Inverclyde council

## *Social Work Services*

# *ADULT PROTECTION POLICY, PRACTICE STANDARDS AND OPERATIONAL PROCEDURES*

Version 0.1

Produced by:

Inverclyde Council
195 Dalrymple Street
Greenock
PA15 1UN

June 2011

**INVERCLYDE COUNCIL IS AN EQUAL OPPORTUNITIES EMPLOYER**

**THIS POLICY BOOKLET IS AVAILABLE ON REQUEST, IN ALTERNATIVE FORMATS AND LANGUAGES, LARGE PRINT, BRAILLE, ON AUDIOTAPE OR CD.**

Document Control

| Document Responsibility | | |
|---|---|---|
| **Name** | **Title** | **Service** |
| Margaret Burns | Adult Protection Coordinator | ICHCP |
| | | |
| | | |

| Change History | | |
|---|---|---|
| **Version** | **Date** | **Comments** |
| 0.1 | | |
| | | |
| | | |

| Distribution | | |
|---|---|---|
| **Name/Title** | **Date** | **Comments** |
| | | |
| | | |
| | | |
| | | |
| | | |
| Consultation and Equality Impact Assessment | | Required on overarching Policy and undertaken by Services on implementation |

| Policy Review | | |
|---|---|---|
| **Name** | **Title** | **Service** |
| Margaret Burns | Adult Protection Coordinator | ICHCP |

# CONTENTS

## Acknowledgements

Acknowledgment is made of the use of material from the Adult Protection Policies and Procedures documents from:

Aberdeen City Council;
Borders Council;
East Renfrewshire Council;
North Lanarkshire Council;
Perth and Kinross Council; and
Stirling Council.

# 1. INTRODUCTION

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

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

- Adult with Incapacity (Scotland) Act 2000.
- Mental Health (Care & Treatment) (Scotland) Act 2003.

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

A number of reports have identified and developed adult protection issues and these include the:-

- Report on Vulnerable Adults: Scottish Law Commission No 158 (1997). www.scotlawcom.gov.uk/download_file/view/394/
- No Secrets Report: Department of Health (2000). http://www.dh.gov.uk/prod_consum_dh/groups/dh_digitalassets/@dh/@en/documents/digitalasset/dh_4074540.pdf
- New Directions: Report on the Review of Mental Health (Scotland) Act 1984. http://www.scotland.gov.uk/health/mentalhealthlaw/millan/Report/rnhs-00.asp
- Renewing Mental Health Law: Scottish Executive (2001). http://www.scotland.gov.uk/Resource/Doc/158766/0043098.pdf
- Protecting Vulnerable Adults – Securing their Safety: Scottish Executive, November 2005. http://scotland.gov.uk/Resource/Doc/55971/0015247.pdf

The 2004 report into the Scottish Borders Councils and NHS Borders Services for Learning Disability also informs practice (Appendix 1). The Borders Report highlighted the need for procedures and guidance for interagency responses to adults at risk of harm to be in place. This was to emphasise that the protection of adults at risk is the responsibility of all the statutory agencies, voluntary and private providers, and that good communication is key to prevention.

Inverclyde Council's Adult Protection Policy and Practice Guidelines and Operational Procedures recognise the West of Scotland Inter Agency Practice Guidance for Adults at Risk of Harm developed by the West of Scotland Partnership (Appendix 2).

The content of both of these documents:-

- Focuses on the Adult Support and Protection (2007) Scotland Act.
- Recognises existing legislation.
- Outlines the procedures for intervention.
- Sets out guidance for, and emphasises the importance of, review of actions taken, indicators of good practice and final outcomes.

- Contains information on the definition of harm and common indicators.
- Recognises existing systems to protect 'at risk' adults, such as the National Care Standards, sound recruitment practices and appropriate training and support of staff.
- Is consistent with the European Convention on Human Rights and the Human Rights Act 1998.

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

Changes in the way Community Care services are being provided has resulted in a greater amount of options available to those requiring help and assistance. This has allowed people who make use of services greater and choice and more participation in decision-making. These changes have also resulted in a changing model of care within the community, with a range of care arrangements in place, utilising both paid and unpaid assistance.

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

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

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

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

The aim is always to achieve a proper balance between working in partnership with adults and their carers whilst ensuring, where possible, that the 'at risk' adult's right to be protected from harm remains paramount. It is important that people are empowered and given as much responsibility and information as possible in respect of the supports they require; also that services of high quality are provided that encourage and value the views and rights of people.

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

# 2. CONTEXT – Part 1 of the Act

## 2.1 Aims of Policy, Practice Standards and Operational Procedures.

Part 1 of the Act introduces measures to identify and to promote support and protection for those individuals who are vulnerable to being harmed whether as a result of their own or someone else's conduct.

In line with these measures this document aims to:-

- Assist in the recognition and prevention of harm occurring to adults who may be at risk of harm in Inverclyde through building on existing good practice and a common understanding of the issues.
- Explain the role of Chief Officers Group and Adult Protection Committee.
- Support adults who may be at risk of harm through having a joint understanding across each agency of:
  - Their roles and responsibilities in responding to adult protection allegations or concerns.
  - The lead role of social work in adult protection and the integral part that partner agencies play in the protection of adults who may be at risk.
  - The role of each council where cross-boundary issues arise.
  - The legal basis for intervention.
  - The principles of good practice in adult protection.
  - The terminology used in adult protection.
  - The range of Protection Orders.
  - The duty to consider the provision of advocacy and other services.
- Support existing single agency local operating procedures by providing a framework of the overall interagency response in terms of referrals, inquiries, investigation, actions and the monitoring and review of outcomes.
- Provide Procedural Forms

## 2.2 Role of The Chief Officers' Group and Adult Protection Committee

### *2.21 Chief Officers' Group*

Chief Executive Officers from all the major agencies endorse and oversee the Adult Protection service within their area of responsibility and assume accountability for the

service provided and the development of integrated partnership working within the Adult Protection Committee area.

The Inverclyde Chief Officers' Group meets quarterly and receives reports from the Committee Convener providing updates on the work of the Adult Protection Committee and the Sub Groups.

The Adult Protection Committee contributes to the strategic vision of the Chief Officers Group and the Public Protection Agenda through the three principle components of strategic planning, public information and continuous improvement.

Important strategic, procedural and practice links are promoted and developed between adult protection, child protection and the public protection role of Criminal Justice.

### *2.22 Adult Protection Committee*

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

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

In performing these functions, APCs must have regard to the promotion of support and co-operation between each of the public bodies. The Act expects representation from particular Public Bodies and office holders. The bodies who must nominate a representative are Healthcare Improvement Scotland, the Health Board and the Police. The Council and Social Care and Social Work Improvement Scotland (SCSWIS) may nominate a representative. Inverclyde APC has representation from all of these bodies but also has representatives of users and carers and Strathclyde Fire and Rescue. A representative from the Fiscal's Office also attends when required.

Inverclyde APC has an Independent Convenor as stipulated by the Act. The Convenor is responsible for providing a report to the Scottish Government every two years on the exercise of the committee's functions. This is the Biennial Report.

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

## 2.3 The Duty of Cooperation and Other Agencies Adult Protection Procedures

The Act and the Code of Practice provides that certain bodies and office holders must, so far as is consistent with the proper exercise of their functions, **cooperate with each other and the council making enquires under Section 4 of the Act.**

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

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

Where a named public body or office-holder knows or believes that a person is an adult at risk and action needs to be taken in order to protect that person from harm, then that public body or office-holder must report the facts and circumstances of the case to the council for the area where they believe the person to be residing.

***2.31 Partner Agencies***

It is accepted that the partner agencies; Social Care and Social Work Improvement Scotland (SCSWIS), Police and NHS will each retain their own more detailed Operating Procedures to guide their staff in relation to the actions required in adult protection within their agency.

1) Adult Support and Protection Procedure available at www.scswis.com
2) Adult at Risk Policy available at www.strathclydepolice.co.uk
3) Adult at Risk Guidance available at http://www.nhsggc.org.uk/content/default.asp?page=s601_4_3

***2.32 Voluntary and Private Sector***

Whilst the 2007 Act does not give voluntary and private sector providers the same duty of cooperation, Inverclyde Contracts Monitoring and Complaints Team will seek to ensure that providers adopt adult protection procedures that are compatible with Inverclyde Council Procedures. Legislation allows information to be shared in specific circumstances and agency procedures should be clear on the procedures to follow where adult [or child] protection concerns have been identified.

***2.33 Whistle Blowing***

All partner agencies have developed a policy on whistle blowing. This is to allow staff to alert organisations to matters of suspected or actual malpractice. The procedures should include direction where such alleged malpractice involves a manager. Procedures provide guidance, protection and reassurance to staff in order to encourage disclosures.

***2.34 Allegations/Concerns involving a registered service***

The Inverclyde Contract Monitoring and Complaints Team and SCSWIS should be advised of any such circumstance at the point of referral.

### *2.35 Cross Boundary Investigations*

The Council for the area where the adult at risk is "for the time being in", that is where they are physically located, is responsible for conducting inquiries, investigations and making applications. As such, "the council" responsible could potentially change if the adult is physically present in one area, then is physically present in another. The responsible Council is not linked to where they reside or where the alleged wrong or incident occurred so that a range of possibilities can be covered. For adults placed in care homes or in supported living arrangements funded by another council area (a cross-boundary placement), the authority in which the adult at risk is placed is responsible for undertaking inquiries, investigations and making any necessary applications. It is expected that where another council has a locus, for example, for care management and payment of costs; then this council will have a role in any activity under the Act. If an adult at risk raises concerns that they were harmed by person(s) who live or are employed in a care setting in another council area then that council should be notified. This is given the person(s) who is the source of harm may pose a risk to others and there is a need to exchange any relevant information in order to protect any adult at risk of harm. Further guidance is given at Section 3.22.

## 2.4 Legal Context of Adult Protection

### *2.41 Adult Support and Protection (Scotland) Act 2007*

This document focuses on the 2007 Act and its related Code of Practice, and the Scottish Government Guidance for Adult Protection Committees.

Links to this legislation and guidance:

Adult Support and Protection (Scotland) Act 2007:
http://www.legislation.gov.uk/asp/2007/10/contents
Adult Support and Protection (Scotland) Act 2007 Part 1 -Code of Practice October 2008 – http://www.scotland.gov.uk/Publications/2009/01/30112831/4
Adult Support and Protection (Scotland) Act 2007 Part 1 - Guidance for Adult Protection Committees: http://www.scotland.gov.uk/Publications/2009/01/06115617/0

### *2.42 Adults with Incapacity (Scotland) Act 2000 and the Mental Health (Care and Treatment) (Scotland) Act 2003*

The other two main pieces of legislation which agencies should be most familiar with in relation to the protection of adults at risk is the Adults with Incapacity (Scotland) Act 2000 and the Mental Health (Care and Treatment) (Scotland) Act 2003. Appendix 3 contains a quick guide to both of these Acts. Links are given below.

Adults with Incapacity (Scotland) Act 2000:
http://www.legislation.gov.uk/asp/2000/4/contents

Mental Health (Care and Treatment) (Scotland) Act 2003:
http://www.legislation.gov.uk/asp/2003/13/contents

### *2.43 Other Legislation*

Other legislation is equally important in the protection of adults including Criminal Law, Civil Remedies, Community Care, Housing and Anti Social Behaviour Law and Human Rights Legislation. Links to such legislation and other regulations are given below.

Data Protection Act.1998: http://www.legislation.gov.uk/ukpga/1998/29/contents
Equalities Act 2006: http://www.legislation.gov.uk/uksi/2007/3555/contents/made
Human Rights Act 1998: http://www.legislation.gov.uk/ukpga/1998/42/contents
Local Government (Scotland) Act 1973: http://www.legislation.gov.uk/ukpga/1973/65

Protection of Vulnerable Groups (Scotland) Act 2007:
http://www.legislation.gov.uk/asp/2007/14/contents
Race Relations (Amendment) Act 2000:
http://www.legislation.gov.uk/ukpga/2000/34/contents
Regulation of Care (Scotland) Act 2001:
http://www.legislation.gov.uk/asp/2001/8/contents
Sexual Offences Act (Scotland) 2009:
http://www.legislation.gov.uk/asp/2009/9/contents
Social Work (Scotland) Act 1968:
http://www.legislation.gov.uk/ukpga/1968/49
Vulnerable Witnesses (Scotland) Act 2004:
http://www.legislation.gov.uk/asp/2004/3/contents
Disability Equality Duty 2006:
http://www.legislation.gov.uk/uksi/2007/618/pdfs/uksiem_20070618_en.pdf
Gender Equality Duty 2007:
http://www.legislation.gov.uk/uksi/2007/1597/contents/made

Please note Appendix 3 also gives a quick guide to the Social Work (Scotland) Act 1968 (as amended by the NHS and Community Care Act 1990 and the Community Care and Health (Scotland) Act 2002) and the Vulnerable Witnesses (Scotland) Act 2004. It also provides some guidance and links to information on Safeguarders & the Appropriate Adult Scheme.

**It should be noted that potentially an adult at risk of harm situation may require the use of more than one piece of legislation in order to provide suitable protection from harm.**

### *2.44 Capacity in Law*

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

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

**Incapacity –** means incapable of

- acting; or

- making decisions; or
- communicating decisions; or
- understanding; or
- retaining the memory of decisions.

**Incapacity is task specific** and the person may be deemed capable of making decisions regarding some aspects of their life, but not in other areas. The test of capacity is a clinical decision and should be supported by medical evidence.

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

**Where a situation of harm is suspected staff must consider, as early as possible in the investigative process, whether or not the adult has capacity. Regardless of the person's capacity the adult protection process can still be used in order to make inquiries and investigate the circumstances of the adult at risk. The analysis and assessment will however be crucial in determining how best to proceed. The capacity of the adult will determine consideration of other legislation to ensure that any action, including use of legislation, adheres to the principles.**

An adult with an inability to communicate which can be 'made good' by human or physical aid does not fall within this definition of the Adults with Incapacity (Scotland) Act 2000.

## 2.5 Are there Difficulties in Communication?

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

The Royal College of Speech and Language Therapists have developed a communication toolkit. The toolkit is for practitioners in Scotland with responsibilities under the Act. It provides communication access guidelines, advice and practical resources for those implementing the Act. This is in order that people with communication support needs who are at risk of harm or who are being harmed can more easily access protection afforded by the Act. A link to the toolkit is attached below.

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

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

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

## 2.6 Principles

There are overarching **principles** that run through the **Adult Support and Protection (Scotland) Act 2007** and apply in relation to any intervention in the life of an adult. The principles must be taken into account at all stages of any intervention and emphasise the importance of striking a balance between an adult's right to freedom of choice and the risk of harm to that person. Any intervention must be **reasonable** and **proportionate**.
A public body or office holder must be satisfied that any intervention will provide:-

- **Benefit** to the adult which could not reasonably be provided without intervening in the adult's affairs, **and**

- Is, of the range of options likely to fulfil the object of the intervention, the **least restrictive** to the adult's freedom.

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

- The adult's ascertainable **wishes and feelings** (past and present).

- Any **views of** the adult's nearest relative, primary carer, guardian or attorney and any other person who has an interest in the adult's well being or property.

- The importance of the adult **participating** as fully as possible at all times and providing the adult with such information and support as is necessary to enable the adult to participate.

- The importance of the adult not being, treated **less favourably** than a person who is not an adult at risk of harm would be treated in a comparable situation

- The adult's **abilities, background and characteristics**.

In carrying out these principles, risk assessment and management will be central to the process. Any self determination can involve risk, and we need to jointly ensure that such risk is recognised and understood by all concerned and minimised whenever possible. We also need to ensure the safety of adults at risk is achieved by integrating strategies, policies and services relevant to harm within the legislative framework.

Thus, the Act places a statutory duty on Inverclyde Council to make inquiries about an adult's well being, property or financial affairs, where it is believed that the person falls within the definition of an adult at risk**,** and to establish whether or not further intervention is required to prevent or reduce the risk of harm occurring.

## 2.7 Values

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

- Every adult has a right to be protected from all forms of abuse, neglect and exploitation.

- The welfare and safety of the adult takes primacy in relation to any enquiry or investigation.

- Every effort should be made to enable the individual to express their wishes and make their own decisions to the best of their ability recognising that such self determination may involve risk.
- Where it is necessary to override the wishes of the adult or make decisions on his/her behalf for their own safety (or the safety of others) this should be proportionate and be the least disruptive response to address the identified risks to health, welfare, property or finances of the adult consistent with the current legislative framework.

Partnership agencies will also adhere to the values of:-

- Actively working together within SCSWIS's value base of dignity, privacy, choice, safety, realising potential, equality and diversity.

- Actively promoting the empowerment and well being of adults at risk through services provided.

- Actively work together within an interagency framework to provide the best outcomes for adults at risk.

- Acting in a way which supports the rights of the individual to lead an independent life based on self determination.

- Recognising people who are unable to make their own decisions and/or to protect themselves and their assets.

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

- Live in a home like atmosphere without fear of violence or harassment.

- Make informed choices about intimate relationships without being exposed to exploitation or sexual abuse.

- Have their money and property treated with respect.

- Be empowered through support to make choices about their lives.

- Be given appropriate information about keeping themselves safe and

- Exercising their rights as citizens.

## 2.8 Definitions

### *2.81 Who is an adult?*

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

***2.82 Who is an adult at risk?***

Section 3(1) defines an **adult at risk** as adults who:-

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

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

***2.83 What is meant by harm?***

Section 53 states **harm** includes all harmful conduct and, in particular:-

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

***2.84 What are the types of harm?***

The definition of harm as outlined above sets out the main broad categories of harm; physical, psychological, sexual, financial interests and property. Any or all of these types of harm may be perpetrated either as a result of deliberate targeting of adults at risk or through negligence or ignorance.

Self neglect or self harm on the part of someone defined as an ‘adult at risk’, are also included within the auspices of the Act.
More than one type of harm may be perpetrated at the one time. There may also be no one incident that is reported or observed and concerns may come to light in a number of ways. The clearest indicator is a statement or comments by the adult themselves or an incident being observed by a third party. However it can be the situation that there are a number of concerns possibly over a period of time. This can often be referred to as **accumulating concerns**.

Appendix 4 provides further detail on some indicators of harmful behaviour and a chronology of significant events is a useful tool which may aid identification of signs of

potential harm (See 6.71, 6.72 & 6.73). This is contained within the Risk Assessment Tool (Appendix 5).

A council officer undertaking a risk assessment in conjunction with other agencies, as required, may assist in identifying, quantifying and analysing the risks. This can clarify whether an investigation under the Adult Support and Protection (Scotland) 2007 Act or other legislation is required.

***2.85 Are adults with alcohol and drugs problems included?***

Adults with addiction issues do not automatically come within the auspices of the three main pieces of legislation that can be used to protect adults at risk in Scotland. Adults make choices and decisions about their lives including the use of alcohol and/or drugs. It is however recognised that the use of alcohol and/or drugs may have a harmful effect on the adult's life. In particular situations, an adult with addiction issues may require protection using one or more of these acts. This will be determined by the impact of their addiction issues on their physical and/or mental health or having such health issues in addition to addiction issues.

***2.86 What is meant by 'risk of harm'?***

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

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

***2.87 Who can be the source of harm?***

Adults at risk may be harmed by a wide range of people, including:-

- Informal carers or other household members.
- Other relatives.
- Neighbours, friends and associates.
- Professional staff.
- Paid care workers or volunteers.
- Other service users.
- People who deliberately target and exploit adults at risk.
- Themselves.

***2.88 Where can the harm take place?***

Harm can take place anywhere, including:-

- Where the adult lives, either alone or with someone else.
- Within a care home.
- Within a day care setting.
- Within a social club or activity setting.
- Where they go about their daily business.

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

***2.89 What is serious harm?***

The application and granting of any protection order under the Act represents a serious intervention in an adult's life. Given this, a Sheriff must be satisfied that Inverclyde Council has reasonable cause to suspect the person in respect of whom the order is sought is an adult at risk who is being, or is likely to be, **seriously** harmed.

