



Working together to protect adults at risk of harm in Angus

Angus Adult Protection Committee

Multi-agency guidance

Angus multi-agency guidance

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1. Introduction

In general adults with mental health problems, physical or learning disabilities or ill health manage to live their lives comfortably and securely. In most cases people live independently or with help from caring relatives, friends, neighbours, professionals or volunteers.

A small number of adults may however experience harm, such as:

- Physical abuse
- Being bullied or threatened
- Being forced or pressured into sexual activity
- Having their money or possessions taken or withheld
- Not receiving the care that they need

Adult protection presents a challenge to all agencies concerned with the welfare of adults. Effective joint working is essential if the welfare of an adult at risk is to be protected from harm.

This guidance is designed to ensure that there is common practice across Tayside and is consistent with Perth and Kinross and Dundee multi-agency guidance and also with the Tayside multi-agency protocol. There are some local differences reflecting local issues and policy decisions. The guidance has been widely consulted on and is approved by the Angus Adult Protection Committee.

There is in place single agency staff guidance and instructions for Angus Council Social Work and Health, Tayside Police and NHS Tayside. Voluntary and private sector agencies will have adult protection policies for their employees. This guidance is therefore not a substitute for single agency guidance which may give more detailed instruction. Rather, this multi-agency guidance gives a step by step overview of adult protection procedures which have been agreed between the agencies and outlines roles and responsibilities.

The guidance will be supported by joint training which will help develop understanding of individual professional roles, increase awareness of adult protection issues and contribute to effective intervention. The guidance will be reviewed on a regular basis.

2. Partners

The agencies that have been involved in the preparation of this guidance are:

- Angus Council
- NHS Tayside – Angus CHP
- Tayside Police – Eastern division

3. Legislative background

The Adult Support and Protection (Scotland) Act 2007 (ASPA)

The ASPA has attempted to strike a balance between enabling individuals to lead independent lives that involve a degree of risk whilst also protecting those who may not be able to do so themselves. It enables intervention in the lives of adults who are deemed to be at risk of harm. Intervention requires consent of the adult at risk, if that consent is freely given and if the adult has capacity to give consent.

The Act:

- provides greater protection for adults thought or known to be at risk of harm
- places a duty on councils to make inquiries and undertake investigations to establish whether or not further action is required to stop or prevent harm occurring
- places a duty on public bodies to co-operate in investigating suspected or actual harm
- introduces a range of protection orders including assessment orders, removal orders and banning orders, and
- provides a legislative framework for the establishment of adult protection committees across Scotland

The Act requires public bodies to share information to protect adults at risk. The code of practice says that this duty also extends to include voluntary and private sector care providers.

Adults with Incapacity (Scotland) Act 2000 (AWIA)

This Act is a significant piece of legislation in the protection of adults at risk. However, it can only be applied where the adult lacks capacity due to mental disorder or inability to communicate which cannot be overcome. The Act provides a framework to authorise financial or welfare based interventions where the adult is incapable of dealing with the issues in question.

Any order made through this legislation must provide for the minimum intervention necessary as the purpose of the act is not only to protect the individual but also to allow them as much control in their life as possible.

The legislation also places on the local authority a duty to inquire into circumstances where a person who lacks capacity is thought to be living in a situation where they are uncared for, are ill-treated or neglected.

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

This Act places a range of duties and a range of powers to organisations involved in mental health service provision, including the Mental Welfare Commission, and the Mental Health Tribunal for Scotland. It also underpins the appointment of mental health officers (MHOs) who also have a formal role under AWIA.

The legislation gives powers to compulsorily admit an adult with a mental disorder to a psychiatric hospital or treat the adult in the community if the adult has a mental disorder, their health, safety or welfare is at risk or poses a risk to others and their ability to decide about their treatment is significantly impaired.

The legislation also places on the local authority a duty to inquire into circumstances where a person with a mental disorder is thought to be living in the community in a situation where they are uncared for, are ill-treated or neglected.

The Social Work (Scotland) Act 1968 and the NHS and Community Care Act 1990 give legislative duties to the local authority to become responsible, in collaboration with other agencies, for the assessment of the needs of an individual for whom the local authority is likely to provide a community care service.

Human rights legislation

The European Convention of Human Rights was drawn up in 1950 and ratified by the UK in 1951. This was incorporated into the UK domestic law in the Human Rights Act 1998. The convention rights, which are binding on statutory agencies include:

- the right to life (Article 2)
- freedom from torture and inhumane or degrading treatment or punishment (Article 3)
- the right to liberty and security of persons (Article 5)
- the right to respect for private family life, home and correspondence (Article 8)
- freedom of thought, conscience and religion (Article 10)
- prohibition of discrimination in the enjoyment of convention rights (Article 14)

While some human rights are regarded as absolute (e.g. Articles 2 and 3), others can be limited in specific circumstances as long as any restriction is reasonable, proportionate, justified and necessary to protect others or in the interests of the wider community. This has clear implications for adult protection and any intervention must be carried out in the context of a balance of the adult's rights and be proportionate to the risk.

Regulation of Care (Scotland) Act 2001

This legislation:

- established the Scottish Social Services Council to regulate social service workers and to promote and regulate their education and training
- established a new independent body to regulate care services in Scotland. This is known as the Scottish Commission for the Regulation of Care (The Care Commission); and
- established a system of care regulation encompassing the registration re-registration and inspection of care services against a set of national care standards.

Vulnerable Witnesses (Scotland) Act 2004

The Act established procedures for adults deemed as vulnerable who may be required to appear as witnesses in court in a way which best suits their needs. Consequently adults should be better supported during court proceedings and more able to give their best evidence.

3.1 Principles underpinning the Adult Support and Protection (Scotland) Act 2007 (Section 1 & 2)

The following principles apply to all actions under the ASPA.

- Intervention must benefit the adult
- Actions should be supportive and least restrictive
- Interventions must have regard to:
 - the wishes of the adult and relevant others
 - providing information and support to enable the adult to participate in the process
 - the adult's abilities, background and characteristics
 - not treating the adult any less favourably than any other person in a comparable situation

3.2 Definitions of 'adult at risk' (section 3)

'Adults at risk' are adults, aged 16 and over who:

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

All three of the above aspects must be met in order for the person to be defined as an adult at risk.

3.3 Definitions of 'harm' (section 4)

'Harm' includes all harmful conduct and, in particular, includes:

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

While not specified in the Act harm would normally be categorised to include physical, sexual, financial and psychological harm and neglect.

3.4 Definition of “council officer”

A person authorised to undertake actions such as inquiries, investigations and application for protection orders under the ASPA is called a council officer. In terms of the Act a council officer is someone who meets all of the following criteria:

- is employed by the local authority
- is a professional social worker, nurse or occupational therapist
- is registered with their own professional body
- is professionally qualified for no less than 12 months
- has at least 12 months post qualifying experience of identifying, assessing and managing risk in relation to adults, and
- has undertaken appropriate training

4 Statutory responsibilities and key roles

4.1 Angus Council Social Work and Health statutory responsibilities and key roles

- identify adults who may be at risk and report concerns
- inquire into the circumstances of an adult who is thought to be at risk in all community, institutional and in-patient settings
- gain access to an adult’s health, financial or other records held by any agency where it is believed that the adult is at risk
- conduct investigations into alleged or suspected harm against an adult at risk and work to prevent further harm
- co-operate with other public bodies and local authorities in relation to adult protection
- apply to the court for warrants for entry and for protection orders as appropriate

Key roles:

- chair adult protection case conferences and reviews
- record and distribute accurate records and minutes
- co-ordinate and monitor actions arising from the case conference/ review/meeting
- participate in any protection/support plan as agree

4.2 Police statutory responsibilities and key roles

The police have a general duty to protect the public and to investigate on behalf of the procurator fiscal, where they believe that a criminal offence may have been committed. They will give the procurator fiscal any information, which will assist him/her to decide whether a criminal prosecution should take place. They will:

- identify adults who may be at risk and report concerns
- pursue criminal proceedings when appropriate
- protect and assist in the protection of people in situations of risk
- cooperate with any other agency to assist Social Work and Health taking action under ASPA
- identify adults attending court as a witness who may need special provision under the Vulnerable Witnesses (Scotland) Act 2004 and notify the procurator fiscal.

