Edinburgh

Inter-agency Adult Support and Protection Procedure 2024

NHS Lothian

EDINBVRGH
THE CITY OF EDINBURGH COUNCIL

POLICE SCOTLAND
Keeping people safe
POILEAS ALBA

PURPOSE

Adult Protection aims to ensure that all Adults, aged 16 + who are unable to protect themselves because of disability, illness, mental disorder or mental or physical infirmity get the help and support they need to stay safe. This document details the process to be followed by staff when seeking to protect Adults at risk of harm.

SCOPE

The Edinburgh Inter-Agency Adult Protection Procedure has been developed to guide and assist staff in all agencies to progress Adult Support and Protection matters in a consistent and timely manner. They are designed to inform and support practitioners by detailing the requirements to fulfill statutory requirements of their role and operate within the legislation to safeguard adults at risk of harm, abuse and exploitation in our communities.

The Edinburgh Adult Protection Committee (APC) endorses and promotes cooperation, information sharing and collaboration amongst and between all agencies, including independent and third sector to assist, support and or protect an adult by deploying a person centered and trauma informed approach.

This Procedure is aligned to the Adult Support and Protection (Scotland) Act 2007 Codes of Practice (Revised July 2022) and as such should be read in conjunction with it.

This Procedure is designed to support professional knowledge and judgement and should be used in accordance each agency's own, single agency Adult Support and Protection procedures as required.

This Procedure takes account of inter-agency self-evaluation and the introduction of new national Codes of Practice and relevant changes in legislation changes.

Edinburgh Inter-agency Adult Protection Reporting Harm Protocol

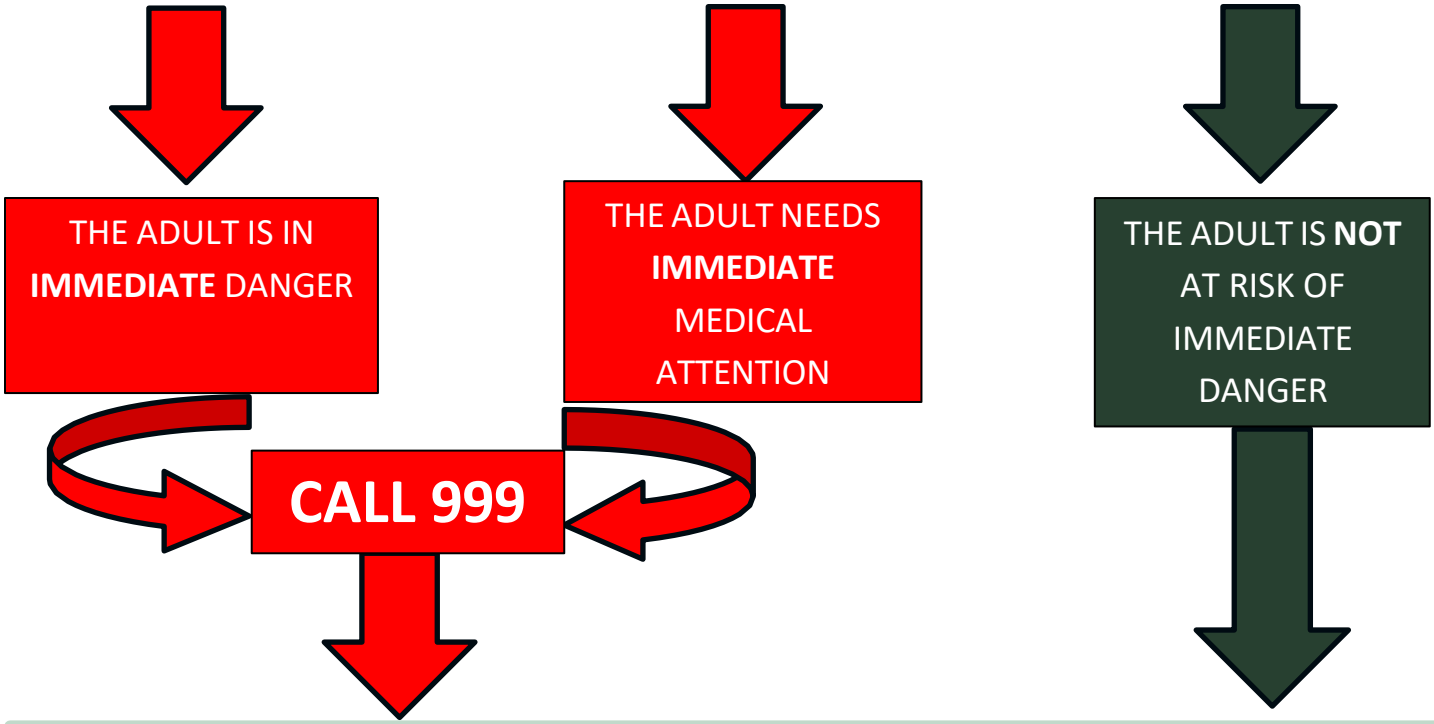
INFORMATION RECEIVED

You suspect an Adult is being harmed

You have seen an Adult being harmed

An Adult has told you they are being harmed

What is harm? Who is an Adult at risk of harm?



Report Adult Protection Concern

0131 200 2324

IN ALL CASES

You have a duty to report harm, even if the Adult does not want you to.

It is good practice to inform the Adult that you are reporting harm.

Inform your line manager and follow your organisation's Adult Protection procedures

Table of Contents

PART A: CONTEXT FOR PARTNERSHIP WORKING

1. Adult Support and Protection is everyone's business.

This Procedure outlines the duties and responsibilities of all agencies concerned with the support and protection of Adults. However, it is important to recognise that "Adult Support and Protection is everyone's business." All individuals and services have a contribution to make in supporting and protecting Adults at risk of harm in Edinburgh.

All Adults at risk should feel safe, supported, and protected from harm.

Most Adults who are affected by disability, mental disorder, illness, physical or mental infirmity live their lives comfortably and securely, either independently or with the help of caring relatives, friends, neighbours, professionals, or volunteers. Some Adults affected in this way, however, are unable to safeguard themselves.

Harm may be caused by anyone; relatives or family members, volunteers, paid carers, friends and acquaintances, other people using services, neighbours, and more rarely strangers and those who deliberately exploit Adults at risk. Harm may also be caused by the actions of the Adult at risk themselves. This might be deliberate self-harm or inadvertent or unconscious self-harm. Support and protection for Adults who self-harm, including self–neglect, self-injury, and self-poisoning, where linked to an additional vulnerability as described above, may be the focus of support and protective measures.

This inter-agency procedure is designed to ensure that there is a standardised approach across Edinburgh and to provide a framework that can be applied across **all** agencies and services to inform and complement individual agency guidance/procedures.

1.1 Legislative Context

A range of legislation and standards underpins and supports this procedure, including:

- Adult Support and Protection (Scotland) Act 2007
- Adults with Incapacity (Scotland) Act 2000
- Human Rights Act 1998
- Mental Health (Care and Treatment) (Scotland) Act 2003
- Children and Young Persons (Scotland) Act 2014
- Health and Social Care Standards

Further details on how these support and protect Adults at risk of harm is contained within the appendix of this procedure. The Scottish Government's Adult Support and Protection (Scotland) Act 2007 Code of Practice (July 2022) (including guidance for General Practice) can also be found within the Appendices and this procedure should be read in conjunction with the Codes of Practice.

2. PRINCIPLES: ADULT SUPPORT AND PROTECTION (SCOTLAND) ACT 2007 (the Act)

The principles underpinning the 2007 Act mean that:

- The intervention must benefit the Adult;
- All actions should be supportive and the least restrictive; and
- Any interventions must have regard to:
  - the wishes of the Adult and relevant others;
  - providing information and support to enable the Adult to participate in the process;
  - the Adult's abilities, background, and characteristics; and
  - not treat the Adult less favourably than any other person in a comparable situation.

The Act provides support and protection to Adults known or believed to be at risk of harm through powers to investigate and intervene in situations of risk;

- Placing a duty on Councils to make inquiries (with or without the use of investigatory powers) to establish whether or not further action is required to stop or prevent harm from occurring.
- Places a duty on organisations including the NHS to co-operate in the investigation of suspected or actual harm.

2.1 Information Sharing

General Data Protection Regulation (GDPR) and confidentiality are not barriers to information sharing or cooperating with social work in relation to Adult Protection. Information can be shared without an Adult's consent if you know or believe them to be an Adult at risk of harm. It is considered good practice to tell an Adult when sharing information about them, but there are justifiable exceptions such as if it would place them at further or increased risk. The personal safety of staff should also be considered when sharing concerns with an Adult.

2.2 The Role of a Council Officer

The Act defines a Council Officer as a person appointed by the Council to undertake the duties and functions under the Act. The City of Edinburgh Council (CEC) cannot authorise a person to perform the functions of a Council Officer under sections 7 to 10 of the Act (investigative functions) unless the person: is registered in the part of the Scottish Social Services Council register maintained in respect of social workers or social service workers or is the subject of an equivalent registration; is registered as an occupational therapist; is a nurse; **and** the person has at least 12 months' post qualifying experience of identifying, assessing and managing Adult's at risk.

The CEC may withdraw the authority of a person to perform the functions of a Council Officer if the person no longer meets the relevant requirements.

2.3 The Role of Independent Advocacy

Under section 6 of the Act, any intervention under the Act should consider the views of the Adult. It is therefore obligatory on any Council Officer undertaking any Adult Support and Protection intervention that the provision of Independent Advocacy is considered; this includes discussing Independent Advocacy with the Adult and the benefits to them in this service. It is however for the Adult themselves to determine if they wish to engage with an advocate. The Council Officer should clearly record on Social Work systems that independent advocacy has been discussed with the Adult and their views around this. Council Officers should revisit the offer of advocacy with the Adult at **ALL** stages of the process.

2.4 The Adult Protection Committee

The Adult Protection Committee (APC) is a statutory body established under section 42 of the 2007 Act. Each Council area should have one. The APC is chaired by an independent convenor who is neither a member nor an employee of the Council or any of the other statutory agencies represented on the APC.

The APC is the primary strategic planning, assurance and governance mechanism for inter-agency Adult Support and Protection work in Edinburgh. To effectively safeguard Adults at risk in Edinburgh, all office holders and public bodies must collaborate in exercising the functions of the APC.

The APC is made up of senior representatives of key agencies who work together to effectively discharge its obligations in respect of policy and practice in Adult Support and Protection matters. Edinburgh's APC reports on its work to the Chief Officer's Group.

The key functions of the APC as defined in the 2007 Act are:

- To keep under review the procedures and practices of the public bodies and office holders relating to the safeguarding of Adults at risk;
- To give information or advice, or make proposals on the exercise of functions which relate to the safeguarding of Adults at risk;
- To make, assist in, or encourage the making of, arrangements for improving the skills and knowledge of officers or employees who have responsibilities relating to the safeguarding of Adults at risk; and
- Any other function relating to the safeguarding of Adults at risk as the Scottish Ministers may specify.

In performing these functions, the APC must have particular regard to improving co-operation between and across each of the public bodies and office holders.

3. Who is an Adult at Risk?

"The definition of an Adult at risk includes anyone 16 years and over with disabilities, mental disorders or illness or physical or mental infirmity and who are at risk of harm as a result of their own behaviour or the behaviour of others" (Codes of Practice 2022).

Under section 3 of the Adult Support and Protection (Scotland) Act 2007 ("the Act") defines an Adult at risk as anyone who meets the 3-point criteria:

1. They [the Adult] are unable to safeguard* their own well-being, property, rights, or other interests
2. They [the Adult] are at risk of harm;
and
3. Because they [the Adult] are affected by disability, mental disorder, illness or physical or mental infirmity they are more vulnerable to being harmed than Adult's who are not so affected**.

***'Unable to safeguard'** is not defined in the Act but the Oxford English Dictionary defines 'unable' as **lacking the skill, means or opportunity to do something** and the Collins dictionary as **lacking the necessary power, ability, or authority to do something**. The means and opportunity to carry out a safeguarding action should be given equal consideration along with an adult's skill or capability in doing so. Adults may be able to make or understand a decision but be unable to execute the necessary actions to safeguard themselves.