What constitutes **serious harm** will be different for different adults and is not defined in the Act. When assessing harm areas that require to be taken into consideration are:-

- Impact of harm on the adult's physical or mental health.
- Injuries which are severe and/or life threatening.
- The adult's perception.
- Level of risk.
- The need for urgent action.
- The frequency, consistency and severity of harm.
- The intent of the perpetrator.
- History of harm.
- The probable consequences of non-intervention.

***2.89.1 What is undue pressure?***

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 at risk has been **unduly pressurised** to refuse consent to the action, and;

- There are no steps which could be reasonably taken with the adults consent which would protect the adult from harm which the order or actions is intended to prevent.

The 2007 Act refers to, but gives no definition of, the term **undue pressure**. In considering what this might mean focus should be given to the word 'undue'. What might be included is that the adult's decision making is being adversely affected and is to the detriment of their wellbeing and/or finances whilst potentially being to the advantage of the person alleged to be causing the harm. Often, there may be no obvious advantage to the person alleged to be causing the harm. This person may be someone the adult trusts and has confidence in, but equally could be someone they are afraid of or who they do not trust.

Evidence of undue pressure may include:-

- Anticipation of threats or intimidation by the person alleged to be causing the harm or their associates.

- Belief that the consequences of giving consent will result in the adult at risk experiencing negative consequences.

- Fear of abandonment and/or loneliness.

- Fear of withdrawal of practical or emotional support. This may be linked to the adult not being clear or having the opportunity to consider alternative support arrangements.

- Being worried about talking when certain people are present.

- Not being allowed time alone with the investigating officer(s) and/or other relevant professionals.

- General demeanour and poor eye contact which appears to indicate they feel intimidated by the person alleged to be causing the harm or their associates.

# 3. PROTECTION ORDERS

## 3.1 Assessment Orders

There are three types of orders. A brief summary of each order is given below. The Adult Support and Protection Code of Practice provides detailed information in respect of each order and **this document and Legal Services must be consulted when any order is being considered**.
http://www.scotland.gov.uk/Publications/2009/01/30112831/0
Inverclyde Council, Legal Services will provide advice, guidance and assistance as required and are responsible for preparing and presenting all applications to court.

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

- the council officer to conduct the interview in private;
- a medical examination to be conducted by a health professional.

The Sheriff may grant an Assessment Order on if satisfied:-

- that Inverclyde Council has reasonable cause to suspect that the person in respect of whom the order is sought is an adult at risk who is being, or is likely to be, seriously harmed;
- that the Assessment Order is required in order to establish whether the person is an adult at risk who is being, or is likely to be seriously harmed; and
- as to the availability and suitability of the place at which the person is to be interviewed and examined.

The date specified in the order may be different from the date the order was granted. The assessment order is valid for 7 days after the date specified in the order. For example, an order may be granted on 11th November, the date specified in the order 13th November, and would expire 20th November. Please note a *warrant for entry* expires 72 hours after it was granted. An assessment order does not contain powers of detention. The adult can refuse to be examined or interviewed or may only wish to answer some of the questions, despite the assessment order.

There is no appeals mechanism and applications can only be made at a Sheriff Court.

The following factors should be considered before applying for an assessment order:-

- Has a risk assessment been completed?
- What type of harm might the adult be suffering or be likely to suffer?
- Is it of a serious nature?
- What steps have been taken to establish the extent of the harm or the likelihood of it?
- Why have these not been successful?

- Has there been a lack of cooperation from the adult and/or their carer or relative or significant other?

- What steps have been taken to overcome this?

- What kind of assessment is needed?

    - Consider any communication difficulties
    - Consider any known health issues.

- Where will the assessment take place?

    - At home or at an appropriate other place if it is not possible to interview the person in private.
    - Need to establish the course of action if the adult at risk cannot be assessed at home.

- Has the adult's capacity been assessed or established?

- If the adult at risk has a known mental disorder has an MHO been consulted?

- Have you considered any other legislation in order to intervene effectively? If so, why is it not appropriate?

- Have you contacted and liaised with the Police?

- Has a referral to the Advocacy Service been considered?

- Have you applied the principles of the Act throughout your decision making process when considering the proposed action?

***3.11 Removal Orders***

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

The Sheriff must be satisfied that the person for whom the order is sought is an adult at risk who is likely to be seriously harmed if not moved to another place. Inverclyde Council must be able to satisfy the Sheriff that a suitable place is available to take the adult to. The removal order will specify where the adult is to be removed to. Contact with a specified person(s) may be allowed. *See Section 15 (2) (3) of the Act.*

A removal order and the *warrant for entry* must be affected within 72 hours of being granted and can then last for a maximum of 7 days. A removal order does not contain powers of detention. The adult can refuse to be examined or interviewed or may only wish to answer some of the questions despite the removal order.

There is no appeals mechanism.

The following factors should be considered before applying for a Removal Order:-

- Have you completed a risk assessment?

- Has a Strategy Meeting or Case Conference taken place or is one necessary? (The situation may not allow for this due to the immediacy of circumstances).

- What type of harm might the adult be suffering or be likely to suffer?

- Is it or serious nature?

- What steps have been taken to establish the extent of the harm or the likelihood of it?

- What attempts have been made to minimise harm?

- Why have these not been successful?

- Has there been non co-operation from the adult and/or the carer/relative or significant other?

- What steps have you taken to overcome this?

- Have you tried to establish whether the adult at risk has capacity?

- If the adult at risk has a known mental disorder, has an MHO been consulted?

- Have you considered any other legislation in order to intervene effectively? If so, why is it not appropriate?

- Have you contacted and liaised with the Police?

- Has a referral to the Advocacy Service been considered?

- Have you applied the principles of the Act throughout your decision making process when considering the proposed action?

- Social Work or Out of Hours Service must be informed if the adult at risk chooses to leave prior to expiry date.

The following factors may assist in the planning stages when invoking a Removal Order:-

- Why does the adult at risk need to be removed?

- How will the adult at risk be removed?

    - Have you considered means of accessing an adult at risk through attendance at day care?
    - Consider transport.
    - Consider safety of the Council Officers.
    - Consider any immediate health needs.
    - Liaised with Police regarding the execution of warrant for entry.
    - Who will secure the property?

- Where will the adult at risk be removed to?

    - Consider availability of specified place.
    - Consider suitability of place of safety.

- Consider specialised equipment.
- Consider cultural needs.

- What conditions should be considered?

  - Who should have contact?
  - Have you identified any other relevant parties – guardian, relatives etc?
  - Do you require to consider a plan for those who should have access?
  - Have you applied the principles of the Act throughout your decision making process when considering the proposed action?

***3.12 Banning Orders or Temporary Banning Orders***

A Banning Order is the banning of the person causing, or likely to cause, the harm from being in a specified place.

Application may be made only by the adult at risk or by someone else on behalf of that adult. Another person or someone else on their behalf can also make an application if they are entitled to occupy the place concerned. Inverclyde Council can also apply on behalf of the adult if nobody else is likely to apply on their behalf and that there are no other court proceedings under this Act or otherwise to eject or ban the person causing the harm from the place concerned.

There is an appeals mechanism.

The following factors should be considered before applying for a Banning Order or Temporary Banning Order:-

- Does the adult meet the criteria for 'adult at risk'?

- Have the principles of the Act been applied?

- The type and severity of harm.

- Has any other legislation or options been considered?

  - Will the taking of a Temporary Banning Order or Banning Order have any adverse effect on any other legal process?

- Risk assessment completed?

- Does the adult at risk have capacity?

- Is an MHO required?

- Is there anyone else applying for a Banning Order?

- Who will be the subject of this Order, what length of time is required and what area does it cover?

- Consider any other places where the subject may gain access to the adult at risk?

- What conditions should be considered, e.g. power of arrest, no contact by telephone, internet, third party, etc.

- Will the banned person have supervised contact with the adult – develop an Access Plan?

- Discuss if the subject of the Order makes contact, what action needs to be taken.

- How will the Order be implemented? Consider safety issues to the adult and to staff.

- Where a child may be the subject of a Banning Order, Children and Families Services must be contacted to discuss appropriate action. It may be necessary to consider a referral to the Children's Panel Reporter.

- Consider how the subject will remove their own property from the specific place.

- Consider any removable items of the subject's, which remain in the property – i.e. take an inventory and check with the subject to verify.

- Does the banned person reside in the same place?

- Does the banned person have a key to the property they are banned from?

- Will the banned person need to be re-housed and how will their property be secured?

***3.13 Warrant for Entry***

A *warrant for entry* can be granted by a Sheriff (or Justice of the Peace in certain circumstances). The warrant for entry authorises a police constable to use reasonable force to achieve the purpose of the visit. Wherever possible, entry to premises should be first 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. If Inverclyde Council needs to open any lock fast place, it is the responsibility of the Council, in most cases the council officer, to take all reasonable steps to ensure the person's property and premises are left secured. Consideration should be given to the use of a joiner to assist with entry and securing of premises.

There are two circumstances where a warrant for entry may be granted. These are where:-

- The council officer is refused entry to premises to conduct an investigation.

- In the granting of an assessment or removal order the Sheriff must also grant a warrant for entry.

In the first circumstance, the council officer and Senior Social Worker should initially consider how entry may be achieved without resorting to an application for a warrant. Provided delay would not increase the risk to the adult, it would be good practice to have a multi-disciplinary strategy meeting and plan to co-ordinate action by those involved before deciding whether to apply for a warrant. Particular regard should be

given to minimising distress and risk to the adult. The views of any persons who may be concerned for the welfare of the adult should also be taken into account.

In the both circumstances, it is important that a multi-disciplinary plan is prepared in advance on how to carry out the order. In order to minimise distress and risk to the adult, the procedure should be carefully planned and co-ordinated by all those involved in the process. The plan should include contingencies in case the adult does not respond as expected. If anticipated that there may be a risk of violence, a multi-disciplinary assessment of the risk should 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.

## 3.2 Definitions – Council and Council Officer

## 3.21 Which council is responsible?

***3.22 The council***

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

This means that the council where the adult at risk is physically located is responsible for conducting inquiries, investigations and making applications. Therefore the responsible council is not linked to where the adult resides or where the alleged wrong or incident occurred so that a range of possibilities can be covered.

However, in most situations where feasible and practical the most appropriate council to undertake inquiries and investigations is the one who has a locus in terms of care management and payment of costs, with liaison and discussion with the council where the adult at risk is located.

In situations where responsibility may be unclear then the responsible Senior Social Worker and Service Manager/Adult protection Co-ordinator require to discuss the issues and liaise and agree a way forward with the other council(s) involved. Legal Services should be contacted for advice if there are any doubts about the issue. Please also see section 2.35 on *Cross Boundary Investigations*.

The 'duty of care' in respect of adult [child] protection is a corporate local authority responsibility for all services of Inverclyde Council. Staff across a range of services within the Council may in the course of discharging their duties, encounter actual or suspected risk to an adult [child] or have such information reported to them. Inverclyde Council has a Protecting Children and Vulnerable Adults Policy available via ICON. There is an intra service protocol for social work staff and staff in joint teams. Please see Appendix 6 *Child Protection and Adult Protection – Overlapping Activity*.

## 3.23 Who can undertake inquiries and investigations?

### *3.24 The council officer*

The 2007 Act gives the investigating officer the title of **council officer**. Who can be a council officer is laid out in regulation and within more than one Act.
In line with these requirements, Inverclyde Council authorises that Social Workers, registered with the Scottish Social Services Council, with at least 12 months post qualifying experience of identifying, assessing and managing adults at risk; and who completed appropriate training will act as council officers.

Occupational Therapists, who are subject to their own equivalent registration, who meet the above requirements and have completed the appropriate training outlined, can also be council officers. However, in practice, it is expected that they will be the second worker where required.

### *3.25 Who can be the second worker?*

The requirements in relation to a **second worker** are not specified and they do not require to be employed by Inverclyde Council. It is recommended that the second worker has at least 12 months experience of identifying, assessing and managing adults at risk and should have completed relevant training. A number of Social Work Assistants have undertaken relevant training. If they are not a council officer they should avoid activities which can only be done by a council officer

It may be in the best interests of the adult at risk to have a second worker, or a third person present, who does not meet this criteria. For example, this might be a Nurse, Day Care Worker, Support Worker etc, who the adult trusts and to whom they may have already spoken to regarding their concern(s).

Any decision in this regard requires careful consideration by the Senior Social Worker. If the second worker does not meet the criteria or a third worker is present, then the reasons for this require to be clearly recorded by the senior. The **Strategy Meeting** will be crucial in order to plan for the investigation.

### *3.26 Does there always require to be two investigating officers?*

In the majority of instances there is a requirement to have two investigating officers. One to conduct the interview and the other to record. Whether one worker or two workers are viewed as being required, one of them **must** be a council officer.

It may be appropriate for the investigation to be conducted jointly with other agencies such as Health or SCSWIS, or in parallel with other investigations such as those conducted by the Police or the Office of the Public Guardian.

The key reasons for two workers being recommended for investigative situations are:-

- The complexity of such situations and requirements for corroboration.
- In the interests of support for staff and so the council officer is not expected to ask questions and record.

- For health and safety and protection of staff.

There are particular investigations where the need for two workers may not apply. This may be when there is a parallel criminal investigation by the Police. In such cases the role of the council officer may not be to conduct interviews and there are no issues with corroboration or health and safety. An example may be where there is criminal investigation within a care setting. The key role for a council officer may be in respect of collating and analysing information regarding the care needs of the adult at risk, and possibly others in situ, by examining care plans and records.

Regardless of whether there is a council officer led investigation or parallel investigation an adult protection report (Appendix 12) must be completed by the council officer and any second worker. This report needs to include all relevant information from any relevant services and from other investigation by any other agency. The investigating officers have the responsibility to analyse and assess the information in order to make recommendations and take appropriate action in respect of the future protection of the adult at risk and any other appropriate services they may require. A briefing/debriefing report (Appendix 13) must be completed by the responsible manager. The investigating officers should attach a transcript of any interview to the debriefing report. Transcripts should be signed and dated by investigating officers. The report and other relevant reports will also inform discussion where a case conference is required.

## 3.3 Role of Advocacy Services

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

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

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

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

It is important that any assistance or intervention must be well planned so that wherever practicable the adult is provided with the right kind of support and that the situation does not escalate to the point where they feel that their perspective is not being actively considered (See 6.54 & 6.55).

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

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

**Inverclyde Advocacy Services can be contacted:-**

**Tel No: 01475 730797**

http://www.inverclyde.gov.uk/social-care-health/advocacy-services

# 4. ADULT PROTECTION REFERRALS

**Complete within 1 Working day of the concerns being raised**

## 4.1 Concerns or initial referral about an adult at risk

***4.11 From the adult or the public***

***4.12 Telephone Calls***

Reception staff should immediately transfer a caller to the Duty Senior Social Worker or Duty Social Worker.

**Should any member of staff such as a Social Work Manager, Social Worker, Occupational Therapist, or Social Work Assistant etc receive a call directly then they should take the referral. This is regardless of whether they are on duty or not or whether the adult at risk is known to them or not. The caller should not be redirected.**

***4.13 Letters***

If the referral is in the form of a letter, then reception staff should check SWIFT as to whether the adult at risk is an open case. If an open case, speak to the Social Work Manager responsible for the team to alert them to the letter and scan and email to them for their attention. If this manager is not available, contact the Duty Senior Social Worker.

If the adult is unknown, speak to the Duty Senior Social Worker to alert them to the letter and scan and email to them for their attention.

***4.14 Anonymous Callers and Letters***

These procedures should be followed even when a referrer refuses to give their name or on receipt of an anonymous letter.

***4.15 Referrals perceived as malicious***

The threshold is the same as for any other situation. Making an assumption from the outset that the referral is malicious may potentially leave an adult at risk of harm and may also leave those against whom allegations have been made vulnerable.

A decision about whether or not to investigate using adult protection procedures should be based on applying the three point test, the level of actual or potential harm and whether an offence may have been committed.

These procedures should be followed with all key information considered, decisions taken at the appropriate time and clear recording of the reasons for them.

***4.16 What if the member of the public does not want their identity disclosed or requests feedback?***

Where referrers do give their name, but request their identity should not be disclosed, they may be advised that any information will be treated with discretion and their identity will not be revealed unless the protection of the adult or any court proceeding requires this.

In some cases, referrers may ask for feedback. It should be explained this cannot be done due to confidentiality and consent requirements with assurance given that their concerns will be taken seriously.

## 4.2 From an Agency

***4.21 Telephone calls and referral letters***

Reception staff should check the SWIFT system as to whether the adult at risk is an open case. If the person is known then the call or letter should be directed to the responsible worker or Social Work Manager for that team. If no one is available contact the Duty Senior Social Worker or Duty Social Worker.

If not known then the call should be forwarded to the Duty Senior Social Worker or Duty Social Worker. If it is a written referral then reception staff should speak to the Duty Senior Social Worker to alert them to the written referral and scan and email to them for their attention.

## 4.3 Referral

***4.31 Details Required***

Whether it is a caller from an agency, a member of the public or the adult themselves, the following details should be taken:-

- What has happened (including whether it has happened before), the date(s) it happened and who was involved.
- Of all the concerns including if it is a situation where there is no singular incident and there is accumulating concern.
- Of any anticipated harm.
- The name, address, date of birth (or if not known, approximate age) and living situation of the adult at risk of harm. Also gender, religion and ethnic origin.
- Whether the adult at risk has any communication needs.
- The nature/type of disability, mental disorder, illness or physical or mental infirmity affecting the adult at risk of harm.
- Details of GP and any other health professional involved if known.

- The whereabouts of the adult at risk of harm.

- Name, address of any persons with an interest e.g. family, carer etc where known.

- Details of the person or persons alleged to be harming the adult at risk, name, address, relationship to the adult at risk, their age/date of birth (if known) and whether they are affected by any disability.

- The whereabouts of the person or persons alleged to be harming the adult.

- Identify any other witnesses and their contact details.

- Whether the adult is aware and/or has consented to be referred and their expectations and wishes if known.

- Whether the adult at risk is subject to any order under the Adults with Incapacity Act or the Mental Health (Care and Treatment) Act, or there is someone with power of attorney where known.

- If is it suspected that a crime has been committed and have the police been informed (date, time and any action taken).

The following additional information should be taken from a member of the public:-

- Name, address and telephone number (or the means whereby future contact can be made with them) if referrer is willing.

- Their relationship to the adult at risk or how they know the adult.

- Whether or not the referrer would agree to be interviewed if required during any subsequent investigation.

The following additional information should be taken from an agency representative:-

- Name, job title, address and telephone number of referrer and reason for their involvement.

- Any additional background information including any previous concerns and where relevant whether the individual has been placed within the Inverclyde Council area by another local authority.

- What action, if any, has been taken by the referring agency?

- If the referral involves a registered service – check whether SCSWIS and Inverclyde Council, Contract Monitoring and Complaints Team have been notified.

In a situation involving a registered service the responsible Senior Social Worker should ensure the SCSWIS and Inverclyde Council Contract Monitoring and Complaints Team have been notified if this has not been done.

#### *4.32 AP1 Referral Forms*

Referrals from other agencies should be requested in writing within 24 hours and on an AP1 form (Appendix 7). This is with the exception of the police who have their own referral form.

On receipt of the initial referral form AP1 (or police referral form) the Senior Social Worker should ensure a letter of acknowledgement is forwarded to the referrer (Appendix 8).

## 4.4 Recording on SWIFT:

- The details of the initial referral should be logged by the member of staff receiving the referral using SWIFT Front Desk and the Contact Reason of "Adult Protection Concern" Recording point **1**. Details specific to the AP concern including location, type and alleged perpetrator of harm must be recorded within the Adult Protection **Incident** screen. Recording point **2**.

**SWIFT Recording Points Diagram -see Appendix 9**

## 4.5 Factors to be considered

#### *4.51 Is there Immediate Danger or Immediate Need of Medical Assistance?*

Contact the appropriate emergency service, particularly if the adult at risk appears to be in immediate danger, or in immediate need of medical attention or if appears seriously injured whether physically or sexually.

#### *4.52 Are there any children involved?*

It is the responsibility of **all** agencies and staff to **consider the need of any child** who may reside or have contact with an adult(s) suspected to be at risk or the perpetrator of the harm.

Inverclyde Council has an Intra-Service Protocol which covers the procedural and practice links between adult protection, child protection and the public protection role of Criminal Justice. This protocol is attached as Appendix 6.