Key roles:

- participate in case conferences or provide a report to the case conference where appropriate
- participate in the protection/support plan as agreed

4.3 Statutory role of the procurator fiscal

The procurator fiscal, as the lord advocate's representative, has a duty to investigate the circumstance of any crime or suspected crime brought to his or her attention. He or she acts in the public interest and decides whether to bring criminal proceedings. Where proceedings have started, the procurator fiscal may interview witnesses and will present the crown case to the sheriff or other appropriate authority.

The procurator fiscal also has a role in applying for the provision of any special measure under The Vulnerable Witnesses (Scotland) Act 2004.

4.4 Statutory responsibilities and key roles of health professionals

- identify adults who may be at risk and report concerns
- co-operate with and assist Angus Council Social Work and Health taking action under ASPA
- provide information about the health and circumstances of adults at risks if requested to do so by a council officer taking action under the ASPA

- provide access to health records when requested to do so by council officer conducting an investigation under the ASPA
- examine medical records on behalf of a council officer who is taking action under the ASPA
- undertake medical examinations, provided the person has given consent

Key roles:

- participate in case conferences or provide a report to the case conference as appropriate
- participate in the protection/support plan as agreed

4.5 Responsibilities of the Care Commission

- inform Angus Council Social Work and Health when reports are received that one or more service users may be or are at risk of abuse or neglect within registered services
- liaise/work jointly with Angus Council Social Work and Health and health services where residents require a response under these procedures
- provide access to care commission records when requested to do so by a council officer conducting an investigation under the ASPA
- attend adults at risk initial referral discussions, case conferences and reviews in respect of registered services
- keep other agencies informed of any enforcement action taken by the Care Commission when regulating any registered services
- participate in investigation where appropriate
- pursue statutory action where appropriate

4.6 Statutory responsibilities of the Office of the Public Guardian

- oversee financial guardianships and directly supervise financial guardianships under the Adults with Incapacity (Scotland) Act 2000
- identify adults who may be at risk and report concerns
- co-operate with any investigation under the ASPA
- provide access to records in relation to an adult who may be at risk when requested to do so by a council officer conducting an investigation under the ASPA

4.7 Role of Mental Welfare Commission

- investigate any complaint it receives concerning the welfare of anyone with a mental disorder including dementia, learning disability or acquired brain injury
- identify adults who may be at risk and report concerns
- co-operate with any investigation under the ASPA
- provide access to records in relation to an adult who may be at risk when requested by a council officer conducting an investigation under the ASPA

4.8 Statutory responsibilities of private and voluntary sector

- The Act requires public bodies to share information and report concerns in relation to adults at risk. The code of practice says that this duty also extends to include voluntary and private sector care providers.
- Provide access to records in relation to an adult who may be at risk when requested to do so by a council officer conducting an investigation under the ASPA.

5. Recording

Good recording of information throughout the process is essential. These records should be evidence based, accurate and legible and should be kept up-to-date during all the stages. All staff should make sure that records are made immediately after each event.

These should include:

- the nature and substance of the incident or concern
- the details of the referrer unless he or she wishes to remain anonymous
- the initial assessment of the incident or concern, the information provided and the person's circumstances
- any external referrals and consultations
- any issues of incapacity and consent
- the wishes and views of the adult at risk
- the decisions and the actions taken and the reasons for these
- the roles and the responsibilities of those people involved
- the framework for monitoring and reviewing the ongoing work
- any issues of restriction and confidentiality
- all risk assessments must be signed and dated

6. Step by step guide

Steps 1-4 cover the likely actions to be taken by staff from any agency that have concerns about the welfare of an adult at risk. Steps 5-11 cover the actions to be taken after a referral has been made to Social Work and Health. These activities involve employees of all agencies so it is vital that awareness of roles is known and understood.

Step 1

Concern or initial referral about an adult at risk

1.1 Person responsible

The staff member who witnesses, suspects or receives information about an adult at risk being subject to harm, mistreatment or neglect.

1.2 Action to be taken

- If the person requires immediate medical attention, go to Step 2
- If the person does not require immediate medical attention and you suspect or have witnessed harm, mistreatment or neglect, 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. Also try to ascertain any potential risks to others.
- If the person chooses to disclose a previous incident to you, you must listen to what they have to say and obtain all the relevant information. It is important that sufficient information is obtained to allow your line manager to assess the situation without the need to re-interview the person.
- Record your conversation carefully and, if possible, ask the person to agree that you have made an accurate record of the conversation. Record the person's actual words in relation to their description of the event and their feelings about the outcome. Include the date and the time that the record was made.
- Tell the person that you are going to report the details of your conversation to your line manager. Go to Step 3.

Consent

Staff should be honest and open with the people they work with about their requirement to report to their line manager any concerns about their safety and welfare or the safety and welfare of others, which then may be subsequently passed on to Angus Council Social Work and Health. Information should be passed on without the adult's consent if necessary to Social Work and Health, particularly where it is known or suspected that **any** of the following apply:

- the adult may be at risk of harm
- actual harm has been sustained
- harm has been narrowly avoided and there is an ongoing risk of harm

- others may be at risk of harm
- there are public safety concerns
- there are public health concerns

If information has been passed on without the adult's consent, they should be notified that the information has been passed on to Angus Council Social Work and Health.

If it appears that a crime has been committed it must be reported to the police immediately.

If it appears that there is a child at risk contact must always be made with the child protection team in accordance with inter-agency child protection guidelines.

Step 2

When immediate medical assistance or police involvement is needed

2.1 Person responsible

Staff member

2.2 Action to be taken

- Contact the appropriate emergency service 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 it is suspected that a crime may have been committed.

Staff must be aware of the need to preserve evidence. This may include:

- Securing the scene and keeping area as sterile as possible until police arrival. Obviously this may not be possible if urgent medical attention is required.
- Do not clean up any blood stains or other body fluids
- Preserving any clothing and bedding
- Leaving any potential weapon in situ, unless it is causing a danger
- Pointing out any potential CCTV evidence to police
- All action taken must be recorded and discussed with a line manager or an alternative manager. Go to Step 3.
- Staff members should not put themselves at risk by confronting a suspected perpetrator or entering a situation where they themselves may be harmed.

Step 3

Consultation with a manager

3.1 People responsible

Staff member and line manager

3.2 Action to be taken

The staff member will discuss the suspected or actual harm, mistreatment or neglect and any continuing risks with the line manager as soon as possible. If the line manager is not available, the staff member will discuss the concerns with a suitable alternative manager. The full facts and circumstances of the situation together with all available options and courses of action should be identified and discussed.

If any resident of a registered care setting is subject to harmful conduct by another resident, visitor to a care setting or a member of care staff, it must always be reported to Angus Council Social Work and Health regardless of the wishes of the adult concerned. A council officer will make inquiries to decide what further action needs to be taken.

