriff to safeguard the Interests of the person who is the subject of proceedings relating to an application.

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.