## 4.6 Responsibilities of the Senior Social Worker

It is the responsibility of the Senior Social Worker for the involved team to ensure the details of the adult alleged to be at risk of harm and the person(s) alleged to be the cause of harm are checked on SWIFT. If not known, the Duty Senior Social Worker is responsible. If the adult at risk is already known then the Child and Adult Protection – Overlapping Activity Intra Service Protocol should be followed (Appendix 6).

***4.6 1 Referral Decision***

The responsible Senior Social Worker may decide:

- Further inquiry is required to inform any decision.
- A referral to the police is required at this point as a criminal offence is suspected (see Chapter 8 - Working with the police).
- Immediate action is required in relation to the adult deemed to be at risk to make them safe.
- The adult does not meet the criteria as an adult at risk, or
- Concerns are known and are being appropriately managed via other processes.

***4.62 Action that may be taken:***

- Further Inquiry.
- Refer/allocate for assessment and care management.
- If an open case, continue with case work and review existing care plan.
- Change in care arrangements to meet immediate risks
- Refer to another appropriate agency.
- No further action.

***4.63 Recording on SWIFT***:

The Senior Social Worker is responsible for ensuring this decision and the reasons are recorded on the SWIFT Adult Protection Strategy Discussion Tab:
Recording point **3A** (if an Adult Protection Inquiry is required).
Recording point **3B** (in case of NFA under Adult Protection procedures).

In all cases the Senior Social Worker will inform the referring agency of the decision in writing (Appendix 8).

## 4.7 Case Recording

Case recording is a professional tool which evidences the contact and work undertaken with the service user. In addition telephone calls, text messages, letters, e-mails, meetings and other events regarding the case should be recorded. Electronic case records are extensively used by out of hours services that have to make informed decisions about the safety and welfare of service users.

Practitioners should adhere to the following guidelines:-

- Comply with the case recording procedures. Inverclyde Council Social Work Services Case Recording Procedures Date January 2007 can be found at the Social Work Digest.
- Be logical, succinct and to the point.
- State who the contact is with and always give the relationship of that person to the service user i.e. 'Mary Smith, maternal aunt …' or 'Sally Jones, mother …' rather than only saying 'aunt' or 'mum'.
- State the purpose of the contact.
- Provide a brief summary of the reason for the contact, focussing on how the contact meets the care plan.
- Record direct observations.
- Provide the service user's or professionals' views.
- The content of case records should be proportionate and relevant.
- Case records have to be intelligible to others.
- There should be no unexplained significant gaps in case recording.
- Do not use recording as a platform for airing professional differences of opinion.
- Remain focussed on the agreed action plan.

It is the supervisor's responsibility to ensure that, in work-load management, enough time is allocated to the practitioner to write case records. The sooner they are written the more accurate and accessible they will be to other workers.

# 5. ADULT PROTECTION INQUIRIES

**Complete within 5 working days of initial referral**

## 5.1 What is an inquiry?

The inquiry stage is about gathering all known and relevant information in order for a decision to be made regarding what further action is required. Information can come from a variety of sources.

The referral can indicate a one off event or that there have been a number of concerns possibly over a period of time. This can be referred to as **accumulating concerns**. In either situation a chronology of events should be considered (See 6.73)

### *5.11 Who should contribute to inquiries?*

Many different professionals in statutory agencies and other organisations have contact with adults at risk of harm including social workers, medical and nursing staff and other health professionals, staff delivering care services, Procurators Fiscal, the police and staff of voluntary agencies. If the adult is known, contact should be made with staff familiar with the adult for further information.

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

### *5.12 What if the adult is known to Mental Health Services?*

If the adult is known to have a mental disorder or intervention under the Adults with Incapacity (Scotland) Act 2000 and a Mental Health Officer (MHO) is already involved, via their role as Supervising Officer or Designated MHO, they should be contacted and if appropriate considered as a lead council officer. This will require to be discussed and agreed by the relevant Senior Social Workers and Service Managers.

Further information may also be accessed via:

- The Mental Welfare Commission.
- Office of the Public Guardian.
- Guardian or Proxy.

### *5.13 Are there any children involved?*

See guidance of Page 4.52.

***5.14 Can the records of other agencies be accessed?***

Section 10 of the Act allows council officers to access medical, financial and other records relating to the adult at risk. Access is a two stage process. The first is to obtain the records, the second is to inspect the records. Council officers cannot however inspect health records. *See 5.15.*

Existing procedures relating to the sharing of information should be followed wherever possible. Where appropriate the adult's, or their legal representative's consent should be sought at the investigation stage and using existing consent forms.

In some instances, information may be required to be obtained at an earlier stage in order to assist decision making and without consent. This is where the situation is urgent and obtaining consent would cause an unacceptable delay or the adult cannot consent. Inverclyde Council also has discretion regarding whether or not a Welfare Guardian or Power of Attorney is informed. It is expected that not informing a legal representative would usually only occur when the person holding this position may be the person alleged to be causing the harm.

***5.15 Does this include Health Records?***

In many cases it may be sufficient for a health professional to provide a written summary of his or her involvement and of the adult's health along with any relevant documents or reports. **However it should be noted that Section 10 of the Act refers to existing records held by a professional or an organisation rather than information created to meet a request.**

Health records include notes written by GPs, occupational therapists, physiotherapists, nurses etc either written or electronic. Health records may only be inspected by a registered health professional.

If possible notification is given in advance to allow for the gathering and reading of the information by the health professional. The council officer should record any statements made by the health professional. An interview with the author of any record may also be requested.

***5.16 Access to Records – where there is a police investigation***

See 8.5

***5.17 How do I access records?***

In whatever way information is being requested and in whatever format it is received the information shared should:-

- Adhere to the principles.
- Be proportionate to addressing the concern(s).
- Be to further the best interests of the adult.

- Be unable to be achieved without such an intervention

The council officer asking for information or requesting access to records should explain as clearly as possible:

- Inquiries/investigations are being made under the Adult Support and Protection Act.
- What information they need.
- Why they need it.
- What they will do with the information.
- Who the information may be shared with.
- If written records, how long they will be kept or whether they will be destroyed?

The Access to Records form should be completed in this circumstance (Appendix 10). Such requests can be sent or made in person during a visit. In the case of the latter the council officer must have appropriate identification and the completed form. A copy of the form must be retained in the adult's file. Only certified copies of the records should be requested and originals remain with the source of the information. All formats of records such as computer, audio and visual are covered by the legislation.

***5.18 What if the agency refuses access to records?***

Section 49 of the Act states it is an offence of obstruction for a person to fail to comply with a requirement to provide information under Section 10. Reasonable efforts should be made to resolve disagreements through informal means, initially, before considering legal action.

## 5.2 Inquiry Decision

Once the initial inquiry is complete and information gathered there are four main possibilities. The responsible Senior Social Worker and Service Manager require to decide, on the information available, whether:

1) Immediate action is required in relation to the adult at risk.

- In such circumstances contact the police to ascertain whether an offence has taken place and whether this is of sufficient seriousness for the police to lead on the investigation.
- If the level of risk is such that immediate action is required, which cannot be achieved on a voluntary basis, legal advice **must** be sought, to determine whether there are statutory powers which can be invoked.

2) Further inquiry is required through a strategy meeting with relevant staff and partner agencies. This will be in order to:

- Consider all information available and what further action is required to protect the individual.
- Decide if an ASP investigation is required (see below, point 3, factors to be considered).
- Consider if an investigation under the Adults with Incapacity (Scotland) Act 2000 or the Mental Health (Care and Treatment) (Scotland) Act 2003 should take place.
- Consider if a referral to The Office of the Public Guardian is required.
- Clarify the process of the investigation and who should participate.
- Clarify the roles and responsibilities in relation to formal investigation and who should participate.

3) Proceed to adult protection investigation. In reaching such a decision consideration should be given to the following:

- The extent of the alleged harm.
- Whether the harm was a one off event or is a situation of accumulating concerns. Consider the need of a chronology of significant events which would clarify and define the concerns and risks.
- The impact of the alleged harm on the person.
- The impact of harm on others.
- The need for protection or support for the alleged perpetrator/source of harm if they lack capacity or are also at risk of harm.
- The intent of the person allegedly responsible for the harm.
- The legality of the actions involved.
- The risk of harm being repeated against the person.
- The risk of harm being repeated against others.
- The views of the adult at risk if known.
- The capacity of the adult to understand their current situation.
- Whether this is a known situation with known risks. If yes are they being managed appropriately?
- If not, can they be addressed and managed appropriately through assessment and care management, Care Programme Approach or persons own resources?

- Consider in the context of the principles and to be of benefit and least restrictive.

- Ensure the three point test applies and consider the protection orders and whether ultimately there is the possibility that the situation may require statutory powers to be used.

4) No further action is required via Adult Support and Protection procedures. If this is the case then this should be recorded in the SWIFT AP Module. The record needs to include:

   - Circumstances which gave rise to the initial referral.

   - The actions taken.

   - Why the outcome was 'no further action'.

   - How the adult will now be supported if required, e.g. community care assessment, referral to another agency etc.

   - If the intervention is refused, what alternative actions have been considered?

   - Inform, in writing, any referring agency of the decision and reason for decision (Appendix 8).

## 5.3 Recording on SWIFT

All outcomes and decisions should be updated within the Adult Protection Strategy Discussion record relating to that Inquiry. Recording Point **4.**

# 6. ADULT PROTECTION INVESTIGATIONS

**Complete within 10 working days from point of referral including relevant reports**

## 6.1 What is an investigation?

It is the responsibility of Inverclyde Council Social Services to lead on adult protection investigations through the setting up of a strategy meeting. This may be an interagency meeting as required. Other agencies may be asked to be involved at this point if their action or contribution is required to take forward the investigative process.

The key difference between the 'inquiry' and 'investigation stage' is that an investigative visit(s) and interview(s) will be sought with the adult at risk and any other relevant parties.

**It is appreciated that the following process is readily applied when there is a clear allegation of harm and the capacity of the person is known.**

**It may be known from the outset that the person is incapacitated, but the investigation report and risk assessment may be the best tool to assess and analyse the situation in order to establish the best way to proceed, including consideration of other relevant legislation. It may also be the case that there are accumulating concerns and the investigation report and risk assessment, in particular the chronology of events, maybe the best tool to establish and evidence what the concerns are to date and to assist in determining a way forward, including the consideration of relevant legislation.**

## 6.2 What is the purpose of an investigation?

The purpose of the investigation is to:

- Check the accuracy of any allegations of harm or potential harm.
- Establish and clearly record the facts about the circumstances, which have given rise to concerns.
- Involve the adult seen to be at risk as fully as possible within the investigative process **(this may involve use of independent advocacy, translation or sensory impairment services)**.
- Review the adult's situation in respect of current protective legislative powers in force e.g. AWI Act and MH Act.
- Identify on assessment any significant risk factors or concerns arising from the adult's circumstances.
- Establish with the adult whether they wish professional intervention to take place.
- Establish where possible the views of carers, agencies and relevant persons with an interest in the adult considered to be at risk.

- Ensure where possible, appropriate action is taken in respect of the person(s) alleged to be causing harm.

- Determine whether harm or the potential for harm is likely and determine what protective action or other action is needed for the adult or any other in situ.

**Note: During the conduct of investigation where any child protection concerns arise action must be taken under Inverclyde Council Social Work Child Protection Procedures and/or Intra-Service Protocol to ensure the immediate and future safety and well being of the child or children.**

## 6.3 Planning the investigation, the Strategy Meeting.

The formal investigation should be a planned process and roles and remits of the investigatory team agreed beforehand. The objective is to establish the most positive environment possible towards allowing a full assessment of the adult's circumstances and needs, and whether intervention or further action is necessary. The investigating officers require to be fully informed of the referral and areas of concern. The task of the Senior Social Worker, in discussion with the appropriate Service Manager, is to agree the format of the investigation with the investigatory team. The following needs to be agreed:

- The fullest information is available from inquiries in order to proceed to formal interview(s).

- Who will be the investigating officers (see 3.23)?

- Where the interview(s) will take place?

- The time of the visit – visits must be at a 'reasonable' time.

- What questions need to be asked?

- Who will ask the questions?

- Who will record the interview(s)?

- What are the timescales for the completion of each task?

- The need for advocacy (See 3.3).

- The need for any other person to be present (see 3.25).

- Support for the adult's carer.

- Identify any known communication needs that anyone to be interviewed may have and how these needs will be met (2.5)

- Is there a need to access other agency records and how this will be done (See 5.14)?

- Support and health and safety of all staff have been considered and ensured.

***6.31 Recording on SWIFT***

A Hazard alert should be placed on record of the adult at risk of harm.
SWIFT Recording point **5a.**
If appropriate a Hazard alert should also be on the record of the alleged source of Harm**.** SWIFT Recording point **5b**

The Senior Social Worker is responsible for ensuring that an Adult Protection Investigation is started on SWIFT Recording point **6.**

## 6.4 The Support and Health and Safety of Staff

It is the responsibility of partner agencies involved in any investigation to ensure the support and health and safety of their workers involved in the investigation.

For Inverclyde Social Work Services the responsible Service Manager and Senior Social Worker should take cognisance of the potentially demanding nature of this work and ensure that the investigating staff are offered the appropriate time, facilitation and support; and the progress of the investigation is reviewed on a regular basis.

## 6.5 Investigative interviews and visits

***6.51 Where can an investigative visit take place?***

An interview could be conducted at any place where the adult normally resides, is residing temporarily or spends part of their time. This would include

- The adult's home.
- The home of any relative, friend or other with whom the adult resides.
- Supported or sheltered accommodation staffed by paid carers.
- Temporary or homeless accommodation.
- A care home or other residential accommodation.
- A day centre.
- A place of education such as a school, college, university.
- A place of employment or other activity.
- A hospital or other medical facility.
- Private, public or commercial premises.
- Adjacent places such as sheds, garages and outbuildings.

***6.52 The purpose of an interview is to:-***

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

***6.53 What are an adult's rights during an interview?***

Section 8(2) provides that the adult is not required to answer any questions, and that the adult must be informed of that fact before the interview commences. The adult can choose to answer any question put to them. It must be ensured that they are not pressured to answer any question that they have chosen not to answer.

***6.54 Can an adult be interviewed with others present?***

Section 8 allows a council officer and any person accompanying the officer, to interview the adult in private and/or without prior notice. Whether or not the adult should be interviewed in private and/or without prior notice will be decided on the basis of whether this would assist in achieving the objectives of the investigation. The council officer or person(s) accompanying them may decide to request a private interview and/or without prior notice with the adult where:-

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

However, where practicable, it would be good practice to ask an adult whether they would wish another person to be present during the interview, for example a family member, paid carer or an advocacy worker (See 3.1, 3.3 & 6.55).

It would also be good practice to notify the adult of a request to interview them in advance and in writing.

***6.55 The importance of Advocacy***

Advocacy can help to ensure the principles (See 2.6) are applied and the adult has independent support. This support is separate from the involvement of the Council and any other agencies who are involved. It is also separate from any other intervention.

The advocacy worker can inform the adult about their rights, seek to ascertain their views and support them to put their views across.

They could support the adult at risk to:-

- Decide whether or not to consent to the authorities intervening in their affairs.
- Participate during an investigation.
- Put their views across at an adult protection case conference or any other meeting.

***6.56 What if entry is refused?***

See 3.13.

***6.57 Guidance on conducting an interview***

- Both investigating officers **must introduce themselves and identify if one or both are council officers**, show their authorisation to visit and explain the purpose of their visit to the adult and those with an interest in the adult where appropriate.

- There are several phases for investigative interviewing e.g. introductions, establishing rapport, free narrative, questioning, closure and debriefing.

- The interview, where possible, should be conducted in a safe, quiet, comfortable setting where interruptions are to a minimum.

- The interviewer must keep an open mind and gather information without prejudice.

- A rapport should be established with the adult to encourage participation in the interview and to help shift the balance of power back to them.

- Be clear on the purpose of the visit, clarify boundaries and monitor for fatigue, distress etc and build in breaks and support.

- Use open ended questions to gather information – who? what? where? when? how? – and resist unnecessary interruptions. Follow up what the person has said to clarify the details.

- The accompanying officer should record a full and accurate account of the interview. The need for this should be explained to the adult, if the adult finds this distracting the accompanying officer can agreed to sit out with the direct sight of the adult if they view this would assist.

- When the interview is almost complete, the council officer should summarise the important evidential points and confirm these with the adult who was interviewed, check with the accompanying officer whether additional questions or clarifications are required and advise the adult and their carers, if appropriate, of future actions and contact details.

## 6.6 Medical Intervention

***6.61 Is Medical Intervention Required?***

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

- doctor
- nurse
- midwife

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

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

- The adult's need of immediate medical treatment for a physical illness or mental disorder.

- To provide evidence of harm to inform a criminal prosecution under police direction or application for an order to safeguard the adult. Where a crime is suspected there must be liaison with the police prior to a medical examination unless the adult requires immediate medical assistance. The Senior Social Worker should contact the police and agree who will be responsible for requesting a medical examination.

- To assess the adult's physical or mental health needs.

- To assess the adult's mental capacity.

If the council officer believes that medical intervention is required, wherever possible, all courses of action must first be agreed with the adult. An adult must give consent to medical examination and treatment unless he/she lacks capacity.
In situations of extreme risk or urgency the council officer may need to take immediate action, i.e. involve emergency services without prior consent.

***6.62 What if consent cannot be obtained?***

Where it is not possible to obtain the adult's informed consent or they have difficulty communicating to provide consent, the council officer or Senior Social Worker should contact the Office of the Public Guardian to ascertain whether a guardian or attorney has such powers. If not, consideration may be given to whether it is appropriate to use the provisions in the Mental Health (Care and Treatment) (Scotland) Act 2003 or the Adults with Incapacity (Scotland) Act 2000.

***6.63 What if the adult refuses a medical examination?***

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

For fuller details on medical examinations please refer to:- Appendix 10, and
**Adult Support and Protection (Scotland) Act 2007 Part 1 -Codes of Practice October 2008 (Chapter 7) –**
http://www.scotland.gov.uk/Publications/2009/01/30112831/4

## 6.7 Conclusion of Investigation

Following the investigation the council officer and second investigating officer should complete a report (Appendix 12) and risk assessment (Appendix 5) and discuss with the Senior Social Worker and Service Manager further action to be taken.

### *6.71 Completion of an Adult Protection Report*

A report is required in all but exceptional circumstances. If no report is completed the Service Manager and Senior Social Worker are responsible for ensuring the reasons for this are recorded in the SWIFT Adult Protection Module

### *6.72 Completion of Risk Assessment Tool*

**The Senior Social Worker and Service Manager will decide when the completion of a Risk Assessment [Appendix 5] is required.**

The attached **Risk Assessment** was developed for adult protection and should be used in the majority of situations. It is recognised that in certain circumstances an alternative risk assessment tool may be required or used in addition. The adult protection risk assessment starts with a focus on the person who is being assessed and various key factors in relation to their involvement in the assessment and subsequent decision making.

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

The importance of the views of the person being assessed are emphasised in the requirement to note these views in sections 3, 5 and 6 of the risk assessment form. Public inquiries and practice audits have identified a lack of attention to histories of significant events (See 6.73) and failures to make comprehensive assessments of all possible risks and risk factors. The risk assessment form seeks to deal with all of these issues in sections 3, 4 and 5, and also to provide for a balanced view between risk and protective factors.

Whilst the risk assessment provides a format for bringing together comprehensive, relevant information, the form reflects an expectation that professional opinion and/or judgement is required about the risk and any protective action which might be needed. The form does not provide any arithmetic scales or matrix to calculate levels of risk. Those involved in the development of the form were aware of such features in use in

certain places, but concluded that they pretended to a scientific basis which was not present, and they were not aware of any which had been devised and tested properly.

***6.73 Why are Chronologies important?***

It is widely recognised that service users are most effectively safeguarded when professionals work together and share information. Individual events may appear to be insignificant 'one-offs'. However, they should be recorded in the chronology as they may be part of a pattern, which would raise serious concern.

Chronologies provide a sequential list of dates of significant events in a service user's life. They enable practitioners to gain a more accurate picture of the whole case and detail the history of a service user and their family. They highlight gaps and missing details that require further assessment and identification. Chronologies can also highlight risks, concerns, patterns, themes, strengths, resilience and weaknesses of a service user and their family. Current information can then be understood in the context of previous case history and inform professional assessment.