A plan of action should be the outcome of this meeting. The following points, amongst others, should be considered:

- an immediate referral to Tayside Police on 0300 111 222
- an immediate referral to Angus Council Social Work and Health
- if the staff member's organisation is external to Angus Council, contact should be made to Social Work and Health via the ACCESSLine on 08452 777 778 so that the concern can be discussed and appropriate action taken.
- if the concern raised is from another service within Angus Council, staff should report to the line manager, who should discuss the concerns with the relevant community care team manager or make contact through the intake service.
- the person's level of capacity and consequent involvement in actions, choices and decision.

It is preferable that contact is made with Angus Council Social Work and Health if it is not clear whether the adult is an adult at risk as defined in the legislation than to allow a situation to continue resulting in an adult at risk being seriously harmed. This contact might be in the first instance an informal discussion. The facts known by one particular agency could be only part of a bigger picture of concern and may be crucial information.

Step 4

Referral to Social Work and Health

4.1 Person responsible

The staff member making the referral.

4.2 Action to be taken

The staff member making the referral to Social Work and Health should include all available relevant information relating to the case, including:

- 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
- 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 and evidence)
- background relating to any previous concerns
- any information given to the person, their expectations and wishes, if known
- the person referring must confirm the referral in writing but this should not delay or impede action

Step 5

Receiving a referral into the community care service

Adult protection referrals must take priority over all other work. Referrals must be the subject of an immediate assessment.

5.1 People responsible

The staff member receiving the referral and the team manager.

5.2 Action to be taken

The staff member receiving the referral should ensure that the details in Step 5 are recorded. The staff member should discuss the situation with the team manager or with a suitable alternative manager as soon as possible that day.

The team manager is the lead officer accountable for the investigation. They will allocate to council officer and will direct and co-ordinate any actions necessary to protect the adult at risk and to support and advise the member(s) of staff. In cases where the adult at risk has a mental disorder, a mental health officer (MHO) should be involved.

Any allegation concerning a member of staff must be reported to the senior manager community care. Harm within a regulated care setting must be reported to the Care Commission.

Sufficient information must be gathered to establish whether the person referred meets the criteria for an 'adult at risk' (as defined in 3.3) and that the circumstances constitute 'harm' (defined in 3.4). Where it is clear that the adult concerned does not meet the adult at risk criteria there may be indications that they require assistance, an assessment of need, provision of information and/or referral to other agencies. If so, it should be responded to as a routine referral.

If the criteria are met, there is a duty under the Act to inquire into the adult's wellbeing, property or financial affairs.

The inquiry will establish:

- (a) whether any action is needed immediately (e.g. does the adult at risk need to be removed to a place of safety and/or require medical assessment or attention?) or;
- (b) whether a full investigation is required

CareFirst must be checked to ascertain if the person or the alleged perpetrator is known to Social Work and Health. Details of the referral must be recorded on CareFirst along with type of harm alleged and details of the referrer. Any discussions and deliberations and the reasons for any decisions should be recorded.

If the alleged perpetrator is under 16 years of age or if the adult at risk is aged 16 - 18, children's services should be contacted.

Step 6

The initial referral discussion

6.1 People responsible

The team manager, council officer, detective inspector public protection unit, identified NHS contact.

6.2 Action to be taken

The inquiry should include an initial referral discussion. The discussion should take place between the team manager and relevant staff (Social Work and Health), public protection unit (Tayside Police) and an appropriate contact from the health services/clinical director.

This discussion should take place with the persons listed below:

- The team manager, council officer and case holder
- The detective inspector of the public protection unit (or in the absence of the detective inspector with the detective sergeant)
- An appropriate representative from the NHS. For example the adult's community nurse, general practitioner or learning disability nurse as appropriate to each case
- In the absence of an identified NHS contact the Angus CHP clinical director will be the contact for the initial referral discussion
- in case of an adult with a mental disorder, a mental health officer

In urgent and/or complex cases or in situations of potential serious risk the discussion must take place in person if possible and within 24 hours of receipt of a referral and be chaired by the team manager. In all other cases the discussion should take place within 48 hours and may be undertaken by telephone by the council officer. The content and outcome of the discussion must be recorded in the case file.

The purpose of the initial referral discussion is to:

- share information known to each agency
- identify whether a crime may have been committed and the need for a police investigation
- identify the need for any urgent action required to protect the adult
- identify whether an investigation is necessary
- plan the investigation if an investigation is required
- in planning an investigation, assess risk of further harm or neglect to the adult or other adults at risk
- identify the need for a medical examination
- identify the route to access the medical examination (through the forensic medical examiner or the adult's GP or specialist examination) if appropriate

Note that it is the responsibility of the police or NHS (whichever is appropriate to the case) to arrange a medical examination. The need for a medical examination may not be apparent at this stage but may be identified during an investigation when more information is available. (See appendix C for medical examination flowchart).

Communication and information sharing must continue between the identified persons during the investigation if it is to be conducted.

Step 7

The investigation

Assessment and decision making

7.1 People responsible

The allocated council officer, the team manager and the service manager.

7.2 Action to be taken

- The team manager will allocate a co-worker to assist with the investigation. He/she will ensure that the council officer and co-worker have capacity in their caseload to undertake the investigation.

- The council officer should undertake an investigation including an assessment of risk. This should involve staff from other agencies, as appropriate, in the gathering of information.
- Public bodies have a duty to co-operate with an investigation under section 5 of the Act.
- The investigation should take account of any previous concerns or reports about, or incidents involving, the adult at risk.
- Prior to interviewing the adult at risk, consideration should be given to ensuring a private safe interviewing environment; the use of communication aids and the use of an interpreter or of a support person.
- The visit will be made by the council officer and co-worker to the adult at risk to ascertain his or her views about the situation and to determine the level of risk.
- The team manager is responsible for managing and co-ordinating the investigation.
- The team manager will meet with the council officer and co-worker to plan the visit.

7.3 If access is gained

- The adult at risk must be informed before the interview that they have a right not to answer any questions.
- The council officer should interview the adult at risk and any other adult present, as appropriate. The adult at risk should be assisted to participate as fully as possible in the proceedings.
- The council officer should conduct the interview and the co-worker should take detailed notes unless agreed otherwise in the planning stage. Both should observe the reactions of the adult at risk and the dynamics of personal relationships. They should assess the environment. Depending on the circumstances, it may be appropriate to view the sleeping arrangements.
- It may be appropriate to consider independent advocacy, discuss this with the adult at risk and provide assistance to access independent advocacy as necessary.
- There will be ongoing discussions with the team manager and with the service manager, and with professionals from other involved agencies, as appropriate.
- The council officer should complete the ASP 1 document which will include some professional analysis of the information gained in the process of the investigation and a recommended course of action.

The investigation report should include:

- outline of the initial concern/alert/referral with all dates and times
- an outline of the current allegations/concern and any previous allegations/concern
- an assessment of the seriousness of the alleged harm
- a description of the adult and his/her circumstances including their views of the situation and their strengths
- where the harm took place
- an assessment of the adult relating to capacity and consent
- social situation/support networks of the adult at risk
- information about any alleged perpetrator
- details of how the investigation was conducted and who was involved
- evidence to support or refute the allegation/concern
- evidence to support any action through disciplinary procedures
- evidence for any action that could be taken by the Care Commission
- evidence for any legal action required other than under criminal law, such as use of protection orders
- indications of the causes of harm
- a view about future risks
- the investigating officer's opinion and conclusions about risk prevention and action. This would include an opinion about services and support that increases the ability of the adult at risk to protect him or herself, and
- a recommendation as to whether a case conference is required

The completed ASP 1 will then be forwarded to the adult protection unit not less than two working days prior to the case conference.

