

Adult Support & Protection - Financial Section 10 Requests



**National Adult Support
& Protection Coordinator**
supporting those protecting others

Background: why does it matter? In the 3 years between 2019 -2022 over 3,000 investigations under Scottish Adult Support and Protection (ASP) legislation were undertaken of vulnerable adults in Scotland who were suspected of being financially harmed. These figures only included the referrals where financial harm was the primary type of harm (there may have been many other reports where financial harm was a factor but not the primary harm) and this will be the tip of the iceberg as many other cases will undoubtedly have gone unreported under ASP. The Banking Protocol is a UK-wide scheme between UK Finance, National Trading Standards and local Police Forces - which can address financial harm to adults, when reported by Bank Staff - [The Banking Protocol](#)

What are my responsibilities? Depending on your role:

- Financial Institution - ensure your staff are trained in relation to their legal responsibilities concerning the ASP Act and know how to respond in a timely fashion to a Section 10 request
- Worried about an adult who might be at risk of harm - including financial harm - use the Contacts page on the Act Against Harm Website to discuss an Adult Support and Protection Referral for the contact in the area in which the adult lives - [find your local contact](#)

What needs to be considered? If you are concerned about an adult who you think might be being harmed you can make an ASP referral to the Council who which has a duty to Inquire under the Act. Adults (16+) who might be at risk of harm, who are unable to safeguard themselves and are affected by disability, mental disorder, illness or physical or mental infirmity meet the criteria for being referred under the Act and your concerns will be taken seriously. You do not have to have absolute proof of harm - just know or believe the adult is at risk of any type of harm - the local Council (with its Partners) will consider the referral and take action where this is required. Anyone (including Financial Institutions) can make a referral for any type of harm.

What is current practice like within Financial Institutions? - Since coming into post in October 2022, the National Adult Support and Protection Coordinator - <https://naspc.scot> has been attempting to engage with Financial Institutions who have Scottish customers. Some of the Institutions have been very proactive and have introduced referral pathways; aligning processes with the ASP Act; and provided staff training. Others have been slower to engage and there can be significant delays in identifying and mitigating risk in some cases, when the staff of the Financial Institution are not clear on their legal responsibilities to provide financial information to the Council Officer under the ASP Act.

What is the legal framework? The Adult Support and Protection (Scotland) Act 2007 [ASP Act](#) was implemented in 2008 to facilitate the support and protection of Adults who are unable to safeguard their own wellbeing, property, rights or other interests; are at risk of harm and affected by disability, mental disorder, illness or physical or mental infirmity which makes them vulnerable. Anyone in Scotland can make an Adult Support and Protection (ASP) referral for themselves or another adult. For further information - see the Act Against Harm Website: [Act Against Harm](#)

What is Financial Harm? Financial Harm includes any type of harm which adversely impacts on an Adult's finances. This can include crimes such as Sextortion (where people are blackmailed, usually online, having shared intimate images with Scammers often operating from abroad); and other types of in-person and online Scams, as well as Rogue Traders etc. However, often the harm is done by someone already known to the adult, where the adult's money is not being used to benefit them, but actually the other party. This could be a friend or relative or someone with access to the adult's finances - such as a Legal Guardian or Power of Attorney.

What is a Section 10 Request under the ASP legislation? Under the ASP Act a Council Officer (specially trained and experienced Social Worker) has the legal right to ask any Financial Institution for financial information in relation to the adult, which will be used as part of the ASP Inquiry (with Powers of Investigation) under the Act - to help determine if the adult is being financially harmed and if so, the best action to take to end the financial harm. If a crime is suspected, the Council Officer will also involve Police Scotland.

Scottish Legislation