If chronologies are to be of value they should be:-

- Set out in the risk assessment format, to ensure that information can be effectively merged and sorted.
- Succinct recordings of significant events including people involved and dates.
- In ascending date order i.e. earliest date first.
- Systematically and regularly shared with relevant professionals.
- Owned by professionals and used as a tool in assessing progress and the level of concern.
- Informing the decision-making process at any given point.

It is essential that all professionals and agencies understand that they should be active participants in preparing chronologies. Practitioners should ensure that information describing key incidents, events and facts are passed on to the Council Officer. The Council Officer's responsibility is to ensure that the chronology is collated, up to date and presented appropriately.

In the majority of adult protection situations there will be no criminal investigation. The Risk Assessment is not about being able to prove beyond reasonable doubt that the harm happened or who is alleged to be the source of this harm, but about the probability the harm happened, that it is probable it was caused by the individual(s) suspected and the probability the circumstances will reoccur. The Risk Assessment assists in considering the severity of the harm and the consequences for the adult if no action is taken to reduce the risk(s).

Decision making around any actions required therefore needs to be supported by objective evidence, user preference (wherever possible) and professional opinion.

## 6.8 Investigation Decision

Once the investigation is complete, there are a range of possible outcomes and **one or more** of the following may be initiated.

1. The adult at risk criteria is met and harm is established or suspected. The responsible Senior Social Worker and Service manager may decide:-

- To proceed to case conference.
- To refer to the Police.
- Immediate application for Protective Orders under the Adult Support and Protection (Scotland) Act 2007 is required.
- Intervention is required under the Mental Health Act or Adults with Incapacity Act.
- To use other relevant legislation.
- Ongoing care management is required.
- Ongoing management via other processes is required.
- To refer to The Office of the Public Guardian.

2. No further action required via Adult Support and Protection Procedures. The responsible Senior Social Worker and Service Manager may decide:-

    - No further action required.
    - Concerns are to be progressed or managed via care management or another process e.g. Care Programme Approach.
    - Intervention is required under the Mental Health Act or Adults with Incapacity Act.
    - Referral to another service or agency is required.

A debriefing form is attached as Appendix 13. A copy of the interview report should be attached. This along with the investigative report and risk assessment should aid decision making.

**Please note: each adult's circumstances are different and may require alternative measures not listed here. Professional judgement requires to be exercised by those involved.**

## 6.9 Recording on SWIFT

The decision and reasons are recorded against the SWIFT Adult Protection Investigation. Recording point **7**.

The Senior Social Worker is responsible for ensuring that the appropriate legislation under which the service is being delivered is entered. Recording point **8**

# 7. ADULT PROTECTION CASE CONFERENCE

**To be organised within 8 working days from discussion of investigation findings**

## 7.1 Introduction

There are no statutory provisions relating to case conferences. The case conference is a multi-agency, multi-disciplinary meeting. The meeting is held following inquiry and investigation. The purpose is to share information and to make decisions in order to support and protect the adult in circumstances where harm is suspected or has occurred.

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

**The main aim is to agree an adult support and protection plan and not to act as a strategy meeting or to reinvestigate.**

#### *7.11 What is the purpose of a case conference?*

The overall purpose of an adult support and protection case conference is:

- Share and evaluate information gathered during the investigation.
- Consider further information from participants.
- Consider the wishes of the individual and right to take risks.
- Clarify the details of the harm which has or is suspected to have occurred and the current level of risk.
- Ensure the general principles of the Adult Support and Protection Act or any other relevant pieces of legislation are applied.
- Consider whether there is the need for any or further protective measures under the Adult Support and Protection Act or any other legislation.
- Agree a plan which maximises the future safety and wellbeing of the adult and identify specific actions, who is responsible and timescales.
- Identify the key personnel for the core group and nominate a lead worker (most likely the council officer) to coordinate and monitor the protection plan and specify meeting dates.
- Clarify roles and responsibilities.
- Decide whether a review case conference should be held and agree a date and time of the next meeting.
- Decide who shall be informed about the recommendations of the conference, and agree to whom the minute and/or copy protection plan will be sent.

***7.12 What are the responsibilities of the chair?***

A chairperson will seek consensus as to whether or not the adult at risk requires an adult support and protection plan. If consensus cannot be obtained, the chairperson will take responsibility for the meeting making a determination.

The chairperson is responsible for:

- Ensuring any communication, support or systems are made available.
- Ensuring that the meeting is properly conducted.
- Making clear the purpose of the meeting.
- Establishing the structure of the meeting and reminding those attending of its confidential nature.
- Establishing the concerns, any previous incidents or concerns and action taken.
- Ensuring the meeting comes to a decision as to whether the adult is at risk and that a support and protection plan is identified and agreed.
- Making clear recommendations on inter-agency working.
- Enabling all those involved agencies and individuals, to agree their roles in any plan and that these are immediately actionable if required.
- Ensuring all present understand there is a facility to ask for an adjournment.
- Ruling on requests to exclude individuals/agencies and recording reasons for this decision.
- Ensuring dispute, dissent and complaint is recorded and, when possible, is resolved within the case conference (see 7.14 where resolution cannot be reached).
- Ensuring the accuracy of the minute and protection plan is signed by them and distributed timeously.

***7.13 Agenda Outline Pro forma***

An agenda outline pro forma (Appendix 14) has been developed as a check list in order to ensure the purpose and responsibilities of the chair are covered.

***7.14 How should case conference dissent, dispute, complaints be resolved?***

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

Under the adult protection case conference procedures, any dissent, dispute or complaint occurring, within the proceedings of the case conference **must** be recorded in the relevant minute. In the case of dispute, dissent or complaint that cannot be resolved within the case conference, the chair person will require to refer to the Head of Service. The Head of Service will review the issues raised. If a further review case conference is to be held to address the concerns raised, this should be done within **15 working days** of the recorded concerns. This meeting must be chaired by the Head of Service. Should there continue to be dispute or dissent then discussion should take place with the Chief Social Work Officer for further advice or guidance.

Complaints relating to procedural arrangements should be made via Inverclyde Council, Contract Monitoring and Complaint Team.

Where service delivery is bound by legislative protective measures such as the Adult with Incapacity (Scotland) Act 2000 or Mental Health (Care and Treatment) (Scotland) Act 2003, legal review through the court or tribunal system or to the Mental Welfare Commission may be an option and relevant procedures and Scottish Government Codes of Practice should be followed in such instances.

## 7.2 Organising a case conference

#### *7.21 Who should be invited to a case conference?*

Where appropriate, a case conference should include:

- Investigating officers.
- The adult at risk of harm and/or their representative if they do not feel able to attend.
- Carer or relative (having regard to wishes of the adult).
- If the adult has identified a named person in relation to the Mental Health Act, the adult may seek the attendance of the named person.
- Any other person the adult wishes to name instead as their representative.
- G.P. or any other health professional.
- Police.
- Staff from any regulatory bodies such as the SCSWIS.
- Care provider organisations directly involved with the adult.
- Legal Services.
- Independent Advocacy Worker where involved.
- Proxy decision makers (attorney or guardian).

- Mental Health Officer for specialist advice if there are potential issues arising in relation to mental disorder or lack of capacity.

- Any relevant housing of homeless organisations.

**Invitations should be appropriate to the individual situation.**

***7.22 Who organises invitations to the case conference?***

When a case conference is required, the responsible Senior Social Worker should contact admin staff at the Adult Protection Support Unit to request a minute taker. A pro forma for invitations is attached in Appendix 15. Persons to be invited should be agreed between the chair and the Senior Social Worker. The pro forma should be returned to the admin at the Adult Protection Support Unit, who will arrange for invitations to be sent. In the first instance this may be by phone call, but will be confirmed by a letter or e-mail. The admin at the unit will also arrange for the booking of a meeting room. Admin require to be notified of any accessibility considerations.

***7.23 Recording on SWIFT***

Prior to each Review Conference and at the end of the Adult Support and Protection Process the Adult Support & Protection Unit will audit the electronic record and alert the responsible Senior Social Worker to any omissions or queries arising for remedial action. Recording point **9.**

## 7.3 How do we promote the participation of the adult, their relatives or carers?

Consideration should always be given as to how the adult, their relative or carers etc might most effectively participate.

Where appropriate, ensure:-

- The purpose and process of the case conference has been fully explained, the venue is not intimidating and is accessible. It is the role of the Senior Social Worker to ensure that a designated worker has discussed these issues with the adult and any person(s) supporting them.

- When someone is unable to attend through lack of capacity, appropriate alternative representation is provided.

- Appropriate communication support systems (including translation and interpretation).

- Where agreed, attendance for part of the meeting is an option if there are areas an individual will find too distressing. There is the facility for the adult to be consulted out-with the meeting and their views appropriately represented if preferred.

- Adults should not be required to confront alleged perpetrators where this may be distressing.

- Where the alleged perpetrator is also seen as a person at risk, consideration should be given to holding a separate case conference re; their needs.

Attendance should be at the discretion of the chair of the case conference. This should ensure the exclusion of any individuals where there are substantive grounds for believing that their involvement in the conference would undermine the process or serious conflict is liable to emerge, or where sub judice information is being presented.

***7.31 Exclusion***

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

Grounds for exclusion would be when:-

- A level of conflict or tension exists within the carers or family
- When there is substantive evidence to believe that there is a likelihood of violent or serious disruption of the process of the case conference.

Where carers or family have been excluded throughout the case conference, it is the responsibility of the chair person to ensure that they are informed of the outcome.

## 7.4 Case conference minute

The chairperson has the responsibility to ensure an accurate record of the discussion and decisions.

The chair has the responsibility to ensure the purpose of the conference is adhered to (see 7.11), their responsibilities are met and this is reflected in the minute. See agenda pro forma, Appendix 14.

## 7.5 Adult Support and Protection Plan – Form AP3

The **protection plan** has been designed for use when allegations of harm and/or exploitation have been made and an adult protection case conference has agreed that there is a risk of harm or serious harm; or when high levels of risk cannot be managed within a normal care plan (Appendix 16).

The format for the protection plan assumes that, reflecting good practice, there will be a lead worker to co-ordinate protection work and that, in most cases, there will also be a core group of workers from different services.

Inquiries and audits have indicated that adult protection conference minutes may not fully reflect all of the elements of a full protection plan, and the completion of a full written protection plan seeks to separately identify all of those elements. It also seeks to ensure the definition of responsibilities, timescales and outcomes for whatever

actions are necessary in the categories provided. It should be noted that there may need to be several actions under particular headings.

The terms of the protection plan format reflect certain key practice principles which are also evident in the risk assessment, particularly the need to identify and respond to the views of the adult at risk and significant others and the need for good communication, both with them and between all of the professionals or agencies involved.

As indicated earlier, the protection plan form can be used as a stand-alone document and updated as part of the review process.

The formats developed and agreed are as follows:

- Community or other support requirements.
- Decision to apply for a Protection Order – to be endorsed by Service Manager.
- Contingency or relapse plan.
- Key worker or care manager responsibilities.
- Partner agency interventions and responsibilities.

#### *7.51 Recording on SWIFT*

It is the responsibility of Adult Protection Support Unit to ensure that the Adult Protection Plan is entered. Recording point **10.**

## 7.6 What is a Core Group?

The core group is a small group of interagency staff with key involvement in the case who will make the arrangements for implementing and continuously reviewing the Adult Protection Plan. A core group is a device for sustaining interagency involvement following a case conference where it is agreed this is required. The appointed Care Manager and/or council officer will be a member of any established core group.

Each core group meeting should be recorded using the Adult Protection – Review Report (Appendix 17).

#### *7.61 What are the core group's tasks?*

The group should meet on a minimum monthly basis to monitor whether the protection plan's objectives are being met. The key tasks are to:-

- Take remedial action where objective/s are not being met.
- Report back to the Senior Social Worker and Service Manager of any significant changes – either the removal of risk(s) or heightened risk(s). A further Adult Protection Risk Assessment or other risk assessment may be requested by the Senior Social Worker or Service Manager.

- Submit an Adult Protection Review Report (Appendix 17) to the next review meeting.

There should be weekly visits to the adult at risk unless otherwise agreed and evidenced in the minute of the case conference.

***7.62 Recording on SWIFT***

The Minute Taker is responsible for updating the SWIFT Adult Protection Conference with attendees, reports and decisions reached. Recording point **13**

## 7.7 Legislation

Consideration should be given to any current or proposed use of legislative measures to implement the protection plan having cognisance to the principles of the Acts that might be considered e.g. Adults with Incapacity (Scotland) Act 2000, Mental Health (Care and Treatment) (Scotland) Act 2003 (see appendix 8 ) and the Adult Support and Protection (Scotland) Act 2007 (see 3.1).

Where issues of capacity are identified and intervention under the Adults with Incapacity (Scotland) Act 2000 is considered necessary, Inverclyde Council Procedures in relation to Act should be followed.

Where it is anticipated that the use of the Mental Health (Care and Treatment) (Scotland) Act 2003 or the Adults with Incapacity (Scotland) Act 2000 may be appropriate, then invitations to the case conference should include those persons or representatives from relevant agencies in order to facilitate decision making and actions there after. This would include appropriate clinicians and a Mental Health Officer.

## 7.8 Accuracy and distribution of minute and plan

The minute taker will forward a watermarked draft version of the minute and plan to the chair. The chair should check for accuracy and return to the minute taker with any corrections required. The minute taker will remove the watermark from the draft once corrections are complete and forward to the chair for signing. The signed copy should be forwarded to the minute taker, this can include scanning and emailing. The minute taker will then circulate to those agreed at the case conference.

***7.81 Recording on SWIFT***

It is the responsibility of Senior Social Worker to ensure that the SWIFT legislation record is reviewed /updated following the conference. Recording point **11.**

## 7.9 Adult protection review case conferences

Where there is no immediate dissent, dispute or complaint, the first review case conference should be held within **3 months** of the initial adult protection case conference and thereafter at not more than **6 monthly intervals** for the duration of the

protection plan being in place. An adult protection review report should be completed in advance and any risk assessments requested by the Senior Social Worker or Service Manager. The purpose of the review case conference is to;

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

***7.91 Recording on SWIFT***

Prior to each Review Conference, and at the end of the Adult Support and Protection Process, the Adult Support & Protection Unit will audit the electronic record and alert the responsible Senior Social Worker to any omissions or queries arising for remedial action. Recording point **13**.

## 7.10 Concluding the Adult Support and Protection Process where case conference has been required

The decision to end the adult protection process should be taken at either the initial or review case conference.

An initial investigation report or adult protection review report should be available and be completed by the investigating officers or the responsible person following core group meeting(s). Consideration should also be given for a further updated risk assessment at a review case conference in order to inform decision making.

There are three key areas which should be considered before ending the adult protection process.

Current and further level of risk:-

- Is the adult still suffering from harm and/or is there a likely hood they will suffer harm if this process ends?
- Have the actions of the protection plan been implemented and have they achieved their intended outcomes?
- Has the individual(s) alleged to be causing the harm cooperated with the plan, including any protection orders?
- Is the individual(s) alleged to be causing the harm still in contact and/or are they likely to return if the adult protection process ends?

- Have there been any issues in relation to the adult and/or relative, carer or significant other?

- What steps have been taken to overcome all or any of these issues?

Current views of all relevant parties:-

- What is the view of the adult, have they been spoken to alone and have they been seen at home?

- What is the view of the carer(s), relative(s) or significant other(s)?

- Have the views of the relevant professionals be sought or considered within or out with the case conference processes?

Future planning:-

- Is there evidence that the adult at risks welfare will be safeguarded and promoted should the adult protection process end or the case closed?

- What will be the ongoing care and support plan?

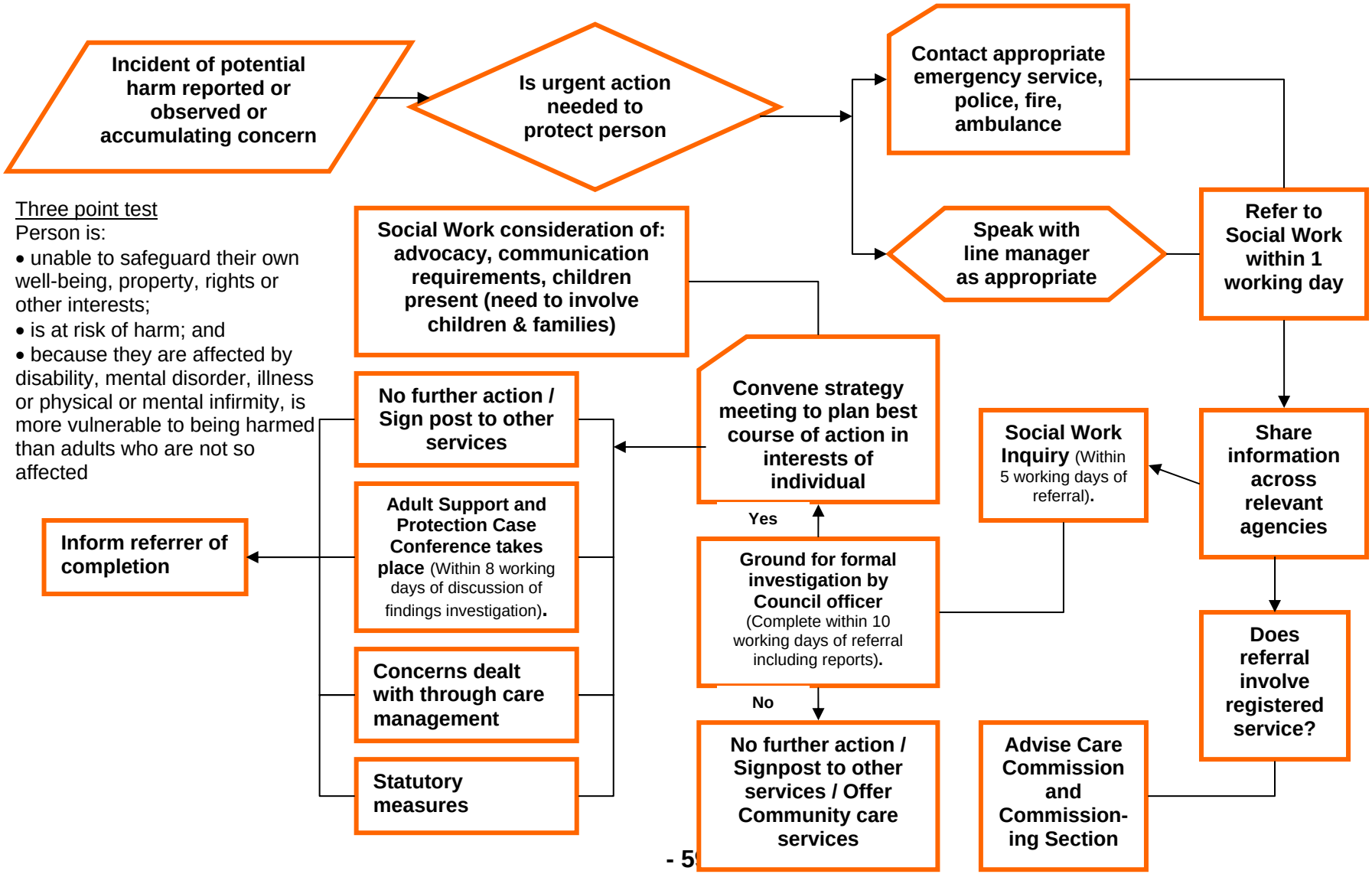
- Are there risks how best managed via another process – care management, care programme approach, use of other legislation and processes?

- Is the adult, carer(s), significant other(s), care provider(s), and any other agencies clear as to how to refer?

A short guidance for Council Officers of these procedures is in Appendix 18.

A quick guide to the Act is contained as Appendix 19.

# 7.11 Adult Support and Protection Outline Flowchart



# 8. WORKING WITH THE POLICE

## 8.1 Working with the Police

Criminal investigation by the police takes priority over all other lines of enquiry. The focus of the police investigation is evidence gathering to support prosecution.

Whilst the protection of the adult will be of prime importance, insufficient evidence to support prosecution may not mean that an adult is not being or has not been harmed.