- The council officer will discuss the content of the report with the adult at risk and make every effort to ensure the adult understands it and that any communication needs are addressed in order to do so. Where appropriate, the involvement of a family member or an advocate may be necessary
- The team manager should ensure that CareFirst is updated
- The team manager must ensure the satisfactory completion of the ASP 1 and make recommendation as to the necessity of a case conference

- The service manager will make a final decision as to whether an adult protection case conference should be convened. Consideration should always be given to holding an adult protection case conference, particularly in situations where there is actual harm, or an ongoing risk of harm. A case conference **must** be convened if it is requested by another agency.
- The service manager may make a decision not to refer to case conference when sufficient information is available to indicate that there is no identifiable ongoing risk to the adult. He or she should record why this decision has been made on the ASP1 and in the case file.
- If two or more previous referrals have been received resulting in no case conference being convened, the service manager should refer to case conference to allow agencies to come together to share information and concerns.

7.4 If access is not gained

- The council officer should discuss other options for entry with the team manager, e.g. with the help of relatives or other professionals.
- If these other options are not successful, a warrant for entry, under Section 37 of the Act, should be considered.
- Consideration should be given as to whether access can be gained under other legislation, e.g. Mental Health (Care and Treatment) (Scotland) Act 2003.
- It may be necessary to consider an application for an assessment order, removal order or emergency removal order. The law and administration legal team should be contacted to discuss an application. Applications will be made by a council solicitor on the basis of the information provided in the ASP 7, which should be completed by the council officer.

Step 8

Adult protection case conference

8.1 People responsible

The adult protection review officer, team manager, service manager,

8.2 Purpose

A case conference is a multi-disciplinary meeting, chaired by the adult protection review officer, at which information relevant to concerns about harm or risk of harm is shared and considered. The purpose of the case conference is to assess risk, make decisions on the actions which need to be taken to protect the adult at risk, and, where appropriate, agree on a protection plan or review a plan that is already in place. The plan will include details of who will do what and when. The case conference will identify a core group of professionals who are directly involved in achieving the changes required and who will be responsible for implementing the protection plan.

8.3 When

The case conference should normally take place within 7 working days of the commencement of the investigation and no later than 14 working days. Notification to the adult protection unit that a case conference may be required should be made as early as possible to allow for scheduling.

8.4 Role of the adult protection unit

The role of the adult protection unit (APU) is to take the lead role in convening the case conference. This includes:

- arranging a case conference when requested to do so
- issuing the invitations to the case conference
- requesting reports from those unable to attend
- chairing the case conference, and
- distributing the minutes

In the absence of the adult protection review officer (APRO) the case conference will be chaired by a service manager.

8.5 Invitations to the case conference

It is the responsibility of the team manager to decide on the key persons to be invited to the case conference and to notify the adult protection unit. Attendance of professionals should be limited to those with a direct contribution to make and a role to play in the support of the adult at risk. The adult at risk and appropriate family members/carers should always be invited to a case conference unless there is good reason why they should not attend.

Invitations to the case conference may include:

- the council officer and co-worker involved in the investigation
- the care/case manager
- the manager of care manager/council officer/other staff involved
- the adult at risk and/or their representative
- the adult at risk's welfare attorney or welfare guardian
- the adult at risk's independent advocate where applicable
- members of translation/interpretation services
- family members or other carers (where appropriate)
- police officer identified by the public protection unit (PPU)
- relevant medical practitioners e.g. psychiatrist, GP or other medical professional
- a mental health officer in all cases of an adult with a mental disorder
- residential or day care staff involved with the adult

- the manager/member of staff of any commissioned service provider where appropriate
- a member of the council's legal team where appropriate
- where harm has occurred within a registered service a representative of the Care Commission

8.6 Adult protection plan

The adult protection plan will be based on the discussion and decisions made at the adult protection case conference.

The plan should cover:

- action to ensure the safety of the adult at risk, including the application for any protection orders or any other legal intervention
- action to ensure the continued involvement of the adult at risk and where appropriate their carer or independent advocate
- details of support services, treatment or therapy available either in the immediate or the longer term to the adult at risk
- any changes to the way the services are provided
- any plan to support the adult at risk through action to seek justice or legal redress
- ongoing monitoring of the adults at risk's living arrangements
- how ongoing and future risks are to be managed and supported risk taking, if that is the wish of the adult at risk
- what services can be provided to the adult at risk to enhance their ability to protect themselves
- monitor and review arrangements
- contingency plans to ensure speedy response if the care and protection plan is not meeting the need and the adult continues to be at risk
- the protection plan must be formally reviewed at least every six months by an adult protection case conference. When the case conference decides that the risks have reduced and that an adult protection plan is no longer required, a decision must be taken about any tasks/actions that should be integrated into the care plan
- who will be responsible for each action detailed in the protection plan

All those contributing to the care and protection plan should have a copy and the adult at risk should be given a copy.

8.7 Core group

A core group should be formed consisting of those professionals who are directly involved in achieving the changes required.

Step 9

Implementation of adult protection plan

9.1 People responsible

Team manager/service manager, members of core group

9.2 Action to be taken

The key professionals directly contributing to the protection of the adult at risk will be identified at the case conference as the core group.

The core group will normally be chaired by the team manager but in cases involving high risk should be chaired by the service manager. The core group should meet within two weeks of the date of the case conference and then at least monthly unless agreed otherwise. The adult at risk and/or the carer should attend the meeting if appropriate.

The purpose of the core group is:

- to monitor the implementation of the protection plan and ensure that actions are carried out within timescales
- to maintain communication between the agencies involved
- to review risks
- to take account of any changing circumstances and needs and adapt the plan as necessary

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

The core group can be convened at any time following a request from any member of the group.

A copy of the current protection plan should be held by every member of the core group.

The core group will call an early review case conference if risks increase or circumstances change significantly.

Step 10

Adult protection case conference review

10.1 People responsible

Adult protection review officer, team manager

10.2 Action to be taken

Adult protection case conference reviews should take place within 6 months or more frequently if required.

The ASP 1A should be completed prior to review by the council officer.

The review will consider the changes that have been made and will re-assess the level of risk for the adult at risk.

If there is still significant risk the case will be monitored by core group meetings and regular adult protection reviews.

If the risks are low the case does not need to remain under adult protection procedures.

Step 11

Case closure

It is important that all agencies working with adults at risk assure the quality of the work undertaken by their agency and jointly with others. All agencies will use this multi-agency protocol to set standards and to monitor the quality and effectiveness of work undertaken to protect adults at risk.

11.1 People responsible

Team managers

11.2 Action to be taken

Team managers should ensure that no open case which includes allegations of harm to an adult at risk is closed until the following steps have been taken:

- the adult at risk has been spoken to alone
- the adult at risk's accommodation has been seen
- the views of relevant professionals have been sought and considered
- there is evidence that the adult at risk's welfare will be safeguarded and promoted should the case be closed
- the adult at risk and all other interested parties are aware of how to re-refer if necessary
- the case file is up to date and complete and it includes a closure summary that outlines why no further intervention is required

The team manager should ensure that all meetings and discussions concerning the adult at risk should involve the following basic steps:

- a list of action points must be drawn up, each with an agreed timescale and the identity of the person responsible
- a clear record of the discussion must be circulated to all those invited, whether or not they were present, and to all those with responsibility for an action point
- a mechanism for reviewing the completion of the agreed actions must be specified, together with the date upon which the first such review is to take place
- the setting out of any supplementary actions that may be required as a contingency in the event of a breakdown in care arrangements or other changes in circumstances

7. If the adult at risk moves to another area during the inquiry/investigation

Action should be taken to establish the whereabouts of the adult at risk. The new local authority should be given information about the concerns and what action has been taken. An agreement should be reached between Angus Council and the new local authority about any future action and roles and responsibilities. This may include convening or attending an adult protection case conference.

