

Adult Protection Policy for Social Care Staff

Implementation date: November 2010 (most recent review: October 2017)

Control schedule

Approved by	Health, Social Care and Housing Committee
Approval date	27 January 2015
Senior Responsible Officer	Michelle Miller, Chief Social Work Officer
Author	Kate Fennell, Adult Protection Officer
Scheduled for review	Annual

Version control

Version	Date	Author	Comment
0.1	01.11.2014	Kate Fennell	
0.2	13.10.2017	Kate Fennell	

Committee decisions affecting this policy

Date	Committee	Link to report	Link to minute
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Adult Protection Policy for Social Care Staff

Policy statement

- 1.1 All adults who are unable to protect themselves because of disability or infirmity should receive the help and support they need to stay safe. This policy provides a set of principles and definitions in relation to the support and protection of adults. It outlines the Council's duties and powers under the [Adult Support and Protection \(Scotland\) Act 2007](#).
- 1.2 Edinburgh supports the broader approach to protecting adults. This means that activity is not limited to protecting only those who meet the Adult Support and Protection Act (2007) threshold. Some adults with multiple needs lead complex lives, which may mean they are at significant risk yet not meet the Act's definition of an "adult at risk". Edinburgh is committed to the provision of a joint and consistent approach to managing risk in a wide range of situations, and not just those under the 2007 Act. The Council and its partners, through Edinburgh's Public Protection Committees, will combine experience, knowledge and resources in seeking to engage with service users to improve their wellbeing and keep communities safe.

Scope

- 2.1 This policy should be read in conjunction with the Council's "Risk Assessment and Management for Social Work and Social Care Staff" policy. It should also be read in conjunction with Edinburgh's Adult Protection Procedures.

The principles and definitions within this policy apply to all adult protection activity carried out by or on behalf of the City of Edinburgh Council.

Definitions

3.1 Adults at Risk

Under the Adult Support and Protection (Scotland) Act 2007, an "adult at risk" is defined as a person aged 16 years or over who:

- (a) is unable to safeguard his or her wellbeing, property, rights or other interests
- (b) is at risk of harm, and

- (c) because s/he is affected by disability, mental disorder, illness or physical or mental infirmity is 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 “at risk”. Someone could have a disability, but be able to safeguard their wellbeing, property, rights or other interests. All three elements of this definition must be met for the provisions of the legislation to apply. It is the entirety of an adult’s particular circumstances which combine to make him or her more vulnerable to harm than others.

3.2 Categories of abuse or harm

- under the Adult Support and Protection (Scotland) Act 2007, 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.

Harm means all harmful conduct, regardless of whether the harm is deliberate, unintentional or due to ignorance.

3.3 Harm includes:

- conduct which causes physical harm
- conduct which causes psychological harm (e.g. 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 results in “self-harm”.

- 3.4 This definition does not include adults with capacity who may be victims of harm or at risk of harm, for example, victims of domestic abuse or people at risk due to their lifestyle, substance misuse, homelessness, etc. The Council and its partners’ duties in relation to people with capacity are discharged via local public protection activity.

Policy content

4.1 Principles of Adult Protection

The protection of adults in Edinburgh will be promoted according to the principles outlined in the Adult Support and Protection (Scotland) Act 2007. These are as follows:

- any intervention in an adult's affairs will provide benefit to the adult
- any intervention into the adult's affairs will be the least restrictive into the adult's affairs possible
- any intervention will take into account the wishes of the adult
- any intervention will take into account the views of people who are important to the adult
- any intervention will involve the adult's participation as much as possible
- any intervention will not result in the adult being treated less favourably than someone who is not an adult at risk
- any intervention will take into account the adult's abilities, background and characteristics (including the adult's age, sex, sexual orientation, religious persuasion, racial origin, ethnic group and cultural and linguistic heritage).

In addition, the Council has agreed the following principles to frame its approach to adult protection, and it will:

- work closely with NHS Lothian and Police Scotland to ensure that adults who may be considered vulnerable or at risk get the help they need from all the agencies with a duty to protect them
- ensure that adults at risk receive help that is in keeping with their wishes and respects how they want to live
- provide measures of protection for young people, aged 16 and over who have been subject to child protection measures
- provide measures of adult protection consistent with other duties to adults who are unable to make decisions for themselves because they have a level of incapacity, which prevents them from making such decisions.