****The presence of a particular condition does not automatically mean an Adult is an Adult at risk, for example, an adult could have a disability or illness **but** is able to safeguard their wellbeing, property, rights or interests. Under the Act all three points of the criteria must be met for a person to be declared an Adult at risk. However, it is important to recognise that there are many people for whom the application of the three-point criteria is not straightforward and careful consideration should be given to every circumstance. **There does not need to be certainty that a person is an Adult at risk to progress with further inquiry if this is required**. It is important to recognise that an adult's vulnerabilities, medical conditions and abilities can fluctuate and change, and practitioners may need to re-evaluate an adult's circumstances against the three-point criteria over time.

The 3-point criteria should **not** be used as an eligibility test for access to services. If intervention under the Act is not required, alternative support under other legislation, including the general provisions in the Social Work (Scotland) Act 1968 should be considered.

3.1 Young people aged 16-18

Practitioners should pay particular attention to the needs and risks experienced by young people in transition from youth to adulthood, who are more vulnerable to harm than others. As other legislation and provisions exist which include persons up to 18 (and sometimes up to age 26 or even beyond), support under these other provisions may be more appropriate for some young persons. The responsibilities of the Council and other agencies for persons aged 16-18 will extend beyond adult

protection legislation. Where a young person under 18 is at risk of harm, The National Guidance for Child Protection in Scotland (2021) is relevant for reference, alongside the Edinburgh and the Lothians Multi-agency Child Protection Procedures. Young people may already be receiving services from a range of children's services, or as looked after children. This is not to say that they will or will not become Adults at risk in terms of the Act simply because they have reached a particular age. Each case will need to be considered by the nature of the particular circumstances – 'Understanding age in Child Protection guidance and Adult Support and Protection legislation' provides helpful information.

An Adult may be deemed at risk of harm and may also be placing their children at risk of harm. Children may live in homes where there is an Adult at risk of harm. When making inquiries as a result of either Adult or child protection referrals, consideration should also be given to the potential vulnerability of and risk to other members of the household.

3.2 What is Harm?

Section 3(2) of the Act defines an Adult to be at risk of harm if:

- **another person's conduct is causing or likely to cause the Adult to be harmed**

OR

- **The Adult themselves is engaging or is likely to engage in conduct which causes or likely to cause self-harm.**

Adults can be at risk of harm in various settings be it in their own home, or in the wider community. They also may be at risk through inappropriate arrangements for their care in a range of social or health care settings. Individuals who may pose harm to an Adult can include family and friends, informal and formal carers, other people also receiving residential or day care services, fraudsters, and members of the public.

The Act notes that, harm includes all harmful conduct which is both **intentional and unintentional** including;

- Conduct which causes physical harm
- Conduct which causes psychological harm (e.g. causing fear, alarm or distress)
- Unlawful conduct which appropriates or adversely affects property, rights, or interests (such as theft, fraud, extortion)
- Conduct which causes self-harm or self-injurious behaviours

The list above is not exhaustive, and no category of harm should be discounted simply because it is not listed within this procedure.

Harm can be accidental or intentional and can occur as a result of self-neglect or neglect by other individuals including those undertaking caring responsibilities. There are particular types of harm that have a legislative and policy response that must be considered in conjunction with the Adult Support and Protection (Scotland) Act 2007, for example;

- Domestic Abuse and Coercive Control
- Gender Based Violence
- Forced Marriage
- Female Genital Mutilation (FGM)
- Human Trafficking
- Sexual Exploitation
- Radicalisation

Practitioners should carefully consider the impact of the harm on the Adult as this is the most significant factor in assessment of the severity of the harm. Whether the harm was intended or not is not relevant to the significance of the impact upon the person.

Where a person has been assessed as at risk of harm but does not meet either or both of the other two elements of the three-point criteria, consideration should be given to all options necessary to protect that person from harm. This could be intervention under other legislation, including the general provisions in the Social Work (Scotland) Act 1968, or to offer any other services to provide care and support.

In the context of radicalisation, a Prevent referral should be always be considered. Prevent Multi-Agency Panel Duty Guidance: Protecting people vulnerable to being drawn into terrorism. HM Government 2021

In some instances, the individual believed to be the source of harm may themselves also be considered an Adult at risk. In these circumstances, the responsible social work Team Manager should allocate a Council Officer (not linked to the other adult) to assess the risks and circumstance of this adult.

3.3 Duty to Report Harm

Everyone has a responsibility to report concerns for an Adult they know or believe to be at risk of harm. When other agencies are considering making a referral but are unsure if the Adult at risk of harm meets the 3-point criteria, they should refer anyway and allow Social Work, as the lead agency, to further investigate.

If you witness harm, suspect it, or receive information that an Adult is at risk of harm, you have a duty to report this to an emergency service or social work service, without delay.

It is good practice, wherever possible, to inform the Adult of the referral, taking care to emphasise why you are concerned and why you need to seek additional support and/or protection.

If you are unable to inform them of the referral, you should note specific issues such as capacity, third party information, increased risk to the Adult or whether a person who may be a source of harm is present along with other details when you report the concern.

The Codes of Practice (2022) describe 4 stages for anyone to consider when reporting a concern or an Adult Support and Protection referral.

- **Recognise** the signs and symptoms of harm and when an Adult may be at risk
- **Report** to your line manager any concerns you have about an Adult and detail the harm you have identified
- **Refer** the adult to Social Work or in an emergency to the relevant emergency service, detailing the identified harm and the Adult 's circumstances
- **Record** in the Adult's record or on your agency's database the harm identified

If there are Child Protection concerns identified then a referral must be progressed in accordance with the Multi-agency Child Protection Procedures.

3.4 How to Report Harm

Any member of staff who witnesses, suspects, or receives information about an Adult at risk being subject to harm, mistreatment, or neglect, and where the Adult is in immediate danger, requires urgent medical attention or crime is suspected, must call the appropriate emergency services (police, ambulance, fire service). **See Table on Page 3 for an immediate response to reporting harm.**

ASP Concerns Raised by City of Edinburgh Staff

Any member of City of Edinburgh Council staff who has concerns or is given information about an Adult at risk of harm must discuss this with their line manager as soon as is practicable and make a referral to the Edinburgh Health and Social Care Partnership. If the worker has access to the social work system this should be sent directly using the workflow function to the SCD screening box and an ASP contact added.

If workflow is not possible the referral should be made through Social Care Direct.

When an allocated worker and their line manager decide there is a duty to make inquiries about an allocated case, the Council Officer will record this decision on the ASP Duty to Inquire questionnaire on the social work system. The circumstances should be discussed with a relevant manager and a decision made as to whether an Inter-agency Referral Discussion (IRD) and further investigation should be undertaken (see following sections for further details). This should be recorded on the social work system using the ASP IRD (Inter-agency Referral Discussion) case note.

Referrals made to Social Care Direct for other agencies, professionals, and the general public.

Referrals are made to Social Care Direct by telephone on 0131-200-2324

Information provided to Social Care Direct should include* (along with your own details and designation)

- Name
- Address
- Date of Birth
- Details of concern, risk and/or type of harm and source if known

- Any additional key information regarding the Adult that could impact on communication such as the need for an interpreter, cognitive impairment, concerns around the Adult's capacity, or any other health or social circumstances that need to be taken into consideration by those providing support.
- Details of any others that may be at risk.

*****If you do not have all this information, this should not prevent you from reporting in a concern of harm.

3.5 Receiving, Recording and Processing Adult Support & Protection Referrals

Any referral suggesting that an Adult may be at risk of harm, including anonymous referrals, will be recorded on the social work system and will be clearly categorised as an Adult Support and Protection Referral.

All Adult Protection Referrals will be screened by a Senior Practitioner or Senior Social Worker and if appropriate allocated to a Council Officer ideally within 24 hours or receipt of the referral being made to commence the initial inquiry. All referrals will be recorded within the Social Work database and clearly identified as Adult Support and Protection Referral.

Following completion of the initial inquiry the organisation who made the referral will be advised of the outcome of this.

3.6 Repeat Referrals

Should the council receive **three separate** referrals for an adult (whether stated or suggested as an Adult Protection referral or as a welfare or support referral) within a rolling 3-month period, where initially the Adult does not appear to meet the criteria for ASP, the relevant manger will allocate a Council Officer to undertake a Duty to Inquire (s.4 Initial Inquiry) in order to assess the Adult's circumstances and any intervention required.

PART B: INTER-AGENCY PROCEDURES

1. Adult Support and Protection Key Processes

1.1 Duty to Inquire

Under Section 4 of the Adult Support and Protection (Scotland) Act 2007 ("the Act") the Council has a 'duty to make inquiries' if it knows or believes:

- that a person is an Adult at risk of harm; and
- that it might need to intervene under the Act or otherwise to protect the person's wellbeing, property, or financial affairs.

There **does not need to be certainty for the duty to make inquires to be triggered, only a suspicion or belief.** Following an Adult Support and Protection Referral, a **Duty to Inquire without Investigative Powers** should be completed **within five working days.**

Where inquiries indicate that a criminal offence may have been committed against the Adult, this should be reported to Police Scotland immediately on 101 or in the case of an emergency 999. The role of the Police in investigating crime should not be compromised. It is particularly important to ensure that evidence is not destroyed or contaminated before the Police arrive at the scene. This does not remove the responsibility on the Council Officer or delegate[1] to take any immediate action to protect an Adult in conjunction with other agencies.

All agencies are responsible for fully recording information on their information database to detail their participation in a s.4 Duty to inquire.

1.2 Duty to Co-operate

Section 5 of the Act provides that certain bodies and office holders **must** co-operate with a council making inquiries under Section 4 of the Act and with each other where this is likely to enable or assist The Council making the inquiries. These bodies are:

- The Mental Welfare Commission for Scotland
- The Care Inspectorate
- Healthcare Improvement Scotland
- The Office of the Public Guardian
- All Councils
- Police Scotland
- All Health Boards and

[1] **An inquiry does not need to be undertaken by a Council Officer. An inquiry can be carried out be a delegate. Good practice would ensure that a Council Officer is involved in overseeing or supervising all activity relating to the Act.**

- Any other public body or officeholder as the Scottish Ministers may by order specify.

A range of other services and agencies may become involved with Adults whom they know or believe as being at risk and may therefore have cause to refer people to the Council, and as such have a direct part to play in protecting people from risk of harm. Such services and agencies are expected to co-operate with assisting inquiries and to provide services to assist Adults at risk of harm.

1.3 Application of the 3-Point Criteria

When considering the application of the 3-point criteria, Council Officers should consider the impact of addiction, homelessness, trauma (including in childhood) and consider how this is likely to impact on an adult's ability to make informed choices and safeguard their interests. It is therefore of critical importance that previous involvement with social work services is considered when applying the 3-point criteria.

Council Officers must consider all aspects of the 3-point criteria and clearly record whether the Adult meets each element. A clear analysis must be recorded on the Duty to Inquire template and associated client record which clearly sets out the rationale as to whether the criteria are considered to be met or not. Council Officers must revisit the application of the 3-point criteria for each subsequent Adult Protection referral received for an adult.

Any intervention that results from an Adult Support and Protection referral should be trauma-informed and person centred in its approach. All intervention should come from a strengths-based approach, considering the resilience of the Adult themselves as well as the formal or informal supports available to them.

1.4 Conducting a Duty to Inquire *without* Investigative Powers

The Duty to Inquire process should be followed to identify if an Adult is at risk and the nature of that risk. The purpose of the inquiry is to establish whether there is sufficient concern to believe or to know that an Adult may be at risk and to establish what if any ongoing intervention may be required. The decision about how to progress should be discussed with and agreed by an appropriate manager and recorded using the ASP Duty to Inquire assessment questionnaire.

If there are multiple referrals relating to the same specific incident or concern this can be addressed in the same assessment questionnaire. All Adult Support and Protection activity is overseen by a Council Officer.

Key elements of this initial inquiry include:

- Application of the 3-point criteria and whether the Adult is considered an Adult at risk of harm
- A review and analysis of previous referrals and the outcome of these referrals considered through the review or creation of a chronology

- Direct contact with all professional organisations involved with the adult including those who provide formal or informal support e.g., GP; Community Learning Disability Team; Justice Services etc
- Contacting the Adult to gain their views in respect of the referral made. The Adult's views should be clearly recorded within the inquiry case note
- Where it is not possible to gain the Adult's views either as a result of their refusal to participate or they are unable to convey their views independently; this should also be clearly recorded within the inquiry
- Contact with relatives/carers/Power of Attorney or Welfare Guardians to ascertain their views following the referral; these again should be clearly recorded
- That there is a clear rationale for decision making which is recorded
- The Adult should be kept informed at all stages of the process using communication appropriate to their needs, but only if doing so does not create further risk to the Adult or anyone else. If this is not possible then reasons should be recorded
- Feedback should be given to the referrer where relevant and in accordance with confidentiality requirements

Not all inquiries will determine that there is a need to interview the Adult or use other investigatory powers, hold an inter-agency referral discussion (IRD) or take any further action under Adult Support and Protection measures. The Council or Partnership may intervene, provide support, and protect the person under a range of other legislation and duties or local procedures if it is determined with reference to the principles of the legislation, that the Adult does not meet the three-point criteria.