8. If the alleged perpetrator moves

The police should be informed if an alleged perpetrator moves. If their whereabouts are known, the new local authority must be informed so that appropriate decision making can be made regarding any required action in relation to risk to adults, children and the community.

9. Support to staff

The demands of working with adult protection cases must be acknowledged. Supervision and support should be provided to staff members by the team manager and service manager.

Action to protect staff in performing their duties includes joint visits with police and/or other colleagues.

Safety issues throughout investigation and monitoring period should constantly be under consideration. During the process of investigation, the manager may need to debrief staff, clarify levels of responsibility and offer advice and assistance on procedures and recording.

10. Action to be taken if a person in receipt of community care services is an alleged perpetrator

An allegation of harm that has been perpetrated by someone who is themselves a person in receipt of community care services will result in an adult protection inquiry. The alleged perpetrator may also be an adult at risk.

If the perpetrator is also an adult at risk the team manager should allocate a separate council officer for the alleged perpetrator. Specific decisions that need to be made by the team manager are:

- how the action will be co-ordinated
- identifying who will be involved in the investigation

If a person in receipt of community care services is identified as a potential perpetrator this should be stated as part of their care plan to ensure safe delivery of care. This should include:

- a care plan
- a treatment plan (if appropriate)
- a contingency plan
- monitoring and reviewing arrangements.

All relevant professionals, family members and carers should be involved in the arrangements.

11. Capacity and consent in adult protection

Consent of the adult at risk

- Adults at risk are not obliged to answer questions put to them in the course of an investigation and must be advised of their right not to answer before the interview begins.
- Adults at risk have the right to consent or withhold consent to a medical examination.
- Adults at risk have a right to choose whether or not to remain in a harmful situation or a situation of risk.
- Adults at risk have a right to consent or withhold consent to interventions under the ASPA such as an application for a protection order.

The decision of the adult must be respected **unless** it is unclear whether they have capacity to recognise the risks of their situation **or** it is established that they lack capacity **or** are being unduly pressurised by a third party into rejecting help. (**NB** the adult at risk has an absolute right to refuse a medical examination).

If the adult has capacity to consent and there is no evidence of undue pressure then the adult at risk must be provided with information and support in order that they may understand the consequences or potential consequences of their decision. The council officer should discuss with the adult at risk about the role of independent advocacy and

facilitate the adult to make a referral to Angus Independent Advocacy if the adult requests support to do so.

Their decision should be recorded and the adult at risk should be advised that they could change their mind and who to contact should they wish to do so. If the case is an open case further work should continue to enable the adult to discuss their perception of the situation and to consider their choices.

The care manager or council officer should, with the adult's permission communicate with appropriate parties, e.g. independent advocate, other professionals, carers, friends, etc to inform them of the decision. There may be an opportunity to identify (an)other person(s) who might be able to help the adult appreciate the risk and understand the choices available to them to remove or manage that risk.

Assessment of capacity to consent

An adult at risk may temporarily or permanently lack capacity to consent to interventions under the ASPA. Where there are consent issues and the adult has a mental disorder, an MHO should be involved in any investigation/discussions about how to proceed.

There is no statutory requirement for a formal psychiatric assessment of capacity in relation to adult protection procedures. Assessments of whether a person has capacity can be made by professionals who know the adult, including a person's GP or care/case manager or case holder.

The ability to give informed consent involves:

- understanding in simple language what is involved
- understanding in simple terms the potential consequences of consenting or not consenting
- forming a decision about whether to consent
- being able to communicate their decision, and
- making a decision without coercion, fear or intimidation

It is good practice to discuss in the multi-professional arena whether an adult has capacity in relation to specific decisions. In the event of doubt or disagreement about whether a person has capacity a formal assessment should be sought unless the urgency of the situation requires more urgent action.

If the urgency of the situation requires immediate action then a judgment may need to be made about a person's capacity without multi-disciplinary consultation. If the person is unconscious they clearly lack capacity (and cannot give consent) and immediate medical and, if appropriate, police intervention should be sought.

If the person has a welfare or financial guardian or attorney (a proxy) under the AWIA, it may be that the adult is unable to give or withhold consent and in this case consent from the proxy should be sought. Alternatively, it may be that the adult who has a proxy under

the AWIA has capacity to decide on some aspects of their life and not others and may be able to consent, for example, to being interviewed.

The Office of the Public Guardian holds information about guardianships/welfare and financial attorneys and is obliged under the ASPA to assist in adult protection procedures.

Interventions where a person lacks capacity to consent

If a person lacks or is found to lack capacity to consent or withhold consent to an investigation then an application for an intervention under the ASPA may proceed, subject to the other criteria being met.

Should a proxy be in place (attorney or guardian) they should be asked to give consent and be involved in the investigation unless this would cause unreasonable delay. This does **not** apply if they are the perpetrator or suspected perpetrator of harm or if they are suspected to have negligently failed to protect the adult.

“Undue pressure”

It may be that the adult at risk is considered to be under undue pressure from another person not to consent.

Undue pressure may be applied by:

- an individual who may not be the person suspected of actually harming the adult
- an individual with whom the adult has a trusting relationship and is suspected of harming the adult at risk. An example of a trusting relationship might be between partners, siblings, parent/child or friends.
- someone who the adult is afraid of or who is threatening her/him

Where an adult at risk is under undue pressure or there is evidence to suggest that an adult at risk may be under undue pressure adult protection interventions may proceed. An application for a protection order will require detailed evidence that undue pressure is preventing the adult at risk from consenting.

12. Protection orders

The decision to seek a protection order may be made by an adult protection case conference but may be required at any stage after referral or during investigation. Decisions about whether to apply for a protection order will be based on the following considerations:

- that serious harm has occurred or is likely to occur
- whether the adult has capacity to give or withhold consent
- that the adult has consented to an application if the adult has capacity to consent
- there is evidence of “undue pressure” if consent has been withheld

- the adult's past and present views and the views of carers or family members if appropriate
- the extent to which the protection of the adult cannot be achieved through less formal means
- the extent to which the proposed action will benefit the adult

Serious harm

The seriousness of particular incidents of harm will not be identical for every individual and will depend on:

- the level of risk
- the extent of any injuries
- the impact of harm on physical health/mental health/welfare/financial circumstances of adult
- the frequency and severity of harm
- apparent intent
- history of harm
- the degree of distress for the adult at risk, and
- the probable consequences of non-intervention

Applying for protection orders

A protection order may be applied for at any stage post referral, during the investigation or following a decision taken by the case conference to ensure the safety of the adult.

The team manager and/or case conference should decide which nominated officer will take this forward and coordinate the intervention (normally the investigating council officer). The nominated officer must be employed by Social Work and Health.

Following the decision to proceed with an application for a protection order, consultation should take place with the law and administration service to determine how the application should be progressed. A detailed report must be prepared on the template ASP7 and passed to the legal team within an agreed timescale. Care must be taken to identify and gather evidence for the need for the protection order.