Elements of Inverclyde Councils Adult Protection Procedures require to continue in parallel with any police investigation, with liaison between the responsible Senior Social Worker and police officers. The police may be making enquiries and conducting an investigation, however the responsible Senior Social Worker and council officer require to gather and analyse all information, including the outcome of any police or any other agencies, specific investigations (SCSWIS, Public Guardian etc), in order to arrive at appropriate recommendations. This is to ensure that appropriate action has been taken and plans are in place to protect the adult at risk of harm as necessary.

#### *8.12 Consent and calling the Police*

An adult's consent should usually be sought before the police are contacted. Adult's at risk of harm are individuals in their own right and must be allowed to exercise their right to choose they way they live their life, unless;

- The adult is at immediate risk of significant harm.
- The adult does not have capacity to understand his/her choice or consequences.
- There is concern the person is being unduly pressured to withhold their consent.
- The situation involves a service provider and other adults may also be at risk or harm.
- There is a public safety concern and it is in the public interest to override consent because of the seriousness of the incident or allegation and/or risk to other people.
- Any member of staff from any agency has witnessed a crime being committed.

## 8.2 When is it an offence?

'Adults at risk of harm', regardless of where they live or what their individual characteristics, are entitled to live free from harm and are entitled to the same protection under the law as any adult. Although the Act and procedures refer to

different types of 'harm' it requires to be uppermost in the minds of all staff from all agencies that a referral to the police may be necessary where the adult is alleged to have been subject to a criminal offence.

Examples of harm which may constitute a criminal offence are:-

- Physical or Verbal Assault. This would include inappropriate restraint or the use of medication other than prescribed.
- Sexual Assault or Rape.
- Theft, Fraud or other forms of financial exploitation.
- Racial/Gender/Religious Discrimination sometimes referred to as 'hate crimes'.

## 8.3 Referral to the Police.

All calls to Strathclyde Police are routed through a central call centre. In adult protection situations, the majority of referrals will be dealt with by the frontline uniform officers, however, depending on the nature of the allegation, inquiries and investigations may be undertaken by C.I.D, the Public Protection Unit, Community Police Officers or the Community Safety Department.

A brief outline of each service is given here;

**Call Centre Number**: **0141 532 2000**.

### *8.31 Frontline uniform officers.*

Frontline uniform officers work core shifts which are able to respond 24 hours per day. As described above, they are the officers most likely to be involved in an initial investigation process.

### *8.32 Public Protection Unit (P.P.U).*

This service should be contacted in adult protection cases when children are, or may be, at risk.

### *8.33 Criminal Investigation Department (C.I.D)*

The C.I.D are responsible for investigating a wide range of crimes. Officers who work in C.I.D are known as detectives. Adult protection investigations where a crime has been committed or is believed to have been committed will, in the majority of cases, be led by the C.I.D where the alleged perpetrator is not a family member.

***8.34 Community Police Officers.***

Community Police Officers aim to address any issues or concerns within their designated areas as they arise. These officers provide continuity of service to the community and, by working together, are able to impact on those issues of greatest concern.

***8.35 Community Safety Department (C.S.D).***

The assistance of officers from the Community Safety/Community Involvement service is particularly valuable where adults at risk have been victims of harm resulting from circumstances within the community i.e. con-person/s with predatory behaviour targeting vulnerable adults.

Officers from this Department can also carry out the Crime Prevention Surveys to any premises and provide personal safety advice to any person when requested.

## 8.4 Referrals from the Police

A copy of the Police Adult at Risk Referral Form is attached as appendix 20.

The Police Adult Protection Co-ordinator screens all referral reports raised by police officers and applies the 'three point test' before they are faxed to the designated Social Work admin who will:

- Check SWIFT to see if the adult is known.
- Contact by telephone and forward by email to the Duty Senior Social Worker.
- The details of the initial referral should be logged by the member of staff receiving the referral using SWIFT Front Desk and the Contact Reason of "Adult Protection Concern" Recording point **1**. Details specific to the AP concern including location, type and perpetrator of alleged abuse must be recorded within the Adult Protection **Incident** screen. Recording point **2 SWIFT Recording Points Diagram -see Appendix 9**

The Duty Senior Social Worker is responsible for screening the referral and liaising with the appropriate Social Work Manager if known to another team. The Child and Adult Protection Intra Service Protocol should be followed where required.

The responsible Senior Social Worker should then follow the process in these procedures, commencing at Chapter 2.

It is acknowledged that for the majority of police referral decisions will be made by the Senior Social Worker at the referral or inquiry stage. Although there may be no further action taken via adult protection procedures, experience to date has shown that the vast majority of referrals require follow up or action by Social Work Services, health colleagues or referral on to other agencies.

## 8.5 Access to Records

The police making inquiries and conducting an investigation may require to access records as part of their responsibility to gather evidence in a criminal investigation, where there is a criminal investigation parallel to inquiries and investigation under the auspices of the Adult Support and Protection (Scotland) Act 2007 then it is important that the Senior Social Worker and police are clear regarding who is responsible for accessing any relevant records.

# 9. OUTCOMES

## 9.1 Outcomes

The aim of any intervention is to support and protect an individual and potentially safeguard the wellbeing of others.

An activity requires to be reasonable and proportionate in order to achieve this aim. Any action taken should be clear in respect of the intended outcome.

As Hilary Brown states, “there are layers of potential outcome of various stages within the adult protection process”. These are set out below and should be considered by the chair and attendees when the protection plan is being facilitated.

1. **Outcomes for the adult at risk of harm:-**

   - Immediate safety.
   - Long term protection.
   - Redress
   - Continuing support for recovery and wellbeing.

2. **Outcomes for the person causing the harm:-**

   - Criminal Justice system
   - Employment Law/Disciplinary Process
   - Barring from the workforce.
   - Other civil enforcement e.g. Banning Order, Interdict, ASBO etc.
   - A care package or an augmented care package and/or other support if they provide care to the adult.
   - Additional training and/or suspension for staff member(s).

3. **Outcomes for a service:-**

   - Improved practice.
   - Change/increased professional advice, consultation, scrutiny or regulatory action.
   - Regulatory enforcement.
   - Conclusion/closure.

4. **Outcomes for the ICHCP:-**

   - Changes to contract

- Changes to policies and procedures.
- Change to interagency support.

**5. Outcome for National Policy and Legislation:-**

- Significant Case Review.
- An inquiry by Mental Welfare Commission, Fatal Accident etc.
- Acknowledge gaps in powers or duties.

The adult support and protection process from referral to case conference will focus primarily on the first two outcomes for the adult at risk and for the person causing the harm. However, the other outcome areas need to be considered and addressed. It is the responsibility of the Service Manager involved in the process and the chair of the case conference to notify and involve those who may have responsibilities in the other outcome areas. This might include the SCSWIS, Inverclyde Contract Monitoring and Complaints Section, the Adult Protection Coordinator for Inverclyde Council etc.

## 9.2 Criminal Injuries Compensation

The adult may be entitled to criminal injuries compensation in particular circumstances. Further advice and guidance can be obtained from:

Criminal Injuries Compensation Authority
Tay House
300 Bath Street
Glasgow
G2 4JR

Tel No: 0141 331 2726
http://www.cica.gov.uk

The designated worker and Senior Social Worker are responsible for ensuring that the adult is advised that they may be entitled to compensation and directed and supported to access appropriate advice and assistance.

## 9.3 Reference

Brown, H (2009) 'The process and function of serious case review'; Journal of Adult Protection, 11 (1), February 2009, pp 38 – 50.

Dawson, C and McDonald, A (2000) 'Assessing capacity. A checklist for social workers'; Practice, Social Work in Action, 12 (2), April 2000, pp 5- 20.

Manthorpe, J and Jones, P (2002) 'Adult Protection case conferences: the chair's role; Journal of Adult Protection, 4 (4), November 2002, pp 4 – 9.

# 10. APPENDICES

# 10.1. APPENDIX 1

***The Facts of the Borders Investigation and Lessons to be learned***

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

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

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

The people involved had numerous contacts with:-

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

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

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

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

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

## THE FINDINGS OF THE INVESTIGATIONS

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

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

- Uninformed and inaccurate assumptions of individual staff expertise in particular areas and consequent dangerous reliance on this.
- Lack of senior management and leadership.
- Ineffective management of poor practice.
- Breaches of the Scottish Social Services Council Code of Practice for employers.

## 10.2. APPENDIX 2

***The West of Scotland Partnership consists of:***

Argyll and Bute Council
Dumfries & Galloway Council
East Ayrshire Council
East Dunbartonshire Council
East Renfrewshire Council
Glasgow City Council
Inverclyde Council
North Ayrshire Council
North Lanarkshire Council
Renfrewshire Council
South Ayrshire Council
South Lanarkshire Council
West Dunbartonshire Council

Strathclyde Police
NHS Ayrshire & Arran
NHS Dumfries & Galloway
NHS Greater Glasgow & Clyde
NHS Highland
NHS Lanarkshire
Care Commission

## 10.3. APPENDIX 3

***Legislation***

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

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

## Adults with Incapacity (Scotland) Act 2000

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

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

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

### Principles of the 2000 Act

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

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

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

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

- In relation to medical treatment and research, a medical practitioner has the authority to provide treatment to “safeguard or promote physical and mental health”.

- A Local Authority has a duty to apply for an **Intervention Order** or **Guardianship Order** to protect the property, finances or welfare of an adult if no-one else will do so.

- A Local Authority has a responsibility to investigate the circumstances of any individuals at risk who come under the powers/functions of the Act

- A Local Authority can apply for an Intervention Order to resolve short term issues such as financial, on a one off basis.

- A Power of Attorney can assist in preventing financial Harm

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

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

## Intervention Order (2000 Act).

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

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

- The adult is incapable as mentioned in section 53(1); and

- No application has been made or is likely to be made for an order under this section in relation to the decision to which the application under this section relates; and

- An Intervention Order is necessary for the protection of the property, financial affairs or personal welfare of the adult,

## Guardianship Order (2000 Act).

Section 57(2) provides that where it appears to the Local Authority that:

- An adult is incapable in relation to decisions about, or of acting to safeguard or promote his or her interests in his or her property, financial affairs or personal welfare, and is likely to continue to be so incapable; and

- No other means provided by or under the 2000 Act would be sufficient to enable the adult's interests in his or her property, financial affairs or personal welfare to be safeguarded or promoted; and

- No application for Guardianship has been made or is likely to be made; and

- A Guardianship Order is necessary for the protection of the property, financial affairs and/or personal welfare of the adult,

They shall apply under this section for an order.

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

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

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

- Care and support services

- Services to promote well-being and social development
- Assistance with travel

For people who have a mental disorder.

***Section 33*** places a duty on the Local Authority to make inquiries where it appears that a person aged 16 or over in their area has a mental disorder and:

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

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

***Section 35*** provides power for a Mental Health Officer to apply to a Sheriff or Justice Of the Peace for warrants to support the purposes of Section 33 enquires if required. These warrants can only be applied for by a Mental Health Officer
There are 3 different powers that can be requested within a Section 35 warrant.

These are:-

- To authorise entry, with the assistance a police constable.

- To authorise the detention of the person in situ for up to 3 hours for the purposes of medical examination by a medical practitioner named in the warrant.

- To authorise a specified medical practitioner to access and inspect medical records.

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

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

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

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

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

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

**If required advice should be sought from a Mental Health Officer.**
The Adults with Incapacity (Scotland) Act 2000 and the Mental Health (Care and Treatment) (Scotland) Act 2003 have been further amended by the Adult Support and Protection (Scotland) Act 2007.

## Safeguarders

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

For further details on safeguarders please refer to:-

**Adult Support and Protection (Scotland) Act 2007 Part 1 -Codes of Practice October 2008 (Chapter 3) –**
http://www.scotland.gov.uk/Publications/2009/01/30112831/4

## Appropriate Adult Schemes.

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

Appropriate adults are selected for their experience in the field of mental health, learning disabilities, dementia or acquired brain injuries. It is their role to pick up on

clues and indicators that a person has not fully understood what they are being told or what they are being asked. The presence of the appropriate adult is about trying to ensure equality for the person being interviewed. It is not about advocacy or speaking on behalf of a person with a mental disorder, rather it is about an independent third party checking that effective communication is taking place and that the person being interviewed is not disadvantaged in any way due to their mental disorder.

Further information can be obtained from:
http://www.scotland.gov.uk/Topics/Justice/criminal/18244/Appropriate-Adult

West of Scotland Appropriate Adult Scheme (24 hours): 0141 305 6940

## Support for unpaid carers

It may be that adult's carer requires support to enable them to continue to support the adult. The Community Care and Health (Scotland) Act 2002 amends the Social Work (Scotland) Act 1968 to give carers a right to have their carer needs assessed by the council. It would be good practice to bring this assessment right to the notice of any carer providing a substantial amount of care where the carer appears to have unmet caring needs.

## Vulnerable Witnesses (Scotland) Act 2004

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

For fuller details on vulnerable witnesses please refer to:-

**Adult Support and Protection (Scotland) Act 2007 Part 1 -Codes of Practice October 2008 (Chapter 3) –**
**http://www.scotland.gov.uk/Publications/2009/01/30112831/4**

## Sexual offences (Scotland) 2009

Parts of the Sexual Offences (Scotland) Act 2009 are potentially relevant to adult protection. In particular:-

1. Part 1: Non consensual offences
2. Part 2: Consent and reasonable belief
3. Part 3: Capacity to consent of person's with a mental disorder.
4. Part 5: Abuse of position of trust.

Guidance on the Sexual Offences (Scotland) Act 2009 can be found at:
http://www.legislation.gov.uk/asp/2009/9/contents

## 10.4. APPENDIX 4

***Some Indications of Harmful Behaviour towards an Adult at Risk.***

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

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

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

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

**Bruises**

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

**NB** Most falls or accidents produce one bruise on an area of the body - usually on a bony protuberance. An adult who falls downstairs generally has only one or two bruises. Bruising in accidents is usually on the front of the body as most people generally fall forwards. In addition, there may be marks on their hands if they have tried to break their fall.

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

### Bites.

These can leave clear impressions of the teeth.

### Burns and Scalds.

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

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

### Scars.

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

### Fractures.

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

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

- Excessive shouting, bullying, humiliation.
- Manipulation or the prevention of access to services that would enhance life experience.
- Isolation or sensory deprivation.
- Denigration of culture or religion.

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

- Carers' behaviour.
- Carers' history.

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

## Discriminatory Harm

Some examples of discriminatory harm are:-

- Discrimination being hateful of bigoted towards a person and as a result mistreating or behaving differently towards someone due to their gender, sexual orientation, race, disability, age, colour, language, religion or belief and politics.
- Harassment.

Some signs and symptoms:-

- Tendency to withdrawal, fearfulness and anxiety (Maybe linked to challenging behaviour).
- Not being able to access services or being excluded.
- Loss of self esteem.

**Financial or Material Harm -** involving the exploitation of resources and belongings of the adult at risk e.g.

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

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

- Incest.
- Rape.
- Acts of gross indecency.
- Sexual harm can occur when adults at risk of harm are involved in sexual relationships or activities which they have not consented to or are pressured into consenting to or they cannot understand.

- Such activities could include unwanted sexual contact such as rape or incest, inappropriate touching including sexual harassment either verbal or physical, indecent exposure, displaying pornographic material and inappropriate sexual material.

## *Physical indicators of sexual harm:-*

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

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

**The following are more specific indicators:-**

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

## Neglect and acts of omissions by others charged with care of adult at risk –

- Ignoring medical or physical care needs.
- Failure to provide access to appropriate health, social care or educational services.

- Withholding of the necessities of life such as nutrition, appropriate heating etc.

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

- Lack of appropriate food.
- Lack of adequate clothing.
- Circulation disorders.
- Unhygienic home conditions.
- Lack of protection or exposure to dangers including moral danger, or lack of supervision appropriate to the adults ability to manage harm, or
- Lack of protection or exposure to danger including moral danger, or lack of supervision appropriate to an adult's age and ability to manage harm. Such a lack of protection may have arisen due to carer(s) abuse of substances.
- Failure to seek appropriate medical attention.
- A delay or failure in seeking medical treatment which is obviously needed.
- A adult at risk is found at home or in a care setting in a situation of serious but avoidable risk
- Unnecessary delay in staff responses to resident's requests.
- Serious or persistent failure to meet the needs of the adult at risk.
- A prolonged interval between illness/injury and presentation for medical care.
- Non attendance at social care or educational service.
- Evidence of withholding of necessities of life such as medication, adequate nutrition and heating.

## Self neglect and acts of omissions by the adult at risk

The adult at risk may fail to:-

- Attend to their own medical or physical care needs and presentation.
- Access appropriate health, social care or educational services.
- Address the necessities of their own life, such as nutrition, appropriate heating etc.

An assessment of the adult's capacity and physical abilities to self care and what assistance is required will be key.

## Multiple forms of harm.

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

## Random Violence.

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

## Domestic Violence

Strathclyde Police define domestic violence as “any form of physical, non physical or sexual abuse which takes place within the context of a close relationship committed either in the home or elsewhere”. In most cases this relationship will be between partners (married, cohabiting or otherwise) or ex-partners. The similarity between the above acts of harm in relation to adult protection is recognised. However the key factor in relation to activating adult protection procedures in such situations is dependant on applying the three point test.

## 10.5. APPENDIX 5

***Risk Assessment (AP2)***

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

### CORE INFORMATION

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

### ASSESSING WORKER

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

## COMMUNICATIONS REQUIREMENTS

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

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

## RISK ASSESSMENT

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

| **Date:** |
|---|

### 1. COMMUNICATION, CAPACITY, AND INVOLVEMENT

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

## 2. CHRONOLOGY OF SIGNIFICANT EVENTS

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

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

## 3. CURRENT RISKS OR CONCERNS

**Date:**

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

## 4. CURRENT RISK DESCRIPTION

**Date:**

| |
|---|
| **What** behaviour, allegation, complaint, circumstances or event has prompted this risk assessment? *(detail the nature of the behaviour or incidents which put the person at risk, e.g. the nature and extent of sexual/physical/financial abuse; the specific areas of self neglect (eating, medication, wandering)* |
| **Who** is the source of concern, and who is involved in the risk events? |
| **When** does this/do these circumstances occur - and **how often**? *(Evenings/weekends/every day/mealtimes etc: rarely, frequently, occasionally, etc)* |
| **Where** does this/do these circumstances occur*? (Daycentre, at home, on the streets, travelling)* |
| **Medical assessment and/or clinical diagnosis of mental or physical illness***, relevant to this risk assessment* |
| **Particular triggers or risky circumstances** that heighten the risks? *(e.g. when person is alone; if home carer is late; if relative makes contact/does not make contact; arrival of benefit; contact with specific person/staff member etc)* |
| **Protective factors**, or circumstances, that have protected the subject, or reduced the risk in the past? *(include here any change in subject's ability to manage these risks)* |

| Date: |
|---|

## 5. RISK ASSESSMENT

| |
|---|
| a) What is your assessment of the risk? How severe might the consequences/injuries/harm/damage be if no action is taken to reduce the risk, or increase protection? How probable is it that these circumstances will recur? What is your view and any agreed view about the degree of risk and urgency of action? |
| b) Your assessment will include the contributions of other agencies/services. Indicate here if there is any <u>disagreement:</u> |
| c) What is the adult's assessment of the risk? Does he/she agree with your assessment?<br>(*if not - explain*) |
| d) What is the unpaid carers' assessment of the risk? (*explain if not available or not appropriate,)* |

## 6. RECOMMENDATION/ACTIONS

| |
|---|
| a.) Is an Adult Protection case conference recommended? Yes/No |
| b.) Detail any immediate actions that have already been taken in order to protect, or reduce the risk *(include whether this situation/risk/concern been referred to another service, or agency, and if so, with what result)* |
| c.) What future action do you recommend is taken to reduce the risk, or protect the adult being assessed? *(e.g. increased support; review of Care Plan; further needs assessment; change of environment/ service, legal action etc*) Clearly indicate who should do what and when. |
| d.) What advantages and disadvantages, gains or losses to the adult's quality of life, or freedom, or independence might result from these actions (e.g. in the event of increased supervision, change of home, statutory intervention) |
| e) Risks to other people - Recommended Actions *(Consider risks to other adults, carers; children, alleged abuser. Consider actions such as police and/or Care Commission investigation of allegations, Carer's Assessment, alert to Home or Centre management in respect of other service users, additional risk assessments, referral to child protection or criminal justice)* |

| |
|---|
| Any further comment from the person being assessed?<br><br>Does the person consent to share information in this assessment? (Yes/No)<br>Any conditions or limitations?<br><br>Signature of assessed person:<br>Date:<br>(If no signature, say why) |

| | |
|---|---|
| Risk Assessment discussed with Manager? | Date: |

Agreed immediate actions to be taken:

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

**Signature: (Assessor) date**

**Signature: (Manager) date**

## Notification Requirements

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

# 10.6. APPENDIX 6

***Child Protection and Adult Protection – Overlapping Activity***

## 1. INTRODUCTION

1.1 There are important procedural and practice links to be made between adult protection, child protection and the public protection role of Criminal Justice Services. Child and adult protection should take the highest priority for all staff members.