4.2 Joint Working in Adult Protection

Safeguarding adults at risk is not the responsibility of any single agency. Professionals working with adults at risk are required to work together to share information, assess needs and risks, and plan and deliver services in a co-ordinated manner. In so doing, professionals can reduce the risk of harm and promote welfare.

The Edinburgh Adult Support and Protection Committee is established under the terms of the Adult Support and Protection (Scotland) Act 2007. It includes representatives from the Council, Edinburgh Health and Social Care Partnership, NHS Lothian, Police Scotland, the Care Inspectorate, the Scottish Fire and Rescue Service, Edinburgh Voluntary Organisation Council and the Crown Office and Procurator Fiscal Service (see 4.3 below).

Measures to protect adults at risk need to be considered in the context of the wider range of support services available. Adult protection investigations may identify gaps in support, even if they conclude that no harm has taken place. When this is the case, an assessment of need should be undertaken to secure appropriate services.

Sharing information is central to this work and the City of Edinburgh Council's expectations are explicit. Where there is a reasonable cause to suspect that an adult at risk is suffering from harm, this will always override the need for confidentiality.

To ensure that the Council provides adult protection measures, which are shared across agencies and which comply with the adult protection principles, procedures have been introduced for all staff. These are described in detail in Edinburgh's Adult Protection Procedures.

4.3 Duties under the Adult Support and Protection (Scotland) Act 2007

The Act requires each council area to establish an Adult Protection Committee to oversee adult protection. The aim of the Adult Protection Committee is to ensure the delivery of better, long-term, positive outcomes for adults at risk, and to reduce the likelihood of harm, through the appropriate co-ordination of services. This includes overseeing the development of guidance procedures and multi-agency training.

The Act requires councils to make inquiries into an adult's wellbeing and financial affairs if the adult might be an adult at risk and s/he might require measures of protection. The Act requires other agencies, including Police Scotland, the National Health Service, the Office of the Public Guardian and the Care Inspectorate to assist the local authority with such inquiries, and to inform the local authority about adults at risk who may require protection.

If as the result of an inquiry it is considered that some intervention in the adult's life is necessary, the Act requires councils to consider what services the adult might require to assist them in expressing their views and protecting themselves. This includes the provision of independent advocacy services.

4.4 Duty to co-operate

Public bodies must co-operate with the local authority making inquiries in relation to an adult at risk. Public bodies must report the facts and circumstances to the local authority where they know or believe that a person may be an adult at risk and that protective action may be needed. Public bodies have a shared responsibility to identify and manage risk through the development of Adult Protection Plans.

4.5 Investigations under the Act

The purpose of an investigation by the Council is to establish whether an adult at risk is suffering harm and to establish what measures can be provided to protect

the adult from further harm. As part of such an investigation, the Act imposes a duty on Council officers to visit and interview the adult, either on their own or with another person accompanying them. Where necessary, the Act requires that the Council officer be accompanied by a health professional to conduct a medical examination. The adult is not required to agree to an examination taking place and must be informed of this. As part of an investigation, a Council officer may require from any person holding financial or other records in relation to the adult at risk, that they provide these records or copies of them. When these records are “health records”, they must be handed on to another health professional for examination.

4.6 Warrants for Entry under the Act

If, during an investigation a Council officer is refused entry, or is likely to be refused entry, or is unable to enter the premises for some other reason, they may apply for a warrant. The warrant will allow them to enter the premises and allow a constable who accompanies the Council officer to do anything, using reasonable force where necessary, which the constable considers to be reasonably required in order to fulfil the object of the visit. The warrant expires 72 hours after it has been granted. In urgent cases, an application for a warrant can be made to a justice of the peace. The justice of the peace will only grant the warrant if s/he is satisfied that, it is not practicable to apply to the Sheriff Court and that the adult is likely to be harmed if there is any delay in granting the warrant.

4.7 Applications to court for protection orders

The Act allows Council officers to apply to the court for three types of order, if required, to complete their investigation or to provide measures of protection to the adult. A protection order may be applied for at any time in the adult protection process. Unless a protection order is being sought on an emergency basis, the application will be made in writing by a local authority solicitor, including evidence provided by the Council officer. Details of how to apply for orders and associated procedures are contained in the Adult Protection Procedure.