An application for a protection order must be made by the council's law and administration service. Evidence must be presented by the council's solicitor and the nominated council officer.

If practicable, and if doing so will not compromise the safety of the adult, the council officer will:

- notify the adult at risk in writing of the application
- inform the adult of his/her right to give or withhold consent
- inform the adult of his/her right to be heard or legally represented at the hearing
- inform the adult of his/her right to be accompanied by a friend, relative, independent advocate, or any other representative of choice
- if appropriate, advise any other interested persons of the application

Council officers should inform the court prior to the hearing:

- if the person suspected of harming the adult may attend
- if the adult at risk does not wish legal representation
- it appears that the adult at risk does not understand the process, or
- provisions under the Vulnerable Witness (Scotland) Act 2004 may be required

The sheriff may:

- appoint a person to safeguard the interests of the adult at risk in proceedings
- apply the provisions of the Vulnerable Witness (Scotland) Act 2004
- appoint a curator ad litem where person does not have full mental capacity

Assessment orders

An assessment order may only be applied for if:

- there is reasonable cause to suspect that an adult is at risk of harm **and**
- it has **not** been possible or practicable through the course of a normal visit to interview the adult, to establish whether he or she is at risk of serious harm, and/or to undertake a medical examination.

Practical arrangements will need to be made prior to the application to prepare for implementation of the order.

The considerations required for the implementation of the assessment order will be detailed on the ASP 7 and will include:

- what assessment is required and what is the proposal for undertaking this assessment, including the need for any physical and/or psychiatric examination and the timescales in which they will be undertaken

- the location where the assessment will be conducted, means of transport to that location and any arrangements for medical examinations
- police involvement – a warrant for entry will be granted with a removal order
- how and when the individual will be notified about the proposal to apply for an assessment order and of their right to be represented
- who will remain with the individual during the assessment and what are the arrangements for the return transport
- the need for a risk assessment if force is likely to be needed to implement the order
- contingency plans should the adult exercise their right to withdraw consent
- the adult at risk's views

In granting of an assessment order the sheriff will grant a warrant for entry. The order is valid for 7 days after the date specified. Once issued, the order can only be used once.

Removal orders

Every attempt should be made to assess, treat and support the adult at risk in their own home and provide services in order to protect the adult. A removal order should only be applied for if it is necessary to the adult's safety that he or she should be removed and where an assessment order and/or banning order to exclude a perpetrator would not be adequate to protect the adult.

Practical arrangements to prepare for implementation of the order will need to be made prior to the application.

The considerations required for the implementation of the removal order will be detailed on the ASP 7 and will include:

- the location where the adult will be taken, means of transport to that location and any arrangements for their reception
- the emotional/psychological support to the adult while they are at the location
- interventions that may be carried out to reduce the risk to enable the adult to return home if possible or arrange for re-housing/care home residence if that is not possible
- the services that will be required to meet the individual's health and care needs while they are at that location
- whether there should be restrictions about contact with a specified person and what those restrictions should entail

- if supervised contact with a specified person is indicated then a person will be nominated to supervise
- police involvement – a warrant for entry will be granted with an assessment order
- how and when the individual will be notified about the proposal to apply for a removal order and of their right to be represented
- the need for a risk assessment if force is likely to be needed to implement the order
- contingency plans should the adult exercise their right to withdraw consent or ask to return home before the order expires
- the adult at risk's views

In granting of a removal order the sheriff will grant a warrant for entry. The order can only be used once and must be implemented within 72 hours of being granted and will expire 7 days after being implemented.

Placements for removed adults

Arrangements for removal of an individual will entail identifying an appropriate placement. The appropriateness of a particular placement will depend on:

- the individual's social circumstances, health and care needs
- whether risks can be managed at the placement (consideration should be given to deploying additional staff)
- the acceptability of the placement to the adult if the adult is able to express a view
- whether the adult's support network is available

A placement may be in:

- the home of a supportive family member if they agree to the placement for as long as the time period specified in the order (up to 7 days)
- a care home appropriate to the care needs of the adult
- a hospital ward **appropriate to the medical or psychiatric needs of the adult**
- a respite facility
- a property made temporarily available by the housing division for the purpose of implementing the order

If the placement is in another local authority (e.g. in the home of a family member or specialist care facility), contact must be made with the host authority about the intention to

place the adult at risk and to make mutually agreed arrangements for the support of the adult at risk while they are in the authority's area.

The above arrangements will be detailed in the application template (ASP7).

Emergency removal orders

In cases where it is urgently necessary to remove an adult from a place where they are at immediate risk of serious harm an application may be made to a justice of the peace if it is not possible to make an application to the sheriff. The social work out of hours service has a list of the justices of the peace and may be contacted on 01382 432270. In such cases it will not be necessary to complete the ASP 7. However, it will be necessary to provide a brief report to the justice of the peace detailing:

- how the adult meets the criteria of adult at risk
- why the application is necessary
- why an application to the sheriff is not practicable
- that serious harm may come to the adult if there was a delay in seeking a removal order by normal means
- comment on any issues of capacity or "undue pressure", and
- the suitability and availability of a placement

In granting a removal order the justice of the peace will grant a warrant for entry. The order can only be used once and must be implemented within 12 hours and once implemented it will expire after 24 hours.

Banning orders/temporary banning orders

Where an alleged perpetrator or perpetrators have been identified a banning order may be appropriate. This will allow the adult at risk to remain in their own environment with minimal disruption. A temporary banning order may be granted whilst a full banning order is being considered by the court.

Where the adult at risk is entitled to occupy a residence under Matrimonial Homes (Family Protection) (Scotland) Act 1981, their rights are not affected if their spouse or partner is banned from the place. Where the adult at risk has no occupancy rights and the proposed subject of the order does have these rights, the subject cannot be banned from the place. If you are unsure about the position, then this should be discussed with the law and administration legal team prior to making a decision to apply for an order.

Practical arrangements will need to be made prior to the application to prepare for implementation of the order.

The considerations required for the implementation of the banning order will be detailed on the ASP 7 and will include:

- the potential disruption to family relationships/friendships and the impact that will have on the wellbeing and welfare of the individual
- the needs of the person residing with the adult at risk to whom the potential banning order will apply (if also an adult at risk a separate case conference will take place in relation to that individual)
- the services the adult at risk will require to meet their care needs, particularly where the person who will be subject to the banning order previously provided that care
- if a temporary banning order, what interventions to reduce risk are required to resume contact between the adult at risk (if the adult wishes this to happen) and the individual who will be subject to the temporary banning order
- how and when the individual will be notified about the proposal to apply for a removal order and of their right to be represented
- whether the power of arrest is necessary and what support to the adult at risk is required (e.g. the possible use of telecare) in order that the adult can call for assistance if needed
- contingency plan if the adult at risk does not co-operate with the implementation of the order
- the adult at risk's views

The above arrangements will be detailed in the application template (ASP7).

Implementing orders

Implementation of orders should be carried out carefully and sensitively to limit distress to the adult at risk as much as possible. A planning meeting to discuss a plan of action should be convened and chaired by the team manager. The following will be invited:

- a representative of the police
- health personnel who will be involved in medical assessments or treatment
- staff or carer identified to support the person if a placement is to be made (removal or assessment order)
- staff or carer identified to support the adult if they are to be supported in their own home (banning order).