1.2 This protocol seeks to set out the roles and responsibilities of staff that are involved in child protection and adult protection issues. All Social Work staff can and do contribute significantly to the protection of adults and children.

1.3 In terms of child protection this would encompass all staff who are not members of a Children and Families Team.

1.4 In terms of adult protection this would include all staff based in Children and Families Teams and Services, and Criminal Justice.

1.5 Work done by all teams supports the Public Protection Agenda and contributes significantly to the protection of children and adults in Inverclyde. This protocol is intended to build on this good practice and to ensure that where child and adult protection issues are raised that the investigative process is carried out in the most appropriate way for that individual and family.

1.6 It is the intention of this document to clarify roles and tasks for key staff at various stages of the protection process and begins by setting out the guiding principles for adults and children on which decision making will be based.

1.7 The status of this document is an appendix to both Inverclyde Council Social Work Services Child Protection Procedures and Inverclyde Council Inter Agency Adult Protection Procedures and should be read in conjunction with these.

## 2. CHILD PROTECTION: OVERARCHING PRINCIPLES

2.1 The overarching principles which underpin Child Protection procedures are drawn principally from the United Nations Convention on the Rights of the Child and from the Children (Scotland) Act 1995.

Broadly, these are that

- The child's welfare is the paramount consideration and every child has a right to be protected from all forms of abuse, neglect and exploitation.
- The views of the child and, where possible, the child's parents should be considered.
- So far as is consistent with safeguarding and promoting the child's welfare, public authorities should promote the upbringing of children by their families.
- No order should be made unless it is better for the child than making no order at all.

## 3. ADULT PROTECTION: OVERARCHING PRINCIPLES

3.1 There are three main pieces of legislation which can be used to protect adults in Scotland. These are the Adult Support and Protection (Scotland) 2007, Adults with Incapacity (Scotland) Act 2000 and the Mental Health (Care and Treatment) (Scotland) Act 2003. Which piece of legislation used is dependent on the circumstances and capacity of the individual and the decisions to be made regarding their wellbeing, financial or property matters. Potentially more than one piece of legislation can be used in an individual case.

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

- Provide benefit to the adult, be necessary and be the least restrictive option to the adult's freedom.
- Take into account the past and present wishes of the adult, where this can be ascertained.
- Ascertain the views of others.
- Respect the adult's abilities, background and characteristics.
- Ensure the adult is not treated less favourably that any other person who is not an 'adult at risk' would be treated in a comparable situation.

## 4. REFERRALS

4.1 All staff must report any concern about possible child protection or adult protection issues to their own line manager. It is important that this is done without delay. Even where a staff member is unsure they must report any concerns to their manager as it would be unacceptable not to do anything.

4.2 The first exception to this would be in circumstances where immediate action was required and the line manager was not available or contacting them would cause delay.

The second exception would be if the child or adult is in immediate physical danger or requiring urgent medical attention. A 999 call would be made to request assistance or advice from the appropriate emergency services. Following this, their own line manager or available manager is contacted.

4.3 The line manager for the member of staff would contact the Senior Social Worker or Assistant Service Manager with responsibility for the case. In Adult Services, where it is a joint team, then this would be the Senior Social Worker or Assistant Service Manager for that team.

4.4 Where the case is not allocated to a Children and Families worker, the referral should be made to the Duty Senior Social Worker (Children and Families) or in their absence a Duty Social Worker.

4.5 Where the case is not known to a Community Care Team, the referral should be made to the Duty Assistant Service Manager (Senior Social Worker).

4.6 If the line manager for the member of staff is unsure about whether it should be an adult or child protection referral then they should contact the Duty

Assistant Service Manager (Senior Social Worker) for Community Care or Duty Senior Social Worker for Children and Families Services to discuss.

## 5. INVESTIGATION OF CONCERN WHERE THERE IS OVERLAPPING ACTIVITY

5.1 It is recognised that adult and child protection work is complex and there are particular situations which require clarification where there may be overlapping activity between services.

5.2 Where there are concerns that there may be both a child at risk of harm and an adult at risk of harm within the one situation, or where a young person aged 16-21 years may be identified as being at risk of harm, then there needs to be discussion between Children and Families Services and the relevant Community Care Team (See 6.3).

5.3 It is recognised that young people identified as in need of protection will not automatically be considered 'adults at risk' when they reach the age of 16. It is also the case that whilst Children & Families Services can potentially have an ongoing statutory responsibility for a young person aged up to 21 years, in terms of the Children (Scotland) Act 1995, this statute may not offer the most appropriate or effective protection for the young person, dependent upon their needs and situation. In such circumstances, it is crucial that discussion between the Senior Social Worker for Children and Families Services and the Duty Assistant Service Manager (Senior Social Worker) takes place, to determine if a Community Care Assessment is required, whether the young person is potentially an 'adult at risk' or other statutory measures are required.

5.4 Some young people under the age of 16 may behave in ways that are abusive to adults. It may be the young person concerned may themselves be in need of care and protection. The member of staff should raise any such concern with their line manager who would contact the responsible Children and Families Senior Social Worker for the case. If the child is unknown then the Duty Senior Social Worker (Children and Families) should be contacted. Similarly if it comes to the attention of a children and families worker that a young person may be abusing an adult then the member of staff should raise their concerns with their line manager who would discuss with the Assistant Service Manager (Senior Social Worker) for the relevant Community Care team or the Duty Assistant Service Manager (Senior Social Worker) if the person is unknown.

5.5 Some adults known to Criminal Justice Services and/or Community Care Teams may also be abusive to individuals who would be viewed as 'adults at risk of harm' .It may also be that the adult known to Criminal Justice Services and/or Community Care Teams is potentially an adult at risk of harm and may also be in need of support and protection. The staff member needs to report this matter to their line manager who will discuss with the Assistant Service Manager for the relevant Community Care team involved or the Duty Assistant Service Manager where the 'adult at risk of harm' is unknown.

5.6 There are occasions when an adult known to an Adult Service may disclose that they have suffered some form of abuse as a child. The natural focus for the service involved will be the safety and wellbeing of the adult. However, it

is crucial that consideration is given to the possibility that the alleged perpetrator of this historic abuse may have ongoing, current contact with children or have been involved in historic abuse within children's homes etc where there is a public interest to investigate. There may therefore be implications for the safety of any such child and Adult Services staff must gather this information and share it in accordance with Child Protection procedures. If such a situation arises then the worker should advise their own line manager who would discuss with the appropriate Senior Social Worker, Children and Families or the Duty Senior Social Worker, Children and Families.

In such situations, the adult making the disclosure may not wish to make a formal complaint. Whilst Children & Families Services and the Police would wish to respect this view, they have a statutory duty to investigate the circumstances and ensure that there are no children at current risk from the alleged perpetrator and that there is no public interest to investigate. Should any child be identified as suffering or being at risk of significant harm, the Police may proceed with a criminal investigation and in such a situation the original disclosure may be required as part of the evidence against the alleged perpetrator.

5.7 In all of these instances decisions made require to be agreed and recorded on SWIFT and how any actions arising from these decisions will be progressed or concerns investigated and by whom.

## 6. ALLOCATION OF THE INVESTIGATION

### Child Protection

6.1 Where there are solely child protection concerns the responsibility for the investigation and management of child protection cases will usually rest with Children and Families.

6.2 Where the Child Protection investigation is a joint Police/Social Work investigation;

- One of the Social Work staff members should be a member of the Receiving Services Children and Families Team, or the allocated Social Worker from a Children and Families Team and;
- Must be a qualified Social Worker who has completed the joint Investigative Interviewing Course.

### Combined Child and Adult Protection Investigations

6.3 In Combined Child and Adult Protection situations where neither the child nor adult at risk of harm are known to any Social Work Service, discussion should take place between the Receiving Services Manager Children and Families and the Duty Assistant Service Manager for Community Care to reach a decision regarding who will be involved in the investigation.

6.4 Where the family is known to at least one service within Social Work Services and the investigation is to be conducted by social work personnel only then:

- One member of staff should be a member of the Duty Children and Families Team and the other member of staff should be a member of the most

appropriate Community Care Team, or the most appropriate worker involved with the adult at risk of harm.

- Ideally, both workers involved should

a) Be qualified Social Workers or designated Council Officer
b) Have undertaken the Councils basic Child Protection Training course and Adult Support and Protection Training course and;
c) Ideally have a significant and current relationship with the child and/or the adult, or with the family.
d) Managers should exercise professional judgement in selecting the most appropriate staff for the task. The reasons for any decision should be recorded on SWIFT.

6.6 Where any worker has a significant involvement with the child/family but is not QSW qualified they may be allocated tasks that will assist in the process. However they cannot be party to the actual investigation.

6.7 As per 6.2 there may be situations where a joint police and social work child protection investigation is required. Where an adult protection investigation is also required then there requires to be careful planning and consideration given as to who conducts the adult protection investigation and the organisation and timing of two investigations within the one family situation. The responsible Senior Social Worker, Children and Families and Assistant Service Manager, Community Care and police staff require to discuss and agree a plan as to how best to proceed.

## 7. MANAGEMENT AND SUPERVISION OF CHILD AND ADULT PROTECTION INVESTIGATIONS

7.1 It is crucial that in all such cases, the management of combined investigations is the collective responsibility of the relevant Senior Social Worker in Children and Families Services **and** the relevant Senior Social Worker or Assistant Service Manager in Community Care.

7.2 In addition to 7.1 above and where the safety of the child and/or adult allows the decision to investigate should follow only after discussion between the relevant Senior Social Workers/Assistant Service Managers and in consultation with their Service Managers.

7.3 In such situations and where the safety of the child and/or adult allows, careful joint planning, briefing and de-briefing will be crucial to achieving the best possible protection for the child and/or the adult. Where time allows, consideration should be given to convening a Case Planning Meeting for this purpose.

## 8. MANAGEMENT OF CASES OF CHILDREN REGISTERED ON THE CHILD PROTECTION REGISTER

8.1 All cases of children registered on the Child Protection Register will be allocated to a qualified social worker who has undertaken the Council's basic Child Protection course and is under the supervision of a Senior Social Worker from a Children and Families Team. The only exemption to this is where the Head of Social Work Services determines otherwise.

8.2 Where the child or a significant member of the child's family is involved with a staff member from another Social Work field this staff member should:

a) Form part of the Child Protection Core Group
b) Contribute to the Child Protection Plan
c) Keep careful records of their involvement in the appropriate SWIFT module.

8.3 The line manager of such a staff member should review the worker's involvement in the Child Protection Plan and endorse this involvement in writing to the relevant Senior Social Worker, Children and Families.

8.4 Any dissent or disagreement with the Child Protection Plan should be put in writing to the relevant Senior Social Worker, Children and Families with a copy to the Assistant Service Manager, Child Protection.

## 9. MANAGEMENT OF CASES SUBJECT TO ADULT PROTECTION CASE CONFERENCE AND REVIEW

9.1 All such cases will be allocated to a Council Officer.

9.2 Where the adult or a significant member of the adult's family is involved with a staff member from another social work field this member of staff should:
a) Form part of the Adult Protection Core Group
b) Contribute to the Adult Protection Support Plan
c) Keep careful records of their involvement in the appropriate SWIFT module.

9.3 The line manager of such a staff member should review the worker's involvement in the Adult Protection Support Plan and endorse this involvement in writing to the relevant Assistant Service Manager, Community Care.

9.4 Any dissent or disagreement with the Adult Protection Support Plan should be put in writing to the relevant Assistant Service Manager, Community Care with a copy to the responsible Service Manager.

## 10. ADULT PROTECTION

10.1 Where there are solely adult protection concerns the general principle will be that the responsibility for the investigation and management of adult protection cases will usually rest with the Community Care Team where the 'adult at risk of harm' is known or the Duty Community Care Team where not known.

10.2 It is recognised that not all Community Care Teams have Council Officers authorised to undertake investigations and other duties under the Adult Support and Protection Act or a Social Work Manager with a QSW. In such situations the Social Work Manager needs to discuss their concerns with the Duty Assistant Service Manager for Community Care and agree that the duty manager will be responsible and where required, will identify a Council Officer to lead on the investigation. The second worker does not require to be a Council Officer and the most appropriate worker may be the worker who is involved with the adult at risk.

10.3 On completion of an investigation undertaken by the Duty Council Officer and managed by the Duty Assistant Service Manager then a decision requires to be made as to the long term management of the case.

Should adult protection matters be concluded at the investigation stage then it is expected that the ongoing responsibility for the adult would revert to the originating team unless the ongoing needs of the person requires transfer to another team.

It is expected that if there is a need for ongoing management via the adult protection process that the case would be allocated to a Council Officer. On conclusion of that process, the ongoing needs of the person should determine which team would be best to provide the required support. The Assistant Service Manager for the allocated Council Officer would discuss with the manager of the appropriate team.

## 11. CRIMINAL JUSTICE & ADULT PROTECTION

11.1 It is acknowledged that Criminal Justice Services contribute significantly to the Public Protection Agenda in particular via the Multi Agency Public Protection Arrangements (MAPPA).

11.2 In cases where the adult at risk of harm is known to a worker from Criminal Justice Services then it is anticipated that this staff member would be the second worker in any investigation. There should be discussion between the responsible Senior Social Worker Criminal Justice and the Assistant Service Manager or Duty Manager for Community Care.

11.3 In cases where the adult who is the source of harm is known to Criminal Justice then it is not anticipated that a criminal justice worker would be involved in any investigation regarding the adult at risk of harm. There should be liaison and discussion between the responsible Community Care Manager and Criminal Justice Senior Social Worker as appropriate and the involvement of other agencies such as the police as required.

11.4 In both situations outlined above the Assistant Service Manager or Duty Manager Community Care would be responsible for managing any investigation.

## 12. CRIMINAL JUSTICE & CHILD PROTECTION

12.1 Please refer to Inverclyde Council's Child Protection Procedures, Chapter 14 for procedures covering the interface between Criminal Justice Services and Child Protection.

Date of Review: December 2011

## 10.7. APPENDIX 7

***Form AP1 (Adult Protection Referral Form and Actions)***

| **Adult Protection Referral Form & Actions ( AP1)**<br>**ALL AGENCIES**<br>**All agencies use the AP1 with the exception of the Police who will use there own Referral Form at Appendix 8**<br>▪ ***You must immediately report suspected or actual harm to your line manager and you have a legal duty to report any concerns to the Council Social Work Services if it is known or believed that a person is an adult at risk and that protective action is needed.***<br>▪ ***All sections of Part A of the Referral Form require to be completed within 1 Normal Working Day from the time of adult at risk consent or decision that there is sufficient evidence to prove a lack of capacity to consent.***<br>**NB: -** If you do not have all the information required in **Part A** please do not delay and send the Referral information you have. Social Work Services will follow up on your referral and add any additional relevant and required information. |
|---|
| **SECTION A** |
| **REFERRER DETAILS:** |
| **Name of Referrer:** |
| **Job Title:** |
| **Contact Telephone No:** |
| **Address:** |
| **REFERRAL DETAILS** |
| **In what capacity do you know the adult at risk you are referring?** |
| |
| **Do you suspect a crime has been committed and have you informed the Police? ( date & time and any actions taken by the Police)** |
| |
| **Who else have you informed of this referral to Social Work Services?( date & time and any actions taken)** |
| |

| |
|---|
| **What are the details and nature of the situation leading to this referral?** (to include details of any specific incidents – dates, times, injuries, witnesses, evidence such as bruising) |
| |
| **Do you believe the adult at risk is capable of understanding what has happened to them?** |
| |
| **Have you obtained the adult at risk consent to make this referral? If not please give the reason for referring without consent.** |
| |
| **What action, other than this referral, have you taken to ensure the adult at risk is now safe?** |
| |
| **ADULT AT RISK DETAILS:** |
| **Name:** |
| **Date of Birth:** |
| **Gender:** |
| **Ethnic Origin:** |
| **Religion:** |
| **Any known communication difficulties:** |
| **YES/NO**<br>**If YES, please detail:** |

| |
|---|
| **Living situation, e.g. lives alone, with spouse etc., type of accommodation, any known supports, caregivers there details.**<br>**etc.** |
| |
| **GENERAL PRACTITIONER:** |
| **Name:** |
| **Telephone No:** |
| **Address:** |

| | |
|---|---|
| **OTHER HEALTH PROFESSIONALS KNOWN TO BE INVOLVED:** | |
| **Name/s:** | **Contact No/s:** |
| **Details of person's physical and mental health as known to Health Professional:**<br>***Confidentiality is important but for the purposes of allowing Councils to undertake the required inquires and investigations information to protect an adult at risk of harm relevant information should be shared. Please refer to your agencies procedures under Adult Protection Law.*** | |
| | |

| |
|---|
| **DETAILS OF THE ALLEGED ABUSER – WHERE KNOWN** |
| **Name** |
| **Relationship to person** |
| **Address** |

| |
|---|
| **DETAIL OF ANY PREVIOUS CONCERN/INCIDENT**(to include dates, times, actions taken and outcomes) |
| |
| **Referrer Signature** |
| **Print Name** |
| **Date** |
| **SECTION B**<br>**ACTION TO BE TAKEN BY SOCIAL WORK SERVICES ON RECEIPT OF REFERRAL**<br>**Within 5 days of receiving a written referral on Form AP1 the following actions MUST be completed by Social Work Services as the lead agency.** |
| **Letter of acknowledgement to be sent immediately to referrer /organisation.** |
| Form AP1 received ( date):-<br><br>Form AP1, letter of acknowledgment sent (date):- |
| **Referrer/Organisation to be advised in writing of the initial outcome of their referral** |
| Advised (date):- |
| **Referrer/Organisation to be invited to any subsequent adult protection meetings held by Social Work Services** |
| Invitation to Adult Protection Case Conference YES/NO (date sent):-<br>Date of Case Conference:- |
| **Adult at risk legal status at time of referral** |
| |
| **Enquire & Complete any missing information not provided in Part A** |
| Completed: (date) |

| | | | |
|---|---|---|---|
| Reasons for non completion:- | | | |
| **Gather All available initial information to inform a decision at this point.** | | | |
| **ACTION - NO HARMFUL CONDUCT/CONCERNS**<br>i.e. - Refer on to an appropriate agency/review existing care plan/ consider other adult legislation/ action taken and give reasons :- | YES/NO | **ACTION - YES HARMFUL CONDUCT /CONCERNS**<br>i.e. – Immediate Adult Protection Order sought/Investigate Further / Case Conference arranged and give reasons:- | YES/NO |

| **Note Primary Category of Referral** | **Note Primary Category of Referrer** |
|---|---|
| **Category is :-** | **Category is:-** |
| **Codes** | **Codes** |
| **A**. Physical Injury | **1.** Social Work Statutory Staff in Council |
| **B**. Sexual Abuse | **2**. Staff at Council Residential Establishment |
| **C**. Physical Neglect | **3**. Staff at Council Day Care Establishment |
| **D**. Financial or Material Abuse | **4.** Home Carer ( Council) |
| **E**. Emotional /Psychological Abuse | **5.** Housing in the Council |
| **F**. Neglect and acts of Omission by others charged with adult at risks care | **6**. Police |
| **G**. Self Neglect | **7**. GP/ Member of Primary Care Team |
| | **8**. Hospital Medical Staff/ Registrar/ Consultant/ /Nurse |
| | **9**. Clinical Psychologist/Psychiatrist |
| | **10**. Community Mental Health Team/Nurses/Doctors/ MHO |
| | **11**. Substance Misuse Team |
| | **12**. Parent/Carer/ Guardian |
| | **13**. Neighbour/Friend |
| | **14.** Other ( Please Specify) |

| | |
|---|---|
| **All information from AP1 Form to be transferred to Councils Assessment & Care Management IT Screens or held in Council Case Files.**<br>**Information gained from Police Referral Form (Appendix 80 also to be recorded.** | **Date Completed :-** |
| ***Any future actions and any future relevant information gathered should also be recorded using Councils Assessment & Care Management IT Screens or held in Council Case Files.***<br>***ALSO***<br>***Information collated on Forms AP 2 (Risk) or AP 3 (Protection Plan) when relevant.*** | |
| **ALL QUESTIONS COMPLETED AND ACTION DECISION RECORDED ON INITIAL REFERRAL** | |
| **Senior Member of Social Work Signature** | |
| **Print Name** | |
| **Date** | |

## 10.8. APPENDIX 8

***Template letter re: further inquiries under ASP***



**Inverclyde CHCP**
**Social Work Services**
**Dalrymple House**
**195 Dalrymple Street**
**Greenock**
**PA15 1UN**
**Tel : 01475 714600**
**Fax : 01475 714640**
**Email :**

**Date:**
**Your Ref:**
**Our Ref:**
**Enquiries to:**

Dear

**Notification of the outcome of an Adult at Risk inquiry**

Thank you for drawing Social Work Service's attention to your concerns the safety and wellbeing of **<enter name here>**

We have considered the information and have concluded that it would not be appropriate to undertake further inquiries under Inverclyde's Adult Protection Procedures.