When an Adult meets the three-point criteria, then adult protection measures should be used until such a time that the person is no longer considered an Adult at risk of harm under the Act, and it can be demonstrated that any identified risk has diminished or been mitigated against.

The conclusion of an inquiry and application of the 'three-point criteria' must be clearly recorded using the ASP Duty to Inquire assessment template on AIS (City of Edinburgh Council system). If ASP measures are to be closed at this stage this must be agreed and recorded using 'ASP Measures Closed' case note on AIS by an appropriate manager with Council Officer status.

1.5 Conducting a Duty to Inquire *with* Investigative Powers

The Act does not formalise a distinction between inquiries and investigations. Rather, an inquiry is the overarching process within which the investigatory powers which are set out in the act may be used to enable the council to fulfil its obligation to conduct inquiries. A Council Officer should always be involved where any of the four 'investigative powers' (sections 7-10 of the Act) are required;

- Undertake a visit to the Adult at risk of harm (s.7)
- An interview with the Adult (s.8)
- A medical examination (s.9)
- The examination of records (s.10)

1.6 Decision-specific Capacity

The Council Officer should consider the Adult 's capacity when preparing to interview the Adult or when seeking to secure the Adult's participation in any inquiry. A person's capacity can vary over time and can relate not only to their ability to make decisions but also their ability to implement these decisions safely. The Council Officer should seek the views of the GP in relation to the adult in the context of the presenting risk. Should a specialist capacity assessment be required this should be actioned immediately.

Every effort should be made to ensure that any information provided to the Adult is in an appropriate format for them to understand and support their participation. All communication including the use of independent interpreter services should be accessed in advance of the visit, rather than relying on children or other family members to interpret on behalf of an Adult whose first language is not English.

Section 35 of the Act does not permit a Council Officer or medical practitioner to ignore an Adult's refusal to be interviewed or medically examined even after an assessment order has been granted.

It must be noted that having capacity to make specific welfare or financial decisions does not automatically mean an Adult at risk of can safeguard themselves. Although relevant, decision-making capacity should not be a deciding factor in determining if an adult is able to protect their own well-being, property, rights or other interests.

1.7 Duty to Inquire *with* Investigative Powers Section 7: Undertake a visit to the Adult at risk of harm

An investigation under Section 7 of The Act is always conducted by a Council Officer . The Act permits a Council Officer to enter any place to carry out a visit. This may be the Adult 's home but could also be a relative's house, care home or hospital. In carrying out a visit the Council Officer must;

- Produce evidence of their identity and that of anyone accompanying them
- Produce evidence of their authority to carry out the visit
- State the purpose of the visit and be clear that it is to investigate a suspected risk of harm

The Council Officer must have regard to the importance of providing independent advocacy or services to assist an Adult, or another person in the household, to communicate.

It is good practice for the Council Officer to undertake a joint visit with another professional. This will contribute to the inquiry in several ways, for example by assisting in assessment of risk or assisting with communication with the Adult at risk or carers. This person should be an appropriately experienced colleague from within the Council or Partnership agencies who may already have established a working relationship with the Adult. Any member of staff from partner agencies who is requested to attend a visit with the Council Officer, is asked to prioritise this, under Section 5 , duty to co-operate.

In circumstances where there is potential for resistance or challenge by the Adult at risk or others, including the threat of verbal or physical violence, steps should be taken to ensure that staff are protected and supported in planning and executing the visit. Reference should be made to your own agency's lone working procedures to assess any potential risks and measures.

1.8 Where an Adult Withdraws, Disengages or Refuses to Co-operate

An Adult may appear to meet the criteria of an Adult at risk under the terms of the Act but may indicate that they do not wish to co-operate with inquiries or other actions being undertaken. Such a decision not to co-operate or to disengage from support does not absolve the Council and its Partners of responsibilities to make inquiries about the Adult's circumstances and risk of harm.

Inquiries should carefully consider the Adult's ability to understand the risks they are exposed to and the possible consequences of their refusal to co-operate, taking into account the trauma informed approach. Practitioners should be careful not to make assumptions about the Adult's decision-making skills or ability to safeguard. Withdrawal and disengagement may be seen as a reason to escalate rather than justification to end Adult Support and Protection Measures. Practitioners should remain alert to the possibility that **'undue pressure'**[2] might have contributed to a decision to refuse co-operation.

Even if there are no concerns in relation to capacity or undue pressure, the Adult's refusal to co-operate in an Adult Protection inquiry should not automatically signal the end of any inquiry, assessment, or intervention. Whilst the Adult has a right not to engage in any such process, the Council and its Partners should still work together to offer any advice, assistance, and support to help manage any identified significant risks. Any assistance should be proportionate to the risk identified and any need to support carers' needs should be considered.

1.9 Where entry is refused: Obtaining a Warrant

The Council Officer should consider how entry may be achieved without resorting to seeking a warrant authorising entry as a first course of action. An Inter-agency Referral Discussion (IRD) to plan and coordinate action should always be initiated by those involved before deciding whether to apply for a warrant, providing this would not cause delay and further risk. At all times regard should be given to minimising distress to the Adult wherever possible. Where a warrant authorising entry to premises is sought and provided, this will allow a Police Constable to accompany the Council Officer and to use reasonable force to fulfil the object of the visit. Use of force is a last resort where all other options have been exhausted.

---

[2] Section 35(4) of the Act gives an example of what may be considered to be undue pressure. An Adult at risk may be considered to have been unduly pressurised to refuse to consent to the granting of an order, or the taking of an action, if it appears that the harm which the intervention is intended to prevent is being, or is likely to be, inflicted by a person in whom the Adult at risk has confidence and trust; and that the Adult at risk would consent to the intervention if the Adult did not have confidence and trust in that person.

A warrant authorises a Council Officer to visit any place specified in the warrant, accompanied by a Police Constable. The accompanying Constable may use reasonable force where necessary to fulfil the object of the visit. This may include the Constable opening places which are locked. The Council should take all reasonable steps to ensure the security of the person's premises and belongings if force has been required to enter the premises.

The decision to make such an application should be made either through the IRD process or at an Adult Protection Case Conference. All agencies should be included in the planning and decision-making when a warrant for entry is being considered. The relevant manager from the Edinburgh Health and Social Care Partnership will then contact the relevant Council Solicitor at Legal Services to support the application and access to a Sheriff or Justice of the Peace to hear the application.

The warrant expires 72 hours after it has been granted. Once a warrant has expired, the Council Officer must not re-enter or remain in that place.

1.10 Duty to Inquire with Investigative Powers: Section 8: Interviewing an Adult at Risk

When planning an interview of an Adult at risk under Section 8, it is for the Council Officer alongside their manager and, where appropriate, IRD participants to agree the plan for the interview. This should include the use of a second worker who may be from a partner agency to support and enhance the interview process. The Council Officer should also consider the Adult's capacity to participate in any interview or investigation.

The purpose of any interview is to assist the Council Officer to gather information directly from an adult to further explore potential risk of harm. The Council Officer is responsible for assessing and determining what action is required to safeguard the Adult. The interview should include:

- Establishing if the Adult has been subject to harm
- Determining whether the Adult is at risk of harm
- Establishing if the Adult feels their safety is at risk and from whom
- Discussing what action, if any, the Adult wishes or is able to take to protect themselves, and
- Discussing what action, if any, others can take to protect the Adult

Prior to commencing any interview, the Council Officer should inform the Adult as to the purpose of the visit and their rights under Adult Support and Protection legislation. This includes explaining to the Adult that they are not required to answer any question asked of them.

1.11 Duty to Inquire *with* Investigative Powers *Section 9: Medical Examinations*

Under section 9 of the Act a health professional can conduct a medical examination in private if the Adult is known or believed to be at risk of harm. This applies to any Adult from the point of Inquiry onwards and until such times as it has been determined that they are not an Adult at risk of harm.

A medical examination can only be carried out by a health professional. Where required, the line manager of the service will provide a nominated health professional to undertake any health assessments required. A medical examination may be required for a number of reasons, including;

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

Examples of circumstances where a medical examination should be considered include:

- the Adult has a physical injury which he or she states was inflicted by another person;
- the Adult has injuries where the explanation (from the Adult or other person) is inconsistent with the injuries and an examination may provide a medical opinion as to whether or not harm has been inflicted, or whether there are concerns around self-harm;
- there is an allegation or disclosure of sexual abuse, and the type of assault may have left physical evidence (following local procedures for liaison with the police);
- the Adult appears to have been subject to neglect or self-neglect and is ill or injured and no treatment has previously been sought.

A person must be informed of the right to refuse to be examined before a medical examination is carried out.

1.12 Duty to Inquire *with* Investigative Powers*: Section 10: Examination of Records*

When undertaking an investigation, if the Council Officer requires further detail into the Adult's circumstances to substantiate the risk, they can request a section 10 examination of records. This would include health and or, financial records. Should the risk be of a financial nature, the national 'bank template' should be completed by the Council Officer and sent to a banking institution to make a financial information request. In the case of health records, the Act is clear that only a health professional can inspect health records. The Council Officer is empowered by the Act to identify, take or copy medical records held by a service but having obtained them must ensure they are interpreted by a health professional (Codes of Practice).

2. Assessing and Managing the Risk of Harm

2.1 Risk Assessment and Risk Management

The provisions of the Act are concerned with Adult's at risk of harm. Risk assessment and risk management should concentrate on the following:

- An assessment of whether the Adult is at risk of harm
- An assessment of the nature and severity of any risks identified, including when and where the Adult may be placed at risk and an identification of the factors that will impact on the likelihood of risk
- The identification of reasonable and proportionate timescales for undertaking inquiries and assessments
- The collation and analysis of a multi-agency chronology, and its contribution to risk assessment
- The development of a support and protection plan (that can be single or multi-agency), that identifies actions and supports that will eliminate or reduce the risks identified
- Reviewing and amending support and protection plans as risks and circumstances change
- Reviewing whether the Adult continues to meet the criteria for an Adult at risk of harm, and if not, whether there are other supports that will still be required outside of the provisions of the Act.

Some referrals concerning people who are believed to be at risk of harm will result in a determination that they do not meet the three point criteria and, therefore, require no further action under the provisions of the Act. This does not preclude other support or involvement through other relevant legislation, local procedures, or alternative services to respond to needs of the Adult. For other Adults, the inquiries will determine that they are at risk of harm and will need continuing assistance with their support and protection.

A robust risk assessment should include all relevant information and a chronology, to be completed by the Council Officer. Analysis of risk and the Adult's ability to safeguard themselves are key. Reports should also include information pertaining to significant others in the Adult's life, and provide a clear overview of the risks, vulnerabilities, and protective factors, as well as the Adult's views.

The risk assessment will be accompanied by a support and protection plan. This can be developed at any point of the Adult Support and Protection process and should be updated to reflect emerging and relevant information and events. Risk management/protection planning work should evolve over time and be adjusted as needed during activity.

A good risk management plan will clearly outline the risks, outline the protective factors, invite some analysis, reflect multi-agency views (including concerns) and say clearly what action was being taken to mitigate the risks identified. A good risk management plan will clearly demonstrate what support and protection measures are being put in place where, when and why.

2.2 Chronologies

Chronologies are key to professional decision making and risk assessment. Chronologies can help to analyse a behavioral pattern, a significant event, a fixed set of circumstances or a complex set of needs. The Council Officer should complete this ahead of the Adult Support and Protection Case Conference (ASPCC) with the information they have relevant to the risk of harm they are concerned about. This will be discussed at the ASPCC with the Adult and other professionals in order to establish if any key information is missing. The Edinburgh Adult Protection Committee has adopted the pan-Lothian chronology model and associated template which should be used.

A chronology is;

- A summary of key events that assist the understanding of need and risk, and are usually extracted from comprehensive case records and organised in date order
- A summary which reflects both strengths and concerns evidenced over time
- A summary which highlights patterns and incidents critical to understanding of need, risk and harm
- A tool which should be used to inform understanding of need and risk. In this context, this means risk of harm to an Adult
- Should by factual, evidence-based and succinct

Health and Police staff submit a chronology along with their report to the Council Officer, prior to the ASPCC. For health staff, a copy of this report and chronology should be uploaded to Sci-Store (NHS System) and uploaded as a third-party document should it contain any third-party information.