Safeguarding property

The council has a duty to safeguard a person's property when undertaking functions under the Adult Support and Protection Act, including the implementation of protection orders. Safeguarding includes preventing loss or damage to property or making good damage that has occurred whilst the police exercised powers of entry. Property includes:

- the adult's residence whether owned or rented
- the adult's movable property
- the adult's pets

Any expenses incurred by a council officer should be authorised by the team manager or service manager if over the level which a team leader can authorise (refer to general operational instruction G1.1). Expenses might include:

- arranging kennel accommodation for pets
- for joiners to repair damage to doors on a privately owned property (Angus Council Housing Division or the housing association should be notified if publicly owned)
- temporary secure storage for movable property

It is not lawful to attempt to re-coup these expenses from the individual. Any removed property must be returned as soon as possible to the adult.

13. Provision of support for the adult at risk

Adults who have been harmed may be distressed and anxious and may need considerable emotional and practical support. In some cases the protection of the adult may have led to disruption or severance of key relationships, change of residence, and/or change in financial situation.

An adult may feel angry or ambivalent towards a perpetrator, feel guilty that they have "got someone into trouble" or be traumatised by what has happened to them.

Reassurance that their feelings are normal and support in expressing them will enhance the adult's recovery of their ability to continue with their lives in greater safety. Referral to Victim Support Scotland or any other support agency should be considered and/or referral for psychological therapies.

Post protection support for the adult should be fully discussed and agreed with the adult concerned and included in the protection plan.

Provision of support to an adult at risk during criminal proceedings

An adult at risk alleging an offence should be supported to make a statement to the police if they are able to do so.

Appropriate adults

Arrangements should be put in place to ensure that adults at risk who are alleged perpetrators, witnesses or victims of harm have the support of an appropriate adult while the police are questioning them. This is a requirement in cases where the adult has a learning disability or mental health problem and is unable to understand the significance of questions put to them or their replies and the police are undertaking a criminal investigation.

The appropriate adult must be someone who is independent of the investigation to avoid any conflict of interest, i.e. not a witness.

Vulnerable Witnesses (Scotland) Act 2004

Under this Act, vulnerable adults giving evidence in court may have special provision made to allow them to do so. These special measures are provided to reduce anxiety and distress in order that the vulnerable witness is more able to give evidence and the quality of that evidence is enhanced. The special measures available are:

- the use of a live television link from within or out with the court building
- the use of prior statements as evidence in chief (for uncontested evidence)
- the court appoints a commissioner (usually a solicitor) to take evidence under oath from a vulnerable witness unable to attend court
- a screen for the vulnerable witness to sit behind while giving evidence
- the vulnerable witness is accompanied by a supporter

The above measures can be used in combination if appropriate.

The police will notify the procurator fiscal that special measures are required following decision to prosecute the alleged perpetrator. The procurator fiscal will prepare the application for special measures to be considered by the court.

In addition, an adult can visit the court to familiarise themselves with the court surroundings and procedures, subject to the agreement of the court. A request for this would be made to the procurator fiscal alongside or instead of notifications about the need for special measures.

Angus contacts

The following contacts can provide advice and guidance regarding action to be taken where there is a suspicion of harm.

Angus Council ACCESSLine	08452 777778
Social Work Out of Hours	01382 432270
Tayside Police	0300 111 2222

Public Protection Unit	01241 435450
Angus CHP Clinical Director	01307 474844
Adult Protection Unit	01307 473762
NHS 24	08454 242424
Victim Support Angus	01241 870096
Angus Independent Advocacy	01241 434413

Appendix A

Glossary of Terms

Many of the following terms are used in the Act to have specific meaning. These may or may not be the same as the day to day meaning of that word or phrase. This glossary is intended to clarify as far as is possible the meaning of these terms in the context of the Act.

Adult at risk

Section 3(1) defines 'adults at risk' as adults who:

- (1) are unable to safeguard their own wellbeing, property, rights or other interests;*
- (2) are at risk of harm; and*
- (3) 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.*

Adult protection committee

A committee established by a council to safeguard adults at risk in its area.

Adult protection plan

A list of actions to be taken by specific individuals in set timescales or frequency in order to minimise the risks of further episodes of harm. It is devised as part of the first case conference following the multi-disciplinary discussion. It may be that the adult at risk of harm will have actions designated to them in the plan. It will be reviewed at subsequent case conferences.

NB: This is in addition to immediate action to protect the adult at risk of harm at point of notification, if required.

Independent advocacy

Independent support and representation made available for the purpose of enabling the person to whom they are supporting to have as much control of or capacity to influence their care and welfare as appropriate.

Allegation

An unsubstantiated statement usual inferring an action which is either illegal or 'wrong'

Appeal

A formal process to seek a change to some aspect of a legal decision or order or seeking the complete reversal of the decision.

Appropriate adult

The role of the appropriate adult is to facilitate communication between a person with a mental disorder and the police and, as far as is possible, ensure understanding by both parties.

Appropriate services

Suitable or right provision of services for a particular situation or occasion.

Assessment order

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.

At risk

In a potentially dangerous situation.

Attorney

Means a continuing attorney or welfare attorney within the meaning of the Adults with Incapacity (Scotland) Act 2000.

Banning order

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.

Benefit

A helpful or good effect, or something intended to help.

Biennial report

Happening once every two years.

Body corporate

A group of people relating to a large company.

Breach

An act of breaking a law, promise, agreement or relationship.

Capacity

See mental capacity

Care Commission

The Scottish Commission for the Regulation of Care.

Case conference

A multi-disciplinary meeting of relevant people including the service user and carer at which all information about all aspects of the situation will be shared leading to a protection plan. The investigation report will be made available to the meeting and will be presented by the council officer.

Civil law

Law relating to private matters between people or organisations rather than criminal matters.

Communication

To share information with others by speaking, writing, moving your body or using other signals.

Communication difficulties

When a person does not have clear verbal skills and needs the support of other aids, or a person that knows them well, to support them in sharing information, thoughts and feelings.

Confidentiality

Protection of information in an organisational situation within agreed parameters.

Collaboration

Joint working with other agencies for the benefit of the adult at risk.

Comparable situation

To examine a specific case and circumstances in its own right and to take into consideration how a different person in a similar position would be treated.

Conduct

Behaviour.

Consent

Permission or agreement.

Convenor

Person who arranges a meeting, or for a group of people to attend a meeting.

Co-operation

To act or work together for a particular purpose, or to help someone willingly when help is requested.

Contingencies

Agreed back up plans to take effect where initial plans prove ineffective or need to change for some other reason

Council officer

A professionally qualified and experienced council employee (social workers, nurses or occupational therapists) who leads the inquiry/investigation, completes the investigation report and has shared responsibility for implementation and ongoing monitoring of the protection plan.

Detain/detention

To force someone officially to stay in a place.

Disability

A health condition that makes it difficult for someone to do the things that other people do.

Disclosure

To make something known, or to show something that was hidden.

Entitled

To have the right to do or have something.

Exhausted

Tried without success.

Harm

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

The person is a doctor, nurse, midwife or other type of individual prescribed by the Scottish Ministers.

Health records

Records relating to an individual's physical or mental health which have been made by or on behalf of a health professional in connection with the care of the individual.

Impaired mental capacity

Reduced ability for effective thought processes.

Independent advocacy

Support provided by a person who is not employed by:

- (a) A local authority;*
- (b) A health board;*
- (c) A national health service trust;*
- (d) A member of:*
 - (i) the local authority;*
 - (ii) the health board;*
 - (iii) a national health service trust, in the area of which the person to whom those services are made available, is to be provided with them.*
 - (iv) any organisation (voluntary or private sector) providing other services, in the area of which the person to whom those services are made available, is to be provided with them.*

Information sharing

Process of effective exchange of relevant details and specific circumstances of an individual within professional agencies and confidential boundaries.