Yours sincerely

**Senior Social Worker**

*Template Notification of the outcome of Adult at Risk inquiry – alternative action taken*

**Inverclyde CHCP**
**Social Work Services**
**Dalrymple House**
**195 Dalrymple Street**
**Greenock**
**PA15 1UN**
**Tel : 01475 714600**
**Fax : 01475 714640**
**Email :**

**Date:**
**Your Ref:**
**Our Ref:**
**Enquiries to:**

Dear

**Notification of the outcome of an Adult at Risk inquiry**

Thank you for drawing Social Work Service's attention to your concerns the safety and wellbeing of **<enter name here>**

We have considered the information and have concluded that it does not require further inquiries under Inverclyde's Adult Protection Procedures. However, we have taken alternative action to address the issue of this individual's vulnerability. **<advise of action>**

Yours sincerely

**Senior Social Worker**

***Notification of the outcome of an Adult at Risk inquiry – further inquiry/investigation – possibility of a multi agency case conference***

**Inverclyde CHCP**
**Social Work Services**
**Dalrymple House**
**195 Dalrymple Street**
**Greenock**
**PA15 1UN**
**Tel : 01475 714600**
**Fax : 01475 714640**
**Email :**

**Date:**
**Your Ref:**
**Our Ref:**
**Enquiries to:**

Dear

**Notification of the outcome of an Adult at Risk inquiry**

Thank you for drawing Social Work Service's attention to your concerns the safety and wellbeing of **<enter name here>**

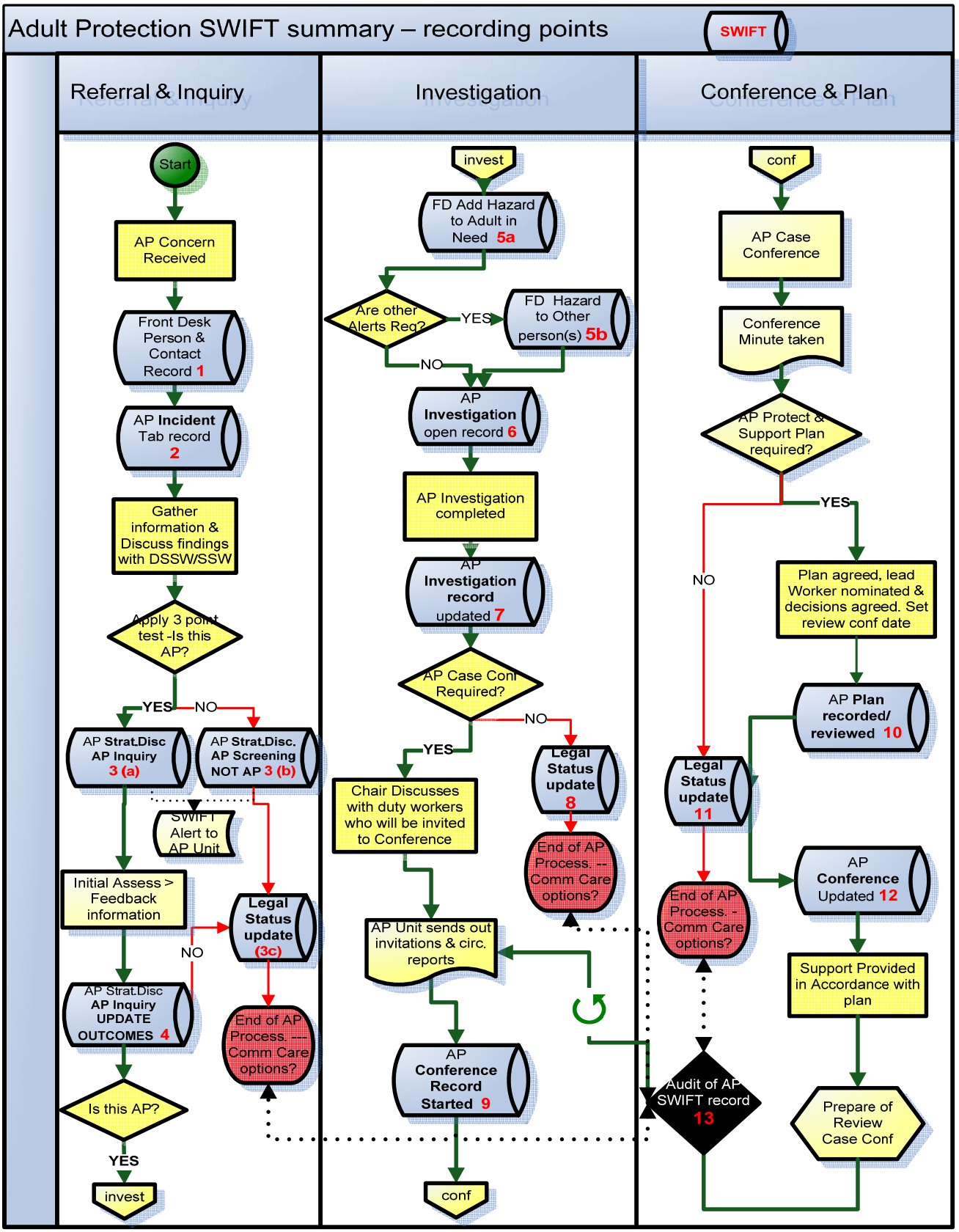
We have considered the information and will undertake further inquiry/investigation (delete as appropriate) under Inverclyde's Adult Protection Procedures. Should out inquiry/investigation result in a multi agency case conference, we will forward you an invitation to attend.

Yours sincerely

**Senior Social Worker**

## 10.9. APPENDIX 9

***Swift summary – Recording points***



## 10.10. APPENDIX 10

***Access to Records Request Form (AR1)***

**Adult Support and protection (Scotland) Act 2007 Form (AR1)**

Section 10(1) of the Adult Support and Protection Act (Scotland) 2007 states that *"a Council officer may require any person holding health, financial or other records on an individual the officer knows or believes to be an adult at risk to give the records, or copies of them, to the officer".*

| | |
|---|---|
| Name of Organisation/Individual is being made to | Name:<br><br>Address |
| Name of Adult | Name:<br><br>Address:<br><br>Date of Birth:<br><br>Consent given (please circle)<br><br>Yes No<br><br>If yes, signature of Adult/Power of Attorney/Guardian |
| Information Required | |
| Reason for Request | |

| | |
|---|---|
| Who will the information be shared with | |
| How long will the information be kept | |
| Once the investigation is complete the records will be *(please circle one):*<br><br>Returned Destroyed Retained on File | |

Signature of Requesting Officer …….

Tel No …….. Date …….

Signature of Team Leader ……..

Tel No …….. Date …….

***Letter to formally request information on person believed to be at risk.***

**Inverclyde CHCP**
**Social Work Services**
**Dalrymple House**
**195 Dalrymple Street**
**Greenock**
**PA15 1UN**
**Tel : 01475 714600**
**Fax : 01475 714640**
**Email :**

**Date:**
**Your Ref:**
**Our Ref:**
**Enquiries to:**

Dear

**Subject – Name (DOB) Address of Adult**

Inverclyde Social Work Services has a duty under Section 4 of the Adult Support and Protection (Scotland) Act 2007 to make inquiries about a person's wellbeing, property or financial affairs where it knows or believes that the person is an adult at risk, and that it might need to intervene in order to protect the person's wellbeing, property or financial affairs.

Section 10 of the Act also states that a council officer may require any person holding health, financial or other records relating to the individual that the officer knows or believes to be an adult at risk to give the records, or copies of them, to the officer.

I am therefore writing to formally request (medical, financial, other records) information on the above person. (delete as appropriate).

All information received will be managed in line with locally agreed information sharing protocols and I thank you for your cooperation.

Yours sincerely

**Name**

## 10.11. APPENDIX 11

***Section 9 Medical Examination***

**Patient Details – TO BE COMPLETED BY COUNCIL OFFICER REQUESTGIN MEDICAL EXAMINATION**

Chi No: …… SWIFT No: ……..
**(if unknown, please state unknown)**

Title: …… First Name(s): …….. Surname: ……..

DOB: …… Gender: M ☐ F ☐

Patients Home Address: ……

……

Postcode: ……..

Ethnicity: …… Language: ……. Disability: Y ☐ N ☐

**Health Professional's details**

Title: …… First Name(s): …….. Surname: ……..

Work Address: ……

……..

Post Code: ……..

Employer (if applicable): ……

**Circumstances and concerns underpinning request for medical examination and key questions to be addressed at examination – TO BE COMPLETED BY COUNCIL OFFICER REQUESTING MEDICAL EXAMINATION**

……

……

……

Council Officer's Signature …… Designation ……..

Print Name: …….. Council ……

Address ……

**Findings on Examination** (please attach a further sheet if necessary)
**Harm**
Does the patient exhibit any signs of physical harm/self harm? ☐
If so, please describe these:……
……
Does the patient exhibit any signs of physical/emotional neglect? ☐
If so, please describe these:……
……

Examination Findings:-

Are there any further steps required following this examination, if so what e.g. referral to A&E or police for forensic medical examination (please state)?

- I confirm that I am a registered medical practitioner/nurse/midwife **(delete as appropriate)**
- I confirm that I have examined the patient who is an adult at risk of harm on (date) …… at (address) ……
- I obtained/did not obtain the patient's consent to the examination (**delete as appropriate)**. If no consent received, state reason why ……
- I have/have not attached a summary of my findings following examination **(delete as appropriate)**

Signed …… Date ……

## 10.12. APPENDIX 12

***Adult Protection – Initial Report***

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| **SUBJECT OF REFERRAL DETAILS:** | | | | | | | |
| Name: | | | | | Date of Birth: | | |
| Category of Referral**:** | | | | | Date of Referral | | |
| Address: | | | | | Tel. No: | | |
| Gender: | | Ethnic Origin | | Religion: | | SWIFT No: | |
| **Legal Status (e.g. Mental Health Act Compulsory Order, Adults with Incapacity Act Guardianship):** | | | | | | | |
| **FAMILY/SOCIAL NETWORKS** (Highlight any guardian or attorney) | | | | | | | |
| **Other Members of Household:** | | | | | | | |
| Name: | | Relationship: | | | Date of Birth | | Age: |
| | | | | | | | |
| **Significant relatives not living in household:** | | | | | | | |
| **Name:** | **Address:** | | **Contact No:** | | **Relationship** | | |
| | | | | | | | |
| **OTHER AGENCIES INVOLVED (include contact numbers and record if on Care Programme Approach. If a Global Risk Assessment ommunication Requirement completed in respect of this referral, please attach and leave section blank) ):** | | | | | | | |
| **Agency** | | | **Contact No:** | | | | |
| | | | | | | | |
| **HEALTH** | | | | | | | |
| **G.P. Name and address:** | | | | | | | |
| | | | | | | | |
| **Known medical history:** | | | | | | | |
| | | | | | | | |

| |
|---|
| **Please detail any issues relating to the person's level of capacity** (Comment on person's ability to make decisions about risk and safeguard his/her well-being, evidence any limitations, examples of undue pressure etc)**:** |
| |
| **REFERRAL AND INVESTIGATION:** |
| **Details of referral (**who made referral, how, date, time etc.): |
| |
| **OUTLINE OF INVESTIGATION (**what exactly was alleged): |
| |
| **BACKGROUND INFORMATION** (pen picture of the adult, social/personal circumstances, previous/current contact with social work services, other agencies etc.): |
| |
| **DESCRIPTION OF INVESTIGATION** (briefly and factually who undertook investigation/s, interviews held, who provided information, when and where etc.): |
| |
| **ASSESSMENT OF NEEDS AND RISKS** please attach Global Risk Assessment and Global Risk Assessment Communication form completed in respect of this Adult Protection referral. Comment on any current, relevant specialist assessment and risk management plan): |
| |

| **ANY ACTIONS TAKEN TO MEET IMMEDIATE NEEDS ARISING FROM INVESTIGATION:** |
|---|
| |
| **RECOMMENDATIONS** (how any identified risks could be managed, formal actions, additional/different supports, monitoring etc.): |
| |
| Social Worker's Signature: …… Date: …… |
| Senior Social Worker's Signature: …….. Date: …… |

| **ADULT PROTECTION REPORT – SERVICE MANAGER FEEDBACK** | | | | | |
|---|---|---|---|---|---|
| Subject Name: | | | | Date of Birth: | |
| Date of Referral | | Date of Report | | SWIFT No: | |
| Service Manager's Decisions;<br>(to include whether to progress to case conference and, if not, actions to be taken and by whom): | | | | | |
| | | | | | |
| Service Manager's Signature: | | | | Date: | |
| Copies to: | | | | | |

## 10.13. APPENDIX 13

***Investigative Interview – Manager/Supervisor briefing and debriefing***

| | |
|---|---|
| **ADULTS NAME:** | **D.O.B:** |
| **POLICE REF NO:** | **INTERVIEW NO:** |
| **BRIEFING**<br>**BRIEFING BY:** | **DATE:** |
| **Nature of Allegation/Concern:** | |
| **CONSENT SOUGHT:** | **YES/NO** |
| **If no, please specify** | |
| **CONSENT GIVEN BY:** | |
| **RELATIONSHIP TO ADULT:** | |
| **ROLES:** **Recorder:**<br>**Interviewer:** | |
| **Issues to be considered:** | |
| **Any Other Comments:** | |

| | |
|---|---|
| **SIGNATURE:** | **SIGNATURE:** |
| **SIGNATURE:** | **SIGNATURE:** |

**DEBRIEFING:**

**DEBRIEFING BY:** **DATE:**

**OUTCOME OF INTERVIEW:**

**ISSUES ARISING:**

**Requirement for further interview:** **Yes/No**

**If yes, reasons:**

**SIGNATURE:** **SIGNATURE:**

**SIGNATURE:** **SIGNATURE:**

## 10.14. APPENDIX 14

***Agenda Proforma***

Recap at key points to ensure facilitation of minute taking and to aid clarity for all attending

| **AGENDA** | **PROMPT** |
|---|---|
| 1. Welcome | Check any communication support/systems have been provided |
| 2. Introductions | Each person should state their role, agency (where appropriate) and contact with adult at risk of harm. |
| 3. Apologies and housekeeping | Identify if a written submission of views have been sent to be considered at point ? |
| 4. Identify exclusions and state reasons | Identify if the adult, any individual, or agency has excluded themselves or been excluded by the chair for part or all of the meeting. Identify the person and note reasons. |
| 5. Information Sharing and confidentiality | |
| 6. Give a synopsis of the purpose of the case conference. | 6.1 Share, evaluate and consider further information.<br>6.2 Consider views and wishes of the adult and relevant others.<br>6.3 Clarify exact details of the harm and current level of risk.<br>6.4 Agree plan, where required, actions, responsibilities and timescales.<br>6.5 Ensure the principles of any piece of legislation is adhered to and consider the use of any appropriate legislation |
| 7. Facility to ask for an adjournment | |
| 8. Investigating Officer's report their findings and actions to date. | Reports should be circulated in advance, if not read at this point. If report cannot be shared for legitimate reasons, this should be recorded. |
| 9. Chair introduces any other reports | Include any written or verbal submission of views. |
| 10. Other participants | Speak to their reports, provide information and share knowledge. |

| | |
|---|---|
| 11. Views of the adult at risk of harm. | Done at this stage as their views may be augmented by the views of others. Views can be expressed by themselves, an advocacy worker or representative nominated by them. |
| 12. Views of carers/relevant others | |
| 13. Appraise received information, opinions and assessment of risk | 13.1 Factors to consider<br>▪ Strengths of family and carers and threats to adult at risk.<br>▪ Specify dangers to the adult and family/carers.<br>▪ What family, professional supports could be offered.<br>▪ How can harm be stopped and risk minimised.<br>▪ Consider the significant event history. |
| 14. Agree Adult Support and Protection Plan | Actions required, by whom and within what timescale. |
| 15. Core group and dates for meeting(s) | Identify those to be involved and lead person, usually Social Worker/council officer. |
| 16. Clarify everyone understands what Is happening and any questions | |
| 17. Summary of decisions and record dissent | List decisions and identify those responsible. |
| 18. Confirm communication strategy | Who are minutes to be sent to? Who is the protection plan to be sent to? |
| 19. If required, arrange review case conference. If no case conference, reasons to be noted. | |
| 20. Thank all who have attended and ensure plans are in place for adult's safe return home. | |
| 21. Ensure any reports are collected and destroyed by admin if it is not agreed for those present can take for their own records. | |

## 10.15. APPENDIX 15

***Case Conference/Meeting Invitation Proforma***

| **CLIENT:** | **DATE/TIME OF MEETING:** |
|---|---|
| **DOB:** | **VENUE** |

*Please supply a list of those attending the above mentioned case conference/meeting and return to the Adult Protection Support Unit as soon as possible.*

| **Checklist of possible people to be invited** | | | | | |
|---|---|---|---|---|---|
| **Care Manager** | | **MHO** | | **Criminal Justice** | |
| **Social Worker** | | **Social Work Other** | | **Support Worker** | |
| **Community Nurse/CPN/DN** | | **Addiction Services** | | **GP** | |
| **Consultant** | | **Other Health** | | **Police** | |
| **Housing/Landlord** | | **Nearest Relative** | | **Service User** | |
| **Named Person** | | **Guardian/Attorney** | | **SCSWIS** | |
| **Other** | | | | | |

| **NAME** | **ADDRESS** | **DESIGNATION** |
|---|---|---|
| | | |
| | | |
| | | |
| | | |
| | | |
| | | |
| | | |
| | | |
| | | |
| | | |
| | | |
| | | |
| . | | |

## 10.16. APPENDIX 16

***Protection Plan (AP3)***

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

| **DATE OF PROTECTION PLAN:** |
|---|

### 1. PERSONAL DETAILS – ADULT AT RISK

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

### 2. AGENCY/STAFF INVOLVEMENT

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

| **Date:** |
|---|

## 3. ACTIONS

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

| | | | |
|---|---|---|---|
| **d) Risk management with perpetrator** | | | |
| **Support And Protective Services (continued)** | | | |
| **Action** | **Responsibility** | **Timescales Deadlines** | **Intended Outcomes** |
| **e) Information sharing arrangements** | | | |
| **f) Risk management coordination** | | | |
| **g) Other Actions** | | | |
| **h) Other Actions** | | | |

**Date:**

## 4. VIEWS AND ROLES OF ADULT AT RISK AND OTHERS

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

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

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

## 6. DISTRIBUTION OF PROTECTION PLAN

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

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

## 7. REVIEW ARRANGEMENTS

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

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

**Signed by Case Conference Chair:**

**Date:**

## 10.17. APPENDIX 17

***Adult Protection – Review Report***

| **PERSON DETAILS** | | | |
|---|---|---|---|
| **Name:** | | **DOB:** | |
| **Address:** | | **Date of previous case conference:**<br><br>**SWIFT/Chi** | |
| **CORE GROUP MEMBERS (if applicable)** | | | |
| **Name** | | **Designation** | |
| | | | |
| **SIGNIFICANT CHANGES SINCE LAST CASE CONFERENCE** | | | |
| | | | |
| **DEVELOPMENT SINCE PREVIOUS CASE CONFERNCE** (comment on progress of case conference action points, outcomes of any specialist assessments, attach protection plan and care plan and comment on their effectiveness, is the client safe? Etc). | | | |
| | | | |

| **ADULT SUPPORT AND PROTECTION OUTCOMES** (does risk remain and if so, is it being effectively managed? What has been the impact on the client? Comment on clients and any relevant others views/inputs, does the client feel safer? Etc). |
| --- |
| |

| **CONCLUSION** (to indicate any ongoing areas of concern, what is working well, matters needing to be progressed, any areas of disagreement). |
| --- |
| |

Social Worker's Signature…… Date: ……...