2.3 Interagency Referral Discussion (IRD)

An Interagency Referral Discussion (IRD) is the first stage in the formal process of multi-agency assessment and risk management where it is believed that an Adult meets the criteria as being at risk of harm.

- An IRD must involve Police, Health and Social Work but can be initiated by any agency or partner
- An IRD considers the nature of the investigation being progressed i.e. should this be single or multi-agency
- The IRD should determine how the investigation will be undertaken including visits to be undertaken, interviews, medical examinations
- Consideration whether urgent protection is required including orders available under the Adult Support and Protection (S) Act 2007

2.4 Purpose of an IRD

An IRD is a dynamic aspect of the information sharing and planning process which can take place at any point during the Duty to Inquire phase and not limited to one discussion. An IRD should be

initiated as quickly as possible (no longer than 72 hours) when at least one of the following circumstances applies and recorded on the eIRD system:

- The adult is at serious risk of harm and there is a need for immediate multi-agency information sharing, safety planning and intervention
- During the process of undertaking an inquiry (with or without investigative powers) it is clear that the 3-point test is met and inter-agency planning is required to decide further action including the convening of an APCC
- It is unclear if the 3-point criteria are met and the circumstances of the Adult will benefit from multi-agency consideration

The purpose of an IRD is to:

- Identify and share relevant information regarding the Adult at risk and consideration of any other adults or children
- Share all available and pertinent information in order to determine whether any criminal investigation is required
- Assess whether any immediate protection is required
- Establish whether an investigation by Council Officer is required
- Agree an initial action plan and establish which agencies are to be involved
- Consider Risk Assessment and Decisions
- Agree an Interim Protection plan
- Consideration of required action when an Adult is at serious and immediate risk of harm
- Consider whether there are any other Adults (or Children) at risk of harm
- Consider the need for an Adult Protection Case Conference
- Consideration as to the need for an assessment of capacity being required
- Consider the possible need to use the Appropriate Adult Scheme

IRDs are recorded on a specific electronic Inter-agency Referral Discussion (eIRD) platform that provides access to each participating agency. The eIRD record should provide a complete and accurate record of all relevant information, analysis of risk, discussion, decisions, and subsequent actions. All participants should record their part on the eIRD record so that it is clear for subsequent readers.

When an IRD takes place out with office hours, an appropriate member of the Emergency Social Work Service will undertake the IRD on behalf of the Edinburgh Health and Social Care Partnership. This will then be passed to the relevant managers within the Partnership or Community Justice to conclude the IRD within office hours.

2.5. 16 and 17-year-olds

For some 16 and 17 year olds it may be appropriate to consider the use of Adult Support and Protection or other legislation to provide protection and support beyond their 18th birthday which should be considered at the IRD stage. Where 16 and 17 year olds are already known to and

supported by services, transition to Adult services will be managed through current local arrangements. For some other 16 and 17 year olds, particularly those who are not known to any service, the benefits and implications of involvement in Child Protection processes beyond the IRD stage will need to be carefully planned to ensure that they are provided with the support and protection at the right time. Edinburgh and the Lothians Multi-agency Child Protection Procedures can be found here. 'Understanding age in Child Protection guidance and Adult Protection legislation' produced by IRISS (Institute for Research and Innovation in Social Services) is available here.

2.6 Actions which can result from an IRD

There can be number of outcomes to an IRD which can include:

- No Further Action. Enough information may be available to decide that no further Adult Support and Protection action is required. This may be because:
  - the Adult is not an Adult at risk as defined by the 2007 Act, or
  - the situation can be resolved by introducing or amending services to provide an appropriate level of support to allow the Adult to be protected from further harm
- Proceed to ASPCC
- Application for a warrant/Protection Order under the Act
- Single Agency follow up (either Health, Social Work or Police)

All decision making and rationale for these should be recorded using the following headings:

- Date IRD was opened
- Main Concern including type of harm
- Any Additional risks identified during the IRD/Investigation
- The Interim Adult Support and Protection Plan
- Whether the adult is proceeding to ASPCC and if not clear rationale as to why not
- Outcome of the IRD

If consensus on how to proceed cannot be reached then the case should be referred to the Adult Protection IRD Review Group for senior decision making regarding progression.

Once initiated, IRDs should be concluded and signed off by all agencies within 20 working days. A multi-agency Adult Protection IRD Review Group meets fortnightly to provide governance and assurance of the IRDs conducted.

2.7 Progressing Under Adult Support and Protection Measures

If the conclusion of the IRD is that further investigation, safety planning or risk management under the Adult Support and Protection (Scotland) Act is required, the manager who undertook the IRD will be responsible for ensuring that an appropriate Council Officer is allocated, if one is not already in place.

Where it is suspected that a crime has been committed, the Police will undertake a criminal investigation. Advice will be given during the IRD as to whether internal agency, disciplinary or council investigation should pause for the conclusion of criminal investigation. There is an expectation that any immediate safety planning will run concurrently whilst the Police investigation is being undertaken. There will be agreement recorded as to how the ASP process will be re-started.

Where the police have concluded their investigation or there is no criminal aspect, but an ASP investigation is still required, the Council Officer will interview the Adult; the carer and if appropriate, the care staff. It may be that these later interviews are delegated to care service or NHS managers. In this case it would be expected that the care service manager (NHS or care agency) would provide a summary report to inform the ASP investigation.

If it is agreed as part of the IRD that further investigation is needed and the risk is not yet sufficiently managed and therefore the decision is taken to progress further under Adult Support and Protection measures, then the next stage would be to arrange an ASPCC

3. Adult Support and Protection Case Conference

A multi-agency ASPCC is convened following the conclusion of the investigation and the outcome of the IRD.

The purpose of the multi-agency Case Conference is to:

- Convene a multi-agency meeting to share all relevant and proportionate background and current information with the Adult at risk, their informal and formal support network to manage risk. This is to discuss the type, frequency, and pattern(s) of harm that the Adult at risk has been the subject of or is still at risk from
- Identify any protective factors and agree actions to mitigate against harm to the Adult at risk by implementing a multi-agency plan
- Discuss and agree if the Adult continues to be an Adult at risk or not
- Reach a decision about ongoing Adult Protection intervention

An ASPCC provides a forum for robust information sharing, discussion, defensible decision making and safety planning. It also presents an opportunity for the Adult at risk and/or relevant others to express their views. Minutes will ensure that there is a permanent record of decisions and plans made. The decision to hold or not to hold an ASPCC should be clear and defensible and recorded on the social work system and on the IRD. ASPCCs should where possible be chaired by a dedicated Senior Practitioner in Adult Protection who is independent of the case. If this is not possible, then the ASPCC will be chaired by an operational Senior Social Worker.

3.1 Preparation for Holding a Case Conference

Within Edinburgh Adult Protection Case Conferences **must** be convened within **20 working days** of the initiation of the IRD. Should a case conference be required to go out with these timescales then

the relevant social work senior manager should alert the Chief Social Work Officer with a clear justification for the delay clearly recording the level of risk and the interim support plan.

When the relevant manager has agreed the need for an ASPCC they or the Council Officer will contact the Adult Protection Business Support Team for administrative assistance by email. A completed invitee template must be returned to the Adult Protection Business Support Team so that they can coordinate the ASPCC. This should include:

I. The Council Officer and their manager
II. The Adult who has been identified as being at risk
III. Carer or relative (being mindful of the Adult's wishes) or another such as an independent advocate
IV. General Practitioner
V. Other relevant Health Professional
VI. Police
VII. MHO if relevant
VIII. Children & Families SW if relevant
IX. Any other proxy
X. Any other relevant person or agency including Scottish Fire and Rescue Service, Housing services

If it is not clear who from Health services should be invited to the APCC this information can be sought by the health professional who participated at the IRD. Health staff can check Trak and inform on any professionals the Adult at risk of harm is known to. The GP should always be invited.

A quorate meeting would have social work plus two other agencies present. If the meeting is not quorate, this should be recorded, but the Chair will decide whether the meeting should go ahead. This decision will be on a case-by-case basis and take into consideration the risk of postponing or delaying the meeting.

A Duty to Inquire with Investigatory Powers, which includes a risk assessment, chronology and an initial protection plan **must** be produced by the Council Officer 4 days prior to the initial ASPCC. The ASPCC will be informed by a multi-agency investigation and assessment of risk and need. The purpose of completing this document is to establish the chronology of harm and to identify the areas that need to be addressed in forming an Adult Support and Protection Safety/Protection Plan.

All involved agencies should compile a report using the agreed template and this should be returned to adult protection business support 4 days prior to the date of the case conference. Support should be given to ensure the Adult is able to be supported to attend their meeting. This can include seeking their views on whether to hold an in-person meeting or a hybrid meeting. Particular attention should be paid to the potential for others to present during hybrid meetings that could be unknown to other participants. Should an Adult choose not to attend or be represented by an advocate, carer or

guardian, the Council Officer should advise the case conference of the reason for individual's non-attendance, and this should be clearly recorded within the case conference minute.

Prior to any case conference progressing the Council Officer should share their report with the Adult at risk. Consideration should be given to having this report translated either into an easy read version should there be any issues with literacy or into the adult's preferred language.

If there is ever consideration given to inviting the person suspected of causing the Adult harm, this must always be given very careful consideration. Even where it is assessed that the person might be causing the harm inadvertently or subconsciously (possibly a family member or carer) this must still be carefully risk assessed. Where the person is suspected of deliberately causing harm it is difficult to see how such an invitation could be justified. Primacy should always be given to the attendance of the Adult at risk over any person suspected of causing harm – inadvertently or otherwise. The Chair has the authority to decide whether any person's presence would interfere with the key tasks of forming a protection plan following the consideration of the risks.

Before concluding the APCC, the chair will summarise the agreed Protection Plan including responsibility for actions and associated timescales. Following review by the chair, the Protection Plan will be sent out to all attendees within 48hrs of the meeting. A full minute of the APCC will be produced and distributed within 15 days.

3.2 Attendance of the Adult at Case Conference

The wishes and needs of the Adult are at the heart of the case conference process and the Adult will normally be invited to be part of discussions about them. The Adult should be offered help to attend the case conference and could be supported by a friend, relative or independent advocate. Some of the discussion may happen before the Adult joins the meeting and, in some circumstances, it may not be appropriate for the Adult to attend. The Chair must consider and be guided by the:

- Health of the Adult
- Information to be shared at the meeting
- Effect on the Adult, especially if the person suspected of causing the harm may attend. However, per 3.1 above, primacy should always be given to the attendance of the Adult over any person suspected of causing harm
- Views of Adult, family, and carers

The Council Officer will consider ways to assist the Adult to meaningfully participate in the Adult Protection process and the ASPCC. The Council Officer will explore the use of advocacy, Talking Mats, any other means to enable the views of the Adult to be expressed. If the Adult is not able to attend, the case conference will decide how the Adult is to be informed of the decisions made at the meeting.

It is a legal requirement that the Adult at risk should be given information about an advocacy service to assist them through the process of the ASPCC. The option of an advocate attending the ASPCC must be offered to the Adult at risk.

3.3 Health Practitioners at Case Conferences

Health professional representation at APCC should be prioritised and discussed with your line manager as to who is the most appropriate staff member to attend. Participants must provide a report and a chronology. The report should include assessment and analysis which will support involvement in discussion and decisions in safety planning and risk management. The health representative may have responsibility for agreed actions in the plan and should consider if they need to share aspects of the plan with other involved health professionals.

For health professionals who have attended an Adult Protection Case Conference and/or review meetings; the documentation from the meeting should be recorded/stored in the patient records:

- In progress notes on TRAK, document that you attended the meeting, specify what type and who was present. Record the risks and action/safety plan. Indicate what actions you have responsibility for and the timeline for this to be reviewed
- Upload your health report, chronology and the APCC minute to SCI Store. If there is more than one health practitioner attending the APCC, you should agree who will upload the APCC minute, to avoid duplicates
- If there is 3rd party information within either progress notes or SCI Store uploads, please change your entry to a 3rd party entry

3.4 Police Officers at Case Conferences

Where Police representation is required, it is the responsibility of the Local Police Commander to nominate an Officer to attend. Where the requirement on the Police is for information only and no attendance is required, then this information will be provided in accordance with local procedures (Please refer to the Edinburgh PPU Concern Hub). Police representatives at Case Conference are required to share all information in their possession which is pertinent to the facts and circumstances **of the case only**. This may include relevant previous convictions and appropriate intelligence information. Any confidential, restricted, or third-party information that cannot be shared in an open forum should be marked as 'OFFICIAL SENSITIVE: POLICE ONLY' and will be discussed at the start of the APCC as Restricted information. Police colleagues will be asked to justify why information is being classed as restricted and it should be for one of the following reasons:

Sub Judice: information subject to legal proceedings the sharing of which may compromise those proceedings.