The protection orders that can be sought are set out below.

- **Assessment Order:** this order allows the adult to be taken to a place where they can be interviewed and to be examined by a specified health professional. The purpose of the assessment is to allow the Council officer to establish that the adult is an adult at risk who requires measures to be put in place to prevent them from harm.
- **Removal Order:** this order allows the Council officer to remove the adult to a specified place within 72 hours of the order being granted and for the Council to take such reasonable steps as it thinks fit for the purpose of

protecting the moved person from harm. Only the Council can apply for a removal order.

- **Banning Order:** Council officers and other interested parties, including the adult at risk themselves, can apply for a banning order. The order would ban the subject of the banning order from being in the specified place. It would also authorise the ejection of the person from any specified place and would authorise a person to do anything else, which the sheriff thinks necessary for the proper enforcement of the order. A banning order will expire six months after it has been granted. Banning orders can have powers of arrest attached to them.

4.8 Council Officers

Investigations under the Act and applications for warrants and protection orders must be undertaken by 'Council officers'.

The Edinburgh Adult Protection Committee has decided that a Council officer must be registered with the Scottish Social Services Council as a social worker or social services worker; or as an occupational therapist in the register maintained under article 5(1) of the Health Professions Order 2001; or be a nurse, and to have had at least 12 months relevant experience of identifying, assessing and managing adults at risk. They will also have undertaken an appropriate level of training as agreed by the Committee.

The City of Edinburgh Council is responsible for appointing these officers and ensuring they meet the relevant requirements.

Implementation

- 5.1 This policy was implemented following the enactment of the adult support and protection legislation.

Roles and responsibilities

- 6.1 This policy will be maintained by the Adult Protection Officer.
All relevant Council staff are responsible for complying with this policy.

Related documents

- 7.1 Legislative Context

Adults at risk are potentially subject to a number of pieces of legislation. Organisations may have differing duties and powers in relation to them. The [Adult Support and Protection Act 2007](#) provides a framework within which the adult at risk can be identified, the risks assessed and the most appropriate legal options considered.

City of Edinburgh Council's adult protection procedures and procedures for duties under the [Adults with Incapacity \(Scotland\) Act 2000](#) and the [Mental Health \(Care and Treatment\) \(Scotland\) Act 2003](#) should be consulted as part of the investigation planning process.

- Criminal justice legislation will be used to investigate any crime committed against the person and prosecution will be considered against the perpetrator.
- Mental health legislation should be used when the person is subject to harm because they require treatment for a psychiatric disorder.
- Adults with incapacity legislation should be used when the person is subject to harm because they lack the capacity to make a decision.
- The Scottish Government practice guidelines, together with Edinburgh's guidelines in relation to forced marriage must be consulted where the person is considered at risk of a forced marriage.

Relationship between legislation and City of Edinburgh Adult Protection procedures

All the duties and powers outlined in the legislation described should be considered within the context of Edinburgh's adult protection procedures. Adult protection procedures give instruction as to how duties should be discharged and which officers from partner agencies should be involved.

Generally it is the expected that:

- any investigation under the Adult Protection and Support (Scotland) Act 2007 in relation to an adult at risk should include an inter-agency referral discussion to facilitate information sharing and initial risk management planning between agencies
- any application for a warrant or order under any of the legislation described above should only be undertaken as one of the recommendations of an adult protection case conference, unless urgent intervention is required.

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

[Code of Practice for Local Authorities](#)

[Adults With Incapacity \(Scotland\) Act 2000](#)

[Human Rights Act 1998](#)

[The Health Professions Order 2001](#)

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

[Forced Marriage \(Scotland\) Act 2011](#)

Equalities and impact assessment

8.1 No strong reference to equalities, diversity and human rights. No equalities impact assessment advised (score = 1).

Strategic environmental assessment

9.1 This policy does not have any environmental implications.

Risk assessment

10.1 This policy seeks to reduce and mitigate risks to adults in need of protection as described in the Adult Support and Protection (Scotland) Act 2007.

Review

11.1 This policy will be reviewed on an annual basis.