Snr Social Worker's Signature …….. … Date: …….

## 10.18. APPENDIX 18

***ASP Council Officer Role – Principles and Definitions***

Any intervention under the Act should:
- Provide **benefit** to the adult, and
- Be the **least restrictive** to the adult's freedom.

You must also have regard to:
- The wishes of the adult.
- The views of others.
- The importance of the adult participating as fully as possible.
- That the adult is not treated less favourably.
- The adult's abilities, background and characteristics.

**Adults at Risk**

Are aged 16 or over and who:
- Are unable to safeguard their own well-being, property, rights or other interests.
- Are at risk of harm, **and**
- Because they are affected by disability, mental disorder, illness or physical or mental infirmity are more vulnerable to being harmed than adults who are not so affected.

**Risk of Harm**

An adult is at risk of harm if:
- Another person's conduct is causing (or is likely to cause) the adult to be harmed, or
- The adult is engaging (or is likely to engage) in conduct which causes (or is likely to cause) self-harm.

**Harm**

Includes all harmful conduct and, in particular includes:
- Conduct which causes physical harm.
- Conduct which causes psychological harm (for example by causing fear, alarm or distress).
- Unlawful conduct which appropriates or adversely affect property, rights or interests (for example theft, fraud, embezzlement or extortion).

Conduct which causes self harm

**Immediate Safety**

Where there is concern about the immediate safety and well being of any adult or child at any point they should immediately advise the appropriate emergency service e.g. police, medical practitioner, ambulance service and notify their manager thereafter.

**Child Protection**

It is the responsibility of the council officer to consider the need of any child who may reside or have contact with an adult(s) suspected to be at risk of harm whether they reside within the household or outwith.

**ASP Council Officer Role – Inquiries Stage**

**Section 4 Duty to Inquire**

The Council must make inquiries about a person's **wellbeing, property or financial affairs** if it knows or believes;

- That the person is an "adult at risk" **and**
- That it might need to intervene in order to protect the person's well-being, property or financial affairs

**Section 5 Duty to co-operate/report**

The following public bodies and office holders must:

- Co-operate with the Council making inquiries under Section 4 and each other where this will assist the Council, and
- Where the public body of office-holder knows or believes
  a. that a person is an adult at risk, and
  b. that action needs to be taken to protect them from harm.

They must report the facts and circumstances to the Council.

- The Mental Welfare Commission
- The Office of the Public Guardian
- The Police
- Social Care and Social Work Improvement Scotland (SCSWIS)
- All Councils
- Health Boards

**ASP Council Officer Role – Inquiries/Investigation Stage**

**Section 10 Examination of Records**

To enable the Council to decide whether action needs to be taken to protect an adult at risk. A council officer may require **any person** holding health financial or other records (in any format) relating to an individual when the officer knows or believes to be an adult at risk to give records or certified copies of them to the officer

- during a visit or at any other time.
- if at any other time requirement must be made in writing.

Records can be inspected by

- the council officer, or
- any other person the council officer considers appropriate.

Health records can only be inspected by a health professional i.e. a Doctor, Nurse, Midwife.

Your written authorisation to entitle you to access records should be shown. If notification needs to be sent in writing it can be done by email or letter.

Section 49 of the Act provides that it is an offence for a person to fail to comply with a requirement to provide information under Section 10 unless that person has a reasonable excuse.

**ASP Council Officer Role – Investigation Stage**

It is important that the adult at risk is provided with the right kind of support.

**Section 6 Duty to Consider Support Services**

If after making inquiries under Section 4, a Council considers that it needs to intervene in order to protect an adult at risk from harm the Council must have regard to the importance of appropriate services, particularly INDEPENDENT ADVOCACY SERVICES to the adult concerned.

- Inverclyde Advocacy Services 01475 730797

**Assessing and managing communication difficulties.**

The adult should be provided with assistance or material appropriate to their needs to enable them to make their views and wishes known. Wherever possible the adult should be asked which form of communication prefer, e.g. technical aids or translator services. A speech and language therapist may also be considered.

**Appropriate Adult.**

Is required for people with: mental illness, learning disabilities, or personality disorder (including people with dementia, autistic spectrum disorder and acquired brain injury) where they are being interviewed in relation to an alleged criminal offence. The adult may require this service as they are the alleged victim or perpetrator or a witness. It is crucial that they have access to this service as the information they give may be used in court. For this reason, family, friends or staff should not be used. It is the police's responsibility to arrange where there is a criminal investigation.

**Appropriate Adult Scheme (24 hours): 0141 305 6940**

## Section 7 Visits

A council officer can enter **any** place to make necessary investigations to:

- Assist the Council in conducting inquiries under Section 4 to decide whether the adult is an adult at risk of harm; and

- Establish whether the Council needs to take any further action in order to protect the adult at risk of harm (under ASP or otherwise)

### Who?

A Council Officer with another person who could assist the inquiries, e.g. Police Officer, Key Worker, SCSWIS Officer etc.

### When?

At reasonable times only (unless, for example, risk of immediate physical harm).

### Where?

Any place for example where the adult normally resides, temporarily resides or spends part of their time:

- The adult's home.
- A relative or friends home.
- A care home.
- A day centre.
- A place of education, employment or other activity.
- A respite unit or hospital/medical facility.

The council officer can access all parts of the place visited, e.g. sheds, garages, out buildings and all areas used by or on the behalf of the adult, e.g. sleeping accommodation, facilities for hygiene, meal preparation areas and general living space.

### Produce Evidence

To the adult at risk and, if appropriate to others in the household.

### A Council Officer must:

- Produce their ID badge and evidence of the identity of anyone

  accompanying them

- Show the Council Officer statement on their ID card as authorisation to visit the place.

- State the object of their visit

IF ENTRY IS REFUSED, FORCE CANNOT BE USED – CONTACT A SENIOR SOCIAL WORKER FOR ADVICE AS A WARRANT MAY BE REQUIRED.

**ASP Council Officer Role – Interview**

**Section 8**

A council officer, and any person accompanying the Officer, may interview, **in private**, any adult found in a place being visited under Section 7.

**The adult at risk (and any other person interviewed) must be informed of their right not to answer any questions BEFORE the interview starts. *Consider capacity and consent. ***

INVESTIGATE INTERVIEW TECHNIQUE

| | | |
|---|---|---|
| **I** | **I** | **Introduction** |
| **R** | **run** | **Rapport** |
| **F** | **for** | **Free narrative** |
| **Q** | **quick** | **Questioning** |
| **C** | **coffee** | **Closure** |

INTRODUCTION AND GROUND RULES

**Show ID and council officer authorisation. State purpose of visit, reason for written recording etc.**
**Inform of right not to answer some/all questions, no need to agree to interview etc.**

RAPPORT

Neutral subject, appropriate and relaxed, moves forward when some rapport established e.g. “what have you been doing today”.

**FREE NARRATIVE**

| | |
|---|---|
| **Open questions e.g.** | **“Do you know why we have come today”** |
| | **“what’s it like living here”** |
| | **“Tell me about your family”** |

**No interruptions, tolerate long pauses, “Uh huh” or “ok”, open prompts “then what” or “anything else”. Reflect in their words “so you are saying”.**

QUESTIONS

**Open questions “what”, “when”, “who”, “where”. Use “uh huh”. “You said earlier…… tell me all about that” “tell me a bit more”.**

CLOSURE

Summarise in adults words and check accuracy. Explain what happens next, give contact details, neutral ending.

Medical Examination

**Section 9**

**Where a council officer finds a person known or believed to be an adult at risk in a place being visited under Section 7 and the person accompanying them is a health professional (doctor, nurse or midwife) the health professional can conduct a private medical examination of the person.**
The adult at risk must be informed of their right to refusal to be examined BEFORE a medical examination is carried out.

***Consider capacity and consent*.**

**The purpose can include**

- The adult’s need of immediate medical treatment for a physical illness or mental disorder.
- To provide evidence of harm to inform a criminal prosecution under Police direction or application for a Protection Order.
- To assess the adult’s physical health needs, or
- To assess the adult’s mental capacity.

If the person accompanying the Council Officer is not a health professional, then a medical examination can be requested.

## 10.19. APPENDIX 19

***Quick Guide***

Inverclyde council
Inverclyde Adult Protection Committee

# Quick Guide for Staff from any Agency concerned about an Adult at Risk

## ADULT SUPPORT AND PROTECTION IN INVERCLYDE

**Q. Who is an 'adult at risk'?**

**A. '**Adults at risk' are adults (aged 16yrs or over) who

- are unable to safeguard their own well-being, property, rights or other interests;
- are at risk of harm; and
- because they are affected by disability, mental disorder, illness or physical or mental infirmity, are more vulnerable to being harmed than adults who are not so affected.
  *Ref - Section 3(1) Adult Support & Protection (Scotland) Act 2007*

**N.B All three points of the above definition must be met.**

**Q. What is meant by 'risk of harm'?**

**A.** An adult is at risk of harm if

- another person's conduct is causing (or is likely to cause) the adult to be harmed, or
- the adult is engaging (or is likely to engage) in conduct which causes (or is likely to cause) self-harm.
  Ref - *Section 3(2) Adult Support & Protection (Scotland) Act 2007*

**N.B 'conduct' includes neglect and other failures to act.**

**Q. Who can cause harm?**

**A.** Anyone can cause harm. It could be; a friend, relative, worker, carer, partner, volunteer or other adults at risk.

**Q. Where can harm happen?**

**A.** Harm can happen anywhere; in social or health care setting, family home, own home, hospital ward, care home, social club or social activities.

**Q. What are the six main types of harm?**

**A.** The six main types of harm are

1) **Physical Harm.** This means hurting a person's body or stopping a person moving about. Physical harm can be:
    - Hitting a person.
    - Shaking a person.
    - Locking a person up.

2) **Psychological Harm.** This means hurting someone mentally. Psychological harm can be:
    - Upsetting a person's feelings.
    - Making a person feel scared.
    - Leaving a person alone for too long.

3) **Financial Harm.** This means stopping a person from having their money or belongings. Financial harm can be:
    - Stealing money from a person.
    - Stopping someone using their own money.
    - Stopping someone using the things they own.

4) **Sexual Harm.** This means getting a person to do sexual things they don't want to do or don't understand. Sexual harm can be:
    - Making a person have sex.
    - Taking photos at private times.
    - Making a person look at sex DVD's or photos.
    - Getting a person to do sexual things for money or presents.

5) **Neglect.** This means stopping a person getting the things they need to be well. Neglect can be:
    - Stopping a person from seeing their doctor.
    - Stopping a person from getting their medicine.
    - Stopping a person from getting their food.

6) **Discriminatory Harm.** This means hurting someone by being hateful or bigoted towards them. Discriminatory harm can be:
    - Harassment.
    - Mistreating or behaving differently towards someone due to their gender, sexual orientation, race, disability, age, colour, language, religion or belief, and politics.

**Q. What should I do if I have concerns that a person is or may be an 'adult at risk'?**

**A.** You should do the following if you have concerns that a person is or may be an 'adult at risk'

- Report this immediately to your line manager or another available manager (harm can happen within a service setting and the source of harm could be a colleague or a manager. Regardless of this the facts and circumstances must be reported to Inverclyde Council).
- If it is known or believed that a person is an 'adult at risk' of harm and that protective action is needed, the law states that you must report the facts and circumstances of the case to Inverclyde Council.
  *Ref – Section 5(3) Adult Support and Protection (Scotland) Act 2007*

**Q. What should I do if I witness, suspect or receive information about an adult at risk being subject to harm, mistreatment or neglect?**

**A.** If the person does not require immediate medical attention speak to the person about your concerns. Ask the person what has happened (including whether it has happened before), who was involved, what the person thinks about the situation and what they want done about it. Try to ascertain if there are any potential risks to others, adults and children.

You need to listen to what they have to say and obtain all the relevant information.

**Q. What is relevant information?**

**A.** Relevant details relating to the case should include

- name, address, date of birth, ethnic origin. Gender, religion, type of accommodation, family circumstances, support networks, physical health, any communication difficulties, mental health and any associated statutory orders, or whatever information is available;
- the staff member's job title and the reason for their involvement;
- the nature and the substance of the allegation or concern;
- details of any care givers and/or significant others;
- details of the alleged perpetrator, where appropriate, and his or her current whereabouts and likely movements over the next 24 hours, if known;
- details of any specific incidents (e.g. dates, times, injuries, witnesses, evidence (such as bruising);
- background relating to any previous concerns;
- any information given to the person, their expectations and wishes if known.

**Checklist**

- Record the date, time and where the harm is alleged to have taken place or where it was witnessed.
- Record details of anyone else who was there.
- Record what the adult at risk of harm says using the words of the person making the disclosure even if they seem rude or embarrassing.
- Tell the adult at risk you need to speak to your manager.
- Try to separate the factual information from any opinions.
- Date and sign your report.
- Don't forget your report may be required as part of any legal action or disciplinary proceedings.
- Managers in Services also need to:
    - Report to SCSWIS and Inverclyde Contract Monitoring and Complaints team if the person alleged to be causing the harm is a member of staff.

**Q. What do I do if the person needs immediate medical assistance?**

**A.** Contact the adults GP or other appropriate health professional who is Involved or NHS 24. In the event of an emergency contact emergency services on 999. Particularly if an adult at risk appears to be in immediate need of medical attention or if there is evidence of physical or sexual harm. Uncertainty about consent and capacity should not prevent the provision of urgent medical assistance.

- Inform the Police if a crime has or may have been committed.
- Staff must be aware of the need to preserve evidence.
- Staff should not put themselves at risk.

**Q. What if I suspect an offence has been committed and do I need the adults consent?**

**A.** An adult's consent should usually be sought and before the police are contacted. An adult at risk of harm are individuals in their own right and must be allowed to exercise their right to choose they way they live their life, unless;

- The adult is at immediate risk of significant harm.
- The adult does not have capacity to understand his/her choice or consequences.
- There is concern the person is being unduly pressured to withhold their consent.
- The situation involves a service provider and other adults may also be at risk or harm.
- There is a public safety concerns and it is in the public interest to override consent because of the seriousness of the incident or allegation and/or risk to other people.
- Any member of staff from any agency witnessed a crime being committed.

**Contact Number 999 if an emergency and the police and/or the assistance of any other emergency service is required.**
**Strathclyde Police: 0141 532 2000**

**A referral must also be made to Inverclyde Council Social Work Services regardless of whether the police or any other emergency services are contacted.**

**Q. Who would I report concerns to in Inverclyde Council Social Work Services?**

**A.** Either-

- The Duty Senior Social Worker who can be contacted via **01475 714100**.
- The Senior Social Worker/Social Worker to which the person is already allocated, **(see numbers below)**; or
- **Out of hours** – West of Scotland Standby Service (before 8.45 and after 4.45 Monday to Thursday, before 8.45 and after 4.00 on Fridays, and weekends) **0800 811 505**.

**Q. What are the contact numbers?**

**A.** Contact numbers and details for Social Work offices in Inverclyde are listed below:

- **Central Office** **01475 714100**
- **Greenock Health Centre** **01475 501296**
- **Inverclyde Royal Hospital** **01475 504422**
- **Community Mental Health Team & Older Persons Mental Health Team** **01475 558000**
- **Inverclyde Alcohol Services** **01475 715812**
- **Inverclyde Community Drugs Team** **01475 715778**
- **Learning Disability Team** **01475 499059**

**Q. What if I need advice about what to do?**

**A.** You can phone any of the above numbers for advice at any time – ask to speak to the Duty Senior Social Worker or Duty Social Worker.

Also, you can contact the Adult Protection Coordinator at the Adult Protection Support Unit, for specific advice in relation to adult protection, as below:

**Adult Protection Support Unit: 01475 714022**

**Q. Who else should be contacted?**

**A.** Referrers from registered care providers should contact Social Care and Social Work Improvement Scotland (SCSWIS). This should be done as a telephone call with confirmation in writing either by letter or e-notification. Inverclyde CHCP Contract Monitoring and Complaints should also be contacted.

**SCSWIS: 0141 843 4230**
**ICHCP Contact Monitoring and Complaints Team: 01475 715380**

More detailed procedures are set out in Inverclyde CHCP Adult Protection Policy and Practice Guidelines and Operational Procedures. These can be found at (www.inverclyde.gov.uk/social-care-health/adult-support-protection-inverclyde).

- It is expected that all managers and staff will have available a copy of these procedures.
- It is expected that the service provider has their own procedures which compliment and support Inverclyde Council's procedures.
- It is expected that service providers will work to prevent or minimise the risk of harm occurring by
    - following safe recruitment practices;
    - having the correct staffing levels and that the staff have the right skills to meet the needs of the service users;
    - provide appropriate training including adult protection training and staff should be able to demonstrate an awareness of what is harm, that it can happen anywhere and can be caused by a range of people;
    - provide and ensure that staff attend regular staff meetings and supervision to discuss and learn about care practices which could be harmful;
    - ensure staff are listened and responded to when staff, service users and carers raise concerns.

# 10. 20. APPENDIX 20

***Police Adult at risk referral details***

## ADULT AT RISK REFERRAL DETAILS

**Division:**

RESTRICTED

**Office:**

**VPD Incident No:**

**Date:** **Crime Report No:**

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

**NAME:** Gender:

Age: DOB: Preferred Language:

Occupation:

Home Address

Postcode: Tel No:

Ethnicity:

Injuries:

Primary User Group:

**SECTION 2**

**NATURE OF INCIDENT** ADULT AT RISK

Type of Abuse reported

Time/Day/Date of Incident

Locus of Incident

**SECTION 3 Details of Principal Carer (if applicable)**

**NAME:**

Age: DOB: Occupation:

Address:

Postcode: Tel No:

Nature of Relationship:

**SECTION 4 Details of Suspect/Accused (if applicable)**

**NAME:**

Age: DOB: Occupation:

Address:

Postcode: Tel No:

Agency Referred To:

**SECTION 5 Details of Person Sharing Information**

NAME: RANK/POSITION:

Station: Tel No:

Email: Fax:



RESTRICTED

Printed at

# ADULT AT RISK REFERRAL DETAILS

**Division:**

**Office:** **VPD Incident No:**

**Date:** **Crime Report No:**

## SECTION 6 Children within Household

NAME:

ADDRESS:

AGE: DOB: School Attended:

POSTCODE:

Being Referred: YES /NO Grounds for Referral:

## SECTION 7 Other relevant Adults

NAME:

ADDRESS:

AGE: DOB: Occupation:

POSTCODE:

Being Referred: YES / NO Grounds for Referral:

# ADULT AT RISK REFERRAL DETAILS

**Division:**

**Office:** **VPD Incident No:**

**Date:** **Crime Report No:**

## SECTION 8 Summary of Updates

**Update** 02/01/2009 11:54 **Type** INITIAL INCIDENT SUMMARY

**Update** 02/01/2009 14:36 **Type** ALLOCATION

**Update** 05/01/2009 12:10 **Type** SUPERVISOR

**Update** 05/01/2009 13:07 **Type** APR COORDINATOR

# 11. GLOSSARY

## Introduction

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

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

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

**Adult at risk**: *(Please refer to)*

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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