Third Party: information from or about a third party that may identify them if shared. This will include information about an adult that may not be known to others, including within close family relationships e.g. medical history.

Risk: information that if shared may place any person(s) at risk.

Police Scotland intelligence MUST NOT be referred to directly in the meeting. Occasionally a Chair will refer to "confidential police information" that cannot be shared at the meeting or with all participants.

Should Police fail to share any information the reason for this must be fully justified, agreed by a Supervisor and recorded. Relevant information gleaned from the interrogation of the Police databases and information systems should be collated and submitted to the Chairperson in advance of the meeting taking place.

3.5 Mental Health Officers at Case Conferences

The ASPCC is required to consider whether the Adult is at risk from abuse as the direct result of a level of incapacity related to a mental disorder. A Mental Health Officer (MHO) should be invited to attend the ASPCC when the following are likely to be part of deliberations:

- the use of powers under the Mental Health (Care and Treatment) Act 2003 or
- the need for Guardianship under the Adults with Incapacity (Scotland) Act 2000 as part of an Adult Protection Plan.

3.6 Case Conference Outcomes

Attendees at the ASPCC need to consider and identify whether the Adult continues to be an Adult at risk or not. Any decision should be based on the available evidence and discussion had about current and ongoing risk to the Adult. The ASPCC outcomes are:

1. Outcome-Further non-AP action is required. The Adult is no longer deemed to be an Adult at risk. The risk is being managed by the provision of service(s) and mitigations taken. The situation and circumstances for the Adult can be actively managed by the allocated Social Worker or indeed by another agency going forward.

2. Outcome-Further AP Action is required. The Adult is an Adult at risk of harm and ongoing multi-agency management of the presenting risks is required to mitigate against these. An ASPCC Review date is set which must be within a maximum of a 3-month period and Core Group is considered. The ASPCC will produce a SMART protection plan and agree to the frequency of how often the Adult is seen in the intervening time between the next review. A SMART safety plan is:

Specific – clear and detailed description of the actions required and who is responsible for taking the actions forward.
Measurable – how will we know if the plan is working?

Achievable – there should be a reasonable expectation that identified goals and outcomes are possible to accomplish.
Relevant – actions should be appropriate, proportionate, and relevant to the identified risk.
Timely- specific timescale should be recorded, 'asap' or 'ongoing' should not be used but rather 'in two weeks' etc.

The Adult Support and Protection initial case conference must detail the frequency of visits. The protection plan should ensure visiting requirements are a multi-agency decision, and also understood and agreed by the person and any advocate acting on their behalf or with their approval.

Conflict Resolution
The Chair is responsible for the case conference decisions. They will consult conference members and aim for consensus, but ultimately will make the decision and the minute will note any dissenting views. Refusal by any agency to implement the protection plan should be immediately reported to the Chair.

3.7 Adult Protection Plans and Core Groups

The ASPCC must also document in the protection plan where a core group is being formed to support ASP measures and include the frequency at which the core group is going to meet and any visiting by other core group members that will be taking place.

All ASPCCs should consider establishing a Core Group. A lead professional – likely to be the Council Officer - should be identified to be kept informed of relevant updates relating to the Adult and implementation of the support and protection plan; and lead professionals to comprise the core group who will work with the plan should be identified.

The core group would be those who have direct and ongoing involvement with the Adult and may also include the Adult. They are responsible for implementing, monitoring, and reviewing the support and protection plan, in partnership with the Adult. The core group should:

- Be coordinated by the lead professional
- Meet on a regular basis to carry out their functions
- Keep effective communication between all services and agencies involved with the Adult
- Activate contingency plans promptly when progress is not made, or circumstances deteriorate
- Recommend the need for any significant changes in the plan to the case conference chair and provide updates to the review case conference, including any update to risk assessment and chronology

- Be alert, individually and collectively, to escalating concerns that may require immediate response and/or additional support. If there are significant concerns, the Core Group can request that an ASPCC be reconvened

If a Core Group is not formed because it is believed that the Adult Protection Plan can be implemented without one, this must be noted in the minutes.

3.8 Adult Protection Case Conference Reviews (ASPCCR)

An ASPCC Review will be held **within 3 months** of the initial ASPCC or follow-up review. The meeting will be chaired by the same Chair as the initial Case Conference, where possible.

Prior to the APCC Review a summary report including an up-to-date risk assessment, chronology and safety plan must be produced by the Council Officer. Reports and chronologies from other agencies pertaining to the protection plan and risk assessment should be updated and sent to the Adult Protection Business Support Team/Council Officer four working days in advance of the review meeting. These papers will be sent to the ASPCC group prior to the review meeting to ensure all relevant information is shared and understood at the start of the review meeting.

The Case Conference will review the actions of the multi-agency risk management plan, consider all relevant updates as well as any changes to the adult's circumstances. The Case Conference review should not revisit the original reasons for the Case Conference but rather focus on the current risks and the ongoing requirement for the multi-agency risk management plan to manage these, in line with the three-point criteria and general principles of the Act. Should ongoing risk management planning be required then a refreshed multi-agency risk management plan will be created.

Each multi-agency risk management plan can be reviewed earlier should there be a material change in the circumstances of the Adult at risk, prior to the date set for the next ASPCC. Any agency can request this to be arranged via the Council Officer.

3.9 Ending Adult Protection Measures

Adult Support and Protection measures can be concluded at a number of stages in the process if it is considered that the Adult is no longer an Adult at risk of harm. This includes during a Duty to Inquire. This may be due to a significant change in circumstances or an assessment of all the information available. If an agreement has been previously reached by the IRD participants that an ASPCC is required, but has not yet happened, a decision not to hold an ASPCC must be made through the IRD process. Any other decision to end ASP measures requires to be made at the initial ASPCC or subsequent ASPCC review. The decision should take into account the views of all agencies.

When an Adult who is subject to Adult Support and Protection measures dies, a Significant Occurrence Notification should be submitted within one working day by the supervising Senior Social Worker.

If a person moves to a different local authority a transfer case conference must be arranged with the local authority where the Adult is now residing. The case conference will focus on the nature of Adult Protection concerns and what action has been taken to address them.

3.10 Lived ASP Experience and Carer Feedback

The Adult with lived ASP experience and carer evaluation survey questionnaire is included on the email sent with the circulated ASPCC minute. The Council Officer or an agreed other professional will seek feedback from the Adult with lived ASP experience (or a carer) on a template when this is their preferred feedback method, returning it to Adultprotection@edinburgh.gov.uk.

4. Protection Orders

The Act allows a council to apply to the court for three types of order. Protection Orders cover:

- Assessment Orders (which involve taking a person from a place in order to carry out an interview or medical examination)
- Removal Orders (removal of an Adult at risk)
- Banning Orders or Temporary Banning Orders (banning of the person causing, or likely to cause, the harm from being in a specified place and/ or preserving property) (the Act, Sections 11-34)

4.1 Assessment Orders

The purpose of an Assessment Order is to determine whether the Adult is an Adult at risk; and whether any action should be taken to protect the Adult from harm. An Assessment Order allows a Council Officer to take a person from a place being visited under section 7 in order to allow a Council Officer , or any council nominee, to conduct a private interview, or a health professional to conduct a medical examination in private. This Order would be necessary only if it were not possible to carry out the interview or examination at the place of the visit. An Assessment Order will be granted only where there is reasonable cause to suspect that the subject of the order is an Adult at risk of serious harm, and that the action specified is necessary to establish this and to identify what further action may be required.

When an Assessment Order is granted, the sheriff must also grant a warrant for entry under Section 37 in relation to a visit under Section 7. The warrant for entry to accompany an Assessment Order will detail a specified place and only that place can be entered using the warrant. The warrant permits a constable to accompany a Council Officer and take any action which the constable considers to be reasonably required, in order to fulfil the object of the visit. **Only the constable has a right to use reasonable force and only when deemed necessary.**

It is important that a multi-disciplinary plan be prepared in advance on how to carry out the Assessment Order. In order to minimise distress and risk to the Adult, the procedure should be carefully planned and co-ordinated with all those involved in the process. The plan should include contingencies in case the Adult does not respond as expected. Where it is anticipated that there may be a risk of violence, a multidisciplinary assessment of the risk should be undertaken. It may be that the management of the process should be passed on to the police to enable them to address the issue of the safety of all parties concerned. However, all parties involved should bear in mind the principle of "least restrictive alternative" at all times.

The Order is valid from the date specific in the order and expires 7 days after this date.

4.2 Removal Orders

A Removal Order can only be granted in respect of an Adult at risk of harm and is primarily for protection purposes and not for a council interview or a medical examination. It permits the person named in the order to be moved from any place to protect them from harm. For example, the place in which the Adult at risk actually lives may be a contributory factor in the harm and the move may provide “breathing space” for that specified person. The place from where the Adult at risk is removed may not necessarily be their own home. They could be in public, private or commercial premises. The Adult can be removed from any place in pursuance of a Removal Order. The Adult is to be removed to the place specified in the Order.

The purpose of a Removal Order is to assess the Adult ’s situation and to support and protect them. This is a short-term order and, although effective for a maximum of seven days, it is envisaged that it will not be required to last that long in the majority of cases. A Removal Order will be granted only where the sheriff is satisfied that the Adult is likely to be seriously harmed if not moved to another place and that there is a suitable place available to remove the Adult to. The council must protect any property owned or controlled by an Adult who is removed from a place under a removal order.

Section 14 provides that a council may apply to the sheriff for a Removal Order which authorises:

- a Council Officer, or any council nominee, to move a specified person to a specified place within 72 hours of the order being made; and
- the council to take such reasonable steps as it thinks fit for the purpose of protecting the moved person from harm.

The sheriff must grant a warrant that authorises a police constable to use reasonable force where necessary to achieve the purpose of the visit. Wherever possible, entry to premises should first be attempted without force. The use of force is an absolute last resort, to be used in very exceptional circumstances, and only when all other options have been exhausted. In order to minimise distress and risk to the Adult at risk, the procedure should be carefully planned and co-ordinated with all those involved in the process. A multi-disciplinary plan should be prepared in advance on how to carry out the entry and removal of the person. The plan should include contingencies in case the Adult or a person present does not respond as expected. Where it is anticipated that the use of force may be necessary to execute the order, a multidisciplinary assessment of the risk should similarly be undertaken. In such circumstances, management of the process should be passed on to the police to

enable them to address the issue of safety of all parties concerned. However, all parties involved should bear in mind the principles in Sections 1 and 2 of the Act.

4.3 Banning Order

Council Officers and other interested parties, including the Adult at risk can apply for a Banning Order. A Banning Order prevents the subject of the Order from being in a specified place, usually where the Adult at Risk lives, and may have other conditions attached to it. The Local Authority has a duty to apply for a Banning Order where it is known that an Adult at Risk is being, or is likely to be, seriously harmed.

The Sheriff may grant a Temporary Banning Order pending determination of an application for a Banning Order. These Orders may:

- Ban the subject from being in a specified area in the vicinity of the specified place;
- Authorise the summary ejection of the subject from the specified place and the specified area;
- Prohibit the subject from moving any specified thing from the specified place;
- Direct any specified person to take specified measures to preserve any moveable property owned or controlled by the subject which remains in the specified place while the Order has effect;
- Authorise the subject of the Order to be in a place or area from which they are banned, but only in specified circumstances, for example while being supervised by another person or during specified times;
- Be made subject to any specified conditions; and
- Require or authorise any person to do, or to refrain from doing, anything else which the Sheriff thinks necessary for the proper enforcement of the Order.

Section 20 of the Act provides that a sheriff may grant a Banning Order only if they are satisfied that:

- An Adult at risk is being, or is likely to be, seriously harmed by another person, and
- The Adult at risk's well-being or property would be better safeguarded by banning the other person from a place occupied by the Adult than it would be by moving the Adult from that place; and
- That either the Adult at risk is entitled, or permitted by a third party to occupy the place from which the subject is to be banned.