Initial referral discussion

A sharing of information between key professionals involved in the inquiry of an adult protection referral or concern which will result in a documented decision about how to proceed and attributing responsibility for actions and decisions to named individuals.

The issues that are likely to be considered are:

- the principles of the Act*
- whether a crime may have been committed and the need for a police investigation*
- the need for any urgent action required to protect the adult*
- whether an investigation is necessary*
- plan the investigation if an investigation is required*

- *in planning an investigation, assess risk of further harm or neglect to the adult or other adults at risk*
- *the need for a medical examination*
- *the route to access the medical examination (through the police surgeon or the adult's GP or specialist examination) if appropriate*

Inquiry

In general, after notification of an adult protection concern, there is an initial information gathering phase by the council officer which may involve a visit and will indicate the likelihood of harm being perpetrated or if there are unexplained/complex issues that need to be further explored. This will either proceed to an investigation, be dealt with using other legislation or not require any further action.

Inventory

A detailed list of all the items in a place.

Intervention

To intentionally become involved in a difficult situation in order to improve it or prevent it from getting worse.

Interview

A meeting or discussion (this could be by telephone or video link) in which someone asks you questions to ascertain the facts of which an accurate record is kept.

Investigation

In general, following an adult protection enquiry, the multidisciplinary process led by the council officer in which all aspects of the situation are examined and reported on using appropriate risk assessment. This will usually culminate in an adult protection case conference. Occasionally when the adult protection notification clearly indicates that harm has been perpetrated, the investigation will be initiated from the outset. Where there is a need to use any powers under the Act, this would be regarded as an investigation.

Justification/justifiable

You give a good reason for what you have done which is documented.

Least restrictive

To intervene only as much as is necessary in order to achieve the desired outcome.

Legal representative

Person legally qualified to speak, act or be present officially for another person or people or organisation.

Liable

Having legal responsibility for something.

Medical examination

Assessment related to the diagnosis and/or treatment of illness and injuries.

Mental capacity

The ability to process information, weigh up the options and to act on this consistently.

Mental disorder

A mental illness, learning disability or personality disorder.

Mental infirmity

Relating to loss of mental capacity as defined above in relation to a person who is ill or needing care, especially for long periods and often because of old age.

Mental illness

This includes a range of illness including: depression, bi-polar affective disorder, schizophrenia, anxiety but does not include learning disability or personality disorder

Mental disorder

This is a more general term found in s328 of the Mental Health (Care and Treatment) (Scotland) Act 2003 and cross-referenced by the Adults with Incapacity (Scotland) Act 2000 and the Adult Support and Protection (Scotland) Act 2007. This includes mental illness, learning disability and personality disorder but excludes dependency on drugs or alcohol and issues to do with sexual preference.

Mental Welfare Commission

The Mental Welfare Commission for Scotland is an independent organisation working to safeguard the rights and welfare of everyone with a mental illness, learning disability or other mental disorder.

Movable property

This refers to items of property not including cash, investments or 'bricks and mortar'

Multi-disciplinary assessment

An assessment based on information that is collected and analysed by multi-disciplinary team members applying their own professional expertise.

Multi-disciplinary plan

Inter-agency (or inter-disciplinary) joint agreement of tasks to be carried out by named individuals within specified timescales.

Neglect

To give insufficient care or attention to self or others to the detriment of that person.

Obstruction

To prevent something from happening correctly by putting difficulties in its way.

Occupancy rights

Legal entitlement to the use of a room or building for the purposes of living or working.

Parental responsibility

As provided for in Section 1 of the Children (Scotland) Act 1995. Subject to Section 3(1)(b) and (3) of this Act, a parent has in relation to his child the responsibility:

(a) to safeguard and promote the child's health, development and welfare

(b) to provide, in a manner appropriate to the stage of development of the child:

(i) direction

- (ii) *guidance to the child*
- (c) *if the child is not living with the parent, to maintain personal relations and direct contact with the child on a regular basis; and*
- (d) *to act as the child's legal representative*

Power of arrest

Power attached to a banning order (or temporary banning order) granted by a sheriff which allows a police officer to arrest, without warrant, a person whom the police officer reasonably suspects to be breaching, or to have breached an order, and considers arrest necessary to prevent further breaches of the order. Person may be detained in police custody and then be brought before a sheriff on the next court day.

Prejudice

An unfair and unreasonable opinion or feeling, especially when formed without enough thought or knowledge.

Procurator fiscal

The public prosecutor in Scotland..

Proxy

A person exercising powers (usually a continuing or welfare attorney, or a guardian) under the Adults with Incapacity (Scotland) Act 2000. Can have a combination of powers - welfare, property and/or finance.

Public body

According to section 5 of the Act:

- (a) *the Mental Welfare Commission for Scotland*
- (b) *the Care Commission*
- (c) *the public guardian*
- (d) *all councils*
- (e) *police forces*
- (f) *the relevant health board, and*
- (g) *any other public body or office-holder as the Scottish ministers may by order specify*

Office of the Public Guardian

Government department that oversees financial aspects of the Adults with Incapacity (Scotland) Act 2000, including scrutiny of individuals exercising financial powers and undertaking investigations where a person lacking capacity may be being financially exploited.

Reasonable Time

To arrange visits at a suitable period of the day taking into account how long it takes for someone to do something.

Recall

An authorisation by the court to cancel a removal or banning order.

Removal order

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.

Representations

To articulate views on behalf of another person.

Review

To consider something in order to make changes to it, give an opinion on it or study it.

Risk

The possibility of something happening that has either positive or negative consequences.

Risk assessment

Judging the relevant impact and likelihood of particular actions.

Risk management

Making arrangements to minimise the negative impact of particular actions and reduce frequency.

Safeguard

To protect something or someone from harm.

Safeguarder

Person appointed by the sheriff to safeguard the interests of the person who is the subject of proceedings relating to an application.

Self harm

Injuries done to oneself.

Self neglect

Not giving enough care or attention to oneself.

Serious harm

This is an undefined legal term within the Act which implies something greater than just 'harm' and must be demonstrated before a protection order is granted. This will usually refer to an action or series of actions which has significant ongoing consequences for the physical or mental well being of an adult.

Statutory interventions

To take action in a difficult situation in order to improve it or prevent it from getting worse because there is a legal duty to act.

Subject

The person suspected of harming the adult at risk when applying for a Protection Order.

Subordinate legislation

Statutory legislation (usually in the form of regulations) which may be made by ministers under enabling powers within an Act of the Westminster or Scottish Parliament to clarify and implement the details of an Act.

Temporary banning order

An order granted by a sheriff pending determination of an application from a banning order. The order may specify the same conditions as a banning order.

Timeous investigations

To examine a crime, problem, statement, etc carefully, especially to discover the facts within a suitable time frame.

Undue pressure

Exerting unacceptable or unreasonable influence on how a person behaves or thinks because of their perception of possible consequences.

Variation

A submission to the court to change or cause something to change in relation to a removal or banning order.

Visit

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

Vulnerable

Able to be easily physically, emotionally, or mentally hurt, influenced or attacked.

Vulnerable witness scheme

An Act of the Scottish Parliament to make provision for the use of special measures for the purpose of helping vulnerable adults participate more fully in court proceedings.

Warrant for entry

Authority for 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, that the constable considers to be reasonably required to fulfil the object of the visit.

Wellbeing

State of physical, emotional and mental health relative to one's own personal circumstance.