The Banning Order can last for any period up to a maximum of 6 months and can be recalled or varied by the Sheriff if they are satisfied that the recall or variation is justified. A child can be the subject of a Banning Order.

Where appropriate, an application for a further Banning Order can be made. Banning Orders can have powers of arrest attached to them. When a Banning Order application is granted, the Council Officer will confirm with the Council Solicitor that it has been served and that the Police have a record of it.

In terms of Section 25 of the Adult Support and Protection (Scotland) Act 2007, a Sheriff may attach a power of arrest to any Banning or Temporary Banning Order. Where a Banning Order has been granted but no power of arrest has been attached, the Police will not routinely be notified of its

existence. However, should Police officers become aware of such an Order then this information should be recorded and shared appropriately by means of iVPD and / or SID and a marker added to STORM (Police systems).

Where a decision is made at a Case Conference to apply for a Banning Order, Police are required to ensure a STORM marker is created for the relevant address and that iVPD is updated accordingly.

So whilst Police may not be informed when a Banning Order is granted (without power of arrest) they should be aware of the intention to apply from the ASPCC or IRD. (Plus see also 4.4 below where Police are likely to be involved at an early stage re planning to manage any order.)

Where a Banning Order or Temporary Banning Order has a power of arrest attached, in terms of Section 28 of the Act, a **Constable can arrest without Warrant** the subject of an Order if the Constable:

- Reasonably suspects the subject to be breaching, or to have breached, the Order; **and**
- Considers that there would be a risk of the subject breaching the Order again, if the subject were not arrested.

i.e. A Constable cannot arrest the subject for breaching the Order alone. There must be a risk of further or continuing breach.

The Interlocutor is the document that officially records the final decision of a Court. It is typed up by the Sheriff Clerk and is signed by the Sheriff. The Council Solicitors will send the Council Officer a copy of the Interlocutor. The Council Officer will ensure that details are placed on the social work system's legal tab and that the Interlocutor is saved in the person's file. The Council Officer and Chair/Council Officer 's Senior will review the case and contact the Council Solicitor at least six weeks before it is due to expire and decide whether the circumstances warrant a further banning order application.

4.4 Applications for Protection Orders

Inquiries under the Act and applications for warrants and protection orders must be undertaken by the council, save for Banning Orders where the application may also be made by or on behalf of the Adult whose well-being or property would be safeguarded by the order or any other person who is entitled to occupy the place concerned.

Protection orders may be applied for at any time in the process, depending on the individual circumstances of a case. There is no requirement under the Act for the council to have previously arranged a visit under Section 7, an interview under Section 8, or medical examination under Section 9 prior to applying for a protection order.

Unless a protection order is being sought on an emergency basis*, the decision to apply for a protection order will normally be taken at an ASPCC. The Council Officer should write to the Council Solicitor, including the minute of the Case Conference, detailing what kind of protection order is required. It may be necessary for a Core Group to meet, including the allocated solicitor to discuss the evidence that may be presented to the Court in support of the order.

The core group will also discuss how the order will be enforced. It is the solicitor's duty to draw up the application and to ensure that all appropriate parties are given intimation regarding the order. As all orders sought will require assistance from Police Scotland for their execution or enforcement, they must be included at an early stage of the process. This may be done through the usual IRD process or through attendance at the case conference or Core Group where a protection order is being discussed.

*In urgent circumstances, a Council Officer may apply for a warrant for entry in respect of a removal order. The decision to make such an urgent application requires that all parties to agree at IRD, including the appropriate health professional, who can provide evidence that the Adult meets the definition of an Adult at Risk under the Act. The relevant manager from the Edinburgh Health and Social Care Partnership will then contact Legal Services to aid with the application and access to a Sheriff or Justice of the Peace to hear the application. Urgent applications will be made via Legal Services detailing the evidence that the Council must believe that the Adult is at risk of harm and how the order will provide measures of protection. In the case of removal orders, the application will also detail where the Adult is to be removed to and that the owner or manager of this property has consented to the Adult being placed there.

Legal Services must also be contacted in relation to Forced Marriage Order Applications.

4.5 What to Consider Before Applying for a Protection Order?

Before the council or any person decides or undertakes any function under the Act, they must have regard to the general principles set out in sections 1 and 2 of the Act. The use of other legislation may also be considered, for example, social work, child protection, mental health, civil law or criminal justice legislation. Consideration must also be given to whether the Adult should be referred to an independent advocacy organisation or provided with other services. The rationale for referring or not referring to advocacy must be clearly recorded and specifically referred to in any reports.

No Protection Order can be granted where the court knows that the Adult at risk has refused consent to this. If it is considered that the Adult will refuse consent to the granting of a protection order the council should re-consider the merit of the application. If the council decides to pursue an application where the affected Adult has capacity to consent and their refusal to consent is known, then the council must demonstrate that the Adult has been subject to undue pressure in refusing to consent to the granting of an order; and there are no steps which could reasonably be taken with the Adult ’s consent which would protect the Adult from harm.

Where the Adult does not have capacity to consent, the requirement to prove undue pressure does not apply. Evidence of lack of capacity will be required by the Sheriff. Where the Adult is incapable of consent, it would be good practice to approach the Office of the Public Guardian to ascertain whether a guardian or attorney may consent on their behalf.

Wherever practicable, the Adult must be kept fully informed at every stage of the process, for example, whether an order has been granted, what powers it carries, what will happen next, whether they have the right to refuse, or what other options are available. It is also good practice to ensure that carers’ providing care and support are kept up to date with the proceedings. This is also important where a carer is a Guardian or has power of attorney.

Further practice guidance for protection orders is available in the ASP folder of the shared 'G' Drive. The Council Officer will complete the protection order application information form for the Council Solicitors.

4.6 Undue Pressure

Undue pressure can be applied by any person and in some circumstances may not be the person suspected of causing the Adult harm. The 2007 Act provides examples of undue pressure:

- Harm being inflicted by a person in whom the Adult has confidence or trust and the Adult at risk would consent to intervention if they did not have confidence and trust in that person (section 35(4))
- Undue pressure may also occur when the Adult is afraid of, or is being threatened by someone

A relationship founded on trust and confidence may be with a family member, neighbour, or other person who may provide support in order to exploit or harm, or a person upon whom the Adult at risk is very dependent. There may not be a direct threat or harm for undue pressure to have been applied.

4.7 Evidence of Undue Pressure

The likelihood of undue pressure being brought to bear should always be considered when an Adult at risk refuses to give consent.

No Protection Order can be granted where the court knows that the Adult at risk has refused consent to this unless the Sheriff reasonably believes that the Adult has been unduly pressurised to refuse consent to the action; and there are no steps which could reasonably be taken with the Adult 's consent which would protect the Adult from harm.

Indicators of undue pressure could be:

- Not being allowed time alone with the worker
- Hesitation in talking when certain people are present
- Lack of eye contact
- Personal presentation (appearing fearful in the presence of particular people)
- Expressing fear of abandonment/loneliness
- Belief that the consequences of giving consent will result in the Adult at risk experiencing negative consequences

In court applications, the burden of proof establishing that there has been undue pressure on an Adult at risk lies with the council.

Evidence of undue pressure is not required where the Adult at risk does not have the capacity or if it has not been possible to ascertain the view of the Adult at risk e.g. access has been denied.

5. Adult Support and Protection in Care Settings and Large-Scale Investigation

Large Scale Investigations (LSIs) may be viewed as an example of public bodies and other agencies performing their functions under Section 5 and co-operating with each other to protect Adult's at risk of harm.

An LSI may be required where there is reason to believe that Adults who are service users of a care home, supported accommodation, an NHS hospital or other facility, or who receive services in their own home, may be at risk of harm due to another service user, a member of staff, some failing or deficit in the management regime, or in the environment of the establishment or service. An LSI may also be indicated by the need to address structures or systems that lead to possible harm for all those under such structures. In such circumstances, this means that there is a belief that a particular service may be placing some or all of its residents or service users at risk of harm.

An LSI should be considered if one or more of the following applies:

- An Adult Protection referral is received that involves 2 or more Adults living within or cared for by the same service
- A referral is received regarding one Adult, but the nature of the referral raises queries regarding the standard of care provided by a service
- Where more than one source of harm is suspected
- Institutional harm is suspected
- A whistle-blower has made serious allegations regarding a service
- There are significant concerns regarding the quality of care provided and a service's ability to improve. These concerns could come from a regulatory body such as the Care Inspectorate
- An Adult or Adults are living independently within the community but are subject to harm from another person or group of people, or it is strongly suspected that more than one Adult is subject to such harm
- Concerns regarding an Adult are raised following their admission to hospital or discharge. This may include concerns about a care service that are evidenced by an admission to hospital, or concerns regarding an NHS service area
- Concerns are raised via a complaint to the Care Inspectorate, NHS Board, or the local Council or Health and Social Care Partnership
- Concerns are raised by General Practices, District Nurses, Dentists, Allied Health Professionals etc. who attend a service

Harm in a care setting may include:

- Financial, physical or sexual abuse
- Neglect or omission of care
- Exploitation, coercion or undue influence to the detriment of the Adult
- Psychological abuse, however subtle

- Undignified or degrading treatment

Initial consideration should take place regarding the need for an LSI, including discussion with all other relevant agencies. A decision whether to proceed to an LSI would be expected to take place in a multi-agency meeting, and such meetings would be expected to be chaired by a senior officer of the council with sufficient seniority to affect strategic and operational changes (e.g., Head of Service level or above).

The range of agencies involved in an LSI will vary but will always involve:

- The Council and HSCP, including contracts and commission staff
- The Care Inspectorate
- The service provider responsible for the care of the Adult(s)

All regulatory agencies and staff will have a role to play. Operational staff will have a high level of involvement as individual inquiries and any subsequent investigation activity is undertaken.

LSIs often take place in parallel with other investigations, for example NHS-led Adverse Event Reviews or Care Inspectorate activity. Every effort should be made to coordinate such overlapping investigations to minimise duplication and maximise the opportunity for interagency learning.

Any actions that are required to safeguard Adults at immediate risk should be taken straight away and should not wait for further stages in the procedure. There are Pan- Lothian procedures to support the undertaking of a LSI and these can be found here.

PART C: OTHER AREAS FOR CONSIDERATION

1. Habitual Residence

Whether an Adult is residing permanently or temporarily in another area the responsibility for Adult Protection lies with the local authority where the Adult is located. Where a person has come to harm or is suspected to be an Adult at risk, and they live or are temporarily placed in Edinburgh then the City of Edinburgh Council should lead on Adult Support and Protection and conduct inquires accordingly including allocation of a Council Officer where required. Where another authority is responsible for placing an Adult in a care service, the placing authority should be contacted, and information shared appropriately including invitation to ASPCC. Any ambiguity between authorities about who should lead on Adult Support and Protection should be referred immediately to the Lead Officer for Adult Protection and to relevant senior managers but should not result in any delay to safety planning for the Adult.

If, while conducting initial inquiries, an investigation or when a protection plan is in place the Adult moves to another area, action should be taken to establish the whereabouts of the Adult. A transfer case conference must be arranged with the local authority where the Adult is now residing. The case conference will focus on the nature of the Adult Protection concerns and what action has been taken to address them.

2. Escalating Concerns

Escalating Concerns procedures in Edinburgh have been agreed for review and the intention is to create more visible, comprehensive interagency guidance. Consequently this section will be updated in due course.

Escalating Concerns procedures are typically used where referrals are being received or concerns raised about an Adult and the threshold of ASP is not thought to have been reached BUT there are concerns that still need addressing. It might that be that the concerns themselves are escalating or it might be the volume or number of concerns that is triggering recourse to Escalating Concerns. The process typically involves bringing relevant parties (professionals, experts, third sector etc.) of sufficient seniority together to discuss the case, agree a way forward and potentially deploy extraordinary resources to mitigate risk and better ensure the safety of the Adult concerned.

Where formal ASP procedures are in train, yet the risks are enduring or even getting worse, despite the interventions, and there is a sense from any of the parties involved that more needs to be done

or a change in approach is required, escalation as such should be by means of line management in the first instance - potentially on an interagency basis to an appropriate level of seniority.

Revised guidance will be made available in due course and this section amended and appropriate links inserted.

3. Whistle blowing/raising concerns.

Organisations should have policies and procedures in place to deal with employee concerns about unprofessional, dangerous, or illegal activities which they become aware of through their work. This is often known as “whistle blowing.” An essential element of such policies is the underpinning principle that staff who raise concerns reasonably, responsibly and in good faith will not be penalised or victimised in any way. Any agency receiving a whistleblowing report of harm must act on it.

For further information staff should refer to the relevant whistle blowing policy for their own particular organisation.

4. The Health (Tobacco, Nicotine etc, and Care) (Scotland) Act 2016

This legislation was passed by the Scottish Parliament on 3 March 2016. Provisions in the Act including the following measures:

- Duty of Candor - The Act places a duty of candor on health and social care organisations. This creates a legal requirement for health and social care organisations to inform people (or their carers/families) when they have been harmed because of the care or treatment they have received
- Ill-treatment and willful neglect - The Act establishes a new criminal offence of ill-treatment or willful neglect which would apply to individual health and social care workers, managers, and supervisors. The offence also applies to organisations

5. Incidents Between People Who Use Services

While all incidents where the cause of harm is a member of staff, professional, visitor or relative will be immediately reported, it is recognised that the pressures of shared living can trigger behaviour and incidents between residents which individually do not necessarily require an Adult Support and Protection response. However, these less serious incidents between residents (where there is no injury, no distress, no emergency services required, no imbalance of power and where the situation has been contained) need to be reported to the Council. This will enable any concerning trends to be picked up by the Residential Review Team and appropriate advice and support to be given to the provider. When reviewing any potential Adult Protection concerns, practitioners must consider the impact of the harm on the Adult at risk, rather than over focus on the intent.

6. Parallel investigations

There may be occasions where other investigations may be conducted in parallel to the Adult Support and Protection Investigation including:

- Employee disciplinary proceedings
- Criminal investigations including the provision of an Appropriate Adult to offer support to anyone who has a mental disorder at the request of the police
- SSSC notifications and investigations
- NHS review
- Care Inspectorate investigation and or inspection
- Office of the Public Guardian financial investigation.

7. The Role of Communications Teams in Adult Protection

Under no circumstances should any member of staff deal with inquiries from the media. All such inquiries should be referred by the recipient to their own agency's communication team. Each partner's communication team should then consider whether a single or joint / multi-agency approach is appropriate. Even with single agency approaches sharing media releases etc. with other pertinent partners is usually good practice and Communication teams will not respond to service specific inquiries without discussing these with senior managers and professional leads within partner agencies.

'Media interest' may include situations where there is a risk of contact with the press by the service user, families, or the public. Communication staff should be involved at the very earliest point to provide advice and to agree a coordinated response to the press and other key audiences including local and national political representatives.

In the event of a large-scale investigation being launched, Communications Teams should be notified as soon as possible and the lead agency's Communications Team invited to the Large-Scale Investigation meetings**.**

PART D: ROLE AND RESPONSIBILITIES

Senior Social Worker

- Lead the investigation from the point the Report of Harm referral has been received
- Fully discuss the report of harm referral with the social worker conducting the inquiry
- Agree the most appropriate partner agency with which to conduct any joint investigation, e.g. the Care Inspectorate, police, health, etc
- Agree the level of harm for the Adult at risk at the point of inquiry and the reasons for a particular timescale
- Provide professional advice, guidance and supervision on carrying out an investigation for the Council Officer appointed to conduct the investigation
- Consider independent advocacy to represent or support the views of the Adult at risk
- Assure the quality of investigation work of the team, including recording, completion of paperwork and timescales
- Chair case conferences and ensure minutes are accurate and include all relevant information

Council Officer

- Council Officer refers to an individual appointed by the Council who is registered in the part of the Scottish Social Services Council register maintained in respect of social workers or social service workers or is the subject of an equivalent registration; is registered as an occupational therapist; is a nurse; **and** the person has at least 12 months' post qualifying experience of identifying, assessing and managing Adult's at risk
- Conduct an investigation to establish if an Adult is at risk of harm and to decide what measure/s should be put in place to provide protection, but should not be the officer who acts as welfare guardian on behalf of the chief social work officer
- Carry out investigations through visits and interviews and through examination of financial or other records (except health records)
- Can require health records to be produced in respect of an Adult at risk, but these records can only be examined by a health professional such as a doctor or nurse
- Have a duty to consider the importance of the provision of appropriate services to the Adult, including, in particular, independent advocacy and communication support if relevant

Social Work Commissioned Services and Contracts

- To report to the social work contact center any potential or suspected harm which may arise from the monitoring of contracts or complaint investigations
- To monitor whether provider agencies are working in accordance with the City of Edinburgh Council inter-agency Adult Protection processes
- To investigate any breach of contract/service level agreement
- To ensure adequate monitoring based on any concerns raised through an Adult Protection investigation; this may include the development of a robust action plan to improve the service

- When appropriate, collaborate with the Care Inspectorate (or other relevant regulator) to ensure a joint approach to monitoring and investigation
- Follow up any contractual issues and actions agreed at the Adult Support and Protection Committee or sub-committees
- Support the Adult support and protection process where there are recommendations of suspension or reinstatement of service provider contracts
- Pass on any information to other local authority contract departments where appropriate, when an Adult placed in Edinburgh is subject to a report of harm referral.
- Monitor the recruitment and selection process followed by provider agencies
- Produce reports, as requested by the Adult Protection Committee, contributing towards any Learning Review or LSI etc..

Police Scotland

- Officers will ensure that a Vulnerable Persons Database (VPD) entry is created accurately and timeously
- The Public Protection Unit (PPU) Concern Hub will ensure that Adult VPDs are assessed and shared with partner agencies
- Participate in Inter-Agency Referral Discussions to identify if there is a requirement for a joint Adult Protection investigation and if a criminal investigation is necessary
- Discuss and agree strategies with the relevant social work team regarding good practice for interviewing an Adult at risk, witnesses and persons who may be a source of harm involved in any Adult Support and Protection investigation. Consideration should always be given to the use of an Appropriate Adult in accordance with guidance
- Ensure that criminal investigations are conducted in a professional manner and that all relevant evidence in the investigation is obtained
- Officers will submit crime reports, Scottish Intelligence Database (SID) entries and Standard Prosecution Reports (SPR) when appropriate and in accordance with the prescribed timescales
- The PPU Concern Hub will assess attendance at inter-agency case discussions and conferences and facilitate the sharing of information held on police systems about the Adult at risk, a person who may be a source of harm or other significant person(s)
- The PPU Concern Hub will provide a single point of contact for information sharing in line with legislative requirements and will provide assistance to local officers and partners.
- Police will ensure feedback is provided to the relevant social work team regarding the outcome of any Police investigation or criminal proceedings
- Police will provide any files for inspection or audit purposes as directed to do so by the Adult Protection Committee
- Police will produce reports as requested by the Adult Protection Committee which contribute towards any Learning Review or LSI etc..

GPs and the NHS

GPs and healthcare professionals have key roles to play in Adult Support and Protection. They may be the first professionals to notice signs of potential harm and are crucial in helping to develop effective inter-agency responses. As part of inter-agency Adult Support and Protection arrangements they will consider requests to carry out examinations and other activity under the 2007 Act.

Overview of responsibilities

There are several main ways in which GPs and healthcare professionals are most likely to be involved in Adult Support and Protection:

- Reporting all cases where they identify possible Adult Support and Protection concerns.
- Carrying out medical examinations (see section below)
- Providing relevant information from healthcare records (see section below)
- Participating in case conferences, either by attendance or through the provision of reports. GP reports are key factors in comprehensive decision making, particularly in complex cases involving both health and welfare protection concerns
- There is also the possibility of attending court as professional witnesses if criminal proceedings are brought. Fees may be payable, please consult the Primary Care Manager for details

Medical Examinations

The 2007 Act creates powers for councils to ask health professionals (In the context of the 2007 Act, "health professional" means a doctor or a nurse) to undertake medical examinations to establish whether an Adult is at risk and whether any further action is required. In most cases, the Adult 's GP may be the most appropriate health professional to carry out a medical examination. Two parts of the 2007 Act address medical examinations:

- Section 7: Where a Council Officer visits a person who is, or may be, an Adult at risk of harm, and considers that a medical examination is necessary. The Council Officer must be accompanied by a health professional and the Adult must be informed of his/her right to refuse before any examination is carried out.
- Section 11: Allows a medical examination in private to be carried out where there is an application for an assessment order.

Good Practice:

- Councils should ask GPs or other health professionals who know the Adult and GPs should be involved from the outset of a case where possible
- A GP will not be compelled to perform an examination if there is a valid reason for not doing so, e.g. the Adult is unwilling to agree to a medical examination, or if doing so would damage the doctor-patient relationship
- GPs (and other health professionals) should be given sufficient notice that s/he may be asked to carry out a medical examination. This allows preparation and arranging locum cover where necessary, although it may not always be possible to give advance notice
- Where a GP carries out an initial medical examination and indicates
- that a further examination is required to identify the specific cause of harm, it will be necessary to involve a specialist medical professional
- If the police are involved in a case, it is likely that a Forensic Physician will carry out a medical examination of the Adult. In such cases, the GP may still have a role to play, particularly where the Adult is well-known to them

Inspection of Health Records

In order for a Council Officer to carry out inquiries and investigations, they may request health records of an Adult known, or believed, to be an Adult at risk of harm. This can help to ascertain whether the individual is an Adult at risk, as well as potentially indicating the nature and extent of any harm which has been experienced.

Confidentiality is important but it is not an absolute right. Where information sharing is necessary for the protection of adults or where there is concern about an adult at risk, this should be done with confidence and without delay. Existing legislation, including the UK General Data Protection Regulation (UK GDPR) and the Data Protection Act 2018, does not prevent sharing and/or exchanging relevant and proportionate information where there is belief or concern about the protection of adults at risk. This extends to all practitioners working with adults who may be at risk of harm.

Section 10 (7) defines health records as records relating to an individual's physical or mental health which have been made by or on behalf of a health professional in connection with the care of the individual. In the case of health records, the Council Officer is empowered by the Act to identify, take or copy medical records held by a service but having obtained them must ensure they are interpreted by a health professional. In some cases, it will be sufficient for a health practitioner to provide a summary of their involvement with the adult and of the adult's physical or mental health, along with any relevant documents or reports. It should be noted however that Section 10 refers to existing records held by a professional or organisation rather than information created specifically to meet a request.

If you are asked for health records as part of a duty to inquire or an investigation, you must seek advice from your line manager, information governance and/or the public protection team regarding a recommendation for proportionate disclosure. This should be based on an informed clinical decision about what is relevant to the case. Any request for copies of a health record should be made formally, and a record of the disclosure recorded in the patient health record.

Good Practice:

- GPs considering a request for information must take account of the confidentiality of the patient.
- The request should be discussed with the Adult to ensure they understand the reasons for it and the likely benefits
- Even where consent to share information has not been granted, GPs and other health professionals are under a legal obligation to provide relevant records (section 10, 2007 Act
- Close joint working between GPs, NHS professionals and Council Officers may help overcome any obstacles
- GPs and healthcare professionals should ensure that all actions carried out by them, including records of any conversations and meetings with public bodies, and decisions made by them, are documented fully in the patient's healthcare records

Care Inspectorate

The Care Inspectorate has various responsibilities under the 2007 Act:

- To submit a report of harm to the social work contact center where an Adult at risk has been identified in a regulated service
- To monitor whether regulated establishments and agencies are working in accordance with the relevant National Care Standards and regulations

- To investigate any breach of regulations established by the Public Reform Act 2011 and take action accordingly
- To produce reports as requested by the Adult Protection Committee to contribute towards any Learning Review or LSI etc..

Healthcare Improvement Scotland (HIS)

HIS inspects and regulates Health Care Services across Scotland. It also has responsibilities to:

- Submit a report of harm referral to the social work contact center where an Adult at risk has been identified in a regulated service
- Monitor whether regulated establishments and agencies are working in accordance with the established standards
- Investigate any breach of regulations established by the Public Services Reform (Joint Inspections) (Scotland) Act 2011 and take action accordingly
- Produce reports as requested by the Adult Protection Committee to contribute towards any Learning Review or LSI etc..

Housing, Homelessness and Housing Support Services

Housing and Housing Support Services provide a range of housing, accommodation and related support services to respond to the needs of individuals.

Housing providers (including the Council and EdIndex partner landlords (Registered Social Landlords) provide accommodation and a landlord function, providing all aspects of tenancy management. This includes ensuring the property is of a good standard, managing repairs, overseeing rent and offering support or signposting with regard to welfare benefits and income maximisation and estates management.

Homelessness services (provided by the Council) have a statutory duty to assess people who present as homeless, and where required, to offer temporary accommodation. Housing officers will assess and provide case management for homeless households and will refer for support as appropriate. They will remain involved until the household is made an offer of permanent accommodation.

Housing support services can be provided by the Council (Family and Household Support Service) or through a range of commissioned services. This includes: supporting people to access suitable accommodation; assisting people to move in to their new tenancy (practical support as well as setting up payment arrangements for utilities, bills etc), managing correspondence, referring to income maximisation services, supporting with social inclusion and providing general advice and assistance.

In Adult Support and Protection situations, the following roles may be required:

- Take all reasonable steps to protect Adults at risk of harm and respect their rights at all times
- Take all suspicions and allegations of harm seriously and take action in accordance with service procedures and Reporting Harm Protocol to ensure the safety of an Adult at risk of harm
- Work cooperatively with relevant agencies, treating information as confidential, and sharing information in accordance with the principles set out in the Information Sharing Protocol
- Participate fully at appropriate meetings or ASPCCs providing relevant reports where required
- Contribute to the Adult Support and Protection planning process if appropriate

- Contribute to inter-agency self-evaluation processes
- Produce reports as requested by the Adult Protection Committee which contribute to any Learning Review or LSI etc..

Independent Advocacy

Independent advocacy supports individuals to express their views and to make their own informed decisions. Independent advocates assists people to gain access to information and explore and understand the options available to them.

- Included in the 2007 Act is the principle that the Adult should participate as fully as possible in the Adult Support and Protection process and that the Adult should be given information and support to enable them to do so
- Section 6 places a duty on the council to consider the provision of appropriate services, including independent advocacy service, if it considers that it needs to intervene in order to protect an Adult at risk of harm after making inquiries under section 4 of the 2007 Act
- Independent advocacy should be considered even where the legal protective measures being considered are under the Adult's with Incapacity (Scotland) Act 2000
- Adults who are being protected using Mental Health (Care and Treatment) (Scotland) Act 2003 must be offered independent advocacy
- Advocacy providers will produce reports as requested by the social work contracts section as related to Adult Support and Protection advocacy provision, on behalf of the APC

Mental Welfare Commission (MWC) for Scotland

The Mental Welfare Commission aims to ensure that care, treatment and support are lawful and respect the rights and promote the welfare of individuals with mental illness, learning disability and related conditions.

Its statutory duties focus on five main areas of work:

- Visiting
- Monitoring the Acts
- Investigations
- Information and advice
- Influencing and challenging

The Mental Welfare Commission provides assistance to individuals in the NHS/local authority/independent sector services in determining whether an incident or issue should be notified to the MWC and the form that notification should take. This information can be found on their website.

Office of the Public Guardian (OPG) Scotland

The function of the OPG is to supervise appointed individuals who manage the financial and/or property affairs of Adults who lack the capacity to do so themselves. In terms of Adult Support and Protection, the OPG has a responsibility to ensure good information sharing and collaborative working.

Trading Standards Scotland

Trading Standards enforces a wide range of consumer legislation. As part of this, Officers carry out inspections of trade premises and take action against individuals or businesses who disregard the laws. In relation to Adult Protection, Trading Standards have a role in prevention and investigation of doorstep crime, these are:

- To submit a Report of Harm to the social work contact center where an Adult at risk has been identified in doorstep crime;
- To participate in inter-agency referral discussion; and
- To produce reports as requested by the Adult Protection Committee to contribute towards any Learning Review or LSI etc..

APPENDICES

Overarching Legislation

- Adult Support and Protection (Scotland) Act 2007 (legislation.gov.uk)
- Adults with Incapacity (Scotland) Act 2000 (legislation.gov.uk)
- Carers (Scotland) Act 2016
- Counter-Terrorism and Security Act 2015
- Criminal Justice (Scotland) Act 2016
- Data Protection Act 2018
- Domestic Abuse (Scotland) Act 2018
- Equality Act 2010
- Forced Marriage etc. (Protection and Jurisdiction) (Scotland) Act 2011
- Forensic Medical Services (Victims of Sexual Offences) (Scotland) Act 2021
- Health (Tobacco, Nicotine etc., and Care) (Scotland) Act 2016
- Human Trafficking and Exploitation (Scotland) Act 2015
- Mental Health (Care and Treatment) (Scotland) Act 2003
- Public Bodies (Joint Working) (Scotland) Act 2014
- Social Care (Self-directed Support) (Scotland) Act 2013
- Social Work (Scotland) Act 1968
- The Criminal Justice (Scotland) Act 2016 (Support for Vulnerable Persons) Regulations 2019
- UK General Data Protection Regulation (UK GDPR)
- Vulnerable Witnesses (Scotland) Act 2004

Guidance:

- ASP Code of Practice (revised)
- Adult Support and Protection National Strategic Forum - gov.scot (www.gov.scot)
- Advance_statement_guidancesep2018revision.pdf (mwcscot.org.uk)
- Appropriate Adults: guidance for local authorities - gov.scot (www.gov.scot)
- Children's Rights and the UNCRC in Scotland: An Introduction
- Clinical pathway for healthcare professionals working to support adults who present having experienced rape or sexual assault
- European Convention on Human Rights (ECHR)
- ico.org.uk (public-task)
- Learning from Adverse Events (healthcareimprovementscotland.org)
- Makaton
- National Guidance for Child Protection in Scotland 2021
- Office of the Public Guardian (Scotland)
- Scottish Independent Advocacy Alliance
- Supporting disabled children, young people and their families: guidance - gov. scot
- Talkingmats.com
- Trauma-informed practice: toolkit - gov.scot (www.gov.scot)

- United Nations Convention on the Rights of Persons with Disabilities (UNCRPD)

Types of Harm

This list is not exhaustive, but is provided by the National Data Set and relates to the commonly recognised types of harm:

Physical Harm – Can include hitting, slapping, pushing, kicking, misuse of medication, restraint or inappropriate sanctions.

Sexual Harm – Can include rape and sexual assault or sexual acts to which the adult at risk has not consented, could not consent, or was pressured into consenting.

Psychological/Emotional Harm – Can include emotional abuse, threats of harm or abandonment, deprivation of contact, humiliation, blaming, controlling, intimidation, coercion, harassment, verbal abuse, isolation or withdrawal from services or supportive networks.

Financial or material abuse – Can include theft, fraud, exploitation, pressure in connection with wills, property, inheritance, financial transactions, or the misuse or misappropriation of property, possessions or benefits.

Modern Slavery – Human Trafficking; Force Labour; Domestic Servitude; sexual exploitation.

Discriminatory Harm – Includes actions (or omissions) and / or remarks of a prejudicial nature focusing on a person's age, gender, disability, race, colour, sexual or religious orientation.

Organisational or Institutional harm – Discouraging visit or involvement of relatives or friends; run-down or overcrowded establishments; lack of leadership; insufficient staff or high turn over of staff; abusive or disrespectful attitudes of staff; lack of respect or dignity; not offering choice or promoting independence; not taking account of individuals cultural or ethnic needs; failure to respond to abuse correctly; failure to respond to complaints.

Neglect and acts of omission – Can include ignoring medical or physical care needs, failure to provide access to appropriate health, social care or educational services, the withholding of the necessities of life, such as medication, adequate nutrition or heating.

Radicalisation – the process by which a person comes to support or be involved in extremist ideologies and drawn into terrorism.

Self-Neglect – Lack of self-care to an extent that it threatens personal health and safety; inability to avoid self-harm; failure to seek help of access services to meet health and social care needs; inability to or unwilling to manage one's personal affairs.

Self-Harm - When an individual, knowingly or unknowingly, behaves in a way that directly or indirectly, causes serious harm to their physical, psychological or social well-being. Self-harm is a broad term and can express deep distress or trauma. This may manifest in various forms such as self-injury (such as cutting oneself), taking a drug overdose, having an eating disorder, being addicted to or abusing alcohol or drugs, or simply not looking after their emotional or physical needs.

Domestic Abuse - Domestic abuse can be any form of physical, verbal, sexual, psychological or financial abuse which takes place within the context of a relationship. The relationship may be between partners (married, cohabiting, civil partnership or otherwise) or ex-partners. The abuse may be committed in the home or elsewhere including online.

Glossary of terms

Full statutory definitions of many of the terms used in this procedure are noted 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, outbuilding etc.

Adult An individual aged 16 years or over.

Adult at risk Refer to Section 2, Part 3 for the full definition.

Adult Protection Committee A committee established by a council, under Section 42 of the Act. An APC is the primary strategic planning, assurance and governance mechanism for inter-agency Adult Protection work in its local authority area, to ensure services effectively safeguard Adults at risk. Office holders and public bodies must collaborate in exercising the functions of the APC.

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

Assessment Order An order granted by a sheriff to help the council 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 / Temporary Banning Order An order granted by a sheriff to ban a person from being in a specified place or area. The order may have specified conditions attached.

Coercive Control - A pattern of acts of assault, threats, humiliation and intimidation or other abuse that is used to harm, punish, or frighten their victim.

Council Officer An individual appointed by a council to perform certain specified function under the terms of the Act.

General Practices (a) A person providing primary medical services under a general medical services contract (within the meaning of the National Health Service (Scotland) Act 1978)
(b) A person providing primary medical services under arrangements made under Section 17c of that Act.

Health Professional In terms of the Act, this refers to a doctor, nurse, midwife or any other type of individual prescribed by Scottish Ministers.

Inquiry The overarching process, as per section 4, to gather information to establish whether or not an adult is at risk of harm (as per the 3-point criteria of the Act); conduct risk assessment; develop risk management plans; determine what, if any, action is required to be taken to safeguard that adult.

Investigative powers (investigation activity) Powers under the Act that enable or assist councils to determine whether or not an adult is at risk of harm and to determine whether it needs to do anything to protect an adult at risk of harm (for example medical examinations under section 9 or the examination of records under section 10).

Prevent The aim of the UK Prevent strategy is to reduce the threat to the UK from terrorism by stopping people becoming terrorists or supporting terrorism. Prevent works by identifying individuals who may be at risk of being exploited by violent extremist narratives and drawn into terrorism.

Primary Carer 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.

Proxy A continuing or welfare attorney, or a guardian under the Adults with Incapacity (Scotland) Act 2000.

Undue Influence Pressure by which a person is induced to act otherwise than by their own free will or without adequate attention to the consequences.

Undue Pressure Persuasion imposed on an individual by someone in whom the individual has confidence and trust.

ASP Referrals

ASP referrals are inclusive of all cases referred to the HSCP where it is known or believed that an adult is at risk, and that further action may be required to protect the person's well-being, property or financial affairs. The referral is determined by the act of the sender (not the receiver). There is a duty on public bodies or office holders who know or believe that a person is an adult at risk of harm and that action needs to be taken to protect them from harm, to make an ASP referral. However, ASP referrals may be received from sources in addition to public bodies, including third sector organisations, members of the public, or the person at risk themselves. "Referrers do not need to have evidence that all elements of the three-point criteria, as referred to in the Act, have been met. Good practice would dictate that even if in doubt the referral should be made and should be counted as an ASP. Following receipt of an ASP referral, the council must then make inquiries and may take such investigative steps as considered necessary to establish whether the adult is an adult at risk of harm and what action should be taken to protect their wellbeing, property, or financial affairs. This assessment should not change how an ASP referral is understood or counted, with this determined by the sender.

Inquiries and Inquiries with Investigative powers

The purpose of an inquiry, with or without use of investigatory powers, is to ascertain whether adults are at risk of harm, and whether the council may need to intervene, provide support, or any other assistance to the adult or any carer. Any use of investigatory powers is triggered through the S4 duty

to inquire under the Act. An inquiry using investigatory powers requires the involvement of a council officer (an individual appointed by a council to perform specific functions under the terms of the Act). It will also require production of a full risk assessment. An inquiry which does not use investigatory powers may or may not require the involvement of a council officer, depending on local arrangements and the nature of the tasks. The collation and consideration of relevant materials, including consideration of previous records relating to the individual and seeking the views of other agencies and professionals, does not necessarily need to be undertaken by a council officer if these inquiries do not include use of investigatory powers. Investigatory powers will be required, and a council officer involved, where there is a need for a visit and direct contact with the adult for interview or medical examination, or for the examination of record. Inquiries may involve a single agency or more, as relevant, to the case. It should be noted that use of inquiries (with or without use of investigatory powers) supports a move away from talking about inquiries and investigations and is aligned with the revised Code of Practice (July 2022).